

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT
Legislative

West Bengal Act XXII of 1993

THE WEST BENGAL MUNICIPAL ACT, 1993.

[*Passed by the West Bengal Legislature.*]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 31st May, 1994.]

[31st May, 1994.]

An Act to consolidate and amend the law relating to urban municipal affairs in West Bengal.

WHEREAS it is expedient to consolidate and amend the law relating to urban municipal affairs in West Bengal;

It is hereby enacted in the Forty-fourth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

PART I

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Municipal Act, 1993.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of West Bengal, except Calcutta as defined in clause (9) of section 2 of the Calcutta Municipal Corporation Act, 1980, and Howrah as defined in clause (15) of section 2 of the Howrah Municipal Corporation Act, 1980, and such other area as may constitute the territorial jurisdiction of a municipal corporation established by any law for the time being in force.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

(4) Notwithstanding anything contained in sub-section (2), it shall not take effect in any cantonment or part of a cantonment without the consent of the Central Government previously obtained.

(5) Notwithstanding anything contained in sub-section (2), the provisions of this Act shall apply to the district of Darjeeling or any part thereof subject to such exceptions and modifications as the State Government may, by notification, direct:

Provided that nothing in this Act shall be construed to affect the powers of the Council for the hill areas under sub-section (1) of section 31 of the Darjeeling Gorkha Hill Council Act, 1988.

West Ben.
Act LIX of
1980.
West Ben.
Act LVIII of
1980.

West Ben.
Act XIII of
1988.

(Part I.—Chapter I.—Preliminary.—Section 2.)

Definitions.

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

- (1) “Auditor” means an Auditor appointed under section 86, and includes any officer authorised by him to perform all or any of the functions of an Auditor under this Act;
- (2) “bridge” includes a culvert;
- (3) “building” means a structure constructed for whatsoever purpose or of whatsoever materials, and includes the foundation, plinth, wall, floor, roof, chimney, fixed platform, verandah, balcony, cornice, or projection or part of a building or anything affixed thereto or any wall (other than boundary wall of less than three metres in height) enclosing or intended to enclose any land, sign or outdoor display structure, but does not include a tent, samiana or tarpaulin shelter;
- (4) “building line” means the line up to which the main wall of a building abutting on a street or a projected public street may lawfully extend;
- (5) “bustee” means an area containing land occupied by, or for the purposes of, any collection of huts or other structures used or intended to be used for human habitation;
Explanation.—If any question arises as to whether any particular area is or is not a “bustee”, the Board of Councillors shall decide the question and such decision shall be final;
- (6) “bye-law” means a set of regulations made by the municipality under this Act;
- (7) “carriage” means any wheeled vehicle, with springs or other appliances acting as springs, which is used for the conveyance of human beings or goods, and includes a *jin-rickshaw*, a van-rickshaw and a cycle-rickshaw, but does not include a motor vehicle or a bicycle or a tricycle or a perambulator or other form of vehicle designed for the conveyance of small children;
- (8) “cart” means any cart, hackery or wheeled vehicle with or without springs, which is not a carriage or a motor vehicle as defined in this section, and includes a handcart, but does not include the trailer of a motor vehicle, a bicycle or a tricycle or a perambulator or other form of vehicle designed for the conveyance of small children;
- (9) “Chairman” means the Chairman elected under section 17;
- (10) “connected-privy” means a privy which is directly connected with a sewer;

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (11) “Council” means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988;
- (12) “cubical extent”, with reference to the measurement of a building, means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only storey;
- (13) “dairy” includes any farm, cattle-shed, cow-house, milk-store, milk-shop or other place—
- (a) from which milk is supplied on, or for, sale, or
 - (b) in which milk is kept for the purposes of sale or used for manufacture or preparation for sale of—
 - (i) butter, or
 - (ii) ghee, or
 - (iii) cheese, or
 - (iv) curds, or
 - (v) dried, sterilized, condensed or toned milk,but does not include—
 - (a) a shop or other place in which milk is sold for consumption on the premises only, or
 - (b) a shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place;
- (14) “dairyman” includes any occupier of a dairy, or any cow-keeper who trades in milk, or any wholesale or retail seller of milk;
- (15) “dangerous disease” means—
- (a) cholera, plague, small-pox, cerebro-spinal meningitis, diphtheria, tuberculosis, leprosy, influenza, encephalitis, poliomyelitis and syphilis; and
 - (b) any other epidemic, endemic, or infectious disease which the State Government may, by notification, declare to be a dangerous disease for the purposes of this Act;
- (16) “drain” includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or subsoil water;
- (17) “drug” means any substance used as medicine or in the composition or preparation of medicines, whether for internal or external use, but does not include a drug within the meaning of clause (b) of section 3 of the Drugs and Cosmetics Act, 1940;

(Part I.—Chapter 1.—Preliminary.—Section 2.)

- (18) “dwelling house” means a masonry building constructed, used or adapted to be used wholly or principally for human habitation;
- (19) “electoral roll” means the electoral roll prepared, revised or corrected under section 29 by the State Election Commission;
- (20) “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;
- (21) “footpath” or “footway” means pavement at the side of road for pedestrians;
- (22) “habitable room” means a room constructed or adapted for human habitation;
- (23) “hill areas” has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988;
- (24) “holding” means land held under one title or agreement and surrounded by one set of boundaries;

West Ben.
Act XIII of
1988.

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purpose of this Act.

Explanation.—Holdings separated by a street or other means of communication shall be deemed to be adjoining within the meaning of this proviso;

- (25) “house-drain” means any drain of one or more premises used for the drainage of such premises;
- (26) “house-gully” means a passage or strip of land constructed, set apart or utilised for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal employees or to persons employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air space above such passage or land;
- (27) “hut” means any building, no substantial part of which excluding the walls up to a height of fifty centimetres above the floor or floor level is constructed of masonry, reinforced concrete, steel, iron or other metal;
- (28) “infectious disease” or “communicable disease” means any disease which may be transmitted from one person to another and declared as such by the State Government by notification;

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (29) “inhabited room” means a room in which some person passes the night or which is used as a living room, and includes a room with respect to which there is a reasonable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room;
- (30) “land” includes benefits arising out of land, and things attached to the earth;
- (31) “market” includes any place, by whatever name called, where persons assemble for the sale of meat, fish, fruit, 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;
- (32) “masonry building” means any building other than a hut, and includes any structure, a substantial part of which is made of masonry, reinforced concrete, steel, iron or other metal;
- (33) “milk” includes cream, skimmed milk, separated milk and condensed, sterilized, desiccated or toned milk;
- (34) all drugs or articles of food which enter into the composition of food, the package or mark or label of which bears any statement, design or device regarding such drugs or articles of food or the ingredients or substances contained therein as may be false or may mislead in any particular, shall be deemed to be “misbranded” and a drug or an article of food shall also be deemed to be misbranded if it is offered for sale under the name of another drug or article of food;
- (35) “municipal area” means any place in which this Act, or any part thereof, is in force;
- (36) “municipal drain” means a drain vested in the Municipality;
- (37) “municipal market” means a market belonging to or maintained by the Municipality;
- (38) “municipal slaughter house” means a slaughter house belonging to or maintained by the Municipality;
- (39) “new building” means and includes—
 - (a) any building constructed or in the process of construction after the commencement of this Act,
 - (b) any building which, having collapsed or having been demolished or burnt down for more than one-half of its cubical extent, is reconstructed wholly or partially after the commencement of this Act, whether the dimensions of the reconstructed building are the same as those of the original building or not,

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (c) any hut which is converted into a masonry building after the commencement of this Act, and
- (d) any building not originally constructed for human habitation which is converted into a place for human habitation after the commencement of this Act.

Explanation.—Sub-clause (b) applies where more than one-half of the cubical extent of any building has collapsed or been demolished or burnt down at the same time or at different times;

- (40) “notification” means a notification published in the *Official Gazette*;
- (41) “notified area” means an area constituted as a notified area under section 378;
- (42) “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;
- (43) “occupier” includes any person for the time being paying or liable to pay to the owner the rent or fee or contractual payment of adjustment of rent or fee or any portion thereof or damages on account of the occupation of any 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 thereof;
- (44) “offensive matter” means kitchen or stable refuse, dung, dirt, putrid or putrefying substance and filth of any kind which is not included in “sewage”;
- (45) “owner” includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver who would receive such rent if the land or building or any part of the land or building were let to a tenant;
- (46) “premises” means any land or building or part of a building or any hut or part of a hut, and includes—
 - (a) the garden, ground and out-houses, if any, appertaining thereto; and
 - (b) any fittings or fixtures affixed to a building or part of a building or hut or part of a hut for the more beneficial enjoyment thereof;

(Part I.—Chapter I.—Preliminary.—Section 2.)

- (47) “prescribed” means prescribed by rules made under this Act;
- (48) “private drain” means any drain which is not a municipal drain as defined in this section;
- (49) “private street” means any street, road, lane, gully, alley, passage or square which is not a public street as defined in this section, and includes any passage securing access to three or more premises belonging to the same or different owners;
- (50) “public building” means a building constructed, used or adapted to be used—
- (a) as a place of public worship or as a school, college or other place of instruction (not being a dwelling house so used) or as a hospital, nursing home, maternity home, factory, work house, public theatre, public cinema, public hall, public concert-room, public lecture-room, public library or public exhibition-room or as a public place of assembly, or
 - (b) as a hotel, eating-house, lodging-house, home, hostel, refuge or shelter, or
 - (c) for any other public purpose;
- (51) “public street” means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thorough fare 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 footway attached to any such street, public bridge or causeway,
 - (d) the passage connecting two 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 up to the boundary wall, *ail*, hedge or pillar of the premises, if any, abutting on the street, or if a street alignment has been fixed, then up to such alignment;
- (52) “one-third of the total number of Councillors holding office for the time being shall be a “quorum” for a meeting;
- (53) “ratepayer” means a person liable to pay any rate, tax or fee under this Act;

(Part II.—The Municipal Areas.—Chapter II.—The Constitution of Municipal Areas.—Section 3.)

- (54) “registered medical practitioner” means a medical practitioner registered under the Bengal Medical Act, 1914;
- (55) “rubbish” means dust, ashes, broken bricks, mortar, broken glass and refuse of any kind which is not offensive matter;
- (56) “rules” means the rules made by the State Government under this Act;
- (57) “service privy” means a fixed privy which is cleansed by hand daily or periodically, but does not include a movable commode;
- (58) “sewage” means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;
- (59) “slaughterhouse” means any place used for the slaughter of cattle, sheep, goats, kids or pigs, or hens, fowls, chicken, ducks, turkeys or any other eatable birds for the purpose of selling the flesh thereof as meat;
- (60) “State Election Commission” means the State Election Commission constituted in the manner referred to in sub-section (1) of section 28;
- (61) “street” means a public or private street;
- (62) “street alignment” means the line dividing the land comprised in, and forming part of, a street from the adjoining land;
- (63) “watercourse” includes any river, stream or channel, whether natural or artificial;
- (64) “year” means a financial year beginning on the first day of April.

Ben. Act VI
of 1914.

PART II

MUNICIPAL AREAS

CHAPTER II

The Constitution of Municipal Areas

3. Whenever it appears to the State Government that any town, together with, or exclusive of, any railway station, village, land or building in the vicinity of any such town—

- (i) contains a population of not less than 20,000 inhabitants, and
- (ii) has a density of population of not less than seven hundred and fifty inhabitants per square kilometre of area, and

Declaration
of intention
to constitute
a municipal
area.

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(Part II.—The Municipal Areas.—Chapter II.—The Constitution of Municipal Areas.—Sections 4-7.)

(iii) has an occupational pattern in which more than one-half of the adult population are chiefly engaged in pursuits other than agriculture, and
if the State Government is satisfied that if such town is constituted a municipal area, the municipal income from taxation and other sources is likely to be adequate for the discharge of municipal function under this Act, the State Government may, by notification, declare its intension to constitute such town a municipal area under this Act.

4. (1) The notification about the constitution of a municipal area shall be published in the *Official Gazette* and in at least two leading newspapers, one of which shall be in vernacular intelligible to the inhabitants of the local area concerned.

Publication of declaration.

(2) A copy of the notification shall also be pasted up in a conspicuous place in the office of the District Magistrate, and in such other public places as the State Government may direct.

(3) A public proclamation about the constitution of a municipal area shall be made either by beating of drum throughout the local area concerned or through any other publicity media.

5. Any inhabitant of the town or local area in respect of which the notification has been published under section 4 may, if he objects to anything contained in the notification, submit his objection in writing to the State Government within three months from the date of publication in the *Official Gazette*, and the State Government shall take his objection into consideration.

Consideration of objection.

6. On the expiry of three months from the date of publication of the notification in the *Official Gazette* and after consideration of all or any of the objections which may be submitted, the State Government may, by notification, constitute such town or any specified part thereof a municipal area under this Act.

Constitution of municipal area.

7. The State Government may, for the purpose of application of the provisions of this Act, classify the municipal areas into the following groups on the basis of the population as ascertained at the last preceding census of which the relevant figures have been published:—

Power to classify municipal areas.

Group A—municipal areas having population above 2,00,000.

Group B—municipal areas having population above 1,50,000 but not exceeding 2,00,000.

Group C—municipal areas having population above 75,000 but not exceeding 1,50,000.

Group D—municipal areas having population above 25,000 but not exceeding 75,000.

Group E—municipal areas having population not exceeding 25,000.

(Part II.—The Municipal Areas.—Chapter II.—The Constitution of
Municipal Areas.—Sections 8-10.)

Power to
divide
municipal
areas into
wards.

8. The State Government may, by notification, divide any municipal area into a number of wards, having regard to population, dwelling pattern, geographical condition and economic considerations of the area included in each ward:

Provided that the number of wards in any municipal area shall not be less than nine and shall not exceed, in the case of a municipal area included in Group A, thirty-five, in the case of a municipal area included in Group B, thirty, in the case of a municipal area included in Group C, twenty-five, in the case of a municipal area included in Group D, twenty, and in the case of a municipal area included in Group E, fifteen.

Power to
abolish or
alter the
limits of a
municipal
area.

9. The State Government may, by notification,—
- (a) withdraw any municipal area from the operation of this Act; or
 - (b) exclude from a municipal area any local area comprised therein and defined in the notification; or
 - (c) include within a municipal area any local area contiguous to the same and defined in the notification; or
 - (d) divide any municipal area into two or more municipal areas; or
 - (e) unite two or more municipal areas so as to form one municipal area; or
 - (f) revise the boundary of two or more contiguous municipal areas; or
 - (g) re-define the boundaries or limits of a municipal area; or
 - (h) revise the number of boundaries of wards comprised in a municipal area:

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 order shall be taken into consideration before a final declaration is made.

Power to
include
certain
dwelling-
house,
manufactory,
etc., within a
particular
municipal
area.

10. 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 in this Act, by notification, declare within which of these municipal areas such dwelling-house, manufactory, warehouse, or place of industry or business shall be deemed to be included for the purposes of this Act.

(Part II.—The Municipal Areas.—Chapter II.—The Constitution of Municipal Areas.—Section 11.—Chapter III.—The Municipal Authorities.—Sections 12-14.)

11. (1) The State Government may, by notification and for reasons to be recorded in writing, exempt any municipal area or municipal areas of any group 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 area or municipal areas until such provisions are applied thereto by notification.

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

(2) While the exemption as aforesaid 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 of this Act from the operation of which the municipal area or municipal areas as aforesaid are exempted.

CHAPTER III

The Municipal Authorities

12. The municipal authorities charged with the responsibility of carrying out the provisions of this Act shall, for each municipal area, be as follows:—

Municipal authorities.

- (a) the Municipality,
- (b) the Chairman-in-Council, and
- (c) the Chairman.

13. (1) The Municipality established for a town shall mean the Board of Councillors consisting of such number of members as there are wards within the municipal area, charged with the authority of municipal government of the town.

The Municipality.

(2) The Municipality shall be a body corporate with perpetual succession and a common seal, and may, by the name of the Municipality of the town by reference to which the Municipality is known, sue and be sued.

(3) All executive actions of the Chairman-in-Council shall be expressed to be taken in the name of the Municipality.

(4) Subject to the provisions of this Act, the Municipality shall be entitled to acquire, hold and dispose of properties.

14. (1) The Councillors elected in a general election of a Municipality shall constitute the Board of Councillors.

Constitution of Board of Councillors.

(2) The Board of Councillors shall hold office for a period of five years from the date of its first meeting after the general election at which a quorum is present, unless dissolved or superseded earlier:

(Part II.—The Municipal Areas.—Chapter III.—The Municipal Authorities.—Sections 15, 16.)

Provided that the Board of Councillors shall continue in office till the next Board of Councillors assumes office, unless dissolved or superseded earlier.

(3) In a municipal area newly constituted, the State Government may appoint all the members of the Board of Councillors for a period not exceeding six months from the date of the notification under which such municipal area is constituted and the general election shall follow thereafter.

(4) If, for any reason, it is not possible to hold the general election of a Municipality before the expiry of the period of five years specified in sub-section (2), the Board of Councillors shall stand dissolved on the expiration of the said period and thereupon the provisions of section 431 shall apply *mutatis mutandis*.

Chairman-in-Council.

15. (1) There shall be a Chairman-in-Council consisting of the Chairman, the Vice-Chairman and other members not exceeding, in the case of a municipal area included in Group A, five, in the case of a municipal area included in Group B, four, in the case of a municipal area included in Group C, three, in the case of a municipal area included in Group D, two, and in the case of a municipal area included in Group E, one.

(2) The Vice-Chairman and the other members referred to in sub-section (1) shall be nominated by the Chairman from amongst the Councillors of the Municipality as soon as possible after he enters into office, and shall assume office after taking such oath of secrecy as may be prescribed.

(3) All executive powers of the Municipality shall vest in the Chairman-in-Council.

(4) The manner of transaction of business of the Chairman-in-Council shall be such as may be prescribed.

(5) The Chairman-in-Council shall be collectively responsible to the Municipality.

Chairman.

16. (1) The Chairman shall be the executive head of the Municipality, and the municipal administration shall be under his control.

(2) The Chairman shall allocate the business among the members of the Chairman-in-Council.

(3) The Chairman shall preside over the meetings of the Chairman-in-Council as well as the Board of Councillors.

(4) The Chairman may transact any business or make any order authorised by any law for the time being in force, unless it is otherwise expressly provided in such law:

Provided that the Chairman shall not act in opposition to or in contravention of any decision of the Board of Councillors.

(Part II.—The Municipal Areas.—Chapter III.—The Municipal Authorities.—Sections 17, 18.)

17. (1) The Board of Councillors, whether elected or appointed, shall elect in accordance with such procedure as may be prescribed, one of its members to be the Chairman who shall assume office forthwith.

Election of
Chairman.

(2) If the Board of Councillors fails to elect a Chairman in the manner prescribed, the State Government shall appoint by name one of the Councillors to be the Chairman.

(3) In the case of any casual vacancy in the office of the Chairman caused by death, resignation, removal or otherwise, the Board of Councillors shall, in accordance with such procedure as may be prescribed, elect one of the Councillors to fill up the vacancy.

(4) In the case of casual vacancies in the offices of both the Chairman and the Vice-Chairman caused by death, resignation, removal or otherwise, the State Government may appoint by name one of the Councillors to be the Chairman who shall hold office until a Chairman, elected under the provisions of sub-section (3), enters upon his office.

18. (1) The Chairman shall cease to hold office as such if he ceases to be a Councillor of the municipal area.

Terms of
office of
Chairman.

(2) The Chairman may, at any time, by giving a notice in writing to the Board of Councillors, resign his office, and the procedure for acceptance or otherwise of the resignation shall be such as may be prescribed.

(3) The Chairman may be removed from office by a resolution carried by a majority of the total number of members of the Board of Councillors holding office for the time being 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 total number of members of the Board of Councillors, and the procedure for the conduct of business in the special meeting shall be such as may be prescribed:

Provided that no such resolution shall be moved before the expiry of six months from the date of assumption of office by a Chairman, and if such resolution is not carried by a majority of the total number of members, no further resolution for such purpose shall be moved before the expiry of a period of six months from the date on which the former resolution was moved.

(4) Notwithstanding anything contained in this section, the Chairman, whose office becomes vacant under any of the provisions of this section, shall continue to hold office as Chairman until his successor elected under the provisions of this Chapter enters upon his office.

(Part II.—The Municipal Areas.—Chapter III.—The Municipal Authorities.—Sections 19-23.)

Vice-Chairman.

19. (1) The Vice-Chairman shall, in the absence of the Chairman, preside over the meetings of the Chairman-in-Council as well as the Board of Councillors.

(2) The Vice-Chairman shall, during the absence of the Chairman for any reasons whatsoever, discharge all the duties, and exercise all the powers, of the Chairman unless otherwise expressly directed by the Chairman.

(3) The Vice-Chairman shall, at any time, perform such other duty or exercise such other power as may be delegated to him under the provisions of this Act.

Members of Chairman-in-Council.

20. The members of the Chairman-in-Council shall exercise such powers and perform such functions as may be assigned to them from time to time by the Chairman.

Term of office of Vice-Chairman and other members of Chairman-in-Council.

21. The Vice-Chairman or any other member of the Chairman-in-Council shall hold office until—

- (a) he ceases to be a Councillor, or
- (b) he resigns his office by writing under his hand addressed to the Chairman in which case the resignation shall take effect from the date of its acceptance, or
- (c) he is removed from office by a written order of the Chairman, or
- (d) the Chairman ceases to hold office, or
- (e) in the case of the death of the Chairman, a newly elected Chairman enters upon his office.

Wards Committee.

22. (1) There shall be constituted Wards Committees, consisting of one or more wards within the territorial area of a Municipality having a population of three lakhs or more.

(2) The composition and the territorial area of a Wards Committee, and the manner in which the seats in a Wards Committee shall be filled, shall be such as may be prescribed.

(3) Where a Wards Committee consists of—

- (a) one ward, the member representing that ward in the Municipality; or
- (b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee,

shall be the Chairperson of that Committee.

Borough Committee.

23. (1) There may be Borough Committees constituted in a municipal area in accordance with such rules as may be made by the State Government in this behalf.

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(Part II.—The Municipal Areas.—Chapter III.—The Municipal Authorities.—Sections 24, 25.—Chapter IV.—Election of Councillors.—Section 26.)

(2) The Borough Committees shall perform such functions and transact such business in such manner as may be prescribed.

24. (1) The Board of Councillors may, from time to time, appoint a Special Committee to perform such specified functions, or conduct such enquiries, or undertake such studies including reports thereon, as may be contained in a resolution in this behalf.

Formation of Special Committee.

(2) Any person who is not a Councillor but possesses special qualifications useful for the purpose of a committee as aforesaid may be associated therewith as its member.

(3) The manner of transaction of business in a Special Committee shall be such as may be laid down by the Board of Councillors.

25. (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.

Constitution of Joint Committee.

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

- (i) two nominees of each constituent Municipality or local authority,
- (ii) one nominee of each of the concerned departments of the State Government or of the concerned local authorities,
- (iii) such expert or experts as the State Government may nominate,
- (iv) Director of Local Bodies or his representative who shall also act as the convener of the committee.

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

CHAPTER IV

Election of Councillors.

26. (1) The first general election of the Board of Councillors of a municipal area newly constituted shall be held at such time as the State Government may prescribe.

Holding of general election.

(2) The general election in a municipal area to constitute the Board of Councillors shall be held before the expiration of the term of office of the existing Board of Councillors on such date as the State Government may fix for the purpose.

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—Sections 27, 28.)

(3) Each ward of a municipal area shall elect a Councillor during the general election in accordance with the provisions of this Act and the rules made thereunder.

(4) Notwithstanding anything contained in this section, there shall be no bar to the constitution of a Board of Councillors after a general election on account of election not being held in a ward or in a number of wards not exceeding one-fourth of the total number of wards constituting the municipal area.

Reservation of seats for Scheduled Castes, Scheduled Tribes and Women.

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

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

(3) Not less than one-third of the total number of seats, including the seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes, to be filled by direct election to a Municipality shall be reserved for women, and such seats may be allotted by rotation to different constituencies of that Municipality.

(4) The office of Chairpersons of a Municipality shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as may be notified by the State Government from time to time.

(5) The reservation of seats for the Scheduled Castes and the Scheduled Tribes under sub-sections (1) and (2) and the reservation of the office of Chairpersons for the Scheduled Castes and the Scheduled Tribes under sub-section (4) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India.

Elections to the Municipalities.

28. (1) Notwithstanding anything contained in this Act, the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the municipalities shall be vested in the State Election Commission constituted by the State Government by law made by the State Legislature in this behalf.

(2) The State Election Commission shall perform its functions in accordance with such rules as the State Government may make from time to time.

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—Sections 29-31.)

29. (1) For every municipal area, there shall be an electoral roll showing the names of persons qualified to vote.

Electoral roll for a municipal area.

(2) The electoral roll for every municipal area shall be divided into several parts, one for each ward of a municipal area.

(3) The electoral roll for a municipal area shall be prepared, revised or corrected by the State Election Commission in accordance with such rules as may be made by the State Government in this behalf:

Provided that there shall be a preliminary publication of such electoral roll after preparation or revision to be followed by final publication after hearing of objections in the manner prescribed.

(4) Notwithstanding anything contained elsewhere in this Act, the electoral roll for the time being in force for the election of members of the West Bengal Legislative Assembly, so far as it relates to the area comprised in a municipal area, may be adopted as the electoral roll for that municipal area for the purposes of preliminary publication.

30. (1) Every person who—

- (a) is not less than 18 years of age on the qualifying date, and
- (b) is ordinarily resident in a municipal area,

Condition for registration as a voter.

shall be entitled to be registered in the electoral roll for that municipal area.

(2) No person shall be entitled to be registered in the electoral roll for any municipal area in more than one place.

(3) No person shall be entitled to be registered in the electoral roll for any municipal area if his name has already been registered as a voter in the electoral roll of any other municipal area, municipal corporation or *panchayat* area.

Explanation I.—The expression “qualifying date” shall mean such date as the State Government may by notification specify for the purposes of this Act.

Explanation II.—The expression “ordinarily resident” shall have the same meaning as assigned to it in section 20 of the Representation of the People Act, 1950.

43 of 1950.

31. The disqualifications for registration in an electoral roll for a municipal area shall be the same as provided in section 16 of the Representation of the People Act, 1950.

Disqualification for registration in an electoral roll.

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—Sections 32-34.)

Appeal.

32. Any person aggrieved by any entry in, or omission from, the electoral roll or by the order or decision of the State Election Commission, may, within fifteen days from the date of final publication of the electoral roll or from the date of the decision or the order of the State Election Commission, as the case may be, appeal to such appellate authority as the State Government may by notification appoint and if, on such appeal, the said appellate authority directs any modification or addition to be made in the electoral roll or the decision or the order of the State Election Commission, the electoral roll shall accordingly be corrected or the decision or the order shall be modified, as the case may be. Such decision on appeal shall be published in the manner provided for final publication of an electoral roll.

Offences in respect of electoral roll.

33. (1) Every person who by claiming a qualification, which he knows that he does not possess, to vote at a municipal election or by using a false document or by a false declaration or by any other deceitful means, procures or attempts to procure the improper entry of the name, whether of himself or of any other person, in the electoral roll or the improper omission of any name therefrom, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

(2) Every municipal officer or employee or polling officer who wilfully makes or procures or attempts to make or procure any improper entry in the electoral roll or any improper omission therefrom shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both.

Right to vote.

34. Save as otherwise provided in this Act, every person whose name is included in the electoral roll which is in force after final publication, shall be entitled to vote at an election for the ward where his name is so included:

Provided that no person shall vote at an election of Councillors of a municipal area if he—

- (a) has been adjudged to be of unsound mind, or
- (b) has voluntarily acquired the citizenship of a foreign State, or
- (c) has been sentenced by a criminal court for an electoral offence punishable under this Act or has been disqualified under any other law for the time in force from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification:

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—Sections 35, 36.)

Provided that the disqualification under this clause may at any time be removed by the State Government if it thinks fit.

35. No person whose name is not included in the electoral roll for the election of Councillors of a municipal area, shall be qualified to be elected a Councillor of that municipal area.

Qualifications for election as a Councillor.

36. (1) A person shall not be eligible for election or appointment as a Councillor if such person—

General disqualifications for a Councillor.

- (a) has been adjudged by a competent court to be of unsound mind; or
- (b) is under twenty-one years of age; or
- (c) is an undischarged insolvent; or
- (d) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or
- (e) holds any office of profit under the Municipality; or
- (f) has, directly or indirectly by himself or by his partner or employer or any employee, any share or interest in any contract or employment with, by, or on behalf of, the Municipality; or
- (g) is in the service of, or receives remuneration from, the Central or the State Government or the Municipality; or
- (h) has been elected to, or appointed under, any other Municipality or any Municipal Corporation or any *Gram Panchayat* or *Panchayat Samiti* or *Zilla Parishad* or the Council:

Provided that notwithstanding anything contained in clause (f), no person shall be deemed to be disqualified thereunder by reason only of his having a share or interest in—

- (i) any lease, sale or purchase of land or any agreement for the same; or
- (ii) any agreement for the loan of money or any security for the payment of money only; or
- (iii) any newspaper in which any advertisement relating to the affairs of the Municipality is inserted; or
- (iv) any incorporated or registered company which contracts with, or is employed by, the Municipality.

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—Sections 37-40.)

(2) If any person is or has been convicted by a criminal court of an offence, punishable with imprisonment, for a period of not less than two years, such person shall not be eligible for election or appointment as a Councillor for five years from the date of expiration of the sentence.

(3) If any question arises as to whether any person or any Councillor has become subject to any of the disqualifications mentioned in sub-section (1) and sub-section (2), the question shall be referred for decision to such authority and in such manner as may be notified by the State Government from time to time.

Election of ineligible persons and disqualifications subsequently incurred.

37. (1) Where a person elected to be a Councillor was not eligible for such election on account of any disqualification referred to in section 35 or section 36 or where a person incurs such disqualification subsequent to his election as Councillor, the election of such person shall be void upon the State Government making a declaration to that effect:

Provided that no such declaration shall be made if the question of such disqualification was raised in an election petition presented under this Chapter.

(2) No act done by a Councillor as aforesaid while remaining in office, shall be invalid on account of his election being declared void subsequently.

(3) The casual vacancy arising out of any election being declared void under this section shall be filled up in accordance with the provision of this Act.

Voting.

38. The manner of holding elections and of voting shall be such as may be prescribed:

Provided that—

- (i) when a poll is taken at any election of a Councillor, the voting at such election shall be by ballot to be conducted in the manner prescribed, and
- (ii) no person shall be entitled to give more than one vote to any one candidate.

Corrupt practices.

39. A person shall be deemed to have committed an offence of corrupt practice if he commits an act relating to a corrupt practice within the meaning of section 123 of the Representation of the People Act, 1951.

43 of 1951.

Penal provision for corrupt practices.

40. Whoever commits an offence of corrupt practice shall be punishable with imprisonment of either description for a term which may extend to one year or with fine or with both.

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—Sections 41-43.)

41. (1) No Magistrate other than a Judicial Magistrate of the first class shall take cognizance of any offence under this Chapter,—

Prosecution and appeal.

- (a) except on the complaint of a person whose name is on the electoral roll;
- (b) unless such complaint has been made within fourteen days of—
 - (i) the date of declaration of the result of any election to which the offence relates, or
 - (ii) the date on which the offence is alleged to have been committed; and
- (c) in the case of an offence of corrupt practice, unless the person complaining shall have deposited one hundred rupees:

Provided that deposit mentioned in clause (c) shall be refunded to the complainant if the complaint is found to be true or if, for any other reason, the Magistrate or the Court of Sessions so directs.

(2) An appeal shall lie to the Court of Sessions from any conviction under this section.

42. Every person convicted of an offence under this Chapter or of an offence punishable under the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, shall be disqualified from voting or from being elected in any election to which this Act applies and from holding the office of the Chairman or the Councillor under this Act for such period, not being less than three years or more than six years from the date of his conviction, as the Court may by order determine.

Orders of disqualification.

West Ben.
Act X of
1952.

43. (1) If the validity of any election of a Councillor is called in question by any person qualified to vote at such election, such person may, at any time within ten days immediately after the date of declaration of the result of the election, file a petition before the District Judge of the district within which the election has been or should have been held and shall, at the same time, deposit two hundred rupees in the Court as security for the cost likely to be incurred:

Election petition and procedure.

Provided that the validity of such election shall not be called in question in any such petition—

- (a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll; or
- (b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll:

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—Sections 44, 45.)

Provided further that if only two candidates contested such election, the petitioner may, in addition to calling in question the election of the returned candidate, claim that if the election of the returned candidate is set aside, the other candidate may be declared duly elected.

(2) The provisions of the Code of Civil Procedure, 1908, shall apply, as far as may be, in the matter of adjudication of an election petition under sub-section (1).

5 of 1908.

Setting aside of election.

44. If the District Judge, after holding such inquiry as he deems fit in respect of an election petition, is satisfied that—

- (a) a candidate has committed any corrupt practice within the meaning of this Chapter, or
- (b) the result of the election has been materially affected by any act or omission in violation of the provisions of this Act or the rules made thereunder, or
- (c) the result of the election has been vitiated by any offence punishable under the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952,

he shall set aside the election of such candidate, if he has been elected, and may, if the election is set aside for any cause which is the result of any act of a candidate or his agent, declare that candidate to be disqualified for the purpose of a fresh election caused by such setting aside:

Provided that if the District Judge in setting aside the election holds a candidate guilty of any corrupt practice, he may declare such candidate disqualified for contesting an election to a Municipality for a period not exceeding six years.

Scrutiny of votes and declaration or confirmation of result.

45. (1) If the election petition is confined to the question of validity of votes cast or counting, the District Judge shall, after such scrutiny and computation of votes as may be deemed necessary, declare the result.

(2) If there be only two candidates contesting the election in dispute and the election petition contains a claim by one of the candidates for declaring him elected, the District Judge may, while deciding upon the election petition, declare such candidate duly elected.

(3) If after computation, there be an equality of votes, among two or more candidates, the District Judge shall select one among them by drawing lots.

(4) If the District Judge is satisfied that no ground exists for setting aside the election or modifying the results thereof, he shall confirm the election.

XXII of 1993.]

(Part II.—The Municipal Areas.—Chapter IV.—Election of Councillors.—
Sections 46-49.—Chapter V.—The Municipality and the Municipal
Establishment.—Section 50.)

46. Save as provided in this Chapter, no Court shall entertain any application in any form whatsoever for adjudication of any matter relating to election to a Municipality. Bar to jurisdiction of Courts.

47. If an election is set aside by the District Judge, a date shall forthwith be fixed and necessary steps shall be taken for holding a fresh election for filling up the vacancy, as though it has been a casual vacancy. Fresh election when an election is set aside.

48. Where a candidate, who has been elected to be a Councillor, is declared by the District Judge to have not been duly elected, no act done by him by virtue of the office of Councillor before such declaration, shall be invalidated by reason of such declaration. Saving of acts done by a Councillor before his election is set aside.

49. Notwithstanding anything contained elsewhere in this Chapter, the State Government may, for reasons to be recorded in writing, remove any disqualification imposed on a candidate from contesting an election to a Municipality if, in its opinion, the offence does not involve moral turpitude, or may reduce the term of disqualification in any case whatsoever. Power of State Government to remove disqualifications or modify terms thereof.

CHAPTER V

The Municipality and the Municipal Establishment.

10 of 1873.

50. (1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected or appointed to be a Councillor shall, before taking his seat, make and subscribe before the Chairman, the Vice-Chairman, the District Magistrate, the Magistrate-in-charge of the sub-division in which the municipal area is situated or an officer of the State Government authorised in this behalf by the District Magistrate an oath or affirmation of his allegiance to the Constitution of India in the following form:— Oath of allegiance to be taken by Councillors.

“I, A.B., having been $\frac{\text{elected}}{\text{appointed}}$ a Councillor of the municipal area of—, do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duties upon which I am about to enter.”

(Part II.—The Municipal Areas.—Chapter V.—The Municipality and the Municipal Establishment.—Sections 51-53.)

(2) Any person who, having been elected or appointed a Councillor, fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under 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 above period of three months by such period as it thinks fit.

Meeting of the Board of Councillors.

51. (1) The Board of Councillors shall meet not less than once in every month for the transaction of business:

Provided that if there is no business to be transacted at any monthly meeting, the Chairman shall give notice of the fact to Councillors.

(2) The Chairman shall, upon a requisition in writing by not less than one-third of the members of the Board of Councillors, convene a meeting of the Board.

(3) All matters required to be decided at a meeting shall be determined by the majority of votes of the Councillors present and voting.

(4) The State Government may by rules provide for such other matters relating to conduct of business of the Board of Councillors as are not provided in this Act.

Remuneration and allowances.

52. The Councillors of the municipal area including the members of the Chairman-in-Council may receive such remuneration or allowance as may be prescribed:

Provided that different rates may be prescribed for different groups of municipalities and for different classes of functionaries in each municipality.

Municipal establishments.

53. (1) Save as otherwise provided in this Act, a Municipality may have the following officers:—

- (a) a Municipal Secretary;
- (b) an Executive Officer;
- (c) an Engineer and an Architect;
- (d) a Health Officer;
- (e) a Finance Officer;
- (f) an Assessor;
- (g) an Office Superintendent, a Head Clerk and a Head Assistant;
- (h) an Accountant;
- (i) a Surveyor;

XXII of 1993.]

(Part II.—The Municipal Areas.—Chapter V.—The Municipality and the Municipal Establishment.—Sections 54, 55.)

- (j) a Sanitary Inspector;
- (k) a Sub-Assistant Engineer;
- (l) such other officer as may be designated by the State Government in this behalf:

Provided that the State Government may reduce the number of the posts as aforesaid for any group or groups of Municipalities:

Provided further that the State Government may by order redesignate any of the posts as aforesaid in respect of any Municipality or groups of Municipalities.

(2) A Municipality shall also have such supporting staff comprising officers and employees as the Board of Councillors may consider necessary:

Provided that the State Government may by rules provide for the norms regulating the size of the municipal establishments for each group of Municipalities and the categories or designations of officers and employees of each group of Municipalities.

54. (1) The State Government may constitute a cadre of common municipal service for the State in respect of such officers of the municipal establishment referred to in sub-section (1) of section 53 as may be determined by it from time to time.

Cadre of common municipal service, appointments, etc.

(2) The Director of Local Bodies shall be the appointing authority of all officers and employees borne in the cadre of common municipal service. The Director of Local Bodies shall also be the authority to transfer the officers and employees of the cadre of common municipal service from one municipal area to another.

Explanation.—“Director of Local Bodies” shall mean any person appointed as such by the State Government by notification for all or any of the purposes of this Act, and shall include a Deputy Director of Local Bodies or Assistant Director of Local Bodies appointed under sub-section (2) of section 425.

(3) The appointment of all other officers and employees shall be made by the Municipality.

(4) Save as otherwise provided in this Act, the State Government may by rules provide for the mode of appointment, conditions of service and other allied matters relating to the officers and employees of Municipalities.

55. (1) The State Government may constitute a Municipal Service Commission consisting of a Chairman and two other members for selection of such personnel of municipal officers and employees as may be prescribed.

Municipal Service Commission.

(Part II.—The Municipal Areas.—Chapter V.—The Municipality and the Municipal Establishment.—Sections 56-59.)

- (2) The State Government may also by rules provide for—
- (a) the salaries, allowances and conditions of service of the Chairman and other members of the Municipal Service Commission,
 - (b) the manner in which the Municipal Service Commission shall perform the duties imposed upon it by or under this Act,
 - (c) the number of officers and other employees of the Municipal Service Commission and their salaries and allowances, and
 - (d) the terms and conditions of service including discipline, and control and conduct of officers and other employees of the Municipal Service Commission.

Salaries and allowances of officers and employees.

56. (1) All officers and employees of a Municipality including the officers referred to in section 53 shall receive salaries and allowances out of the Municipal Fund:

Provided that the State Government may make such contribution towards the salaries and allowances as it may, from time to time, determine by an order.

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

Leave and other conditions of service.

57. All officers and 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.

Compulsory retirement of municipal officers and other employees.

58. (1) Notwithstanding anything contained in this Chapter or elsewhere in this Act or in any rules made thereunder, a municipal officer or other employee shall retire from service compulsorily with effect from the afternoon of the date on which he attains the age of sixty years.

(2) No municipal officer or other employee shall be re-employed after retirement in any post without the prior sanction of the State Government.

Power to declare essential service in municipalities.

59. Notwithstanding anything to the contrary contained in any other law for the time being in force, the Board of Councillors may, with the sanction of the State Government, declare any cadre or class of municipal employees to be in essential service and upon such declaration, no employee of such cadre or class shall withdraw from his duties without the permission of the Chairman and, in no case, without giving prior notice of clear thirty days to the Chairman of his intention so to do.

(Part II.—The Municipal Areas.—Chapter V.—The Municipality and the Municipal Establishment.—Sections 60-62.)

60. (1) Subject to the size of a municipal establishment as determined under section 53, no person shall be appointed by any Municipality without the prior sanction of the State Government, if it means the enlargement of establishment by more than one per cent per year of the total number of sanctioned strength of the officers and employees existing in the year immediately preceding:

Enlargement of municipal establishment and recruitment.

Provided that no admissible enlargement of sanctioned strength in any year, if not filled up, may be carried forward in the next year, subject to a minimum of one in each year:

Provided further that the State Government may prescribe the category or scale of pay of posts to which no appointment shall be made without the prior sanction of the State Government even though the creation of such posts are within the admissible limit of one per cent as aforesaid.

(2) Recruitment to the posts of officers and employees not made through the Municipal Service Commission constituted under this Act, shall be made through the local employment exchange or through any other method as may be decided by the State Government from time to time.

61. (1) The Chairman shall be the executive head of the municipal administration and shall exercise control over all officers and employees in the matter of discipline.

Classification, control and appeal.

(2) The Chairman may delegate his power to any other member of the Chairman-in-Council or an officer of the Municipality in such manner as he may specify by an order.

(3) The punishment for breach of discipline may include dismissal from service, reduction in rank, withholding of increment, suspension including suspension pending proceedings, fine and censor.

(4) In all disciplinary matters involving dismissal from service and reduction in rank, an appeal shall lie before the Board of Councillors from an order passed by the Chairman or his delegate and, in all other cases, the appellate authority shall be the Chairman or his delegate.

(5) The State Government may by rules provide for the norms of conduct of the officers and employees of the Municipalities and such other matters regarding discipline and control as it may think fit.

62. Notwithstanding anything contained elsewhere in this Act, the State Government may, if it considers necessary for the purpose of rationalising the scale of pay and other terms and conditions of service, including leave and retirement benefits, in respect of all or any category of municipal officers and employees, appoint a Pay Review Committee, and the decision of the State Government upon the recommendations of such Committee shall be binding on all.

Appointment of Pay Review Committee.

*(Part II.—The Municipal Areas.—Chapter VI.—
Powers and Functions.—Section 63.)*

CHAPTER VI

Powers and Functions

Obligatory
functions.

63. It shall be the obligatory duty of every Municipality to make reasonable and adequate provision for the following matters within the territorial limits of the municipal area and the financial means at its disposal:—

- (1) in the sphere of public works,—
 - (a) providing by itself or by an agency, means for supply of water for public and private purposes;
 - (b) construction, maintenance and cleansing of sewers and drains, sewerage and drainage works;
 - (c) construction, maintenance and cleansing of public latrines, urinals and similar conveniences;
 - (d) construction, maintenance, alteration and improvement of public streets and street furniture, bridges and culverts, fly-overs, sub-ways, cause-ways and the like;
 - (e) naming of streets and numbering of premises;
 - (f) lighting of public streets and other public places;
 - (g) planting and care of trees on road-side and elsewhere;
 - (h) construction and maintenance of municipal markets and slaughter houses and the regulation of all markets and slaughter houses;
 - (i) maintenance of all monuments vested in the Municipality;
- (2) in the sphere of public health and sanitation,—
 - (a) collection, removal and disposal of solid wastes including filth, rubbish and other obnoxious or polluted matters;
 - (b) disposal of solid and liquid wastes consistent with efforts to cause recovery and re-use of all that can be salvaged;
 - (c) reclamation of unhealthy localities, removal of noxious vegetation and abatement of all nuisances;
 - (d) regulating and abating offensive and dangerous trades or practices;
 - (e) cleansing of public streets and other public places;
 - (f) ensuring the wholesomeness of water supplied for drinking and domestic purposes;
 - (g) maintenance of all public tanks and regulating the re-excavation, repair and up-keep of all private tanks, wells and other sources of water supply on such terms and conditions as the Municipality may deem proper;

(Part II.—The Municipal Areas.—Chapter VI.—
Powers and Functions.—Section 63.)

- (h) provide for places for the disposal of the dead and the regulation and maintenance of such places;
 - (i) measures for preventing and checking the spread of dangerous diseases;
 - (j) immunisation including public vaccination and inoculation;
 - (k) removal and disposal of the unclaimed dead bodies and carcasses of all dead animals;
 - (l) abatement of nuisances from birds and animals including dog menace;
 - (m) conversion of all service privies into sanitary latrines and providing adequate facilities for sanitation so that open defecation may be completely done away with;
- (3) in the sphere of town planning and development,—
- (a) devising town planning within the limits of the municipal area in accordance with the laws relating to town planning for the time being in force;
 - (b) planned development of the borders of the municipal area in accordance with the laws applicable for the purpose;
 - (c) improvement of *bustees*;
 - (d) control of regular lines of streets;
 - (e) control of all building operations and regulation of building uses;
 - (f) co-ordination of all overground rights enjoyed by service agencies;
 - (g) co-ordination of activities of agencies relating to laying and maintenance of underground pipelines, tubes, cables and the like;
 - (h) laying out and maintenance of public parks, squares, gardens or recreation areas;
 - (i) re-development of congested areas for providing better living conditions;
 - (j) planned development of new areas for human settlement;
 - (k) preservation of monuments and places of historical, artistic and other importance;
 - (l) measures for beautification of the township by setting up fountains and statues, providing recreational areas, improving river banks, landscaping and the like;

*(Part II.—The Municipal Areas.—Chapter VI.—
Powers and Functions.—Section 64.)*

- (4) in the sphere of administration,—
- (a) survey of buildings and lands and preparation and maintenance from time to time of survey maps and plans of the town and other records relating to survey;
 - (b) removal of unauthorised encroachment on, or obstruction and projections in or upon, streets, bridges and other public places;
 - (c) securing or removal of dangerous buildings and places;
 - (d) registration of births and deaths;
 - (e) providing boundary marks for the municipal areas;
 - (f) drawing up an Annual Administration Report on the activities and performances of the Municipality and submission, in the manner prescribed, of such report to the State Government;
 - (g) compilation and maintenance of records and statistics relating to the administrative functions of the Municipality;
 - (h) maintenance and development of all properties vested in or entrusted with the management of the Municipality;
 - (i) checking the construction of unauthorised buildings and pulling down unlawful constructions;
 - (j) ensuring the stoppage of wastage of water supply and other civic facilities;
 - (k) protecting public properties in general and civic properties in particular;
 - (l) adatement of pollutions of all kinds;
 - (m) preventive measures against fire and assistance to fire extinction;
 - (n) providing for adequate training facilities for the municipal employees and equipping and motivating them for public service;
 - (o) observance of occasions of national importance.

Discretionary functions of the Municipality.

64. A municipality may, at its discretion, provide, either wholly or partly, out of the municipal property and fund, for the following matters within the limits of the municipal area:—

- (1) in the sphere of public works,—
- (a) giving relief to, and establishing and maintaining, in time of famine or scarcity, relief works for, destitute persons within the limits of the municipal area;

*(Part II.—The Municipal Areas.—Chapter VI.—
Powers and Functions.—Section 64.)*

- (b) construction or maintenance of, or providing or giving aids for, passengers' sheds, libraries, museums, community halls, offices, godowns, shops, markets, dharmashalas, rest houses, sports complex, place of entertainment, swimming pools, public wash houses and bathing places and homes for the disabled and destitute and other public buildings designed for convenience of the community;
 - (c) construction and maintenance of old age homes and orphanages, domiciliary care of the sick, orphan, destitute and aged people;
 - (d) construction or maintenance of, or providing aids to, hospitals, dispensaries, asylums, rescue homes, maternity houses, and child welfare centres;
 - (e) construction, purchase, organisation, maintenance, extension and management of mechanically propelled transport facilities for the conveyance of the public;
 - (f) construction, maintenance, repair, and purchase of any works for the supply of electrical energy or gas;
 - (g) construction of dwellings for the inhabitants, specially low-cost dwellings for the socially backward classes of citizens;
 - (h) providing accommodation for all classes of employees of the Municipality;
- (2) in the sphere of education,—
- (a) establishing and maintaining pre-primary schools such as balwadies and creches;
 - (b) promotion of civic education, adult education, social education, non-formal education and the like;
 - (c) promotion of cultural activities including music, physical education, sports and theatres;
 - (d) advancement of science and technology in the way of life;
 - (e) advancement of civic consciousness of public health and general welfare by organising discourses, seminars and conferences;
 - (f) publication of municipal journals, periodicals and souvenirs, purchase of books, and subscriptions to journals, magazines and newspapers;
- (3) in the sphere of public health and sanitation,—
- (a) construction and maintenance of cattle pounds;
 - (b) provision for unfiltered water-supply for non-domestic uses;

(Part II.—The Municipal Areas.—Chapter VI.—
Powers and Functions.—Section 64.)

- (c) promotion of the use of bio-gas and other non conventional energy sources;
 - (d) provision for sewage treatment and preparation of compost manures from sewage and other refuse;
 - (e) abatement of smoke nuisances;
 - (f) setting up of milk dairies or farms (but not *khatals*) for supply, distribution and processing of milk or milk products for the benefit of the people;
 - (g) ambulance service for carrying patients;
- (4) in the sphere of administration,—
- (a) civic reception to persons of distinction and paying homage on death to persons of repute;
 - (b) installation of statues, portraits and pictures in appropriate manner;
 - (c) organisation and management of fairs and exhibitions;
 - (d) organisation, establishment and maintenance of art galleries and botanical or zoological collections;
 - (e) construction and maintenance of garages and sheds and stands for vehicles;
 - (f) measures for eradication of addiction of all kinds like liquors and drugs;
 - (g) organising voluntary labour and co-ordinating the activities of voluntary agencies for community welfare;
- (5) in the sphere of development,—
- (a) encouraging formation of co-operative societies and, in particular, housing co-operative societies, and assistance to such co-operative societies in construction of residential buildings;
 - (b) providing shelter for the homeless;
 - (c) undertaking manufacturing of building materials and their distribution at fair prices;
 - (d) reclamation of waste lands and promotion of social forestry;
 - (e) establishing and maintaining nurseries for plants, vegetables and trees and promotion of greenery through mass participation;
 - (f) organisation of flower-shows and promotion of flower-growing as a civic culture;
 - (g) promotion of agriculture, pisciculture, horticulture, poultry and improvement of cattle breed;
 - (h) assistance to small-scale and cottage and craft industries;

*(Part II.—The Municipal Areas.—Chapter VI.—
Powers and Functions.—Section 65.)*

- (i) programme for liberation and rehabilitation of scavengers and their families;
 - (j) income-generating activities, particularly for the women belonging to the socially backward classes of citizens;
 - (k) collection of statistics and data significant to the community;
 - (l) integration of the development plans and schemes of the town with the district or regional development plan, if any;
- (6) generally, taking all measures not specified in the foregoing provisions of this section, which are likely to promote public safety, health, convenience, education or welfare of the community.

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

Transfer of
functions of
State
Government.

(2) Without prejudice to the generality of the provisions of subsection (1), the State Government may transfer to the Municipality such functions and duties as are performed by the departments of the State Government on any of the following matters:—

- (a) town and country planning;
- (b) urban development;
- (c) water supply and sanitation;
- (d) transport system including regulation of traffic terminus;
- (e) employment schemes and programmes;
- (f) health and family welfare;
- (g) relief and social welfare including social security schemes and programmes;
- (h) public works including road construction and housing;
- (i) cottage and small-scale industries, business and services including programme for skill development;
- (j) education including primary education, audit education, vocational education, social education, non-formal education, audiovisual education and library services;

(Part II.—The Municipal Areas.—Chapter VI.—Powers and Functions.—Section 66.—Part III.—Finance.—Chapter VII.—Municipal Fund.—Sections 67, 68.)

- (k) food and supplies including rationing and distribution;
- (l) civil defence;
- (m) fire protection and fire fighting;
- (n) sports and youth services;
- (o) welfare of the Scheduled Castes and the Scheduled Tribes;
- (p) environmental safety and improvement;
- (q) social forestry and plantation programme.

(3) Where any function or duty under any law is so transferred, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

Power to transfer any function of Municipality under the Act to any organisation.

66. Notwithstanding anything contained in this Act or in any other law for the time being in force, the Municipality may, if it is of opinion that it is necessary so to do in the public interest, transfer, with the prior approval of the State Government, any function or functions of the Municipality under this Act to any organisation, including a Government organisation, in such manner, and on such terms and conditions, as may be prescribed.

Explanation.—“Government organisation” shall mean an organisation maintained or managed by the State Government.

PART III

FINANCE

CHAPTER VII

Municipal Fund.

Municipal Fund.

67. There shall be constituted for each Municipality a fund to be called Municipal Fund to be held by the Board of Councillors in trust for the purposes of this Act, and all moneys realised or realisable under this Act and all moneys otherwise received by the Municipality shall be credited thereto.

Custody of Municipal Fund.

68. All moneys received on account of the Municipal Fund shall be paid into a Government treasury or into any bank in the municipal area, and shall be credited to an account to be called the account of the Municipality to which they belong:

Provided that the Chairman-in-Council may invest moneys not required for immediate use, either in Government securities or in any other form of security which may be approved by the State Government or in fixed deposit in the State Bank of India or in any nationalised bank or State Co-operative Bank, or in any other form as the State Government may direct.

*(Part III.—Finance.—Chapter VII.—Municipal Fund.—
Sections 69-72.)*

69. (1) All moneys 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 or for payment of all sums payable out of the Municipal Fund under any other law for the time being in force.

Application
of Municipal
Fund.

(2) No payment of any sum shall normally be made out of the Municipal Fund unless such expenditure is covered by a current budget grant and a sufficient balance of such budget grant is available for the purpose.

(3) Whenever any sum is paid for the purposes not covered by the budget grant, the matter shall forthwith be communicated to the Chairman-in-Council who shall 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 payments.

70. Notwithstanding anything contained elsewhere in this Act, the State Government may require a Municipality to earmark a particular portion of the Municipal Fund or a particular grant or a part thereof, or any item of receipt under any head or any percentage thereof, or any share of tax receivable by the Municipality under any other law for the time being in force or any part thereof, to be utilised exclusively for any specified purpose, and it shall be mandatory on the part of the Municipality to follow the same. The State Government may also formulate separate sets of rules for observance by different groups of municipalities in this regard.

Exclusive
use of fund
for a
particular
purpose.

71. (1) The State Government may, from time to time, give grants or financial assistance to a Municipality with or without direction as to the manner in which the sum shall be applied.

Financial
assistance
from the
State
Government.

(2) The State Government may also lay down a pattern for distribution of such grants or assistance which may include the conditions of release of grants and classification of municipalities for the purpose.

9 of 1914.

72. (1) Subject to the provisions of the Local Authorities Loans Act, 1914, the Municipality may, with the prior permission of the State Government, obtain loan from any public financial institution or any nationalised bank or such other lending institution as the State Government may approve in this behalf, and the State Government may, if it considers so necessary, stand as the guarantor for payment.

Loans.

(Part III.—Finance.—Chapter VII.—Municipal Fund.—Section 73.—
Chapter VIII.—Municipal Property.—Sections 74, 75.)

(2) The State Government may advance from the public funds or stand as guarantor for funds from any financial institution on the security of the Municipal Fund and, in the case of a joint scheme, on the security of the Municipal Fund and the fund of other local authorities, if any, to provide for the cost of installation or maintenance relating to any project or scheme for civic services and such advance shall be recoverable under the Local Authorities Loans Act, 1914 and the rules made thereunder.

9 of 1914.

(3) The State Government may require the Municipality to observe such financial discipline in the matter of debt servicing, including creation of a sinking fund, as the State Government may think fit and proper and, in doing so, the State Government may prescribe different sets of rules for observance by different groups of Municipalities.

Power to incur expenditure beyond the limits of a municipality.

73. Notwithstanding anything contained elsewhere in this Chapter, the Board of Councillors may, with the approval of the State Government, authorise expenditure to be incurred beyond the limits of a municipal area for creation of physical assets outside the limits of such municipal area as well as for maintenance thereof for carrying out the purposes of this Act.

CHAPTER VIII

Municipal Property.

Power to acquire and hold property.

74. The Board of Councillors shall, for the purposes of this Act, have power to acquire, by gift, purchase or otherwise, and hold, movable and immovable property or any interest therein, whether within or outside the limits of the municipal area.

Vesting of property.

75. Notwithstanding anything contained in any other law for the time being in force, the movable and immovable properties of the following categories within the limits of a municipal area shall vest in the Municipality, unless the State Government otherwise directs by a notification in the *Official Gazette*:—

- (a) all vested public lands not belonging to any Government department or statutory body or corporation;
- (b) all public tanks, streams, reservoirs and wells;
- (c) all public markets and slaughter houses;
- (d) all public sewers and drains, channels, tunnels, culverts and water courses in, alongside, or under, any street;

XXII of 1993.]

(Part III.—Finance.—Chapter VIII.—Municipal Property.—
Sections 76, 77.)

- (e) all public streets and pavements, stones and other materials thereof, and also trees on such public streets or pavements not belonging to any private individual;
- (f) all public parks and gardens, including squares and public open spaces;
- (g) all public *ghats* on rivers or streams or tanks;
- (h) all public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto;
- (i) all public places for disposal of the dead, excluding those governed by any specific law in this behalf;
- (j) all solid and liquid wastes collected on a public street or public place, including dead animals and birds;
- (k) all stray animals not belonging to any private persons.

76. (1) The Board of Councillors may, on such terms and conditions as may be approved by it, acquire by agreement—

- (a) any immovable property,
- (b) any easement affecting immovable property.

(2) The Board of Councillors may also acquire a property by exchange on such terms and conditions as may be approved by it.

(3) The Board of Councillors may also hire or take on lease immovable property on such terms and conditions as may be approved by it from time to time.

(4) The Board of Councillors may receive, on behalf of the Municipality, any grant or dedication by donor, whether in the form of any income or any movable or immovable property, by which any obligatory or discretionary function of the Municipality may be benefited.

(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.

14 of 1920.
2 of 1882.

Acquisition of property by a Municipality by agreement, exchange, lease, grant, etc.

77. (1) When any land, whether within or outside the limits of a 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 Board of Councillors, proceed to acquire it under the Land Acquisition Act, 1894, or to proceed under the West Bengal Land (Requisition and Acquisition) Act, 1948, or any other law for the time being in force.

1 of 1894.
West Ben.
Act II of
1948.

Compulsory acquisition of land.

*(Part III.—Finance.—Chapter VIII.—Municipal Property.—
Sections 78-80.)*

(2) The Board of Councillors 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, or the West Bengal Land (Requisition and Acquisition) Act, 1948, or any other law for the time being in force, as the case may be.

Power of
Chairman to
act as
Collector for
acquisition.

78. Notwithstanding anything contained in the West Bengal Land (Requisition and Acquisition) Act, 1948, the Chairman may be appointed by the State Government to perform the functions of the Collector under the said Act and, on such appointment, the Chairman may exercise all the powers of a Collector under the said Act.

Special
provisions
for
acquisition
of lands
adjoining
streets.

79. Whenever the Board of Councillors makes a request for acquisition of land for the purpose of providing a new street or for widening or improving an existing street, it shall be lawful for the Board of Councillors to apply 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 building 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.

Disposal of
property.

80. The property belonging to a Municipality may be disposed of in the manner provided in this section, namely—

- (a) the Chairman-in-Council may, in its discretion, dispose of, by sale, lease or otherwise, any movable property belonging to the Municipality:

Provided that the State Government may by rules prescribe the value which, if it increases during the process of sale, shall require the prior sanction of the State Government;

- (b) the Board of Councillors may, for valuable consideration, let out on hire, give in lease, or sell or otherwise transfer, any immovable property belonging to the Municipality for carrying out the purposes of this Act:

Provided that the State Government may by rules prescribe the mode of such sale and specify the value which, if it increases by way of consideration, shall require the prior approval of the State Government in this behalf;

- (c) the municipality shall not transfer any immovable property vested in it by virtue of this Act, 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:

*(Part III.—Finance.—Chapter VIII.—Municipal Property.—
Section 81.—Chapter IX.—Budget, Accounts and
Audit.—Section 82.)*

Provided that the State Government may authorise, in the public interest, the disposal of such immovable property by the Municipality if the Board of Councillors so requires for reasons to be recorded in writing.

81. (1) The Chairman-in-Council shall maintain an inventory of the movable and immovable properties of the Municipality in such form and in such manner as may be prescribed.

Inventory of properties of the Municipality.

(2) The Chairman-in-Council shall, in the case of the inventory of an immovable property, prepare an annual statement along with references therein and place the same before the Board of Councillors.

(3) Such statement shall be included as an appendix to the annual administration report of the Municipality.

CHAPTER IX

Budget, Accounts and Audit.

82. (1) The budget estimate of a Municipality for a year shall be prepared in the prescribed form and presented before the Board of Councillors at a meeting, specially convened for the purpose, not later than the tenth day of March every year:

Annual Budget Estimates of a Municipality.

Provided that no deficit shall be shown in the budget estimate so prepared.

(2) The budget estimate for the ensuing year shall be adopted after discussion by the Board of Councillors within two weeks of presentation.

(3) A copy of the budget estimate adopted by the Board of Councillors shall be sent to the Director of Local Bodies for information and shall be available for inspection by the members of the public in the manner prescribed.

(4) A revised budget for the current year shall be framed in the prescribed form during the middle of the year and presented before the Board of Councillors for adoption after the first day of October, but not later than the thirty-first day of December, each year.

(5) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, on the prayer of a Municipality, direct that the budget estimate, or the revised budget estimate, of a Municipality may be presented or adopted at a later date for reasons to be recorded in writing.

*(Part III.—Finance.—Chapter IX.—Budget, Accounts and
Audit.—Sections 83-86.)*

Power to
alter budget
grants.

83. (1) The Board of Councillors may, on the recommendation of the Chairman-in-Council, from time to time during the year,—

- (a) increase or reduce the amount of any budget grant under any head;
- (b) make additional provision in the budget to meet any special or unforeseen requirement arising during the same year;
- (c) transfer any amount or a portion of any amount of the budget grant under any head to the account of the budget grant under any other head.

(2) Every addition or alteration made in the budget grant under sub-section (1) for any year shall be deemed to be included in the budget estimate finally adopted for that year.

Annual
financial
statement.

84. (1) Within three months of the close of a year, a financial statement for the preceding year in respect of a Municipality shall be prepared in the form and manner prescribed, and presented before a meeting of the Board of Councillors.

(2) A copy of the financial statement shall be given to the Director of Local Bodies and shall be available for inspection by the members of the public in the manner prescribed.

(3) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, on the prayer of a Municipality, extend the date for presentation of the financial statement of a Municipality for reasons to be recorded in writing.

Balance-
sheet.

85. (1) Every Municipality shall cause to be prepared annually a balance-sheet of assets and liabilities in the prescribed form within six months of the close of a year.

(2) The balance-sheet shall be placed before a meeting of the Board of Councillors.

(3) A copy of the balance-sheet shall be given to the Director of Local Bodies.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, on the prayer of a Municipality, extend the date of preparation and presentation of the balance-sheet of a Municipality for reasons to be recorded in writing.

Appoint-
ment and
power of the
Auditor.

86. (1) The municipal accounts as contained in the annual financial statement shall be examined and audited by an Auditor appointed in that behalf by the State Government.

(2) The Chairman-in-Council shall submit such further accounts to the Auditor as may be required by him.

(Part III.—Finance.—Chapter IX.—Budget, Accounts and Audit.—Section 87.)

- (3) The Auditor so appointed may—
- (a) require, by written notice, 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 written notice, 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 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 course of examination of accounts.
- (4) The Auditor may, after giving the person concerned an opportunity of being heard, disallow any item of accounts contrary to the provisions of this Act, and surcharge the amount of any illegal payment on the person making or authorising 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 accounts 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.
- (5) Any person who wilfully neglects or refuses to comply with the requisition made by an Auditor shall, on conviction by a court, be punishable with fine which may extend to one hundred rupees in respect of each item included in the requisition.

87. (1) As soon as practicable after the completion of the audit, but not later than three months thereafter, the Auditor shall prepare the report on the accounts audited and examined, and shall send such report to the Chairman and a copy thereof to the Director of Local Bodies or such other officers as the State Government may direct.

Audit report.

- (2) The Auditor shall include in his report a statement showing—
- (a) every payment which appears to him to be contrary to law,
 - (b) account of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person,
 - (c) the account of any sum received, which ought to have been, but have not been, brought into any account by any person,
 - (d) any other material impropriety or irregularity which may be observed in the accounts.

(Part III.—Finance.—Chapter IX.—Budget, Accounts and
Audit.—Sections 88-92.)

Chairman-
in-Council
to remedy
the defects
upon audit
report.

88. (1) The Chairman-in-Council shall forthwith remedy any defect or irregularity that may be pointed out by the Auditor in his audit report and shall report to the Director of Local Bodies or such other officer as the State Government may direct:

Provided that if there is a difference of opinion between the Chairman-in-Council and the Auditor, the matter may be referred to the Board of Councillors and, if the difference still persists, to the Director of Local Bodies or to such other officer as the State Government may direct.

(2) The State Government may pass such order upon the audit report as it thinks fit for compliance by the Municipality.

Power of the
State
Government
to enforce an
order upon
audit report.

89. 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 step as it thinks fit to secure the compliance of the order and direct that all expenses therefor shall be defrayed from the Municipal Fund.

Special
audit.

90. In addition to the audit of annual accounts, the State Government 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 also apply *mutatis mutandis* to such special audit.

Internal
audit.

91. The State Government may by rules provide for internal audit of the day to day accounts of a Municipality in such manner as it thinks fit.

Municipal
Accounts
Committee.

92. (1) The Board of Councillors 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 such number of Councillors, not being less than three and not more than seven, as the Municipality may determine, to be elected by the Councillors from amongst themselves.

(3) The members of the Municipal Accounts Committee shall elect from amongst themselves one member to be its convenor.

(4) The members of the Municipal Accounts Committee shall hold office until a new Committee is constituted.

(5) Subject to the provisions of this Act and the rules and the bye-laws made thereunder, it shall be the duty of the Municipal Accounts Committee—

(a) to examine the accounts of the Municipality;

*(Part IV.—Municipal Taxation and
Application Fee.—Chapter X.—Taxes and Fees.—
A. Taxes and Fees (other than Application Fee).—
Section 93.)*

- (b) to examine and scrutinise the report on the accounts of the Municipality by the Auditor appointed under this Chapter;
 - (c) to examine and scrutinise the report of special audit, if any;
 - (d) to examine and scrutinise the report of physical verification of stock, if any;
 - (e) to submit report to the Board of Councillors every year and from time to time on such examination and scrutiny;
 - (f) to discharge such other functions as may be entrusted to it by the Board of Councillors.
- (6) The Municipal Accounts Committee may call for any book or document and send for such officer of the Municipality as it may consider necessary for explaining any matter in connection with his work.
- (7) The manner of transaction of business of the Municipal Accounts Committee shall be such as may be determined by it from time to time.

PART IV

MUNICIPAL TAXATION AND APPLICATION FEE

CHAPTER X

Taxes and Fees.

A. Taxes and Fees (other than Application Fee).

- 93.** (1) The Board of Councillors shall, for the purposes of this Act, have the power to levy the following taxes:—
- (a) a property tax on lands and buildings,
 - (b) a tax on advertisements, other than advertisements published in the newspapers,
 - (c) a tax on cart,
 - (d) a tax on carriage,
 - (e) toll on ferries and bridges.

Power to
impose
taxes.

(2) The levy, assessment and collection of taxes mentioned in subsection (1) shall be in accordance with the provisions of this Act and the rules and the bye-laws made thereunder.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—A. Taxes and
Fees (other than Application Fee).—Sections 94, 95.—
B. Rating and Valuation.—Section 96.)

Levy on congregations.

94. (1) The Board of Councillors may levy a fee per head or per vehicle for providing municipal services in connection with any congregation of whatever nature, including pilgrimage, fair, festival, circus or *yatra*, within a municipal area for persons or vehicles assembling within the municipal area for the purpose.

(2) The fee for the purpose of sub-section (1) shall be such as may be determined by the Board of Councillors from time to time which shall not exceed rupees two per person and rupees ten per vehicle besides the levy on passengers therein.

(3) The Board of Councillors may frame regulations specifying the occasions on which such levy may be imposed as well as the rate of levy, the mode of collection and other matters incidental thereto.

Levy of fees, charges, etc.

95. (1) The Board of Councillors may, from time to time, levy fee for licenses issued or permissions granted under the provisions of this Act and may also impose charges for any specific services rendered in pursuance of the provisions of this Act.

(2) The State Government may, from time to time, prescribe the scale at which such fees may be levied or charges imposed.

B. Rating and Valuation.

Property tax on lands and buildings.

96. (1) For the purposes of this Act, a property tax on the annual value of lands and buildings as determined under this Chapter, shall be imposed by the Municipality.

(2) Such property tax shall be determined as follows:—

(a) where the annual value of land and buildings does not exceed nine hundred and ninety-nine rupees, the property tax shall be determined in accordance with the following formula:—

$$\left(\frac{\text{annual value}}{100} + 10 \right) \text{ per cent;}$$

(b) where the annual value of lands and buildings exceeds nine hundred and ninety-nine rupees, the tax shall be determined in accordance with the following formula:—

$$\left(\frac{\text{annual value}}{1,000} + 22 \right) \text{ per cent;}$$

Provided that the property tax shall not exceed 40 per cent of the annual value of lands and buildings:

(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—B. Rating and
Valuation.—Sections 97-101.)

Provided further that while calculating the percentage of property tax, the decimal figure below 0.5 shall be ignored and the decimal figure of 0.5 or above shall be rounded off to 1:

Provided also that the State Government may from time to time by notification, revise the formula referred to in clause (a) and clause (b) of this sub-section and upon such revision, this Act shall be deemed to have been amended accordingly:

Provided also that no such revision shall be made more than once in five years.

97. A surcharge at such rate not less than 20 per cent and not exceeding 50 per cent of the total amount of the property tax imposed on a holding shall be levied if such holding is used wholly or in part for commercial, industrial or such other non-residential purposes as the Board of Councillors may, from time to time decide and the rate of surcharge shall form part of the property tax for the purpose of recovery.

Levy of surcharge.

98. Where a holding is used by the owner exclusively for his own residential purposes, a rebate, not exceeding 20 per cent of the property tax as determined under this Chapter, may be allowed by the Board of Councillors:

Rebate for residential building.

Provided that the Board of Councillors may cause a classification of building according to year of construction for the purpose of granting varying rates of rebate.

99. The State Government may by order exempt any diplomatic or consular mission of a foreign State and the diplomatic and consular officers of such mission from the payment of any rate, tax, toll or fee payable under the provisions of this Act.

Exemption of Diplomatic Missions.

100. Notwithstanding anything contained in this Chapter, lands and buildings, which are the properties of the Union, shall be exempted from the property tax:

Exemption of Central Government properties.

Provided that nothing in this section shall prevent the Board of Councillors from levying on such lands and buildings a property tax to which, immediately before the commencement of this Act, they were, or were treated as, liable:

Provided further that the Board of Councillors may levy a service charge on such buildings on the basis of such annual value and at such rate as may be determined by the Central Government from time to time.

101. Notwithstanding anything contained in the foregoing provisions of this Chapter,—

(a) lands or buildings or portions thereof exclusively used for the purpose of public worship, or

Exemption of holdings exclusively used for public worship etc.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—B. Rating and Valuation.—
Sections 102-105.)

- (b) lands or buildings exclusively used for the public burial or as burning ground, or any other place used for the disposal of the dead duly registered under this Act, or
- (c) open spaces, including parade grounds, which are the properties of Government,

shall be exempt from the property tax.

Explanation.—For the purpose of clause (a) of this section, any land or building used for the purpose of public worship shall not be deemed to be exclusively used for such purpose, if on such land or in such building any trade or business is carried on, or any rent or fee is derived in respect of such land or building, or if the public do not have the right of free access to such land or building without payment.

Exemption of holdings exclusively used for public charity or medical relief, or education of the poor, free of charge.

102. The Chairman-in-Council may exempt from property tax, either wholly or in part, any holding which is exclusively used with the approval of the Chairman-in-Council for public charity or philanthropic purposes or for the purpose of medical relief to, or education of, the poor, free of charge.

Power to reduce rates in case of excessive hardship.

103. Whenever from the circumstances of the case, levy of property tax on any holding in a municipal area amounts to excessive hardship to the person liable to pay the same, the Board of Councillors may reduce the amount payable on account of such holding, or may realise the sum by instalments:

Provided that such reduction or remission shall not, unless renewed by the Board of Councillors, have effect for more than one year.

Remission on account of vacant building.

104. Where any building has remained vacant or unproductive of rent for ninety or more consecutive days, the Board of Councillors may, upon an application in writing from the owner, remit or refund one-half of the amount of tax due for the period of such vacancy.

Exemption of holding of low valuation.

105. The Board of Councillors may exempt from property tax any holding the annual valuation of which does not exceed two hundred rupees:

Provided that where a person owns or occupies more than one holding the aggregate annual value of which exceeds two hundred rupees, such holding shall not be exempted from property tax.

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(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—B. Rating and Valuation.—
Sections 106, 107.)

West Ben.
Act XII of
1956.

106. (1) Notwithstanding anything contained in the West Bengal Premises Tenancy Act, 1956, or in any other law for the time being in force, for the purpose of assessment of the property tax, the annual value of a holding comprising land or building shall be deemed to be the gross annual rent including service charges, if any, at which such land or building might, at the time of assessment, be reasonably expected to let from year to year, less an allowance of ten per cent of such annual value for the cost of repairs and other expenses necessary to maintain such land or building in a state to command such gross rent.

Determina-
tion of
annual
valuation.

(2) The annual value of a holding comprising land which is not built upon, shall be deemed to be an amount equal to, but not exceeding, five per cent of the estimated market value of such land at the time of assessment:

Provided that such holding utilised for any gainful purpose shall be deemed to be in commercial use for the purpose of levy of surcharge under section 97.

(3) If the gross annual rent of any class or classes of lands or buildings cannot be easily estimated, the annual value of a holding comprising such land or building shall be deemed to be an amount not less than five per cent, but not exceeding ten per cent, of the value of the holding obtained by adding the estimated cost of erecting the building at the time of assessment less a reasonable amount to be deducted on account of depreciation, if any, to the estimated present market value of the land valued with the buildings as part of the same premises.

(4) The estimated cost of erecting a building shall not, for the purpose of determination of annual value, include the cost of any plant or machinery (except those enumerated in Schedule III) on the land or the building as aforesaid.

(5) The annual value as determined under this Chapter shall be rounded off to the nearest ten rupees.

107. (1) Where any holding is exempt from property tax, the annual valuation thereof shall be determined in accordance with the provisions of this Chapter.

Determina-
tion of
annual
valuation of
holdings
exempted
from
property tax.

(2) Where any land is exempt from property tax under this Chapter, the annual value of any building erected on such land, not entitled to any exemption from the property tax, shall be determined separately from the land in accordance with the provisions of this Chapter.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—B. Rating and Valuation.—
Section 108.)

Unit of
Assessment.

108. (1) Every building together with the site and the land appurtenant thereto comprised in a holding shall be assessed as a single unit:

Provided that where portions of any building together with the site of the land appurtenant thereto are vertically divisible and are separately owned so as to be entirely independent and capable of separate enjoyment, notwithstanding the fact that access to such separate portions is made through a common passage or a common staircase, such separately owned portions may be assessed separately:

Provided further that the right of such access is protected by a registered deed of agreement.

(2) All lands or buildings, to the extent these are contiguous or are within the same curtilage or are on the same foundation and are owned by the same owner or co-owners as undivided property, shall be treated as one unit for the purpose of assessment under this Act.

(3) Each residential unit with its percentage of the undivided interest in the common areas and facilities, constructed or purchased and owned by or under the control of any housing co-operative society registered under the West Bengal Co-operative Societies Act, 1983, shall be assessed separately.

West Ben.
Act XLV of
1983.

(4) Each apartment and its percentage of the undivided interest in the common areas and facilities in a building within the meaning of the West Bengal Apartment Ownership Act, 1972, a declaration in respect of which has been duly executed and registered under the provisions of that Act, shall be assessed separately.

West Ben.
Act XVI of
1972.

(5) Every land, which is not build upon, comprised in a holding shall be assessed separately as a single unit.

(6) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman-in-Council may, on its own or upon an application, amalgamate or separate lands or buildings or portions thereof so as to ensure conformity with the provisions of this section and may also apportion the valuation and assessment among the co-owners according to the value of the respective shares when the entire land or building is treated as a single unit.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—C. Valuation and
Assessment List.—Sections 109-111.)*

C. Valuation and Assessment List.

109. (1) The annual value of a holding comprising land or building situate in a municipal area, which has been determined before and is in force on the date of the commencement of this Act, shall remain in force until a fresh valuation list is enforced under this Act.

Periodic assessment.

(2) The Chairman-in-Council shall cause a general valuation of all the holdings in a municipal area in accordance with the provisions of this Chapter as soon as possible after the constitution of a new municipal area and at periodic intervals in the case of all other municipal areas, so as to ensure that there is a revision of annual valuation of all municipal holdings at the termination of successive period of six years:

Provided that it shall be lawful to divide a municipal area into groups of wards so that periodic assessment at the interval of six years takes place in each such group instead of the entire municipal area at a time.

110. (1) The annual valuation of holdings under this Chapter shall be made, unless otherwise directed by the State Government, by the Central Valuation Board, established under the West Bengal Central Valuation Board Act, 1978, and the preparation of valuation list including determination of all objections shall abide by the provisions of that Act.

Preparation of valuation and assessment list.

(2) When the Chairman-in-Council is directed by the State Government to undertake the preparation of annual valuation, it shall determine the annual value of all holdings within a municipal area in the manner provided in this Chapter and cause publication of the assessment list in the prescribed manner.

111. (1) When an assessment list is prepared or revised under the provisions of sub-section (2) of section 110, the Chairman shall cause the assessment list to be published by public notice of the place where the list may be available for inspection.

Publication of assessment list and determination of objections.

(2) In all cases in which any property is for the first time assessed or the assessment is increased, the Chairman shall also give a written notice thereof to the owner and the occupier of the property, if known.

(3) The assessment list shall take effect from the beginning of the quarter of a year immediately following its publication.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—C. Valuation and
Assessment List.—Section 112.)*

(4) Any person, who is dissatisfied with the decision as entered in the assessment list determined, may prefer an application for review before the Board of Councillors within a period of two months from the date of presentation of bill for payment of tax.

(5) No application under sub-section (4) shall be entertained unless the amount representing property tax on the holding comprising land or building, as the case may be, as previously determined (hereinafter referred to in this sub-section as the said amount), has been paid or deposited in the office of the Municipality before such application is filed, and every such application shall fail unless the said amount of property tax is continued to be paid or deposited in the office of the Municipality till such application is finally disposed of.

Hearing and
determina-
tion of
application
by Review
Committee.

112. (1) Every application presented under sub-section (4) of section 111 shall be heard and determined by a Review Committee.

(2) Every Review Committee shall be presided by the Chairman or the Vice-Chairman of the Municipality and shall consist of not less than two, but not more than four, Councillors appointed by the Board of Councillors at a meeting:

Provided that no Councillor of the ward from which the application is made shall be a member of the Review Committee:

Provided further that no decision of the Review Committee shall be invalid or called in question merely by reason of any vacancy in the composition of the committee or absence of any member, other than the presiding officer, from a meeting thereof.

(3) The Review Committee shall give notice to the applicant of the time and place at which his application will be heard and the committee shall dispose of an application in such manner as may be prescribed:

Provided that in case of equality of votes, the person presiding shall have a second or casting vote:

Provided further that when the Board of Councillors is superseded, the State Government shall appoint by notification a Municipal Assessment Tribunal consisting of such number of member or members as may be specified in the notification for the purpose of hearing applications for review presented under sub-section (4) of section 111:

Provided also that the member or members as aforesaid shall be appointed by the State Government from among the persons residing in the wards, other than the wards to which the matter relates, and the tribunal shall pass such orders in each case as it thinks fit and the order of the tribunal shall be final.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—C. Valuation and
Assessment List.—Section 113.)*

(4) The decisions of the Review Committee or the Municipal Assessment Tribunal, as the case may be, shall be final and no suit or proceeding shall lie in any civil court in respect of any matter which has been, or may be, referred to the Review Committee or has been decided by the Review Committee or the Municipal Assessment Tribunal.

113. (1) Notwithstanding anything contained in this Chapter or in any other law for the time being in force, the Board of Councillors may, for reasons to be recorded in writing, at any time direct alteration and amendment of the assessment list in any of the following cases:—

Amendment
and
alteration of
assessment
list.

- (a) when the ownership of holding changes; or
- (b) when any tenancy or any rent in respect of the holding changes; or
- (c) when the nature of use of the holding changes; or
- (d) when the land and building comprised in the holding has been re-developed or substantially altered or improved during the period the annual valuation remains in force; or
- (e) when the value of the land and building comprised in the holding has been substantially reduced owing to demolition or has suffered depreciation from any accident or calamity during the period the annual valuation remains in force; or
- (f) when the holding has been acquired by purchase or otherwise by the State Government during the period the annual valuation remains in force; or
- (g) when the valuation or assessment has been set aside or declared void by an order of the Court necessitating revaluation or reassessment of a holding; or
- (h) when it has been discovered that the holding has been grossly undervalued by reasons of any fraud, misrepresentation, mistake or error; or
- (i) when an alteration has been necessitated to correct any patent error.

(2) No amendment or alteration of an assessment list shall be made without giving the person affected an opportunity of being heard.

(3) Any revision in the annual valuation of any holding or portion thereof as well as the assessment consequent on such revision shall come into force from the beginning of a quarter of a year immediately following an order passed in this behalf by the appropriate authority, and shall remain in force for the portion of the period during which but for such amendment or alteration such annual valuation would have remained in force.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—C. Valuation and
Assessment List.—Section 114-116.)*

Addition to
the
assessment
list.

114. (1) When a new building has been constructed or a new holding has been created by mutation, transfer or otherwise during the period an assessment list remains in force, the Chairman-in-Council may, at any time, cause the annual valuation of such holding and make assessment thereon in accordance with the provisions of this Act.

(2) Before finalising the valuation and assessment of the holding as aforesaid, the Chairman-in-Council shall give the owner or the occupier of such holding an opportunity to prefer, within a specified time, an objection, if any, to the proposed valuation which shall be heard and determined by a person to be appointed by the Chairman-in-Council.

(3) An application for review of the valuation determined under sub-section (2) may, within a fortnight of such determination be preferred to the Chairman-in-Council.

(4) The Chairman-in-Council shall, thereafter, finalise, as soon as may be, the valuation and assessment and make addition of such valuation and assessment to the assessment list, and such addition shall remain in force for the unexpired portion of the period during which the assessment list remains in force.

Submission
of returns
and
inspection of
holdings for
the purpose
of
assessment.

115. (1) The Chairman may, with a view to determining the annual value of any holding and the person primarily liable for the payment of tax on such holding, by a writing notice, require the owner or the occupier of the land or the building comprised in such holding or portion thereof, to furnish a return in such form, within such period and in accordance with such procedure as may be prescribed.

(2) Every owner or occupier on whom any notice is served under sub-section (1), shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of his knowledge and belief.

(3) The Chairman or any person subordinate to him and authorised by him in writing in this behalf may, without giving any previous notice to the owner or the occupier of any land or building, enter upon, and make an inspection or survey and take measurement of, such land or building and verify the statement made in any return for such land or building submitted under this Chapter.

Notice of
transfer.

116. (1) Whenever the title of any person to any or building is transferred, such person, if primarily liable for the payment of property tax on such land or building, and the person to whom the title is so

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter X.—Taxes and Fees.—C. Valuation and
Assessment List.—Section 117.)*

transferred, shall, within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, as the case may be, give notice of such transfer in writing to the Chairman.

(2) On the death of any person primarily liable for the payment of property tax as aforesaid, the person on whom the title of the land or the building referred to in sub-section (1) devolves shall, within six months from the date of death of the former, give notice, in writing, of such devolution to the Chairman.

(3) The notice under this section shall be in such form as may be prescribed, and the transferee or the person on whom the title devolves shall, if so required, be bound to produce before the Chairman any document evidencing the transfer or devolution.

(4) If any person, who transfers his title to any land or building, fails to give any notice under this section to the Chairman, he shall, in addition to any penalty to which he may be subject under this Act, continue to be liable for payment of property tax on such land or building until he gives such notice, but nothing in this section shall be deemed to affect the liability of the transferee for payment of the property tax on such land or building.

(5) The Chairman shall, on receipt of a notice of transfer or devolution, cause such transfer to be recorded in such form and in such manner as may be prescribed.

(6) On a request by the Chairman, the District Registrar of the district or the Sub-Registrar of the local registration office shall furnish such particulars regarding the registration of instrument and transfer of immovable property in the municipal area as the Chairman may from time to time require.

(7) Notwithstanding anything contained in sub-section (6), the District Registrar of the district or the Sub-Registrar of the local registration office shall furnish to the Chairman such particulars soon after the registration of instruments of transfer is effected, or, if the Chairman so requests, such periodical returns at such intervals, as the Chairman may fix.

117. (1) Notwithstanding anything contained in section 115, no deed of transfer of any land or building in respect of which a layout plan is required to be approved by the Chairman-in-Council prior to registration under section 193, or of any land carved out of an existing holding, shall be registered under the Registration Act, 1908, unless a certificate of approval to the proposed transfer has been issued by the Chairman in this regard.

Certificate of approval for transfer of land or building.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—A. Professions,
trades and callings.—Sections 118-120.)*

(2) The registering authority shall not proceed for registration without sending a copy of the deed of transfer to the Chairman.

(3) If the Chairman communicates his refusal to issue a certificate of approval, a deed of transfer shall not be registered:

Provided that if no such communication is received within a period of thirty days from the date of sending the copy of the deed of transfer, the registering authority may proceed with registration.

CHAPTER XI

Application fee and other taxes

A. Professions, trades and callings.

Certificate of enlistment for profession, trade and calling.

118. (1) Every person engaged or intending to be engaged in any profession, trade or calling in a municipal area as specified in Schedule I, either by himself or by an agent or representative, shall obtain a certificate of enlistment or get the same renewed annually, as the case may be, from the Executive Officer of the Municipality or in his absence, from the officer authorised to function as the Executive Officer upon presentation of an application together with such application fee, not exceeding rupees ten, as may be determined by the Board of Councillors at a meeting:

Provided that such enlistment or renewal thereof shall not absolve such person from any liability to take out any licence under this Act or any other law for the time being in force.

Grant of certificate of enlistment.

119. The Executive Officer or, in his absence, the officer authorised to function as the Executive Officer shall, after making such enquiry as may be necessary and within thirty days of the receipt of the application under section 118, grant him a certificate of enlistment if the application is in order, or shall reject the application if it is not in order.

Certificate of enlistment to be obtained within six months of coming into force of the Act.

120. (1) Notwithstanding anything contained in section 118 or section 119 or elsewhere in this Act or in any other law for the time being in force, within a period of six months from the date of coming into force of this Act (hereinafter in this sub-section referred to as the said date), every person engaged on the said date in any profession, trade or calling in a municipal area as specified in Schedule I, either by

(Part IV.—Municipal Taxation and Application Fee.—

Chapter XI.—Application fee and other taxes.—B. Tax on advertisements other than advertisements in newspapers.—Sections 121, 122.)

himself or by an agent or representative, shall obtain the certificate of enlistment referred to in section 118 in respect of the period from the 1st April, 1990 till the date immediately before the said date in accordance with the provisions of section 118 and the rules, if any, made under this Act.

(2) Whoever commits any offence by contravening the provisions of sub-section (1) shall be punished with fine in accordance with the provisions of section 440.

B. Tax on advertisements other than advertisements in newspapers.

121. (1) No person shall erect, exhibit, fix or retain upon or over any land, building, wall, hoarding, frame, post, kiosk or structure any advertisement, or display any advertisement to public view in any manner whatsoever, visible from a public street or public place (including any advertisement exhibited by means of cinematograph), in any place within a municipal area without the written permission of the Chairman.

Prohibition of advertisement without written permission of Chairman.

(2) The Chairman shall not grant such permission if—

- (a) a licence for the use of the particular site for the purpose of advertisement has not been taken out, 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 written permission of the Chairman.

122. (1) Except under and in conformity with the terms and conditions of a licence, no person, being the owner, lessee, sub-lessee, occupier or an advertising agent, shall use or allow to be used any site in any land, building, wall or erect or allow to be erected on any site any hoarding, frame, post, kiosk, structure, neon-sign or sky-sign for the purpose of display of any advertisement.

Licence for use of site for the purpose of advertisement.

(2) For the purpose of advertisement, every person—

- (a) using any site prior to the commencement of this Act, within ninety days from the date of commencement of this Act, or
- (b) intending to use any site, or
- (c) whose licence for the use of any site is about to expire,

shall apply for a licence or renewal of a licence, as the case may be, to the Chairman in such form as may be specified by the Board of Councillors.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—B. Tax on advertise-
ments other than advertisements in newspapers.—Section 123.)

(3) The Chairman shall, after making such inspection as may be necessary and within thirty days of the receipt of the application, grant, refuse, renew or cancel a licence, as the case may be, on payment of such fee as may be determined by the Board of Councillors by regulations.

(4) If the Chairman, having regard to public safety, traffic hazard or aesthetics, is of opinion that the proposed site for any advertisement is unsuitable, he may refuse a licence or refuse to renew any existing licence.

(5) Every licence shall be for a period of one year except in the case of sites used for temporary fairs, exhibitions, sports events or cultural or social programmes.

(6) The Chairman shall cause to be maintained a register wherein the licences issued under this section shall be recorded in such manner as may be determined by regulations.

Tax on
advertisements.

123. (1) Every person, who exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post, kiosk or structure any advertisement, or displays any advertisement to public view in any manner whatsoever, visible from a public street or public place (including any advertisement exhibited by means of cinematograph), shall pay for every advertisement, which is so erected, exhibited, fixed or retained or displayed to public view, a tax calculated at such rate as the Board of Councillors may determine by regulations:

Provided that such rate shall not exceed,—

- | | |
|---|--|
| (a) in the case of posters, | rupee one per square metre per month; |
| (b) in the case of non-illuminated advertisement, | rupees one hundred per square metre per year; |
| (c) in the case of illuminated advertisements, | rupees two hundred per square metre per year; |
| (d) in the case of others, | the rate which the State Government may determine from time to time: |

Provided further that a surcharge, not exceeding fifty per cent of the rate applicable to any case, may be imposed on any advertisement on display in temporary fairs, exhibitions, sports events or cultural or social programmes.

(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 a Municipality or any other local authority or to any candidature in respect of such election; or

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—B. Tax on advertisements other than advertisements in newspapers.—Section 124, 125.)

- (b) is exhibited within the window of any building, if the advertisement relates to any trade, profession or business carried on in that 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 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 or upon or in the same; or
- (d) relates to the name of the land or the building upon or over which the advertisement is exhibited or to the name of the owner or the occupier of such land or building; or
- (e) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration; or
- (f) relates to any activity of or in aid of the Government or a Municipality.

(3) The tax on any advertisement leviable under this section shall be payable in advance in such number of instalments and in such manner as the Board of Councillors may by regulations determine:

Provided that the Board of Councillors may, under the terms and conditions of a licence, require the licensee to collect and pay to the Municipality, subject to a deduction, not exceeding ten per cent, to be kept by him as collection charges, the amount of tax in respect of such advertisements as are displayed on any site for which he is the licensee.

124. Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post, kiosk or structure 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 committed by the person or persons on whose behalf the advertisement purports to be or the agent or agents of such person or persons.

Presumption in case of contravention.

125. If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of this Act or the regulations made thereunder, the Chairman may require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk or structure upon or over which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement or may enter any land, building or property and cause the advertisement to be dismantled, taken down, removed, spoiled, defaced or screened.

Power of Chairman in case of contravention.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—B. Tax on advertise-
ments other than advertisements in newspapers.—Section 126.—
C. Tax on carts and carriages.—Section 127.)

Explanation I.—The word “structure” in this Chapter includes 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, 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.

Fine for not paying tax on advertisements.

126. If any person erects, exhibits, fixes or retains any advertisement referred to in this Chapter without paying the tax due, he shall be punished with fine to be imposed by the Chairman-in-Council which—

- (i) may extend to an amount equal to three times the amount payable as such tax, and
- (ii) shall not ordinarily be less than an amount equal to one and a half times such tax:

Provided that such fine shall be recovered from such person or persons as the Chairman may adjudge responsible for not paying the tax.

C. Tax on carts and carriages.

Registration and numbering of carts and carriages.

127. (1) When it has been determined that a tax on carts and carriages shall be imposed, the Board of Councillors may make and publish an order that every cart or carriage, which is kept or is used in the ordinary course of business within a municipal area, shall be registered by the Chairman-in-Council with the name and residence of the owner and shall bear the number of registration:

Provided that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced.

(2) This section shall not apply to—

- (a) carts or carriages which are the property of the Government or of the Municipality;
- (b) carts or carriages which are kept without the limits of a municipal area, and are only temporarily and casually used within such limits.

(3) The registration of carts and carriages shall be made and the number assigned yearly or half-yearly on such days as the Chairman-in-Council may notify.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—C. Tax on
carts and carriages.—Sections 128-130.)*

128. The tax payable for registration for every cart or carriage shall be such as the State Government may fix for carts and carriages of different types:

Tax for registration.

Provided that such tax shall not exceed rupees two hundred per annum, if the registration has effect for one year, or rupees one hundred for half year, if the registration has effect for half year.

129. No person shall keep, or be in possession of, a cart or carriage not duly registered under this Act, nor shall any person, being the owner or the driver of any cart or carriage, fail to affix thereto the registration number under this Act.

Carts or carriages not to be kept without being registered and without number.

130. (1) If any person owns or keeps any cart or carriage without registering the same as required by this Act, the Chairman, or any person authorised by him in this behalf, may seize and detain such cart or carriage (provided the same is not employed at the time of seizure in the conveyance of any passenger or goods) together with the animals, if any, drawing the same, and every police-officer shall, at the request of the Chairman or the person authorised by him in this behalf, assist in such seizure.

Seizure and sale of unregistered carts or carriages.

(2) After the seizure under sub-section (1), the Chairman shall forthwith issue notice in writing that after the expiration of ten days, such cart or carriage and animals, if any, shall be sold by auction at such place as stated in the notice; and, if any tax, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Chairman may sell the cart or the carriage and the animals, if any, seized for payment of the tax as aforesaid and the cost arising from such seizure, custody and sale.

(3) 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 to the satisfaction of the Chairman:

Provided that if, at any time before the sale is concluded, the person, whose cart or carriage and animals, if any, have been seized, tenders to the Chairman or the person authorised by him to sell the property the amount of all the expenses incurred and the tax payable by him, the Chairman shall forthwith release the cart or the carriage and the animals, if any, seized under sub-section (1).

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—C. Tax on carts
and carriages.—Section 131.—D. Tolls on ferries and
bridges.—Sections 132, 133.)

(4) Notwithstanding anything contained in the foregoing provisions of this section, the surplus of the sale-proceeds of a cart or carriage and animals, if any, seized under sub-section (1), may be applied to the payment of any fine imposed for a breach of any provision of this Chapter; and any cart or carriage and animals, if any, which have been seized under sub-section (1), may be sold for the realization of such fine.

Incidental provisions relating to carts and carriages.

131. The State Government may by notification make rules on the following matters for the purposes of carrying out the provisions of this Chapter:—

- (1) mode of registration and numbering of carts and carriages;
- (2) levy of tax at varying rates for registration of different types of carts and carriages;
- (3) mode of apportionment of tax between local authorities when carts or carriages are used or registered in the area of more than one local authority;
- (4) transfer of ownership of registered carts and carriages;
- (5) other matters not specifically provided in this Chapter.

D. Tolls on ferries and bridges.

Ferries may be declared to be municipal ferries.

132. The Board of Councillors may, with the sanction of the State Government, declare that any ferry, not being vested in any other local authority within or adjacent to the limits of a municipal area, is a municipal ferry, and the profits derivable therefrom shall, upon such declaration, be credited to the Municipal Fund:

Provided that due compensation shall be made by the Board of Councillors to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry:

Provided further that the amount of compensation due in such case shall be ascertained and awarded by the Executive Magistrate under section 17 of the Bengal Ferries Act, 1885, or any other law for the time being in force.

Ben. Act I of 1885.

Duties of Chairman-in-Council in regard to municipal ferries.

133. Every municipal ferry shall be maintained by the Chairman-in-Council. The Chairman-in-Council shall do all things necessary to provide for the safety and convenience of travellers and the safety of property to be conveyed on such ferry.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—D. Tolls on ferries
and bridges.—Sections 134-138.)

134. When it has been determined to impose tolls on municipal ferries, the Chairman-in-Council shall, from time to time, make and publish an order specifying the ferries and, with the sanction of the State Government, the rates at which such toll shall be levied, and shall cause a copy of such order to be permanently affixed on some conspicuous place at the ferry ghat.

Rate of tolls to be established and published.

135. No person shall keep a ferry-boat, whether or not plying for hire, within a distance of two miles above or below any municipal ferry without the previous sanction—

Keeping of unauthorised ferry-boat.

- (i) of the Board of Councillors, if he plies within the limits of a municipal area,
- (ii) of the Magistrate of the district, if he plies outside the limits of a municipal area, or
- (iii) of the Magistrate of the district, if one of the two banks between which he plies is within and the other bank is outside the limits of a municipal area.

136. No person shall be liable to pay any toll for crossing any river or stream at or near a municipal ferry, if he crosses the river or stream in a boat or other appliance which is kept for the personal or non-commercial use of such person:

When persons crossing river not liable to toll.

Provided that he shall be liable for payment of such charges as may be fixed by the Municipality for use of jetty, *ghat*, stairs, or any other facility provided by the Municipality.

137. Every lease of a ferry given by the Board of Councillors as hereinafter provided shall be liable to be cancelled at once, if it appears to the Board of Councillors that the lessee has failed to make due provision for the safety or convenience of travellers or the safety of property to be conveyed on the ferry, within fifteen days after being required to do so by a notice in writing from the Board of Councillors. On cancellation of the lease, the Chairman-in-Council may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry and deal with the same in the manner prescribed.

Cancellation of ferry lease etc.

138. Notwithstanding anything contained in this Chapter, whenever matters relating to ferries concern more than one Municipality or a municipal ferry and a public, or private ferry, such matters shall be governed by the provisions of the Bengal Ferries Act, 1885 and the rules made thereunder.

Ferries concerning more than one Municipality etc.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—D. Tolls on ferries
and bridges.—Sections 139-142.)*

Power of
Board of
Councillors
to establish
toll-bars.

139. The Board of Councillors, with the sanction of the State Government, may establish a toll-bar and levy tolls on any bridge or at any place within a municipal area adjacent to any bridge at which tolls may conveniently be levied on vehicles, carriages, carts and animals passing over such bridge; and the profits derivable therefrom shall be credited to the Municipal Fund:

Provided that no such toll-bar shall be established or tolls levied, otherwise than for the purpose of recovering the expenses incurred in constructing such bridge and in maintaining such bridge in repair for five years next after the construction thereof together with interest on such expenses.

Existing toll-
bars.

140. The State Government may, with the consent of the Board of Councillors, make over to the Board of Councillors any existing toll-bar on a bridge within the limits of a municipal area to be administered by the Board of Councillors until the State Government otherwise directs. 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 Board of Councillors shall be credited to the Municipal Fund.

Prohibition
of taking
unauthorized
tolls.

141. No person authorised under this Act to collect tolls shall demand or take any tolls higher than the tolls fixed under this Act.

Seizure and
sale
consequent
on
non-payment
of toll.

142. (1) If the toll due on any vehicle, carriage, cart or animal is not paid on demand, the person authorised to collect the same may seize such vehicle, carriage, cart or animal, or any part of its load of sufficient value to defray the toll, and shall give immediate notice of such seizure to the Chairman.

(2) Upon such seizure, the Chairman shall forthwith issue a notice in writing that after the expiration of ten days, he will sell the property seized by auction at such place as he may state in the notice; and if any toll together with the cost arising from such seizure and custody remains undischarged for ten days after the issue of such notice, the Chairman may sell the property seized for the discharge of the toll and the expenses occasioned by such non-payment, seizure, custody and sale.

(3) If the load or sufficient part thereof consists of articles which are subject to speedy and natural decay or consists of livestock, such load or part thereof may forthwith be sold under the orders of the Chairman.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—D. Tolls on ferries
and bridges.—Sections 143-145.)

(4) The surplus sale-proceeds, if any, after realisation of all dues or expenses shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the surplus sale-proceeds as aforesaid to the satisfaction of the Chairman:

Provided that if, at any time before the sale has been concluded, the person whose property has been seized tenders to the Chairman or the officer appointed by him to sell the property the amount of all the expenses incurred and the toll payable, the Chairman shall forthwith release the property seized.

143. No person taking through a toll-gate any vehicle, carriage, cart or animal (not exempted from toll) shall refuse to pay the toll, nor shall any person fraudulently avoid taking through a toll-gate any such vehicle, carriage, cart or animal with intent to evade payment of the toll.

Penalty for refusing to pay or avoiding payment of toll.

144. (1) No toll shall be paid for the passage of—

Exemptions.

- (a) Government stores or persons in charge of them; or
- (b) an officer of the State Government or of the Central Government or of any local authority on duty, or of any person in his or its custody or of any property belonging to him or it or in his or its custody, or of any vehicle, carriage, cart or animal employed by him or it, for the transport of such property; or
- (c) conservancy carts or other carriages, carts or animals belonging to the Municipality or of persons in charge of the Municipality.

(2) The Board of Councillors may, from time to time, exempt any class of persons or things not specified in sub-section (1) from payment of toll and may, while granting a lease of any ferry or toll-bar, stipulate that any municipal employee or municipal property or any other person or thing shall be allowed to pass without payment of toll.

145. (1) If the State Government at any time declares that the provisions of the Canals Act, 1864, or any other similar law for the time being in force, are applicable to any navigable channel which passes through the limits of a municipal area, it may, with the consent of the Board of Councillors of such Municipality, appoint it to collect tolls in accordance with the provisions of section 8 of the said Act until the State Government otherwise directs, and the profits derivable therefrom or such part thereof as may be agreed upon between the State Government and the Board of Councillors, shall be credited to the Municipal Fund.

Board of Councillors to collect tolls in a navigable channel.

(2) In every such case, the Board of Councillors shall exercise all the powers vested in the Collector under the said Act.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XI.—Application fee and other taxes.—D. Tolls on
ferries and bridges.—Section 146.—Chapter XII.—Recovery
of taxes.—Sections 147-149.)*

Police-
officers to
assist.

146. In any case of resistance to the person authorised to collect tolls or exercise the power to cause seizure and sale, the police-officers shall assist such person when required by him, and, for such purpose, shall have the same powers as they have to exercise their ordinary police duties.

CHAPTER XII

Recovery of taxes

Manner of
recovery of
taxes under
the Act.

147. 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 prescribed:—

- (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 the attachment and sale of a defaulter's immovable property, or
- (e) in the case of property tax on lands and buildings, by attachment of rent due in respect of the land or the building, or
- (f) as a public demand under the Bengal Public Demands Recovery Act, 1913.

Ben. Act III
of 1913.

Incidence of
property tax.

148. (1) The property tax on land or building shall be leviable in equal shares upon the owner and the occupier:

Provided that the surcharge under section 97 shall be leviable upon the occupier.

(2) On the failure to recover any sum due on account of property tax from the owner, such sum shall, notwithstanding anything contained in the West Bengal Premises Tenancy Act, 1956, be recoverable from the occupier by attachment of rent payable by him to the owner.

West Ben.
Act XII of
1956.

(3) An occupier from whom any sum is recovered under sub-section (2) shall be entitled to reimbursement by the owner for the payment of such sum or adjustment of such sum against the rent payable.

Presentation
of bill.

149. (1) When a property tax becomes due on any land or building, the Chairman shall cause to be presented to the owner or the occupier thereof a bill for the amount due.

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(Part IV.—Municipal Taxation and Application Fee.—
Chapter XII.—Recovery of taxes.—Sections 150, 151.)

Explanation.—A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting to the person liable for payment of the amount included in the bill, and in such case, the date borne on such certificate of posting shall be deemed to be the date of presentation of the bill to such person.

(2) Every such bill shall specify the particulars of the tax and the period for which it is due.

150. (1) Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such date, in such number of instalments, and in such manner, as may be prescribed.

Time and manner of payment of taxes.

(2) If any amount due is paid on or before the date determined under sub-section (1), such rebate, not exceeding ten per cent of such amount as may be determined by the Board of Councillors, shall be allowed.

151. (1) Save as otherwise provided in this Act, if the amount of the property tax for which a bill has been presented under section 149, is not paid within thirty days from the presentation thereof or if the tax on advertisements is not paid after it has become due, the Chairman may cause to be served upon the person, liable for the payment of the same, a notice of demand in such form as may be specified by the Board of Councillors by regulations.

Notice of demand and notice fee.

(2) For every notice of demand which the Chairman causes to be served on any person under this section, a fee of such amount, not exceeding twenty-five rupees, as the Board of Councillors may determine by regulations shall be payable by such person and shall be included in the cost of recovery.

(3) If any person liable for payment of any tax under this Act does not, within thirty days of the service of the notice of demand, pay the sum due, he shall be deemed to be in default.

(4) When a person liable for payment of any tax under this Act is deemed to be in default under sub-section (3), such sum, not exceeding fifteen per cent of the amount of tax, as may be determined by the Board of Councillors by regulations may be recovered from him by way of penalty, in addition to the amount of the tax and the fee payable under sub-section (2).

(5) Simple interest at such rate, not exceeding ten per cent per annum, as may be determined by the State Government from time to time may also be imposed on any amount of tax remaining unpaid with effect from the date from which the person liable for the payment is deemed to be in default under sub-section (3).

(6) The amount due as penalty or interest under this section shall be recoverable as an arrear of tax under this Act.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XII.—Recovery of taxes.—Sections 152, 153.)*

Recovery of
tax.

152. (1) If any person liable for payment of any tax does not, within sixty days of the service of notice of demand under section 151, pay the amount due, such sum together with costs, interest due and penalty may be recovered under a warrant issued in such form as may be specified by the State Government in this behalf, either by distress and sale of movable property, or by attachment and sale of immovable property, of the defaulter as the Chairman may decide:

Provided that the Chairman shall not recover any sum the liability of which has been remitted on review under the provisions of this Act.

(2) Every warrant issued under sub-section (1) shall be signed by the Chairman or any other officer authorised by him in this behalf.

Distress.

153. (1) It shall be lawful for any officer or other employee of the Municipality, to whom a warrant issued under this Chapter is addressed, to distrain, wherever it may be found in any place within the municipal area, any movable property belonging to the person therein named as defaulter, subject to the following conditions, exceptions and exemptions:—

- (a) the following property shall not be distrained:—
 - (i) the necessary wearing apparel and bedding of the defaulter, his wife and children and their cooking and eating utensils;
 - (ii) tools of artisans;
 - (iii) books of accounts;
- (b) the distress shall not be excessive, that is to say, the property distrained shall be, as nearly as possible, equal in value to the amount recoverable under warrant, and if any property has been distrained which, in the opinion of the Chairman, should not have been distrained, it shall forthwith be released.

(2) The person charged with the execution of a warrant shall, in the presence of two witnesses, forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give to the person in possession thereof at the time of seizure a notice in writing in such form as may be specified by the State Government in this behalf that the said property shall be sold on the expiry of the period as therein mentioned.

(3) If there is reason to believe that any property seized under a warrant of distress, if left in the place where it is found, is likely to be removed by force, the officer executing the warrant may take it to the office of the Municipality or to any other place appointed by the Chairman.

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*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XII.—Recovery of taxes.—Sections 154, 155.)*

154. (1) When the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Chairman shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and he shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

Disposal of
distrained
property.

(2) If the warrant is not, in the meantime, suspended by the Chairman or discharged, the property seized shall, after the expiry of the period mentioned in the notice served under sub-section (2) of section 153, be sold by public auction by order of the Chairman.

155. (1) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge and declaring that such property shall be sold in auction unless the amount of tax due with costs of recovery is paid within the date specified in the warrant.

Attachment
and sale of
immovable
property.

(2) A copy of the order under sub-section (1) shall be affixed on a conspicuous part of the property and upon a conspicuous part of the office of the Municipality.

(3) Any transfer of, or charge on, the property attached, or any interest therein, made without written permission of the Chairman, shall be void against all claims of the Municipality enforceable under the attachment.

(4) The surplus of the sale proceeds, if any, shall, immediately after the sale of the property, be credited to the Municipal Fund, and notice of such credit shall be given at the same time to the person whose property has been sold or his legal representative, and if the same is claimed by written application to the Chairman within one year from the date of the notice, a refund thereof shall be made to such person or representative.

(5) All sales of property under this section shall, as far as practicable, be regulated by the procedure in force for the time being in the civil court with respect to sale after attachment.

(6) No officer or employee of the Municipality shall directly or indirectly purchase any property at any such sale.

(7) Any surplus, not claimed within one year as aforesaid, shall be the property of the Municipality.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XII.—Recovery of taxes.—Sections 156-160.)

Fee for
distrain and
attachment.

156. For every distraint and attachment made in accordance with the foregoing provisions of this Chapter, a fee of such amount, not exceeding two and a half per cent of the amount of the tax due, as shall, in each case, be fixed by the Chairman shall be charged and included in the costs of recovery.

Recovery
from a
person about
to leave
jurisdiction
of Municipa-
lity.

157. (1) If the Chairman has reason to believe that any person, from whom any sum is due or is about to become due on account of any tax, is about to move from the jurisdiction of the Municipality, he may direct the immediate payment by such person of the sum so due or about to become due and to cause a notice of demand for the same to be served on such person.

(2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress or attachment and sale in the manner hereinbefore provided, and the warrant of distress or attachment and sale may be issued and executed without any delay.

Sale of
movable
property
situate
beyond
limits of
municipal
area.

158. If the Chairman is unable to recover any sum due upon distraint, the Judicial Magistrate having jurisdiction may, on the application of the Chairman, issue a warrant to any officer of the Court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the Judicial Magistrate or forward the warrant for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other Judicial Magistrate exercising jurisdiction within West Bengal, and such other Judicial Magistrate shall endorse the warrant so issued, and cause it to be executed and the amount, if recovered, to be remitted to the Judicial Magistrate issuing the warrant who shall remit the same to the Chairman.

Recovery
under Ben.
Act III of
1913.

159. After a defaulter has been proceeded against unsuccessfully under the foregoing provisions of this Chapter or with partial success, any sum due or the balance of any sum due may be recovered by the Chairman as a public demand under the Bengal Public Demands Recovery Act, 1913, together with interest and cost of recovery.

Ben. Act III
of 1913.

Distrain not
unlawful for
want of
form.

160. No distress under this Act shall be deemed to be unlawful nor shall any person making the same be deemed to be a trespasser on account of—

- (a) any defect or want of form in the notice, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, or

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*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XII.—Recovery of taxes.—Sections 161, 162.)*

(b) any irregularity committed by such person:

Provided that any person aggrieved by such defect or irregularity may, by order or a court of competent jurisdiction, recover the full satisfaction of any special damage sustained by him.

161. (1) For the purposes of recovery of any property tax, the Chairman may cause to be served on any occupier a notice requiring him to deposit in the Municipal Fund any rent due or falling due from him in respect of the land or the building to the extent necessary to satisfy the sum due on account of property tax in respect of such land or building.

Occupiers to pay rent towards satisfaction of property tax.

(2) Every notice under sub-section (1) shall operate as an attachment of rent as aforesaid unless the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in the 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 property tax, he shall be entitled to recover from the person primarily liable for the payment of such tax any amount for which credit is claimed as aforesaid.

(3) If any occupier fails to deposit in the Municipal Fund any rent due or falling due which he is required to deposit 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.

162. (1) Where any land or building is in the occupation of any person not being the owner or occupier of such land or building, the amount of any tax, toll, fee, rate or other money due under this Act and assessed on the annual value of such land or building may be recovered from such person as if he were an occupier of such land or building:

Recovery of tax from unauthorised occupier of land or building.

Provided that no sum shall be recovered from such person if it is not due in respect of the period during which such person has been in occupation of such land or building.

(2) The assessment or recovery made under this section shall not by itself be deemed to confer upon such person any right or title as the lawful occupier of the land or the building as aforesaid.

(Part IV.—Municipal Taxation and Application Fee.—
Chapter XII.—Recovery of taxes.—Sections 163, 164.)

Recovery of property tax on land or building or any other tax or charge in the case of unknown owner of land or premises or disputed ownership.

163. (1) If any money is due under this Act from the owner of any land or premises on account of property tax or any other tax, expenses or charges recoverable under this Act, and if the owner of such land or premises is unknown or the ownership thereof is disputed, the Chairman may publish twice, at an interval of not less than two months, a notification of such dues and of sale of such land or premises for realisation thereof and after the expiry of not less than one month from the date of last publication of the notification, unless the amount recoverable is paid, may sell such land or premises 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 premises 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 Chairman 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 premises.

Taxes not invalid for defect of form.

164. (1) No assessment and no charge or demand of the property tax or of any other tax made under this Act shall be called in question or shall in any way be affected by reason of—

- (a) any clerical or arithmetical mistake arising from any accidental slip or omission—
 - (i) in the name, residence, place of business or occupation of any person liable to pay such tax, or
 - (ii) in the description of any property or thing liable to such tax, or
 - (iii) in the amount of assessment of such tax, or
- (b) (i) any clerical error, or
- (ii) any defect of form, not being of a substantial nature:

Provided that the Chairman may, either of his own motion or on the application of any aggrieved person, correct any clerical or arithmetical mistake or clerical error or defect of form as aforesaid.

*(Part IV.—Municipal Taxation and Application Fee.—
Chapter XII.—Recovery of taxes.—Section 165.—Part V.—
Regulatory Jurisdiction.—Chapter XIII.—Streets
and public places.—Sections 166, 167.)*

(2) It shall suffice for the purpose of levying any tax under this Act or of any assessment or valuation of any property under this Act, if the property taxed or assessed or valued is so described as to be generally known, and it shall not be necessary to name the owner or the occupier thereof.

165. The Board of Councillors may by order strike off the books of the Municipality any sum due on account of the property tax or any other tax or on any other account, which may appear to it to be irrecoverable and shall, within one month thereof, communicate it to the State Government.

Writing off irrecoverable dues.

PART V

REGULATORY JURISDICTION

CHAPTER XIII

Streets and public places

166. The Board of Councillors may classify public or private street into arterial road, connecting road, passage, pathway, lane and by-lane and specify the width of each class in accordance with such rules as may be made in this behalf.

Power to classify public and private street.

167. (1) All public streets, bus, taxi or rickshaw stands or other parking or transportation terminals, squares, parks and gardens within the municipal area including the soil, subsoil, side-drains, footpaths, pavements, stones and other materials, and all erections, materials and trees provided therein shall vest in the Municipality.

Vesting of public street, parking terminals, squares, parks and gardens in the Municipality.

(2) The State Government may, for reasons to be recorded in writing, by notification withdraw from a Municipality any public street, square, park or garden, or transportation terminal and transfer the same for a limited period to any other agency for development or maintenance thereof in the public interest.

(3) The Chairman shall maintain a register in such form and in such manner as may be prescribed showing a list of all public streets, parking or transportation terminals, squares, parks and gardens and other properties vested in the Municipality including those transferred to other agencies under sub-section (2).

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 168, 169.)

Power to the Municipality in respect of control of public streets, etc.

168. (1) All public streets, parking or transportation terminals, squares, parks and gardens vested in the Municipality shall be under the control of the Board of Councillors who 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.

(2) The Board of Councillors shall, from time to time, cause all public streets vested in the Municipality to be levelled, metalled or paved, channelled, altered or repaired, widened, extended or otherwise improved or cause the soil thereof to be raised, lowered or altered, and may place and repair fences and posts for the safety of pedestrians.

(3) The Board of Councillors shall, from time to time, cause various items of street furniture, including guard rails, traffic lights and traffic signs, street markings, median strips and similar other items, to be installed or done for public safety, convenience and expeditious movement of traffic, including pedestrian traffic.

(4) The Board of Councillors may, for any public purpose turn, divert or temporarily or permanently close any public street or part thereof or permanently close any public square or garden:

Provided that the Board of Councillors so closing any street, shall not do so for mere financial gain and shall be bound to provide reasonable means of access to persons occupying premises adjacent to such street.

Rights of way for underground utilities.

169. Subject to the provisions of the Indian Telegraph Act, 1885, the Indian Electricity Act, 1910 and such other Act as may be notified by the State Government of the purposes of this section, the State Government may by rules provide for the following:—

13 of 1885.
9 of 1910.

- (a) the sanction by the Board of Councillors of specific rights of way in the subsoil of public and private streets within the municipal area for different public utilities, including electric supply, telephone or other telecommunication facilities, gas pipes, water-supply, sewerage and drainage, shopping plazas, warehousing facilities and apparatus and appurtenances related thereto, provided by Government or any statutory body or any licensee under any of the said Acts;
- (b) the levy of any fee or charges permissible under any of the said Acts;
- (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 within or without the limits of the municipal area.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 170-172.)

19 of 1923. 170. The Chairman shall cause to be maintained complete survey maps, drawings, and descriptions of all the underground utilities within the municipal area, in such form and in such manner as may be prescribed, and shall ensure the secrecy of the same in conformity with provisions of the Official Secrets Act, 1923.

Power to maintain maps of underground utilities.

171. (1) The Board of Councillors may, subject to the other provisions of this Act,—

Power to acquire lands and buildings for public streets, public parking places and transportation terminals.

- (a) acquire any land together with structure, if any, standing thereon required 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 regular line of street;
- (b) acquire, in relation to any land or building as aforesaid, such land or building as the Board of Councillors may think expedient, outside the regular line or projected regular line of the public street as aforesaid.

(2) Where a land or building is acquired under sub-section (1) and the Board of Councillors 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, acquire, in addition, such remaining portion of the land which shall, on acquisition, vest in the Municipality.

172. (1) If the Board of Councillors considers it expedient to make regulation for any public street a building-line or a street alignment, or both a building-line and a street alignment, it shall give public notice of its intention to do so.

Power to prescribe building-line and street alignment.

(2) Every such notice shall specify a period within which objections will be received, and a copy of such notice shall be sent by post to every owner of premises abutting on such street who is registered in respect of such premises on the books of the Municipality:

Provided that the failure or omission to serve such notice on any of the owners shall not invalidate the proceedings under this section.

(3) The Board of Councillors shall consider all objections received within such period as it may fix in this behalf, and may then make regulation determining a building-line or a street alignment or both a building-line and a street alignment for such public street.

(4) A register or book with plans attached shall be maintained by the Chairman showing all public streets within the municipal area including, in particular, those in respect of which a building-line or street alignment has been determined by regulation, and such register shall maintain such particulars as the Board of Councillors may determine and shall be open to inspection by any person upon payment of such fee as may, from time to time, be fixed by the Board of Councillors.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 173, 174.)

Restrictions on erection of, or addition to, buildings or walls within street alignment or building-line.

173. (1) No portion of any building or boundary wall shall be erected or added to within such street alignment as the Board of Councillors may determine by regulation under section 172:

Provided that the Board of Councillors may, in its discretion, permit additions to a building to be made within a street alignment, if such additions merely add to the height of, and rest upon, an existing building or wall, upon the owner of the building executing an agreement binding himself and his successors in interest—

- (a) not to claim compensation in the event of the Board of Councillors at any time thereafter calling upon him or such successors, by written notice, to remove any addition made to any building in pursuance of such permission, or any portion thereof, and
- (b) to pay the expenses of such removal.

(2) If the Board of Councillors refuses to grant the permission to add to any building on the ground that the proposed site falls wholly or in part within a street alignment referred to in section 172, and if such site or the portion thereof which falls within such alignment is not acquired by the Municipality within one year after the date of such refusal, it shall pay reasonable compensation to the owner of the site.

(3) No person shall erect or add to any building between a street alignment and the building-line without first obtaining the permission of the Board of Councillors to do so.

(4) If the Board of Councillors grants permission under sub-section (3), it may require the applicant to execute an agreement in accordance with the proviso to sub-section (1).

Power to take possession of, and add to street, land situated within street alignment or covered by projecting buildings.

174. (1) The Board of Councillors may, at any time, give notice to the owner of any land of building of its intension to take possession of—

- (a) any land abutting on a public street upon which any portion of any building or wall projects beyond the front of the adjoining building or wall on either side; or
- (b) any land not covered by building (including land on which a building has collapsed or been demolished or burnt down) which is situated within a street alignment referred to in section 172.

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(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 175, 176.)

(2) The Board of Councillors may come to an agreement with the owner, upon whom a notice under sub-section (1) has been given, to release such land for addition to street on condition of such relaxation in the enforcement of building regulations as the Board of Councillors may decide, and thereupon the building-line or street alignment referred to in section 172 may be enforced.

175. (1) If any part of a building abutting on a public street is within the regular line of that street, the Board of Councillors may, whenever it is proposed—

Power of setting back building to regular line of street.

- (a) to repair, rebuilt or construct such building or to pull down such building to an extent measured in cubic metre exceeding one-half thereof above the ground level, or
- (b) to repair, remove, construct or reconstruct or make any additions to, or structural alterations of, any portion of such building which is within the regular line of the street,

by an order, as respects the additions to or rebuilding, construction, repair or alteration 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 Board of Councillors or otherwise, taken down, the Board of Councillors may forthwith take possession of the portion of the land within the regular line of the street heretofore occupied by such building and, if necessary, clear the same.

(3) Any land acquired under this section shall be deemed to be a part of the public street and shall vest in the Municipality.

(4) The Board of Councillors may, while giving an order to set back building under sub-section (1), allow such relaxation, including a concession in floor area ratio, in building regulations as respects the addition to or rebuilding, construction, repair or alteration of the building as it may consider appropriate.

176. (1) Where any building or any part thereof is within the regular line of a public street and, in the opinion of the Board of Councillors, it is necessary to set back such building or part thereof to the regular line of such street in pursuance of any development plan, it may, 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.

Power of compulsory setting back of building to regular line of street.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 177, 178.)

(2) If such owner fails to show satisfactory cause under sub-section (1), the Board of Councillors may require the owner by another notice to be served on him in accordance with the provisions of this Act to pull down the building or part thereof, which is within the regular line of the street, within the period specified in the notice.

(3) If the owner fails to comply with the requirements of the notice under sub-section (2), the Board of Councillors may pull down the building or part thereof and all expenses incurred in so doing shall be paid by the owner and recoverable from him as an arrear of tax under this Act.

(4) The Board of Councillors shall, immediately after any building or part thereof is pulled down under sub-section (3), take possession of the portion of the land within the regular line of the street occupied by such building or part thereof, and such land shall, thereupon, be deemed to be a part of the public street and shall vest in the Municipality.

Setting forward of building to regular line of street.

177. (1) If any building, which abuts on a public street, is in the rear of the regular line of such street, the Board of Councillors may, whenever it is proposed—

- (a) to rebuild such building, or
- (b) to alter or repair such building in such manner as will involve the removal or re-erection of such building or portion thereof which abuts on such street and to an extent measured in cubic metre exceeding one-half of such building or portion thereof above the ground level,

by an order, as respects the rebuilding, alteration or repair of such building or portion thereof, permit or require such building to be set forward to the regular line of such street.

(2) 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 Board of Councillors is erected along such line.

Payment of compensation.

178. The Board of Councillors shall, for any acquisition made under this Chapter, pay reasonable compensation to the person adversely affected. In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street, square, park or garden at or about the same time that public street, square, park or garden on account of which the compensation is paid is closed.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 179, 180.)

179. (1) The Board of Councillors may, from time to time, prepare schemes and plans of projected public streets, showing the direction of such street, the street alignment and the building-line on each of them, their intended width, and such other details as may appear desirable. The provisions of section 172 shall, with all necessary modifications, apply to public streets projected under this section.

Projected public streets.

(2) The width of such projected streets, inclusive of footpath, shall not be less than ten metres:

Provided that—

- (a) the Board of Councillors may, for special reasons, reduce the requirement of width of any projected street; so, however, that the width of any such projected street shall not be less than six metres; and
- (b) the Board of Councillors may relax the requirement of width to any extent in case the projected street is, in effect, an widening of an existing street.

180. (1) The Board of Councillors may, for sufficient reasons,—

- (a) prohibit vehicular traffic in any public street or any portion thereof so as to prevent danger, construction or inconvenience to the public or to ensure quietness in any locality;
- (b) prohibit, in respect of all public streets or any particular public street, the transit of any vehicle of such type, form, construction, weight, emission or size, or of any vehicle laden with such heavy or un-wieldy object, as is likely to cause injury to the roadways or any construction thereon, or of any vehicle for 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 assistants, and other general precautions and upon the payment of such charges as may be specified by the Board of Councillors generally or specifically in each case;
- (c) prohibit, at all times or during any particular hours, entry from or exit to premises of vehicular traffic from any particular public street carrying such traffic.

Power to prohibit use of public streets for certain kind of traffic.

(2) Notices of prohibition under sub-section (1) shall be posted in conspicuous places at or near both ends of public streets or portions thereof to which they relate, if such prohibition applies generally to all public streets; otherwise such notices may be advertised.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 181-184.)

Temporary closure of public street.

181. The Board of Councillors may temporarily close the whole or any part of a public street to permit development and maintenance work, and may, subject to such conditions as may be determined by the Board of Councillors, authorise such closure for other purposes for any period not exceeding a month.

Closure of public street for parking purposes.

182. (1) The Board of Councillors may declare a public street or a portion of it, as a fee parking area.

(2) Parking fee may be levied for each hour at such rate, and for such types of vehicles parked in different areas or for parking on different categories of streets at different hours of the day, as the Board of Councillors may determine:

Provided that such fee for each hour shall not exceed rupees two in the case of passenger vehicles and rupees five in the case of goods vehicles.

Sanction of Board of Councillors to projection over streets and drains.

183. (1) No person shall put up any platform, verandah, balcony, sunshade, weather-frame or the like to project over any public street without the written permission of the Board of Councillors.

(2) Subject to any rules made by the State Government in this behalf, the Board of Councillors may, in its discretion, give to the owners or occupiers of buildings abutting on public streets written permission to erect or re-erect platform, verandah, balcony, sunshade or weather-frame projecting on a public street or drain on such conditions as it may think fit and on payment of such fees or rent as it may, from time to time, fix.

Removal of encroachments over public streets, etc.

184. (1) The Board of Councillors—

- (a) may, without notice, itself or by any officer authorised by it in writing in this behalf, remove, alter or otherwise deal with any structure, wall, hoarding, scaffolding, fence, rail, post, platform or other projection, obstruction or encroachment which has, without first obtaining its written permission, been erected or set up in, over, above or upon any public street, house-gully, sewer, drain, aquaduct, water-course or *ghat*;
- (b) may, itself or by any officer authorised by it in writing in this behalf, remove without notice any materials or goods or any movable property which has, without its permission, been deposited in a public street or in, over, above, or upon any house-gully or any public sewer, drain, aquaduct, water-

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 185, 186.)

course or *ghat*, or which remains so deposited, when the period covered by any permission given in this behalf has expired, whether or not the offender is prosecuted under this Act or the rules or the regulations made thereunder, and the offender shall be liable to pay the expenses of such removal which shall be recoverable as an arrear of tax under this Act.

(2) If the person, who erects or sets up any of the projections, obstructions or encroachments referred to in sub-section (1), is not known or cannot be found, the Board of Councillors may cause a notice to be posted up in the neighbourhood of the said projection, obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition.

(3) No person shall be entitled to any compensation in respect of the removal of any projection, obstruction or encroachment under this section. If the expenses of removing or altering any such projection, obstruction or encroachment are paid by the occupier of the building in any case in which such projection, obstruction or encroachment was not erected or set up by himself, he shall be entitled to deduct from the rent payable by him to the owner of the building any reasonable expense incurred for such removal or alteration.

185. Whoever removes, not being duly authorised in that behalf, any earth, sand or other material form, or makes any encroachment in or upon, any street or open space which is not a private property, shall, on conviction, be punished with fine which may extend to one hundred rupees and, in the case of continuing offence, with further fine which may extend to twenty rupees for every day after the first during which such offence continues.

Penalty for encroachment of street or open space.

186. (1) No person shall, without the permission of the Board of Councillors or any other lawful authority, displace, dig up or make any alteration in, or otherwise damage, the pavement, gutter, flags or other materials of any public street, or any street furniture like posts, fences and walls, including lamp-posts, lamps, brackets, water-posts, hydrants and accessories thereto, or any other municipal property on a public street or public place, park, square or graden.

Prohibition of causing damage to street or street furniture.

(2) Every person to whom any permission is granted under sub-section (1) shall abide by such conditions as the Board of Councillors may impose in this behalf.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 187, 188.)

(3) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with a fine which may extend to one hundred rupees and, in the case of a continuing offence, with a further daily fine extending to twenty rupees:

Provided that such person shall, in addition to any penalty that may be imposed on him, be liable to pay the expenses which the Board of Councillors may incur in replacement or restoration consequent on such contravention, and such expenses shall be recoverable as an arrear of tax under this Act.

Board of Councillors may require owners of land to repair damage to streets, etc.

187. Whenever any public street or drain or any other municipal property is damaged, washed away or eroded by any activity within any land or building (including tank) which exists by the side of such street, drain or property, the Board of Councillors may, by written notice, require the owner or occupier of such land or building to repair the damage and to restore the street, drain or property to its original condition as far as possible within a specified time, and it shall be incumbent upon such owner or occupier to comply with it, failing which the Board of Councillors itself may carry out the work of repair or restoration and the expenses thereof shall be recoverable from the owner or the occupier as an arrear of tax under this Act.

Naming and numbering of streets and numbering of premises.

188. (1) It shall be lawful for the Board of Councillors to—

- (a) give a name or a number to every public street;
- (b) cause to be put up or painted on a conspicuous part of any building, wall or any other place the name or the number by which such street is to be known;
- (c) determine the number or sub-number by which any premises or part thereof shall be known; and
- (d) require the owner of any premises or part thereof by a written notice, to put up a plate showing the number or sub-number of such premises or part determined under clause (c) in such position and manner as may be specified in such notice.

(2) Any person, who destroys, pulls down or defaces any such name or number of a public street or number or sub-number of any premises or part thereof or puts up any name, number or sub-number different from that determined by the Board of Councillors, or any owner of any premises or part thereof who does not, on being so required, put up at his own expense such number or sub-number of such premises or part thereof, shall, on conviction, be punished with a fine which may extend to fifty rupees.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 189-192.)

Private street

189. (1) The Board of Councillors may require any owner or owners of land or building within a municipal area to upgrade a private street within such land or building in respect of such items of work and in conformity with such standard as may be prescribed.

Power to require owner to upgrade private street.

(2) If such requirements are not complied with, the Chairman-in-Council may cause the execution of the work by its own agency and recover the expenses incurred, either in whole or in part, from the owner or owners, as the case may be.

190. The Board of Councillors shall have access over any private street for the purpose of extending civic services or providing civic amenities.

Power of access over private street.

191. (1) If any private street has been upgraded under section 189 and the majority of the owners of such street or the owners of lands or buildings on such street express their consent in writing, the Board of Councillors shall declare the same to be a public street.

Power to take over private streets.

(2) If a private street has been in existence for not less than twenty years and used by the people of the locality as a thoroughfare, the Board of Councillors may, notwithstanding anything contained in this section, declare such street to be a public street.

(3) If the Board of Councillors decides, for reasons to be recorded in writing, to take over a private street, whether upgraded or not, it may, notwithstanding anything contained in this section, declare such street to be a public street.

(4) Upon a private street being declared by the Board of Councillors under sub-section (1) or sub-section (2) or sub-section (3), as the case may be, to be a public street, such private street shall vest in the Municipality, free from all encumbrances, with effect from the date of such declaration.

192. (1) Every person intending to layout or make a new street within a municipal area, shall give notice thereof in writing to the Chairman and shall furnish along with such notice plans and sections showing—

New private street.

- (a) the intended level, direction and width of the street;
- (b) the situation and the boundaries of any buildings or plots abutting on such street or likely to be served by such street;

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Section 192.)

- (c) the position of any public street or streets to which the new street may have an access;
- (d) the arrangements to be made for the levelling, paving, metalling, flagging, channelling, draining or lighting of the street; and
- (e) such other particulars as may be required by regulations, if any, made in this behalf.

(2) Within sixty days of receipt by the Chairman of the information and the documents hereinafter specified or, if any further information or documents have been called for, within sixty days of the receipt of such further information or documents, the Board of Councillors may either—

- (a) sanction the laying out or making of the new street, subject to such modifications or conditions as it may think fit; or
- (b) disallow it for reasons which shall be communicated to the applicant in writing.

(3) If the Board of Councillors fails to issue any order under sub-section (2) within the specified period, the person giving notice shall be entitled to lay out and make the proposed street in such manner as may have been specified in the notice under sub-section (1) and in a manner not inconsistent with any provision of this Act or any rules or regulations for the time being in force.

(4) If any person, who is entitled to proceed with any work under sub-section (2) or sub-section (3), fails to carry out such work within one year from the date on which he becomes so entitled, his right to proceed with such work shall lapse.

(5) If any person lays out or makes a new street in contravention of the provisions of this section, the Chairman-in-Council shall forthwith cause the work to be stopped and may execute its order for such stoppage with the help of the police.

(6) Whoever lays out or makes any such street in any manner contrary to the provisions of this Act or of any rules or regulations made thereunder or violates any order for stoppage of work under sub-section (5) shall, on conviction, be punished with imprisonment for six months or with fine which may extend to five thousand rupees or with both, and the Chairman-in-Council may cause any street so laid out or made to be altered and any building constructed on such street to be altered or removed and the expenses thereby incurred shall be paid to the Municipality by the offender, and shall be recoverable as an arrear of tax under this Act.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Section 193.)

193. (1) Before utilizing, selling, leasing out or otherwise disposing of any land or building as plots for construction of buildings thereon, the owner thereof shall send to the Chairman a written application with a layout plan of the land showing the street or streets giving access to the plots into which the land may be divided and connections of such street or streets with any existing public or private streets and the following particulars:—

Layout plans.

- (a) the size or sizes and the number of plots into which the land is proposed to be divided for the erection of buildings thereon and the purpose or purposes for which such buildings are to be used;
- (b) the land use pattern depicting reservation or allotment of any site for any street, parking lot, open space, park, recreation ground, school, market or any other public purpose;
- (c) the intended level, direction and width of street or streets, including foot-paths;
- (d) the arrangement for water-supply, energy supply, drainage, sanitation and conservancy as respects the plot;
- (e) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving and lighting street or streets.

(2) Within ninety days of receipt of any application under subsection (1), the Chairman-in-Council shall, after obtaining such technical views as it may deem proper, either accord approval to the layout plan on such conditions as it may think fit or disallow it or ask for further information with respect to it.

(3) Such approval shall be refused,—

- (a) if the particulars shown in the layout plan are in conflict with any arrangements which have been made or are likely to be made for carrying out any general scheme of development of the municipal area, whether or not such scheme is contained in the development plan or the development scheme prepared under any law in force for the time being;
- (b) if the layout plan does not conform to the provisions of this Act and the rules and the regulations made thereunder; or
- (c) if any street proposed in the layout plan is not so designed as to connect it at one end with a street which is already open.

(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Section 194.)

(4) No person shall utilize, sell or otherwise deal with any land or layout or make any new street, nor shall any person make any construction on any plot comprised in such land without or otherwise than in conformity with the orders of approval of the Chairman-in-Council; and, if further information is asked for, no steps shall be taken to utilize, sell or otherwise deal with the land or to layout or make the street until an order has been passed by the Chairman-in-Council upon receipt of such information:

Provided that the passing of any such order shall not, in any case, be delayed for more than ninety days after the Chairman-in-Council has received such information as it considers necessary to enable it to deal with the application.

(5) No sale deed shall be registered under any law for the time being in force for any land governed by this section until the layout plans have been approved under this section.

Lighting of streets and public places and measures for lighting.

194. The Board of Councillors may—

- (a) take measures for lighting, in a suitable manner, such public streets and public places as may be considered necessary;
- (b) procure, erect and maintain such number of lamps, lamp posts and other appurtenances as may be necessary for the purpose as aforesaid;
- (c) cause such lamps to be lighted by such means as may be determined by them;
- (d) place and maintain—
 - (i) electric wires for the purpose of lighting such lamps under, over, along or across, or
 - (ii) posts, poles, standards, stays, struts, brackets and other contrivances for carrying, suspending or supporting lamps or electric wires in or upon,

any immovable property without being liable to any claim for compensation thereof:

Provided that such wires, posts, poles, standards, stays, struts, brackets or other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person:

Provided further that the Chairman-in-Council may, for carrying, suspending or supporting any lamps or electric wires, enter into an agreement with any firm or company or other Government agency for using, on terms and conditions mutually agreed upon, any posts, poles or standards erected and maintained by such firm, company or other Government agency.

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(Part V.—Regulatory Jurisdiction.—Chapter XIII.—Streets and public places.—Sections 195, 196.—Chapter XIV.—Building.—Section 197.)

195. (1) The Municipality may, on its own or in collaboration with any one, erect plants for generation of electric power, subject to such rules as may be made in this behalf.

Power to take measures for generation of electricity.

9 of 1910.

(2) Notwithstanding anything contained in this Chapter, all matters relating to generation, transmission, supply or use of electrical energy in a municipal area shall be regulated by the provisions of the Indian Electricity Act, 1910.

196. (1) No person shall, without the written permission of the Chairman or any lawful authority, take away or wilfully or negligently break or throw down or damage—

Power to prohibit removal etc. of lamps.

- (a) any lamp or any appurtenances of any lamp or lamp-post or lamp-iron set up in any public street or any public place;
- (b) any electric wire for lighting such lamp;
- (c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any electric wire or lamp.

(2) No person shall wilfully or negligently extinguish the light of any lamp set up in any public street or any public place.

(3) If any person wilfully or through negligence breaks, or causes any damage to, anything referred to in sub-section (1), he shall, in addition to any penalty to which he may be subject under this Act, pay the expenses of repairing the damage so caused by him.

CHAPTER XIV

Building

197. (1) In this Chapter, unless the context otherwise requires, the expression “to erect a building” means—

Definitions.

- (a) to erect a new building on any site, whether previously built upon or not;
- (b) to re-erect—
 - (i) any building of which more than one-half of the cubical contents above the level of 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 wall 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;

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 197.)*

- (c) to convert into a dwelling house any building or any part of a building not originally 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 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 purpose by sub-division or addition, in 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 regulation contained in this Act or under any rules or regulations made under this Act or contained 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;
- (l) to close permanently any door or window in any external wall;
- (m) to remove or reconstruct the principal staircase or to alter its position.

(2) For the purposes of this Act, “use group” or “occupancy” shall mean the purpose for which a building or part of a building is used or intended to be used. For the purpose of classification of a building according to occupancy, occupancy shall be deemed to include subsidiary occupancies which are contingent upon it. The classification of occupancy shall include residential, educational, institutional, assembly, business,

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 198.)*

mercantile (retail), mercantile (wholesale), industrial, storage and hazardous. The principal occupancy shall be the occupancy covering more than 50 per cent of the floor area of a building. In case no single occupancy covers more than 50 per cent of the floor area of a building, the building shall be classified as “mixed use building”. The classification of buildings based on principal occupancy, shall be as follows:—

“residential building”, “educational building”, “institutional building”, “assembly building”, “business building”, “mercantile building (retail)”, “mercantile building (wholesale)”, “industrial building”, “storage building”, and “hazardous building”.

198. (1) The State Government may make rules to provide for—
- (a) the regulation or restriction of the use of sites for buildings, and
 - (b) the regulation or restriction of building.
- (2) Without prejudice to the generality of the foregoing power, such rules 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 spaces, area and height limitation;
 - (g) parking spaces;
 - (h) requirements of parts of building plinth, habitable room, kitchen, pantry, bathroom and 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 for lifts;
 - (j) exit requirements including doorways, corridors, passageways, staircases, ramps and lobbies;
 - (k) fire protection requirements including materials and designs for interior decoration;
 - (l) 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);

Power of State Government to make building rules and to classify municipal areas for the purpose of application of building rules.

(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 199.)

- (m) structural designs;
- (n) quality of materials and workmanship;
- (o) alternative materials, methods of design, construction and tests;
- (p) building services including electric supply, airconditioning or heating, and telephone and telex;
- (q) plumbing services;
- (r) signs and outdoor display structures;
- (s) compliance with the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 relating to land and building;
- (t) compliance with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979 and such other Act or rules made thereunder as the State Government may direct;
- (u) any other matter considered necessary in relation to building activities.

33 of 1976.

West Ben.
Act XIII of
1979.

(3) The State Government may by notification exempt a municipal area or a group of municipal areas as classified under section 7 from the operation of all or any of the provisions of this Chapter or of the rules made under this section.

(4) While such exemption as aforesaid 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.

Power to regulate future construction of building in particular streets or localities.

199. (1) The Board of Councillors may give public notice of its intention to declare—

- (a) that in any street or portion thereof specified in such notice, the elevation and construction of the frontage of all building or any classes of buildings erected or re-erected after such notice shall, in respect of their architectural features, be such as the Board of Councillors 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 buildings or both or row-houses and that the land appurtenant to each such building shall be of an area 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 specified size; or

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 200.)*

- (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 street or locality specified in such notice, the construction of any one or more of the different classes of buildings like residential, commercial, business, assembly, mercantile, industrial, institutional, storage or hazardous buildings, shall not be allowed without the special permission of the Board of Councillors.

(2) The Board of Councillors at a meeting shall consider all the 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 no such modification shall extend the effect of such declaration.

(3) The Board of Councillors shall, in the manner prescribed, publish any declaration so confirmed or modified 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 Board of Councillors shall ensure that such declaration is in conformity with the provisions of any Development Plan, if in force, under the West Bengal Town and Country (Planning and Development) Act, 1979.

200. (1) No person shall, without the written permission of the Chairman 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 authorised 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 sanctioned 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 sanctioned;
- (d) convert or allow the conversion of a tenement within a building to an occupational use, other than the use intended in the original sanctioned plan, nor materially alter, enlarge or extend the permitted use.

Power to prohibit change of authorised use of building.

(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 200.)

(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 Chairman and in accordance with the provisions of this Act or the rules or the regulations made thereunder or 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 the Bengal Municipal Act, 1932, shall be deemed to be an unauthorised change and shall be dealt with under the provisions of this Act.

Ben. Act XV
of 1932.

(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 Board of Councillors may levy on such person, in accordance with such scale as may be prescribed, a fine not exceeding in each case rupees one hundred per square metre per month for the area under unauthorised use throughout the period during which such contravention continues.

(5) The Chairman may, if he deems fit, order that the unauthorised use be stopped forthwith:

Provided that before making any such order, the Chairman 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 Chairman under sub-section (5) may, within thirty days from the date of the order, prefer an appeal against the order to the Board of Councillors whose decision in the matter shall be final and conclusive.

(7) Where an appeal is preferred under sub-section (6), the Board of Councillors may stay the enforcement of the order made by the Chairman 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 injunction or other relief against the Chairman or the Board of Councillors to restrain from taking any action or making any order in pursuance of the provisions of this section.

Explanation.—For the purposes of the Chapter, “unauthorised use” shall mean change or conversion of a building without sanction from one occupancy or use to another, such “occupancy” or “use” being for purposes, namely, residential, commercial, business, mercantile, industrial, storage, institutional, assembly and hazardous (dangerous and offensive):

Provided that any change or conversion, which is considered not to be of material significance under the rules made under this Act, shall not be deemed to be an “unauthorised use” for the purposes of this Chapter.

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 201-203.)*

201. (1) No person shall use or permit to be used any premises for any of the non-residential purposes as mentioned in Schedule II without or otherwise than in conformity with a licence granted by the Chairman in this behalf on such terms and conditions as may be determined by regulations.

Licence to be obtained for use of premises for non-residential purposes.

(2) The Board of Councillors shall determine by regulations a scale of fee to be paid for the issue of licence in respect of premises used for non-residential purposes under sub-section (1):

Provided that no such fee shall exceed five hundred rupees per month in respect of any premises.

202. (1) The Board of Councillors may give public notice of its intention to declare that in any area specified in the notice, no person shall use any premises for any purpose specified in the notice and for reasons stated therein.

Power to prevent use of premises for specified purpose in particular area for environmental reasons.

(2) Any objection to any such notice shall be received within a period of one month from the publication of the notice.

(3) The Board of Councillors 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 published under sub-section (1), with such modifications, if any, as it may think fit.

(4) Every such declaration shall be published in the manner prescribed 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 Chairman shall have the power to stop the use of any such premises by such means as he considers necessary.

(6) The Board of Councillors shall ensure that such declaration is in conformity with the provisions of any Development Plan, if in force, under the West Bengal Town and Country (Planning and Development) Act, 1979.

West Ben.
Act XIII of
1979.

203. No piece of land shall be used as a site for the erection of a building unless such site has been so approved within the prescribed period, and no building shall be erected unless a building plan has been sanctioned for such erection in accordance with the provisions of this Chapter and of the rules and the regulations made under this Act:

Approval of building-sites and sanction of plan for erection of buildings.

Provided that no piece of land shall be approved for the erection of a building and no building plan shall be sanctioned unless a certificate from the competent authority, as defined in clause (d) of section 2 of

(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 204-207.)

the Urban Land (Ceiling and Regulation) Act, 1976, to the effect that there is no objection to the transfer of the land under sub-section (3) of section 5 of that Act, has been submitted along with the application for sanction of building plan under the rules made under this Act:

33 of 1976.

Provided further that if the component authority as aforesaid does not issue the certificate within three months from the date of application for such certificate, it shall be presumed that the “no objection certificate” has been issued by it and no further reference to it shall be necessary.

Prohibition of building without sanction.

204. No person shall erect or commence to erect any building or execute any specified building work, except with the previous sanction of the Board of Councillors and in accordance with the provisions of this Chapter and of the rules and the regulations made under this Act in relation to such erection of building or execution of work.

Application with building plan to erect or re-erect building.

205. Every person, who intends to erect or re-erect a building, shall first submit an application with a building plan in such form, accompanied by such plans and specifications, and containing such information, as may be prescribed or as may be required by the rules made under section 198.

Purpose for which building to be used and conditions of validity of notice.

206. (1) Every person making an application to erect or re-erect a building shall specify the purpose for which such building is intended to be used.

(2) The Board of Councillors may require that a building may not be erected or re-erected for more than one occupancy or use or contrary to such mixed uses as the Board of Councillors may, from time to time, determine consistent with the provisions of this Act or any other law for the time being in force.

Sanction of building plan and permission to execute work.

207. (1) Within sixty days after the receipt of any application with building plan or of any information or document which the Chairman may reasonably require the applicant to furnish before deciding whether sanction shall be accorded in this regard, the Chairman shall, by written order,—

- (a) either accord sanction to the building plan conditionally or unconditionally and give permission to execute the work, or
- (b) refuse, on one or more of the grounds mentioned in section 210, to accord such sanction, or
- (c) accord sanction but impose conditions for compliance before permission to execute the work.

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 208-210.)*

(2) A building plan sanctioned under this section shall remain valid for three years from the date of such sanction, and may be renewed for another two years on payment of such fees as may be levied by the Board of Councillors by regulations.

208. If, within the period referred to in section 207, the Board of Councillors has neither accorded nor refused to accord sanction to a building plan, nor granted permission to execute a work, such sanction or permission shall be deemed to have been granted; and the applicant may proceed to execute the work; so, however, that nothing in this section shall be deemed to have permitted the applicant to contravene any of the provisions of this Act or of the rules made under section 198 or of any rules or regulations applying to such work.

Sanction to be deemed to have been granted if the Board of Councillors defaults in according sanction.

209. Not less than seven days before any person commences to erect or re-erect a building, the owner of the building shall send to the Chairman a written notice specifying the date on which he proposes to commence the work.

Notice to Board of Councillors before commencement of work.

210. The sanction of a building plan may be refused on any of the following grounds:—

Grounds on which sanction may be refused.

- (a) that the approval of the building site has not been obtained as required under the provisions of this Act and the rules and the regulations made thereunder;
- (b) that the ground plan, elevation, section or specification would contravene any of the provisions of this Act or the rules or the regulations made thereunder or of any other law for the time being in force;
- (c) that the application with building plan does not contain the necessary particulars and has not been prepared in the manner as required under the rules and the regulations made in this behalf;
- (d) that any information or document required by the Board of Councillors in this behalf has not been duly furnished, and, in the cases requiring a lay-out plan under section 193, such lay-out plan has not been sanctioned as required under this Act;

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 211, 212.)*

- (e) that the building or the work would be an encroachment of Government land or land vested in the Municipality;
- (f) that for the use of the building for non-residential purposes, if any, a licence for permission has not been obtained for such use as required under the provisions of this Act or any other law for the time being in force:

Provided that a provisional sanction may be given in this regard for erection or re-erection of a building which may be confirmed by final sanction upon production of necessary licence or permission from the Municipality or the Government or the appropriate statutory body, as the case may be.

Period for completion of building work.

211. The Board of Councillors shall, when granting permission conditionally or unconditionally to execute the work, specify a reasonable period within which the building or the work is to be completed, and if the building or the work is not completed within the period so specified, it shall not be continued thereafter without fresh permission unless the Board of Councillors, on an application made in this behalf, allows an extension of such period:

Provided that the Board of Councillors may, if it considers necessary, require a modification of the building plan, for reasons to be recorded in writing, in the case of inordinate delay in completion of the work.

Completion certificate.

212. (1) Every person submitting an application with building plan or a work to which such application 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 Municipality a notice, in writing, of such completion accompanied by a certificate in such form as may be prescribed and shall give to the Municipality all necessary facilities for inspection of such building or work.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used any building or any part thereof affected by any such work until permission has been granted by the Municipality in this behalf in accordance with the rules and the regulations made under this Act:

Provided that if the Municipality fails, within a period of thirty days of receipt of the notice of completion, to communicate its refusal to grant such permission, such permission shall be deemed to have been granted.

(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 213-215.)

213. (1) Notwithstanding anything contained in this Act or the rules and the regulations made thereunder or any other law for the time being in force, the Board of Councillors may, in the case of any building which is intended to be erected at the corner of two streets,—

Power in cases of buildings at corners of streets.

- (a) refuse sanction for such reasons as may be recorded in writing; or
- (b) impose restrictions on its use; or
- (c) impose special conditions concerning exit to or entry from any street; or
- (d) require it to be rounded off or splayed off or cut off to such height and to such extent as may be determined; or
- (e) acquire whether by an agreement under section 76 or otherwise, such portion of the site at the corner as may be considered necessary for public convenience or amenity.

(2) The Board of Councillors may also require any alteration to be carried out for conformity to any of the provisions in clauses (b) to (c) of sub-section (1) in respect of any building completed before the commencement of this Act.

214. (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 written permission of the Chairman, nor shall any such roof, verandah, pandal, wall, shed or fence, constructed or reconstructed, be retained beyond a period of three months after such construction or re-construction except with the fresh permission obtained in this behalf. Every permission granted under this sub-section shall expire at the end of the period of three months for which it is granted.

Power to prevent the use of inflammable materials for building, etc.

(2) The Board of Councillors may regulate the use of materials, design or construction, or other practices or interior decoration in accordance with such regulations as may be made in this behalf.

215. (1) The Chairman or any other person duly authorised by him in this behalf may, at any time and without notice, inspect any building or work in respect of which an application with building plan has been submitted, while the work is in progress, and shall cause such inspection within two months of the receipt of the notice of completion or credible information regarding such completion.

Inspection of building or work requiring sanction.

(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 216.)

(2) If, on making any inspection under sub-section (1), the Chairman or the other person as aforesaid finds that the building is being or has been erected—

- (a) otherwise than in accordance with the building plan as sanctioned, or
- (b) in such a way as to contravene any of the provisions of this Act or the rules or the regulations made thereunder,

the Chairman may, by written notice, require the owner of the building either to make such alterations within such time as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, as the case may be, or to appear before the Chairman and show cause why such alterations should not be made.

(3) If the owner does not appear and show cause under sub-section (2), he shall be bound to make the alterations specified in such notice.

(4) If the owner does not appear and show cause under sub-section (2), the Chairman shall, after hearing him, either—

- (a) cancel the notice issued under that sub-section, or
- (b) confirm the same, subject to such modifications, if any, as he may think fit.

(5) On the failure of the owner to comply with such order within the period specified therein, the Chairman may require any police officer or any employee of the Municipality to seal such area after evicting all persons, including the workmen, therefrom to prevent further work till such alterations are made.

Provisions of this Chapter not to apply in certain cases of additions and alterations.

216. The provisions of this Chapter and the rules and the regulations made thereunder relating to erection of buildings shall not apply to necessary repairs not involving any of the works which constitute a material addition or alteration.

Explanation.—An addition to, or alteration of, a building shall be deemed to be material if it—

- (a) increases or diminishes the height of the area covered by, or affects the cubical contents of, the building or any part thereof; or
- (b) affects or is likely to affect prejudicially the stability and safety of building in respect of sewerage, drainage, ventilation, and environmental safety; or
- (c) converts the building or any part thereof from one “occupancy” or “use” to another “occupancy” or “use”; or
- (d) is an addition or alteration as defined in the rules and the regulations made under this Chapter.

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 217, 218.)*

217. If, at any time, sanction or provisional sanction to erect any building has been given and the Board of Councillors is satisfied that such sanction was given in consequence of any material misrepresentation or fraudulent statement contained in the plans, elevation sections or specifications or land or any material particulars submitted in respect of such building, it may cancel such sanction, and any work done thereunder shall be deemed to have been done without sanction.

Power to Board of Councillors to cancel permission on the ground of material misrepresentation by applicant.

218. (1) If the Board of Councillors is satisfied—

- (a) that the erection of any building—
 - (i) has been commenced without obtaining sanction or permission under the law, or
 - (ii) is being carried on or has been completed otherwise than in accordance with the particulars on which such sanction or permission was based, or after such sanction or permission has been lawfully withdrawn, or
 - (iii) is being carried on or has been completed in breach of any provision contained in this Act or in the Schedule or in any rules or regulations in this behalf, or
- (b) that any building or projection exists in violation of any condition, direction or requisition lawfully given or made under this Act or the rules or the regulations made thereunder, or
- (c) that any material alteration of, or addition to, any building has been commenced or is being carried on or has been completed in breach of any provision contained in this Act or the Schedule or in any rules or regulations in this behalf,

Order for demolition or alteration of buildings in certain cases.

it may, after giving the owner of the building a reasonable opportunity of being heard, make an order directing that such erection, alteration, addition or projection, as the case may be, or so much thereof as has been executed unlawfully, be demolished or altered and, upon such order, it shall be the duty of the owner to cause such demolition or alteration to the satisfaction of the Board of Councillors within such period as may be fixed in this behalf. In default, such erection, alteration, addition or projection, as the case may be, may be demolished or altered by the Board of Councillors at the expense of the said owner.

(2) The procedure relating to the opportunity of hearing to be given to the owner of the building under sub-section (1) shall be such as may be prescribed.

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 219-221.)*

(3) An appeal against an order made by the Board of Councillors in this behalf shall lie with the Municipal Appellate Tribunal constituted under this Act.

(4) The order of the Tribunal shall be final and conclusive and shall not be questioned in any court of law.

(5) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Chapter, if the Chairman-in-Council is of opinion that immediate action is necessary in respect of any building being constructed, or any 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.

Power to
stop
excavation.

219. 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, sewerage and drainage mains, and gas pipe) is touched or is likely to be touched or if the Chairman is of opinion that such excavation may cause danger to public, he may, by a written order, stop forthwith any such excavation or other work till the matter is investigated and decided to his satisfaction.

Power of
Chairman to
stop
unauthorised
construction.

220. (1) In any case in which the erection of a building or any other work connected therewith has been commenced or is being carried on unlawfully, the Chairman may, by written notice, require the owner or the person carrying on such erection or unlawful work to discontinue the same forthwith, pending further proceedings as respects such unauthorised construction.

(2) If any notice issued under sub-section (1) is not duly complied with, the Chairman may, with the assistance of the police or any employee of the Municipality, if necessary, take such steps as he may deem fit to stop the continuance of the unlawful work.

(3) If it appears to the Chairman that it is necessary, in order to prevent the continuation of the unlawful work, to depute any police or employee of the Municipality to watch the premises, the cost of providing the same shall be borne by the person to whom the said notice was addressed.

Power to
require
alteration of
existing
buildings.

221. (1) The Board of Councillors may, with a view to promoting safety, convenience, privacy or sanitation or to securing conformity with the provisions of this Act and the rules and the regulations made thereunder, by order stating reasons in writing, require the owner of any existing

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 222, 223.)*

building to make such alterations therein within such period as may be specified in the order:

Provided that before making any such order, the Board of Councillors shall give a reasonable opportunity to the owner to show cause why such order should not be made.

(2) An appeal against an order made by the Board of Councillors under this section shall lie with the Municipal Appellate Tribunal constituted under this Act.

222. (1) The Board of Councillors may, for sufficient reasons, by an order require the owner or the occupier of any building abutting on a public or private street to keep the external parts of the building, including the roof thereof, in proper repair with lime plaster or other material or properly painted to the satisfaction of the satisfaction of the Board of Councillors.

Maintenance
of buildings.

(2) If such owner or occupier makes persistent default in carrying out an order made in this behalf, the Board of Councillors may itself carry out the work and recover the cost thereof from the owner or the occupier of the building, as the case may be.

(3) Notwithstanding anything contained in any other law for the time being in force, the Board of Councillors may apportion the costs incurred under sub-section (1) or sub-section (2) between the owner and the occupier in such manner as it may consider just and reasonable.

(4) The Board of Councillors may create and administer a special fund for maintenance as well as improvement of buildings in any area on corporate basis in accordance with such procedure as may be prescribed.

223. (1) Where the Board of Councillors, upon any information in its possession, is satisfied that any building is unfit for human habitation and is not capable, at a reasonable expense, of being rendered fit, it shall serve upon the owner of the building and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause within such time as may be specified in the notice as to why an order of demolition of the building should not be made.

Power to
order
demolition
of buildings,
dangerous,
ruinous or
unfit for
human
habitation.

(2) If any of the persons upon whom a notice has been served under sub-section (1) appears in pursuance thereof, before the Board of Councillors and gives an undertaking that such person shall, within a period specified by the Board of Councillors, execute such work of improvement in relation to the building as will, in the opinion of the Board of Councillors, render the building fit for human habitation or that

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 223.)*

the building shall not be used for human habitation until the Board of Councillors, on being satisfied that it has been rendered fit for human habitation, cancels the undertaking, the Board of Councillors 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, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is used in contravention of the terms of the undertaking, the Board of Councillors shall forthwith make an order of demolition of the building requiring that the building shall be vacated within such period, not being less than sixty days from the date of the order, as may be specified in the order, and demolished within ninety days after the expiration of that period.

(4) Where an order of demolition of a building under this section has been made, the owner of the building or any other person having an interest therein shall demolish the building within the period specified in the order, and if the building is not demolished within such period, the Board of Councillors shall demolish the building and sell the materials thereof.

(5) Any expenses incurred by the Board of Councillors under sub-section (4), which cannot be met out of the proceeds of sale of materials of the building, shall be recovered from the owner of the building or any other person having an interest therein as an arrear of tax under this Act.

(6) In determining, for the purposes of this section, whether a building is unfit for human habitation, regard shall be had to its condition in respect of the following matters, that is to say,—

- (a) repair;
- (b) stability;
- (c) freedom from damp;
- (d) natural light and air;
- (e) water supply;
- (f) drainage and sanitary conveniences;
- (g) facilities for storage, preparation and cooking of food and for the disposal of rubbish, filth and other polluted matter;

and the building shall be deemed to be unfit as aforesaid if it is so defective in one or more of the matters as aforesaid that it is not reasonably suitable for occupation in that condition.

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*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Sections 224, 225.)*

(7) For the purposes of this section, “work 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 matter;
- (i) any other work, including the demolition of any building or any part thereof, which, in the opinion of the Board of Councillors, is necessary for executing any of the works specified in clauses (a) to (h).

9 of 1910.

13 of 1885.

224. The Board of Councillors may erect or fix to the outside of any building, brackets for lamps to be lighted with oil or, subject to the provisions of the Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or, subject to the provisions of the Indian Telegraph Act, 1885, for telegraph wires or telephone wires or wires for the conduct of electricity for locomotive purposes. Such brackets shall be so erected or fixed as may not occasion any inconvenience or nuisance to the occupants of the said building or of any other building in the neighbourhood or to the public.

Power to fix lamps, brackets, etc. to buildings.

225. (1) The Board of Councillors may make regulations, consistent with the provisions of this Act and the rules made by the State Government thereunder.

Powers to make regulations regarding buildings.

(2) Such regulations may supplement the provisions of this Act and the rules as aforesaid on the following matters, namely:—

- (a) plans, specifications and other documents or particulars to be furnished with any application for building plan;
- (b) alteration or addition of any specific description, not falling within the scope of the provisions of this Chapter;
- (c) fees in accordance with such scale for plans, specifications, and information as are not otherwise provided for;
- (d) type or description of building which, and the purposes for which a building, may or may not be erected in any specified area or areas;

*(Part V.—Regulatory Jurisdiction.—Chapter XIV.—Building.—
Section 225.)*

- (e) licensing of builders, surveyors and plumbers for erection of buildings as well as fees to be paid by builders, surveyors and plumbers for obtaining such licence and the qualifications to be possessed by them for the purposes of this Act;
- (f) precautions to be taken during construction of a building, including scaffolding, fencings and storing of materials;
- (g) materials and method of construction to be used for external party-walls, roofs and floors;
- (h) materials and method of construction of fireplace, chimneys, drains, privies, urinals and cesspools;
- (i) ventilation and flushing of drains, latrines, urinals and cesspools, and the provision of access thereto from streets, and where a sewerage system has been provided, the connection of service privies with a sewer and the method of connection;
- (j) the proportion of any building-site, which shall not be built over, the amount of space to be left at the sides and back of any building and the areas of courtyards in proportion to the floor area of rooms abutting thereon;
- (k) height of any building or portion of a building in relation to the width of the street or streets on which it abuts;
- (l) width of foundation, height of plinth, and stability of structure;
- (m) minimum floor area, minimum height and ventilation of rooms used or intended to be used for human habitation; and any other matter affecting the ventilation or sanitation of the building;
- (n) regulation by specific rules of special classes of buildings, taking fire safety and health safety into account;
- (o) laying out of huts in a *bustee* in accordance with alignment lines, prescribed and demarcated on the grounds;
- (p) distance to be kept open between huts and alignment lines;
- (q) special provisions for buildings above 13.5 metres in height, taking construction safety, circulation space, and fire escape into account;
- (r) greenery, beautification and landscaping to be provided in erection of a building;
- (s) regulating in any manner not specifically provided for in this Act the erection of any enclosure, wall, fence, tent, awning or other structure, of whatever kind or nature on any land within the limits of a municipal area;

*(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Sections 226-228.)*

- (t) special rules for buildings which are used or intended to be used as storage buildings, institutional buildings congregational buildings, industrial buildings or hazardous buildings to the extent not specifically provided for in this Chapter or in the Schedules or in the rules made under this Act.

PART VI
CIVIC SERVICES
CHAPTER XV
Water-supply

226. (1) It shall be the duty of every Municipality to provide a supply of wholesome water for the domestic use of the inhabitants.

The Municipality to provide water-supply.

(2) The water for domestic uses in excess of such standard as may be determined by the Board of Councillors and the supply of water for non-domestic uses may be charged for at such scale of fees or price as may be prescribed.

(3) The Board of Councillors, for the purpose of measuring or recording the quantity of water consumed, may provide for devices of attachment of meter in the premises or adopt a system of calculation by the size or number of ferrules through which the supply is made or any other method of measurement or recording in such manner and in accordance with such procedure as may be prescribed.

227. (1) 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 public tank, which is situated within the municipal area, shall vest in the Municipality.

Public tanks, sub-soil water, etc., to vest in the Municipality.

(2) All rights over the sub-soil water resources within a municipal area shall vest in the Municipality.

228. (1) Subject to the approval of the State Government, the Board of Councillors may, either singly or jointly with any other Board of Councillors or local authority, within or without a municipal area, undertake construction of water-works and operate, manage or maintain any water-works intended to serve the inhabitants of the municipal area.

Construction of water-works.

(2) Wherever the State Government has approved any work outside the limits of municipal area, the Board of Councillors may exercise all the powers for construction, maintenance and repair throughout the line of the country in which such work is situated or through which it is to run, as if such work is situated within the municipal area.

*(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Sections 229-231.)*

Power to lay
or carry
pipes
through
public or
private land.

229. The Board of Councillors may lay or carry any water-main or service-main or any pipe or channel of any kind for the purpose of providing or carrying out or maintaining a system of water-supply on, across, under or over any street or public place, and after giving a reasonable notice of not less than a month to the owner or the occupier, across, under or over any private land or building whatsoever, situated within the limits of a municipal area, may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such pipe or channel, as the case may be, in an effective state for the purpose for which such pipe or channel, as the case may be, may be used or intended to be used:

Provided that in the case of sudden water-logging of any area within a municipal area, the Board of Councillors may, if it considers it necessary so to do in the interest of public health and convenience, take such action as is necessary under this sub-section for draining out the water across, under, over or up the side of any land or building within a municipal area without prior service of any notice on the owner or the occupier of such land or building:

Provided further that a reasonable compensation shall be paid to the owner or the occupier for any damage at the time sustained by him through, or in consequence of, any such operation.

Control of
construc-
tions on land
through
which water-
main etc.
passes.

230. No building or private street shall be constructed over any municipal water-main or service-main, except with the written permission of the Board of Councillors which may impose such conditions for such construction as it may deem fit.

Power to
permit
connection
to houses
and lands.

231. (1) Subject to such conditions and restrictions as may be prescribed and such terms as the Chairman-in-Council may, from time to time, determine, the Chairman-in-Council may, on the application of the owner or the occupier of any house or land in respect of which property tax is paid, make or cause or permit to be made communication or connection from any main, service-main or distribution pipe, belonging to the Municipality or from any channel maintained, owned or vested in the Municipality.

(2) The Chairman-in-Council may require the amount necessary for the execution of any work under this section and other charges or fees, if any, to be paid or deposited before such work is executed by it.

*(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Sections 232-234.)*

232. If, at any time, it appears to the Chairman-in-Council that any building or land in the municipal area is without a proper supply of wholesome water, the Chairman may, by written notice, require the owner or the lessee or the occupier of the building or the land, as the case may be, to obtain from municipal water-mains such quantity of water as may be adequate for the requirement of the persons usually occupying or employed upon the building or the land, and provide communication pipes of such size, materials and description, and take such necessary steps for the purpose, as may be provided by regulations.

Power to require water-supply to be taken.

233. (1) The Chairman-in-Council may erect hydrants or stand-posts for supply of wholesome water to the public within a municipal area.

Water-supply through hydrants, stand-posts and other conveniences.

(2) The Board of Councillors may, by regulation provide for safety, maintenance and use of such public hydrants or stand-posts; or it may place such public hydrants or stand-posts under the charge of any person who may realise from each consumer such fee as the Board of Councillors may determine from time to time.

(3) The Board of Councillors may fix hydrants on water-mains at such places as may be most convenient for affording a supply of water for extinguishing any fire in the locality and denote the situation of every such hydrant with marks or figures prominently displayed on any convenient structure near such hydrant:

Provided that on deposit of requisite expenses by any owner or occupier of any factory, workshop, trade premises or place of business situated in or near a street in which a water main is laid, the Board of Councillors shall fix such hydrants to be used only for extinguishing fire.

(4) The operation and maintenance of hydrants for extinguishing fire shall be in accordance with such procedure as may be prescribed.

234. (1) All private connections of premises to the mains of a Municipality for the supply of water thereto and all pipes, taps, and other fittings used for such supply shall be made, maintained and regulated in the manner prescribed.

Vesting of private connections to premises in the Municipality.

*(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Sections 235-238.)*

(2) The Municipality may, if it thinks fit, take charge of all communication-pipes and fittings of any existing private service connected with water-supply system within a municipal area up to and including the stopcock nearest to the doorstep of the concerned premises and such communication-pipes and fittings shall thereafter vest in, and shall be maintained at the expenses of, the Municipality as part of the water-works of the Municipality.

Owner to bear expenses of repairs of works connected with the supply of water.

235. Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expenses of repairs of all works connected with the supply of water thereto and, if he fails to do so, the occupier may, after giving the owner and the Chairman three days' notice in writing in such form as may be approved by the Municipality, himself have the repairs done and deduct the expenses for such repairs from any rent due from him to the owner in respect of such premises.

Permission to person outside the municipal area to take water.

236. The Board of Councillors may, with the sanction of, and on such terms as may be approved by, the State Government, supply water to a local authority or other person outside the municipal area.

Power to State Government to take control over imperfect, inefficient or unsuitable water-works etc.

237. (1) If, at any time, it appears to the State Government that any water-works executed by, or vested in, the Board of Councillors, are maintained or run in an imperfect, inefficient or unsuitable manner, the State Government may, by order, direct the Board of Councillors or other local authority to show cause within the period specified in the order as to why the water-works with all plants, fittings and appurtenances thereof should not be handed over to the control and management of any other agency belonging to the State Government or any statutory body for such period as the State Government may fix.

(2) If no cause is shown to the satisfaction of the State Government within the period specified in the order under sub-section (1), the State Government may, by order, direct that the water-works with all plants, fittings and appurtenances thereof shall be made over to such agency or statutory body as the State Government may fix, and for such period, and on such terms and conditions, as the State Government may determine.

Water not to be wasted.

238. (1) No person, being the occupier of any premises to which water is supplied by the Board of Councillors under this Chapter, shall, on account of negligence or other circumstances under the control of the said 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.

*(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Section 239.)*

(2) No person shall unlawfully flood, draw off, divert or take water from, any water-works belonging to, or under the control of, the Board of Councillors, or from any water-course or stream by which such water-works are supplied.

(3) Any person, who contravenes the provisions of this section, shall be liable to such fine imposed by the Board of Councillors, not exceeding three hundred rupees, as may be prescribed.

239. (1) Notwithstanding anything contained in this Chapter, the Chairman-in-Council may cut off the connection of water-supply to any premises, or may turn off such supply, in any of the following cases, namely:—

Power to cut off or to turn off supply of water to premises.

- (a) if the premises are unoccupied or prohibited for human habitation; or
- (b) if, after receipt of a written notice from the Chairman requiring him to refrain from so doing, the owner or the occupier of the premises continues to use the water or permit the same to be used in contravention of the provisions of this Act of the rules or the regulations made thereunder; or
- (c) if any pipe, tap, works or fittings connected with the supply of water to the premises be found, on examination by any officer of the Municipality duly authorised in this behalf, to be out of repairs to such an extent as may cause so serious a waste or contamination of water that, in the opinion of the Chairman, immediate prevention is necessary; or
- (d) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached; or
- (e) if, by reason of a leak in the service-pipe or the fittings, damage is caused to the public street and immediate prevention is necessary:

Provided that no action under clause (a) or clause (b) shall be taken without giving a notice of not less than three days to the owner or the occupier, as the case may be.

(2) The expenses of cutting off the connection or of turning off the water and of restoring the same, as determined by the Chairman-in-Council in any case referred to in sub-section (1), shall be paid by the owner or the occupier of the premises.

(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Sections 240-242.)

(3) No action taken under, or in pursuance of, this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

Digging of wells etc. without permission prohibited.

240. (1) No new well, tube-well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission, in writing, of the Chairman-in-Council.

(2) If any such work is begun or completed without such permission, the Chairman-in-Council may—

- (a) by written notice require the owner or the other person who has done such work to fill up or demolish such work; or
- (b) grant permission to retain such work or portion thereof on such terms and conditions as the Chairman-in-Council may consider fit to impose.

Power to set apart wells, tanks, etc. for drinking, culinary, bathing and washing purposes.

241. The Board of Councillors may, by order published at such places as it thinks fit, set apart any tank, well, spring or water-course or any part thereof, vested in it or, by an agreement with the owner thereof, any private tank, well, spring or water-course or part thereof, subject to any rights which the owner may retain with the consent of the Board of Councillors, for any of the following purposes, namely:—

- (a) for the supply of water exclusively for drinking or for culinary purposes or for both, or
- (b) for the purpose of bathing, or
- (c) for washing animals or clothes, or
- (d) for any other purpose connected with the health, cleanliness or comfort of the inhabitants,

and may, by like order, prohibit the bathing or the 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 water-course to promote public safety, health and welfare.

Analysis of water for drinking or culinary purposes.

242. The State Government may make rules to provide for the proper analysis of the water of any water-works, tank, well, spring or any water-course or other source, unused or likely to be used for drinking or culinary purposes in any municipal area and, in particular, may require the Chairman-in-Council to take samples of water in the manner prescribed and make it over at such time and place, and to such person or persons, as the State Government may appoint in this behalf.

*(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Section 243.)*

243. The State Government may make rules to provide for—
- (a) the preparation of plans and estimates for water-works or for introduction of a public distribution net-work;
 - (b) the power of the Board of Councillors or the State Government to accord sanction to such plans and estimates;
 - (c) the publication of the particulars and the nature of any water-work or scheme, its cost, and the manner in which it is to be financed and carried out;
 - (d) the size and nature of water-works, mains, service-mains, pipes or channels to be constructed or laid by the Board of Councillors for the supply of water;
 - (e) the maintenance of municipal water-works and of pipes and fittings in connection therewith;
 - (f) the size and nature of the stand-posts or pumps to be erected by a Municipality and of the ferrules and all pipes, stand-pipes, stop-cocks, taps, hydrants and other fittings, whether within or outside any premises, that may be necessary for the regulation of the supply and use of water;
 - (g) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited;
 - (h) the periodical analysis by a qualified analyst of the water supplied by a Municipality;
 - (i) the conservations of, and the prevention of injury or contamination to, sources and means of water supply and appliances for the distribution of water, whether within or without the limits of a municipal area;
 - (j) the manner in which connections with water-works or supply-system shall or may be constructed, altered or maintained, the fees to be levied for such connections and the person by whom they shall be paid, and the agency to be employed for such construction, alteration or maintenance;
 - (k) the rates at which the charges for water supplied in excess of the prescribed quota for domestic purposes and for water supplied for various non-domestic purposes may be levied by the Board of Councillors and the use, maintenance and testing of meters and ferrules;
 - (l) the regulation of all matters and things connected with the supply and use of water, and the turning on, and turning off, and preventing the waste, of water; and

Power to
make rules.

*(Part VI.—Civic Services.—Chapter XV.—Water-supply.—
Section 244.—Chapter XVI.—Drainage and sewerage.—
Sections 245-247.)*

- (m) any other matter relating to the supply of water in respect of which this Act or any other law for the time being in force makes no provision or makes insufficient provision and further provision is, in the opinion of the State Government, necessary.

Power to make regulations.

244. The Board of Councillors may make regulations, not inconsistent with the provisions of this Act and the rules made thereunder for carrying out the purposes of this Chapter.

CHAPTER XVI

Drainage and sewerage

The Municipality to provide drainage, sewerage, etc.

245. The Municipality shall provide and maintain a system of drainage or sewerage as well as a safe and sufficient outfall in or outside the municipal area.

Public drains, trunk-sewers etc. to vest in the Municipality.

246. (1) All public drains, and all drains in, alongside, or under any public street, whether made out of Municipal Fund or otherwise, and all trunk-sewers, sewage treatment plants, drainage and pumping stations and all works, materials and things appurtenant to the drainage system, which are situated within the municipal area, shall vest in the Municipality.

(2) For the purpose of enlarging, deepening or otherwise repairing or maintaining any drain as aforesaid, so much of the sub-soil appertaining to the drain as may be necessary shall be deemed to vest in the Municipality.

(3) The Municipality may, with the approval of the State Government, make over the trunk-sewers, sewage treatment plants, pumping stations and other materials and things appurtenant thereto to any agency belonging to the Government or a statutory body, and it shall be lawful for such agency to exercise control over all such items for their maintenance and development.

Control of Board of Councillors over drainage.

247. (1) All drains, sewers, privies, water-closets, toilets, house-gullies, gutters and cesspools within the municipal area, whether private or public, shall be under the survey and control of the Board of Councillors.

(2) All covered drains, sewers and cesspools, whether public or private, shall be provided with proper taps, coverings or other means of ventilation; and the Chairman may, by written notice, call upon the owner of any such covered drains, sewers and cesspools to make provision accordingly.

(Part VI.—Civic Services.—Chapter XVI.—Drainage and sewerage.—Sections 248-251.)

248. The Chairman-in-Council shall provide for the municipal drains to be cleansed, flushed and emptied from time to time.

Cleaning of drains.

249. The Chairman-in-Council may, for the purpose of receiving, treating, storing, disinfecting, distributing, or otherwise disposing of, sewage, construct, operate, maintain, develop and manage any plant or other device within or outside the municipal area.

Provision for treatment and disposal of sewage.

250. Subject to the sanction of the State Government and the rules made in this behalf, the Board of Councillors, either singly or jointly with any other local authority, may, within or without a municipal area,—

Construction or maintenance of drainage and sewerage systems etc.

- (a) construct or maintain a system of drainage, sewers, drainage or sewage outfall, sewage treatment plants or devices, drainage and pumping stations, or
- (b) from time to time, alter the size and course of, or otherwise modify or discontinue, close up or remove, the system of drainage, sewers, drainage or sewage outfall, sewage treatment plants or devices, drainage and pumping stations.

251. The Board of Councillors may carry any drain, sewer or channel of any kind for the purpose of establishing or maintaining a system of drainage or sewerage upon, across, under or over any street or public place and, after giving a reasonable notice in writing to the owner or the occupier, upon, across, under, over or up the side of any private land or building whatsoever, situated within the limits of a municipal area, and, for the purpose of the outfall of sewage, or for drainage outfall, without such limits, and may, at all times, do all acts and things which may be necessary or expedient for repairing or maintaining any such drain, sewer or channel, as the case may be, in an effective state for the purpose for which the same may be used or intended to be used:

Power of Board of Councillors to lay or carry pipes through private and public land.

Provided that in the case of sudden water-logging of any area within a municipal area or any nuisances, the Chairman-in-Council may, if considered necessary so to do in the interest of public health and convenience, take such action as is necessary for draining out the water upon, across, under, over or up the side of any private land or building within a municipal area without prior service of any notice on the owner or the occupier of such land or building.

(Part VI.—Civic Services.—Chapter XVI.—Drainage and sewerage.—Sections 252-256.)

Use of public drains by private owners.

252. The owner or the occupier of a building or land shall be entitled to cause his drains to empty into the municipal drains after obtaining the written permission of the Chairman and he shall comply with such conditions as the Chairman may deem fit to impose relating to the communications between private drains and municipal drains.

Power to order demolition of drain constructed without consent.

253. No person shall, without the written consent of the Chairman-in-Council first obtained, make or cause to be made, or alter, or cause to be altered, any drain or branch drain leading into any of the municipal sewers or drains or into any water-course, street or land vested in the Municipality, and the Chairman-in-Council may cause any drain or branch drain, so made or altered, to be demolished, altered, remade or otherwise dealt with at the expenses of the persons making or altering such drain.

Draining of group or block of buildings etc. by combined operation.

254. If it appears to the Chairman-in-Council that a group or block of buildings may be drained more economically and advantageously in combination than separately, and if a municipal sewer or drain of sufficient size already exists or is about to be constructed within the reasonable reach of such group or block of buildings, the Chairman-in-Council may cause such group or block of buildings to be so drained, and the expenses thereby incurred shall be recovered from the owners of such buildings in such proportions as the Chairman-in-Council may deem fit.

Power to enforce drainage of undrained premises and separate drainage in any premises.

255. The Chairman-in-Council may, by written notice; require drainage to be provided for any undrained premises and also require separate provisions to be made for drainage of sewage and other offensive matters as distinct from rain-water and other unpolluted sub-soil water in accordance with such rules as may be made in this behalf.

Power of State Government to exercise control over imperfect, inefficient or unsuitable drainage work.

256. (1) If, at any time, it appears to the State Government that any drainage works or sewerage works, executed under the provisions of this Chapter, or vested in the Municipality, are maintained or worked in an imperfect, inefficient or unsuitable manner, the State Government may, by written order, direct the Municipality or other local authority within the period specified in the order to show cause why the drainage works or sewerage works with all plants, fittings and appurtenances thereof should not be handed over for such period as the State Government may fix to the control and management of such agency belonging to the Government or a statutory body as may be specified in the order.

(Part VI.—Civic Services.—Chapter XVI.—Drainage and sewerage.—Section 257.)

(2) If cause is not shown within the period specified in the order issued under sub-section (1) or the cause shown appears untenable, the State Government may, by order, direct that the drainage works or sewerage works 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 person or authority as it may appoint. During the period so fixed, the complete control and management of the drainage works or sewerage works, as the case may be, shall be vested in the person or the authority so appointed, who shall engage such establishment for the purpose of maintaining and working such drainage or sewerage works as the State Government may, from time to time approve. Such establishment may include the employees of the Municipality who were employed in the maintenance or working of such drainage or sewerage works. The cost of such establishment, including that of all materials, implements, and stores, shall be paid within such period as may be fixed by the State Government from the Municipal Fund.

257. (1) No person shall—

- (a) construct a building, wall, fence or any structure or any private street over any municipal drain, culvert or gutter or bed, bank or embankment of any sewage works or storm water channel vested in the Municipality; or
- (b) otherwise encroach upon drainage and sewerage system in the municipal area:

Encroachment on municipal drains.

Provided that the Board of Councillors may give consent to any such construction only for the purpose of securing access to any abutting land or building on such conditions as the Board of Councillors may think fit to impose.

(2) The Chairman may, without notice, cause to be removed or altered, any building, wall, fence or structure constructed in contravention of the provisions of this section or any unauthorised encroachment, whatsoever, at any time for reasons to be recorded in writing.

(3) The Chairman by written notice may require any person to pull down or otherwise deal with any building, fencing, wall or structure or any encroachment whatsoever constructed or erected in contravention of sub-section (1), and the expenses in doing so shall be paid by the person at whose instance the unauthorised construction or encroachment was made.

(4) Any person who fails to act in accordance with the provisions of sub-section (2) shall, on conviction, be punished with a fine which may extend to five hundred rupees and, in the case of continuing offence, with further fine which may extend to one hundred rupees for

(Part VI.—Civic Services.—Chapter XVI.—Drainage and sewerage.—Sections 258, 259.)

every day during which such offence continues. In addition, such person shall also be liable for all expenses that the Municipality may incur in removing or otherwise dealing with the unauthorised construction or encroachment.

Power to
make rules.

- 258.** The State Government may make rules to provide for—
- (a) the preparation of plans and estimates for the introduction of a system of drainage or sewerage, where such work or system is to be partly or wholly constructed or carried out at the expense of the Municipality;
 - (b) the power of the Board of Councillors or the State Government in the matter of sanction to such plans and estimates and responsibilities for financing and execution;
 - (c) the size and other particulars of drains, sewerage or channels to be constructed or laid for drainage or sewerage;
 - (d) the manner in which connections with the drainage or sewerage system shall be constructed, altered or maintained, the fees to be levied for such connections and the person by whom such fees shall be payable, and the agency to be employed for such construction, alteration or maintenance;
 - (e) the items of trade effluents or noxious chemicals which may not ordinarily be passed into municipal drains, or the mode of treatment of such chemicals before they can be so passed, or such other steps as may be necessary to control environmental pollution arising out of such chemicals;
 - (f) any other matter relating to the drainage or sewerage in respect of which this Act makes no provision or makes insufficient provision and further provision is, in the opinion of the State Government, necessary.

Power to
Board of
Councillors
to make
regulations.

- 259.** The Board of Councillors may make regulations—
- (a) requiring every person, who intends to construct, repair, add to or alter a house-drain or cess-pool, to submit an application to the Municipality with such plans and other particulars as may be determined, and providing for conditions for giving and refusing of sanction to such application;
 - (b) providing for the materials, size, slope, level or position of drains generally and their construction, repair and maintenance;

(Part VI.—Civic Services.—Chapter XVII.—Solid Wastes.—
Functions in relation to solid wastes.—Sections 260-262.)

- (c) not inconsistent with this Act and the rules made thereunder, to provide for any item not specifically laid down but which is necessary to carry out the purposes of this Act.

CHAPTER XVII

Solid Wastes

Functions in relation to solid wastes.

260. For the purpose of securing the efficient scavenging and cleansing of all streets, public places and premises within a municipality, the Board of Councillors shall provide for the functions of collection, removal and disposal of solid wastes.

Collection, removal and disposal of solid wastes.

261. (1) The Municipality shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit of—

Provision for receptacles, depots and places for temporary deposit.

- (a) rubbish;
- (b) offensive matter;
- (c) trade refuse;
- (d) carcasses of dead animals;
- (e) excrementitious and polluted matter.

(2) Different receptacles, depots or places may be provided or appointed for the temporary deposit of any of the matters specified in sub-section (1).

262. It shall be the duty of the owners or the occupiers, as the case may be, of all premises—

Duties of owners and occupiers to collect and deposit rubbish, etc.

- (a) to have the premises swept and cleaned;
- (b) to cause all rubbish and offensive matters to be collected from their respective premises and to be deposited, at such time as the Chairman may by public notice, specify, in public receptacles, depots or places provided or appointed by the Municipality or in receptacles provided under clause (c) for the temporary deposit or final disposal thereof;

(Part VI.—Civic Services.—Chapter XVII.—Solid Wastes.—
Functions in relation to solid wastes.—Sections 263-265.)

- (c) to provide receptacles of the type and in the manner specified by the Chairman for the collection therein of all rubbish and offensive matters from such premises and to keep such receptacles in good condition and repair.

The Municipality to provide for cleansing of streets and removal of solid wastes.

- 263.** (1) The Chairman shall take measures for securing—
- (a) the daily surface-cleansing of all streets within a municipal area and removal of sweeping therefrom;
 - (b) the removal of the contents of all receptacles and depots and of the accumulations at all places provided or appointed by the Municipality under the provisions of this Act for the temporary deposit of rubbish, trade refuse, carcasses of dead animals and excrementitious and polluted matters;
 - (c) the removal of special wastes and hazardous wastes and other solid wastes from premises.

(2) The Chairman may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (1) may be removed along a street or may be deposited or otherwise disposed of.

(3) The Chairman shall make adequate provision for preventing receptacles, depots, places, vehicles and vessels referred to in this Chapter from becoming sources of nuisance.

Solid wastes to be municipal property.

264. All matters deposited in public receptacles, depots and places provided or appointed by the Municipality and all solid wastes collected shall be the municipal property.

Provision of vehicles or other suitable means for removal of solid wastes.

265. (1) The Municipality shall provide vehicles or other suitable means and, where necessary, covered vehicles or vessels for the removal of solid wastes.

(2) The Municipality may construct, acquire, operate, maintain, develop or manage any garage or work for proper maintenance of the vehicles or vessels or means for removal of solid wastes under sub-section (1).

*(Part VI.—Civic Services.—Chapter XVII.—Solid Wastes.—
Functions in relation to solid wastes.—Sections 266, 267.)*

266. The Chairman-in-Council may, if it thinks fit,—

- (a) by written notice, require the owner or the occupier of any premises used—
 - (i) as factory, workshop or for carrying on any manufacture, or
 - (ii) as a trade premises or shop or as a market or slaughter house, or
 - (iii) as a hotel, eating-house or restaurant, or
 - (iv) as a hospital or nursing home, or
 - (v) as a warehouse or godown, or
 - (vi) as a place to which large number of persons resort, or
 - (vii) in any other way,

where rubbish, offensive matter, filth, trade refuse, special wastes, hazardous wastes, or excrementitious and polluted matters are accumulated in large quantities, to collect such matters accumulating thereon by such means of receptacles or construction on the premises as may be determined, or to remove the same at such time and in such trailers or receptacles and by such routes as may be specified in the notice to a depot or place provided or appointed by the Municipality, or

- (b) after giving the owner or the occupier of any premises notice of its intention so to do, cause all rubbish including building rubbish, offensive matter, trade refuse, special wastes, hazardous wastes, or excrementitious and polluted matters accumulated in such premises to be removed, and charge the said owner or the occupier, as the case may be, for such removal such fee as may be determined by the Board of Councillors and specified in such notice.

Removal of solid wastes accumulated on non-residential premises.

267. The Chairman may 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 before the commencement of this Act used for the purpose specified in this section, shall be used

Appointment of places for disposal and final disposal of solid wastes.

(Part VI.—Civic Services.—Chapter XVII.—Solid Wastes.—
Functions in relation to solid wastes.—Sections 268-270.)

except in conformity with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979.

West Ben.
Act XIII of
1979.

Provision for
processing
and disposal
of solid
wastes.

268. (1) The Board of Councillors may, for the purpose of receiving, storing, treating, processing and disposing solid wastes or converting such solid wastes into compost or other matter, construct, acquire, operate, maintain, develop, and manage any work within or outside the municipal area and run it on a commercial basis.

(2) The Board of Councillors may cause to be utilised solid wastes for filling up any well, tank or low land on a commercial basis within or outside the municipal area.

Special
sanitary
arrange-
ments at
certain
places.

269. (1) The Chairman may make such special arrangements, whether permanent or temporary, as he considers adequate for maintaining sanitation in the vicinity of any place of religious worship or institutions or places to which large number of persons resort on particular occasions or in any place used for holding fairs, festivals, sports or cultural or social events.

(2) The Chairman may require any person having control over any such place to pay to the Municipality fees at such rates as the Board of Councillors may, from time to time, determine.

Prohibition
against
deposit of
solid wastes.

270. (1) No person shall deposit or cause or permit to be deposited or throw upon or along any public street, public place, land belonging to the Municipality or any land on the bank of a water-course any solid waste except in accordance with the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provisions of this section, no person shall deposit or cause or permit to be deposited any building rubbish or scraps in or along any street, public place or land except with the prior permission of the Chairman:

Provided that no such permission shall be given until an advance payment of a fee for the removal of such rubbish or scraps has been made in accordance with such rates as may be determined by the Board of Councillors from time to time.

XXII of 1993.]

*(Part VI.—Civic Services.—Chapter XVII.—Solid Wastes.—
Functions in relation to solid wastes.—Sections
271-273.—Chapter XVIII.—Markets and slaughter
houses.—Section 274.)*

271. If any rubbish, offensive matter, trade-refuse, special waste, hazardous waste or excrementitious and polluted matter accumulating on any premises is deposited in any place in contravention of the provisions of this Act, it shall be presumed, unless the contrary is proved, that such contravention has been committed by the occupier of such premises.

Presumption
as to
offender.

272. Whoever deposits or throws or causes or permits to be deposited or thrown any solid waste on any place in contravention of the provisions of this Act shall, subject to such rules and regulations as may be made in this behalf, be punishable with fine which shall not be less than fifty rupees or more than five thousand rupees for each of such offences.

Depositing
or throwing
any solid
waste in
contraven-
tion of the
provisions of
this Act.

273. If any street or public place under the control of Government or any statutory body is not properly or regularly scavenged or is, in the opinion of the Chairman, in a filthy and unwholesome condition, the Chairman may, by written notice, require the owner or the occupier to do the scavenging or cleansing or may cause scavenging or cleansing to be done and the cost of such scavenging or cleansing shall be recovered from the owner or the occupier thereof, as the case may be.

Power of the
Municipality
to get certain
places
scavenged
and
cleansed.

CHAPTER XVIII

Markets and slaughter houses

274. (1) The Board of Councillors may provide and maintain municipal markets, slaughter houses or stockyards in such number as it may think fit together with stalls, shops, sheds, pens and other buildings and conveniences for the use of persons carrying on trade or business in, or frequenting, such markets or slaughter houses.

Provision of
municipal
markets and
slaughter
houses.

(2) Any municipal slaughter house or municipal stockyard may be situated within or, with the sanction of the State Government, outside the municipal area.

(3) A municipal market or a slaughter house or a stockyard shall be under the control of the Chairman.

(Part VI.—Civic Services.—Chapter XVIII.—Markets and slaughter houses.—Sections 275-277.)

Use of
municipal
markets.

275. (1) No person shall, without the general or special permission in writing of the Chairman-in-Council, sell or expose for sale any commodity or article or animal or bird in any municipal market or utilise any space within the municipal market for any other purpose.

(2) Any person contravening the provisions of sub-section (1), and any commodity, animal or article exposed for sale by such person, may be summarily removed from the market by or under the orders of the Chairman.

Levy of
stallage, rent
and fee.

276. The Board of Councillors may—

- (a) charge such premium, stallage, rent or fee as may, from time to time, be fixed in this behalf—
 - (i) for the occupation or use of any stall, shop, stand, shed or pen in a municipal market or municipal slaughter house,
 - (ii) for the right to expose articles for sale in a municipal market,
 - (iii) for the use of machines, weights, scales and measures provided for in any municipal market, and
 - (iv) for the right to slaughter animals in any municipal slaughter house, and for the feed of such animals before they are ready for slaughter; or
- (b) farm out the stallage, rent or fee chargeable as aforesaid or any portion thereof for such period as it may think fit; or
- (c) put up to public auction, or dispose of by private sale, the privilege of occupying or using any stall, shop, stand, shed or pen in a municipal market or municipal slaughter house for such period and on such conditions as it may think fit.

Premium,
stallage,
rent, etc. to
be
published.

277. (1) The Board of Councillors shall publish the terms and conditions for premium to be charged in such manner as it may decide.

(2) A copy of the table of stallage, rent and fee, if any, chargeable in any municipal market or municipal slaughter house, and of the regulations made under this Act for the purpose of controlling the use of such market or slaughter house, printed in such language or languages as the Board of Councillors may direct, shall be affixed in some conspicuous place in the market or the slaughter house, as the case may be.

XXII of 1993.]

(Part VI.—Civic Services.—Chapter XVIII.—Markets and slaughter houses.—Sections 278, 279.)

278. (1) No place, other than a municipal market, shall be used as a market unless such place has been licensed as a market by the Board of Councillors under the provisions of this Chapter on such terms and conditions as the Board of Councillors may determine.

Private markets and slaughter houses.

(2) No place, other than a municipal slaughter house, shall be used as a slaughter house:

Provided that nothing in this sub-section shall be deemed—

- (a) to restrict the slaughter of any animal in any place on the occasion of any religious festival or ceremony, subject to such conditions as the Chairman-in-Council may, by public or special notice, impose in this behalf, or
- (b) to prevent the Board of Councillors from setting apart any place for the slaughter of animals in accordance with the religious custom in vogue.

(3) The Chairman-in-Council may require the owner or the occupier of any licensed private market to provide approach road or passage or pave, drain or light or to provide such conveniences for the use of persons resorting to such markets as it may deem fit.

279. (1) The Chairman-in-Council may, after giving the parties concerned an opportunity of being heard and in accordance with such rules and regulations as may be made in this behalf,—

Power to expel person contravening regulations.

- (a) expel from any municipal market, municipal slaughter house or municipal stockyard, for such period as it may think fit, any person who or whose employee has been found contravening any regulations made under this Act and in force in such market, slaughter house or stockyard;
- (b) prevent such person as aforesaid from further carrying on any trade or business in such market, slaughter house or stockyard or occupying any stall, shop, standing, shed, pen or other place thereon;
- (c) close the stall or shop of the person found to be in default in payment of the stallages or rents or any other dues to the Municipality till payment is made or recovered under the provisions of this Act; or
- (d) determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(Part VI.—Civic Services.—Chapter XVIII.—Markets and slaughter houses.—Sections 280, 281.)

(2) If the tenant or the agent of the tenant of any owner or lessee of any private market or slaughter house has been convicted for contravening any regulation made under this Act, the Chairman-in-Council may require such tenant or agent to remove himself from such market or slaughter house within such time as may be mentioned in the requisition, and if such tenant or agent fails to comply with such requisition, he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises by the owner or the lessee thereof or by the employee of such owner or lessee.

(3) If it appears to the Chairman-in-Council that in any case the owner or the lessee is acting in collusion with a tenant or an agent, convicted as aforesaid, who fails to comply with any requisition under sub-section (2), the Chairman-in-Council may, if it thinks fit, cancel the licence of such owner or lessee in respect of such premises.

Prohibition of business and trade near a market.

280. (1) No commodity or article or animal or bird shall be sold or exposed for sale by a hawker or squatter within a distance of forty-five metres from the outward confines of any municipal market or licensed private market without the permission of the Board of Councillors.

(2) Any person contravening the provisions of sub-section (1) and any commodity or article or animal or bird exposed for sale by such person may be summarily removed by or under the order of the Chairman.

Municipal licence specially for sale of flesh, fish or poultry.

281. (1) No person shall, without or otherwise than in conformity with a licence from the Board of Councillors, carry on the trade of butcher, fishmonger, poulterer or importer of flesh intended for human food or use any place for the sale of flesh, fish or poultry intended for human food:

Provided that no 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 Board of Councillors may, by general order made in this behalf, require in token of the fact that the animal has been slaughtered in a municipal or licenced slaughter house:

Provided further that no licence 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.

(Part VI.—Civic Services.—Chapter XVIII.—Markets and slaughter houses.—Sections 282, 283.)

(2) The Board of Councillors may, by order and subject to such conditions as it may, upon supervision and inspection, think fit to impose, grant a municipal licence or may, by order and for reasons to be recorded in writing, revoke the name.

(3) The Board of Councillors may, by regulation, determine the procedure for the issue of licence and its renewal, fix the standard of edibility of meat and fish, and provide for inspection and analysis of samples of such meat and fish.

(4) If any place is used for the sale of flesh, fish or poultry in contravention of the provisions of this section, the Chairman may stop the use thereof by such means as he may consider necessary.

282. No person shall, without or otherwise than in conformity with the terms of a licence granted by the Board of Councillors in this behalf,—

Municipal licence for hawking articles, etc.

- (a) hawk or expose for sale in any place any article whatsoever, whether it is for human consumption or not; or
- (b) use in any place his skill in any handicraft or render services to the public for their convenience for the purposes of gain or making a living.

283. (1) If the Chairman-in-Council or any person authorised by it in this behalf has reason to believe that any animal intended for human consumption is being slaughtered or that the flesh of any such animal is being sold or exposed for sale in any place or manner not duly authorised under this Act, he may, at any time by day or night without notice, inspect such place for the purpose of satisfying himself as to whether any provision of this Act or of any rule or regulation made thereunder is being contravened thereat and may seize any such animal or the carcass of such animal or such flesh found therein.

Power to inspect places where unlawful slaughter of animals, etc. is suspected.

(2) The Chairman-in-Council may remove and sell by auction or otherwise dispose of any animal or carcass of any animal or any flesh seized under sub-section (1).

(3) If, within one month of such seizure, the owner of the animal, carcass or flesh fails to appear and prove his claim to the satisfaction of the Chairman or if the owner is convicted of an offence under this Act in respect of such animal, carcass or flesh, the proceeds of any sale under sub-section (2) shall be credited to the Municipal Fund.

(Part VI.—Civic Services.—Chapter XVIII.—Markets and slaughter houses.—Sections 284, 285.)

(4) Any person slaughtering any animal or selling or exposing for sale the flesh of any such animal in any place or manner not duly authorised under this Act may be arrested by any police-officer without a warrant.

(5) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

Power to
seize food or
drug etc.

284. (1) Subject to the provisions of the Prevention of Food Adulteration Act, 1954, or any other law for the time being in force, the Chairman-in-Council may cause inspection and analysis of any food, drug, edible oil, milk or similar item of human consumption or any utensil or vessel used for preparing or storing any such thing.

37 of 1954.

(2) If, upon inspection or analysis, any such item for consumption as aforesaid is, in the opinion of the Chairman or the officer or the employee authorised by him in this behalf, including a police-officer, 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 may 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 Chairman, unfit for human consumption, he shall cause the same to be forthwith destroyed in such manner as may prevent its being again exposed for sale or used for human consumption, and the expenses thereof shall be paid by the person in whose possession such food or drug was at the time of its seizure.

Commercial
projects etc.
of a
Municipal-
ity.

285. (1) The Board of Councillors may, with the prior information to the State Government, undertake the formulation, execution and running of commercial projects including market development schemes or industrial estates, or open depots for trading in essential commodities, or maintain bus or truck terminals together with commercial complexes, or run tourist lodges or centres along with commercial activities, or carry on similar projects on commercial basis.

(2) All the provisions of this Chapter shall apply *mutatis mutandis* to the commercial ventures undertaken by the Board of Councillors under this section.

(Part VII.—Urban and Regional Planning and Development.—
Chapter XIX.—Urban Renewal and Regional Development.—
A. Bustee or slum improvement.—Sections 286-288.)

PART VII

URBAN AND REGIONAL PLANNING AND DEVELOPMENT.

CHAPTER XIX

Urban Renewal and Regional Development

A. Bustee or slum improvement.

286. (1) The Board of Councillors may define the external limits of any *bustee* or slum and may, from time to time, alter such limits.

Power of Board of Councillors to define and alter limit of *bustee* or slum.

(2) The Board of Councillors shall maintain a list of all *bustees* or slums within the municipal area with such particulars thereof as may be prescribed.

287. (1) Notwithstanding anything contained in any other law for the time being in force, the Board of Councillors may, subject to the approval of the State Government, prepare such improvement schemes for any *bustee* or slum for the purpose of effecting environmental or general improvement of *bustees* or slums as it may consider necessary, and publish a copy of such scheme in such manner as may be prescribed.

Power to prepare improvement schemes.

(2) The improvement scheme may include lay-out plan for the entire *bustee* or slum or a part of it, relocation of existing huts or structures on the basis of such layout plan, diminution of individual holdings and compulsory acquisition of land or building for the purpose of providing common facilities and amenities in the *bustee* or slum area, temporary shifting of inhabitants and their re-settlement in phased manner with a view to augmenting such civic amenities and services as the Board of Councillors may decide.

(3) While preparing any improvement scheme, the Board of Councillors shall abide by the Development Plan prepared under any other law for the time being in force, and shall take into account the activities of other agencies or authorities affecting all or any of the matters referred to in sub-section (2), and may, for such purposes, call for any paper, map, document or data from such agencies or authorities who shall comply with such requisition.

(4) The approved improvement scheme shall be binding on the agencies and authorities referred to in sub-section (3), and the owners, occupiers, *thika* tenants and other residents within the *bustee* or slum.

288. After the publication of an approved improvement scheme, under sub-section (1) of section 287, the Board of Councillors shall cause a notice to be served on such owners or occupiers of huts and structures within the *bustee* or slum as are on municipal record, inviting participation in the implementation of the scheme.

Notice for participation of owners and occupiers.

(Part VII.—Urban and Regional Planning and Development.—
Chapter XIX.—Urban Renewal and Regional Development.—
A. Bustee or slum improvement.—Sections 289, 290.—
B. Area development and renewals.—Section 291.)

Management of areas of common uses and facilities.

289. Upon an improvement scheme being implemented the Board of Councillors may provide for management of the common areas and facilities created in course of such implementation, by establishment of a users' committee or a co-operative society of the owners or the occupiers on the model of a housing co-operative society under the West Bengal Co-operative Societies Act, 1983, and such management shall be binding on the owners or the occupiers, as the case may be, coming within the purview of the scheme.

West Ben. Act XLV of 1983.

Lay-out plan for sanction of erection of hut or structure in a bustee.

290. Notwithstanding anything contained elsewhere in this Act, the Board of Councillors may require a person intending to erect a hut or structure within a bustee or slum to conform to the lay-out plan as may be prepared by the Board of Councillors in respect of any bustee or slum or any part thereof.

B. Area development and renewals.

Removal of congested buildings.

291. (1) Where it appears to the Board of Councillors 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 any other similar cause, the Chairman shall cause the block to be inspected by a public health engineer who shall make a report in writing regarding the sanitary condition of the block.

(2) If, upon receipt of such report, the Board of Councillors considers that the sanitary condition of the block is likely to cause risk of disease to the inhabitants of the buildings or the neighbourhood or to endanger otherwise the community health or safety, it may select the buildings which, in its opinion, should wholly or in part be removed in order to abate the unhealthy condition of the block, and may, thereupon, by notice in writing, require the 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 afforded to the owner to show cause why the building should not be removed:

Provided further that the Board of Councillors shall make compensation to the owner for any building so removed which may have been erected under proper authority.

*(Part VII.—Urban and Regional Planning and Development.—
Chapter XIX.—Urban Renewal and Regional Development.—
B. Area development and renewals.—Sections 292-294.)*

(3) If a notice under sub-section (2) requiring any owner of a building to remove it is not complied with, then, after the expiration of the period specified in the notice, the Board of Councillors may cause the building to be removed and recover from the owner of the building the expenses of such removal as an arrear of tax under this Act.

292. (1) Where the Board of Councillors, upon information in its possession, is satisfied that any building is, in any respect, unfit for human habitation, it may, unless, in its opinion, the building is not capable of being rendered fit at a reasonable expense, serve upon the owner of the building a notice requiring him to execute the works of improvement specified in the notice within such period, not being less than sixty days, as may be specified in the notice.

Power to require improvement of buildings unfit for human habitation.

(2) In addition to the service of notice on the owner of the building under sub-section (1), the Board of Councillors may serve a copy of the notice on any other person having an interest in the building, whether as a lessee or mortgagee or otherwise.

(3) If a notice requiring the owner of the building to execute the works of improvement is not complied with, then, after the expiration of the period specified in the notice, the Board of Councillors may execute the works of improvement and recover the expenses incurred in connection therewith as an arrear of tax under this Act.

293. Where the Board of Councillors, upon information in its possession, is satisfied as respects any area within a municipal area—

Area development.

- (a) that the buildings in that area are, by reason of disrepair or sanitary defects, unfit for human habitation or are, by reason of their bad arrangement or the narrowness or bad arrangement of the streets or the want of light, air, ventilation or proper conveniences, dangerous or injurious to the health of the inhabitants of the area, or
- (b) that the most satisfactory method of dealing with the conditions in the area is the re-arrangement and reconstruction of the streets and buildings in the area in accordance with an area development programme, it may frame a project in respect of the area in accordance with the rules made in this behalf.

294. An area development project may provide for such matters as may be prescribed by rules.

Matters to be provided in an area development project.

(Part VII.—Urban and Regional Planning and Development.—
Chapter XIX.—Urban Renewal and Regional Development.—
B. Area development and renewals.—Sections 295, 296.—
C. Planning and regional development.—Sections 297, 298.)

Execution of
an area
development
project.

295. (1) The provisions of this Chapter in so far as they relate to the implementation of an improvement scheme in a *bustee* or slum, shall apply *mutatis mutandis* in the case of execution of an area development project.

(2) The Board of Councillors may, if it considers necessary and with the sanction of the State Government, provide for corporate funding for execution or maintenance of an area development project and channelise fund through an association of inhabitants or voluntary organisation of the area and also secure financial resources from banks or similar institutions to augment such fund which may be administered by such association in accordance with such procedure as may be prescribed.

Power to
acquire land
or building
for orderly
growth.

296. Subject to the provisions of this Act, the Board of Councillors may acquire any land or building, whether situated within or outside the municipal area, for the purpose of—

- (i) opening out any congested or unhealthy area or otherwise improving any portion of the municipal area; or
- (ii) erecting sanitary dwellings or providing site and services for the working and poorer people; or
- (iii) executing any development plan or scheme to provide for the growth of the municipal area in an orderly manner, including housing programme for different sections of the community.

C. *Planning and regional development.*

Power of
Municipality
to plan for
the region.

297. (1) Subject to the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979, the State Government may, by notification, declare an area to be an Urban Development Region of a Municipality comprising—

- (i) the area within the jurisdiction of the Municipality, and
- (ii) such other fringe areas adjoining and around the municipal area as may be deemed necessary to be included therein by the State Government.

(2) Whenever an Urban Development Region of a Municipality has been so declared, the Municipality may prepare a master plan for upgradation of the human settlements within such region.

Preparation
of a master
plan.

298. A master plan for the Urban Development Region may provide for all or any of the following:—

- (a) existing land use pattern in maps or documents;

West Ben.
Act XIII of
1979.

XXII of 1993.]

*(Part VII.—Urban and Regional Planning and Development.—
Chapter XIX.—Urban Renewal and Regional Development.—
C. Planning and regional development.—Section 299.)*

- (b) future land use control by way of—
 - (i) identification and preservation of open spaces, or
 - (ii) prohibition of filling up of tanks or water-sources, or
 - (iii) filling up of insanitary water-sources, or
 - (iv) protection of land surface through which sub-soil water-sources are re-charged, or
 - (v) provision for drainage network and outfalls, or
 - (vi) provision for dumping grounds for solid wastes disposal, or
 - (vii) street alignments, or
 - (viii) provision for burning and burial grounds, or
 - (ix) reclamation of waste lands, or
 - (x) providing activities of similar nature;
- (c) regulation and restriction of sites for construction of buildings, huts or structures;
- (d) regulation or licensing of premises to be used for non-residential purposes;
- (e) regulation of construction of buildings, huts or structures for purposes of safety and densification or density control;
- (f) environmental improvement by way of restriction on felling of trees, planting of new trees and flowering plants in public places and adding to house greenery and the like;
- (g) control of pollution relating to water, soil, air, noise, and odour etc.;
- (h) land acquisition for the purpose of ensuring that the benefits of developmental activities are reaped by public bodies for community welfare and not for speculative gains by private individuals.

299. (1) The State Government may, for the purpose of formulation of a master plan for an Urban Development Region or implementation of any project or scheme in pursuance thereof or for carrying out any activity arising out of it, constitute an Urban Development Committee or Urban Development Committees for any area or areas outside the municipal area.

Urban
Develop-
ment
Committee.

(2) Whenever any Urban Development Committee is constituted, it shall be incumbent upon the Board of Councillors to consult it in all matters of preparation of any master plan and entrust to it all items of implementation so far as they relate to areas outside the municipal area.

(Part VII.—Urban and Regional Planning and Development.—
Chapter XIX.—Urban Renewal and Regional Development.—
C. Planning and regional development.—Sections 300-302.)

Panchayats
as Urban
Develop-
ment
Committees.

300. Notwithstanding anything contained in the West Bengal Panchayat Act, 1973, the State Government may vest the powers of an Urban Development Committee in a *Gram Panchayat* constituted under section 4, or a Joint Committee appointed under section 30, or a *Panchayat Samiti* constituted under section 94, of that Act. Upon the vesting of such powers, the exercise thereof by the *Gram Panchayat* or the Joint Committee or the *Panchayat Samiti*, as the case may be, shall be deemed to be the performance of the function assigned to the *Gram Panchayat* or the Joint Committee or the *Panchayat Samiti*, as the case may be, in respect of the matter referred to in clause (o) of sub-section (1) of section 20, or item (ii) of clause (a) of sub-section (1) of section 109, as the case may be, of that Act:

West Ben.
Act XLI of
1973.

Provided that the State Government may associate representatives from other authorities or experts in different fields with the Urban Development Committee for rendering of necessary advice or guidance.

Board of
Councillors
in charge of
Urban
Develop-
ment
Region.

301. (1) All planning and developmental activities in an Urban Development Region under this Chapter shall be carried out under the overall supervision and control of the Board of Councillors of the concerned municipality.

(2) The Board of Councillors may, by a writtten notice, require the owner or the occupier of any land or building situated within an Urban Development Region to submit such particulars relating to land or building, and such other information, as the Board of Councillors may deem necessary.

(3) It shall be incumbent upon every owner or occupier to comply with the requirement of the notice under sub-section (2) and to carry out all instructions given by the Board of Councillors in furtherance of the provisions of this Chapter.

(4) The Board of Councillors may, in carrying out the purposes of this Chapter, involve the participation of such voluntary organisations or public participation in such manner as it may deem fit and proper.

Power to
make rules.

302. The State Government may make rules providing for—
(a) the procedure of functioning of an Urban Development Committee,
(b) the method of preparation and enforcement of a master plan,
(c) the conditions of involvement of voluntary organisations, and
(d) such other matters as may be necessary to carry out the provisions of this Chapter.

(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.—A. Special Provisions.
—Section 303.—B. Definitions.—Sections 304, 305.)

CHAPTER XX

Municipalities in hill areas

A. Special Provisions.

303. Notwithstanding anything contained elsewhere in this Act, but subject to the proviso to sub-section (5) of section 1, the provisions of this Chapter shall apply only to the Municipalities in the hill areas and shall be construed to be in modification of, or to be supplementing, the other provisions of this Act in their application to such Municipalities.

Application of the Act to Municipalities in hill areas.

B. Definitions.

304. (1) The word “drain” as defined in clause (16) of section 2 shall, in the case of a Municipality in the hill areas, include a *jhora*, or water-course of natural drainage line, and the State Government may, for the purposes of this Act, specify, by notification, the limits of any *jhora*, water-course, channel or natural drainage line within a municipal area in the hill areas.

Extension of definitions of “drain” and “masonry building”.

(2) For the purposes of Chapter XIV, in its application to the Municipalities in the hill areas, the expression “masonry building” shall include a framed building.

305. In this Chapter,—

Definitions.

- (i) “Government road” means a road, street, square, court, alley or passage maintained by the Central or the State Government or at the public expense;
- (ii) “private bridge” means any bridge which is not a public bridge as defined in this section;
- (iii) “private drain” means any drain which is not a public drain as defined in this section;
- (iv) “private road” means any road, street, square, court, alley or passage which is not a public road or Government road as defined in this section;
- (v) “public bridge” means a bridge on or over which a public road or any public work is carried, and which is, for the time being, vested in the Board of Councillors;
- (vi) “public drain” means any drain which is vested in the Board of Councillors;
- (vii) “public road” means a “public street” as defined in clause (51) of section 2, but does not include a Government road.

*(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.—
C. Roads.—Sections 306, 307.)*

C. Roads.

Absolute
closing of
public roads.

306. (1) If it appears to the Board of Councillors that any public road or part thereof—

- (a) threatens the stability or security of any hillside or bank or any immovable property thereon, or
- (b) cannot, in consequence of its condition or its situation with reference to any adjacent hillside or bank, be efficiently maintained or repaired except at a cost which, in its opinion, is unreasonable,

the Board of Councillors may, by public notice, declare such public road or part thereof to be absolutely closed after providing other reasonably sufficient means of access to holdings adjacent to such public road or part thereof, if no such means or access already exists.

(2) From the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Board of Councillors shall not be bound to maintain or repair such public road or part thereof, and the site thereof may be disposed of or otherwise dealt with in such manner as the Board of Councillors may determine:

Provided that if the Board of Councillors determines to sell or to let on lease or otherwise transfer any part of the site as aforesaid which is adjacent to any private land or building, the owner of such land or building shall have prior right to buy or take on lease such part of such site at a reasonable rate and on such terms and conditions as the Board of Councillors may decide.

Power to
close private
road.

307. If it appears to the Board of Councillors that the existence of any private road threatens the stability or security of any hillside or bank or any immovable property thereon, it may, by written notice, require the owner of such private road to close the road and to take such measures as may be considered necessary for the stability or security of such hillside, bank or property or as may be specified in the notice:

Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Board of Councillors, another road affording a suitable approach to the building can be constructed at reasonable expense.

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*(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.—
C. Roads.—Sections 308-311.)*

308. The Board of Councillors may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the purpose of constructing any sewer, drain or bridge, or for any other purpose:

Power to close temporarily a road or part of a road for repairs or other public purpose.

Provided that the Board of Councillors shall provide reasonable means of access to persons occupying holdings adjacent to such road.

309. All private roads and bridges shall be subject to the inspection and control of the Board of Councillors.

Control over private roads and bridges.

310. (1) Every person who intends to construct, reconstruct or alter a private road shall send to the Board of Councillors an application for permission to execute the work.

Control over construction or alteration of private roads.

(2) Every such application shall be accompanied by such document and particulars as may be prescribed.

(3) Every person applying for permission to construct, reconstruct or alter a private road shall further mark out on the ground the alignment of the road for inspection by the Board of Councillors or an officer authorised by it in this behalf.

(4) The permission referred to in sub-section (1) may be granted or refused or granted subject to any condition which the Board of Councillors may think fit to impose in accordance with such rules as may be made in this behalf.

(5) No work referred to in sub-section (1) shall be commenced without the written permission of the Board of Councillors.

311. If it appears to the Board of Councillors that any private road is so situated or is in such condition that it threatens the stability or security of any hillside or bank or any immovable property thereon, it may, by written notice, require the owner of such private road,—

Reconstruction etc. of private road.

- (a) to reconstruct, regrade, divert, alter or repair such private road, or
- (b) to make a revetment or retaining-wall on either side or both sides of such private road, or
- (c) to take such other measures as may be specified in the notice.

*(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.—
C. Roads.—Sections 312-314.—D. Drains.—Sections 315, 316.)*

Provision for
enlargement
of waterway
on private
road.

312. If it appears to the Board of Councillors that it is necessary to provide any waterway on any private road or to enlarge any waterway provided on any private road, it may, by written notice, require the owner of the such private road—

- (a) to provide and maintain such waterway, or
- (b) to enlarge the existing waterway, as the case may be.

Rules as to
construction
etc. of
private road
etc.

313. Whenever any private road is to be constructed, reconstructed, regraded, diverted, altered or repaired, or whenever any waterway on any private road is to be provided or enlarged, the work shall be executed in accordance with such rules, in so far as they are applicable to such private road or waterway, as may be made in this behalf.

Removal of
materials
falling upon
or into road
or drains.

314. Whenever any building, wall, revetment or other erection or any part thereof, or any stone, tree, soil or debris from private premises falls down and obstructs any public or private road or drain, the Board of Councillors may cause the obstruction to be removed and take all measures incidental thereto, and recover the expenses thereof from the owner of the premises from which those have fallen, unless the owner himself causes such removal.

D. Drains.

Control over
construction
or alteration
of private
drains.

315. (1) Every person who intends to construct, reconstruct, alter, stop up or obstruct any private drain, shall send to the Board of Councillors an application for permission to execute the work.

(2) Every such application shall be accompanied by a general description of the drain.

(3) The permission referred to in sub-section (1) may be granted or refused or granted subject to any conditions which the Board of Councillors may think fit to impose in accordance with such rules as may be made in this behalf.

(4) No work referred to in sub-section (1) shall be commenced without the written permission of the Board of Councillors.

Reconstruc-
tion, repair,
etc. of
private
drains,
gutters, etc.

316. (1) The Board of Councillors may, by written notice, require the owner of any land or building—

- (a) to reconstruct, enlarge, extend, alter, repair, make efficient, stop up or remove any drain belonging to such land or building, or

*(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.—
D. Drains.—Sections 317, 318.)*

- (b) to alter the inclination or direction of any such drain, or
- (c) to provide for any such drain or such movable covers or gratings as may be specified in the notice, or
- (d) to carry any such drain to such point of outlet, or junction with some other drain, as may be specified in the notice.

(2) The Board of Councillors may, by written notice, require the owner or the occupier of any building—

- (a) to provide and maintain a sufficient number of suitable roof-gutters and down pipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified in notice, or
- (b) to renew, alter, repair or remove any such gutters, pipes or platforms already provided for the building.

(3) The gutters as aforesaid shall be of such dimensions and shall have such slope, and the pipes as aforesaid shall be of such dimensions and the bends in such pipes shall be made at such angles, as may be prescribed.

317. If any land or building is not drained to the satisfaction of the Board of Councillors, it may, by written notice, require the owner to provide a drain therefor, at such inclination, and to such point of outlet or of junction with some other drain, as may be specified in the notice.

Power to require provision of private drain.

318. (1) If it appears to the Board of Councillors that any land or building belonging to different owners may be drained or the drainage thereof may be improved more economically or advantageously in combination than separately, the Board of Councillors may cause such lands or buildings to be drained, or the drainage thereof to be improved, in such manner as it may consider fit.

Private drainage in combination.

(2) The Board of Councillors may cause any drain, which has been provided or improved under sub-section (1), to be maintained or repaired in such manner as it may consider fit.

(3) All expenses incurred under sub-section (1) or sub-section (2) shall be paid by the owners of the lands or the buildings, as the case may be, in proportion to the benefits derived by them, in such manner as may be determined by the Board of Councillors.

*(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.—
E. Safety of the hillside.—Sections 319-321.)*

E. Safety of the hillside.

Power where buildings etc. threaten the stability of other immovable property.

319. If it appears to the Board of Councillors that any building or portion of a building or any thing affixed to a building or any wall or structure on any land is in such condition as threatens the stability or security of any hillside or bank or any immovable property thereon, the Board of Councillors may, by written notice, require the owner of such land or building—

- (a) to take down such building, portion, thing, wall or structure and remove the materials, or
- (b) to secure or repair such building, portion, thing, wall or structure in such manner as may be specified in the notice, or to make a revetment for the support thereof or to take such other measures as may be specified in the notice, and
- (c) in the case of the matter referred to in clause (a), also to take such measures with regard to the site of such building, wall or structure, for ensuring the stability or security of any hillside or bank or any immovable property thereon as may be specified in the notice.

Power where hillside or bank threatens the safety of buildings.

320. If it appears to the Board of Councillors that the condition or situation of any hillside or bank, being private property, is such as threatens the safety of any building or the safety of such building cannot be ensured by taking action under any other provision of this Act or such building threatens the safety of some other building, it may, by written notice, require the owner of the first mentioned building—

- (a) to take down the building and remove the materials, or
- (b) to secure the building in such manner as may be specified in the notice or to make a revetment for the support thereof or to take such other measures as may specified in the notice,

and may also, by written notice, require the owner of the other building to secure the same in such manner as may be specified in the notice or to make a revetment for the support thereof or to take such other measures as may be specified in the notice.

Power to require revetting, turfing or sloping.

321. (1) If it appears to the Board of Councillors that the condition or the situation of any land, being private property, is such as threatens the stability or security of any hillside or bank or any immovable property

*(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.
—E. Safety of the hillside.—Sections 322-324.)*

thereon, the Board of Councillors may, by written notice, require the owner of the land to do all or any of the following things, namely:—

- (a) to construct and maintain a revetment, retaining-wall or toe-wall upon any part of the land; or
- (b) to reconstruct, enlarge, strengthen, alter or repair any revetment, retaining-wall or toe-wall already standing on the land; or
- (c) to turf the land or any portion thereof; or
- (d) to slope the land or any portion thereof.

(2) If any owner to whom a notice is issued, represents to the Board of Councillors, within fifteen days of the service of the notice, that the work required by the notice will directly or substantially benefit the owners of any adjacent buildings or land, the Board of Councillors may, after hearing all the owners concerned, cause the said work to be executed; and the expenses thereby incurred shall be recovered from all or any of such owners in such proportion as the Board of Councillors may direct.

322. If it appears to the Board of Councillors that lands or buildings belonging to two or more owners may be protected by the execution of works more economically or advantageously in combination than separately, the Board of Councillors may cause such works or any of them to be executed, maintained and kept in repairs; and the expenses thereby incurred shall be recovered from the said owners in such proportion as the Board of Councillors may direct.

Power to execute work in combination.

323. The Chairman-in-Council may, at any time, for reasons to be recorded in writing cause any revetment, retaining-wall or toe-wall to be constructed, reconstructed, enlarged, strengthened, altered or repaired on any private land immediately abutting upon any public road, drain, revetment or retaining-wall; and the expenses thereby incurred shall be shared by the Municipality with the owner of such land in such proportion as the Chairman-in-Council may direct.

Power to execute works where public road, drain, revetment or retaining-wall is affected.

324. Whenever any revetment, retaining-wall or toe-wall is to be constructed, reconstructed, enlarged, strengthened, altered or repaired, or any land is to be turfed, or sloped, the work shall be executed in accordance with such rules, in so far as they are applicable to such work, as may be made in this behalf.

Rules as to revetting, turfing and sloping.

(Part VII.—Urban and Regional Planning and Development.—
Chapter XX.—Municipalities in hill areas.—F. Control over occupation
of buildings.—Section 325.—G. Regulation.—Section 326.)

F. Control over occupation of buildings.

Power to
prohibit
occupation
of unsafe or
insanitary
building.

325. (1) If it appears to the Chairman-in-Council that any building or the site thereof is, in consequence of its condition or of its situation with reference to any hillside or bank, unsafe, it may, by written notice, prohibit the owner or any other person from occupying or continuing to occupy such building or from permitting it to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Chairman-in-Council.

(2) If it appears to the Chairman-in-Council that the drainage of, or the latrine accommodation provided for, any masonry or framed building is defective, it may, by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to its satisfaction.

G. Regulation.

Additional
power to
Board of
Councillors
in hill areas
to make
regulations.

326. (1) In addition to any rule that the State Government may make under this Act, the Board of Councillors in the hill areas may, at a meeting, make regulations—

- (a) prohibiting the cutting or destroying of trees or shrubs, planting and maintenance of particular kinds of trees or shrubs, prohibiting the making of excavations or removal of soil or quarrying, providing for the alteration, repair and proper maintenance of buildings and compounds, closing of roads and by-paths, and general protection of the surface land on any hillside, where such regulations appear to the Board of Councillors to be necessary for the maintenance of water-supply, preservation of soil, prevention of landslips or of formation of ravines or torrents, and protection of land against erosion or deposit thereon of sand, gravel or stones;
- (b) providing for road, or land, or building abutting thereon;
- (c) providing for licenses necessary within the municipal area for animals, vehicles and other conveyances let out on hire for a day or part thereof;
- (d) prescribing the conditions subject to which such licenses may be granted, refused, suspended or withdrawn;
- (e) providing for the charges to be made for the hire of animals, vehicles and other conveyances referred to in clause (c);
- (f) preventing the straying of poultry;
- (g) preventing the grazing or straying of cattle on hillsides or banks; and
- (h) providing for any of the matters necessary for environmental protection of the hills.

(2) The word "cattle" referred to in clause (g) of sub-section (1) shall have the same meaning as in the Cattle-trespass Act, 1871.

I of 1871.

(Part VIII.—Community Health.—Chapter XXI.—Public Safety and Nuisances.—Sections 327-329.)

PART VIII

COMMUNITY HEALTH

CHAPTER XXI

Public Safety and Nuisances

327. (1) If any structure is deemed by the Board of Councillors to be in ruinous state and dangerous to the passers-by or to the occupiers of neighbouring structures, the Board of Councillors may by notice require the owner or the occupier to fence off, take down, secure or repair such structure to prevent any danger therefrom within such period as may be specified in the notice.

Precautions in case of dangerous structures.

(2) If immediate action is necessary, the Board of Councillors shall, before giving such notice or before the period specified in the notice expires, fence off, take down, secure or repair such structure or fence off a part of any street or take such temporary measures as it may think fit to prevent danger, and the cost of doing so shall be recoverable from the owner or the occupier as an arrear of tax under this Act.

(3) If, in the opinion of the Chairman-in-Council, the structure as aforesaid is imminently dangerous to the inmates thereof, it shall order immediate evacuation thereof, and any person disobeying the order may be removed by any police-officer.

328. (1) If any tree or any branch of a tree or the fruit of any tree overhangs or is likely to fall and thereby endanger any person or any structure, well or tank, the Chairman may by notice require the owner of such tree to secure, lop or cut down the tree to prevent any danger therefrom.

Precautions in case of dangerous trees.

(2) If immediate action in respect of any tree or any branch of a tree or the fruit of any tree referred to in sub-section (1), is necessary, the Chairman shall, before giving such notice or before the period specified in the notice expires, secure, lop or cut down such tree or remove the fruit thereof or fence off a part of any street or take such other temporary measures as he may think fit to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree as an arrear of tax under this Act.

329. (1) If any tank, pond, well, hole, stream, dam, bank or other place appears to the Board of Councillors to be, for want of sufficient repair, protection or enclosure, dangerous to the passers-by or to persons living in the neighbourhood, the Board of Councillors may by notice

Precautions in case of dangerous tanks, wells, holes, etc.

(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Sections 330, 331.)

require the concerned owner to fill in, remove, repair, protect or enclose such tank, pond, well, hole, stream, dam, bank or other place, as the case may be, to prevent any danger therefrom within such period as may be specified in the notice.

(2) If immediate action in respect of any tank, pond, well, hole, stream, dam, bank or other place referred to in sub-section (1), is necessary, the Chairman-in-Council shall, before giving such notice or before the period specified in the notice expires, take such temporary measures as it may think fit to prevent danger, and the cost of doing so shall be recoverable from the owner as an arrear of tax under this Act.

Power to
stop
dangerous
quarrying.

330. If, in the opinion of the Board of Councillors, the working of any quarry or the removal of stone, earth, coal or other material from any place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, the Board of Councillors may require the owner or the person having control of such quarry or place to discontinue the working of the same or to discontinue the removal of stone, earth, coal or other material from such place or to take such order with such quarry or place as it may deem necessary, for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom.

Precautions
against fire.

331. (1) The Board of Councillors may by notice require the owner of any structure, booth or tent partly or entirely composed of, or having any external roof, verandah, *pandal* or wall partly or entirely composed of, cloth, grass, leaves, mats, or other inflammable materials, to remove or alter such tent, booth, structure, roof, verandah, *pandal* or wall, or may grant him permission to retain the same on such conditions as the Board of Councillors may think necessary to prevent danger from fire.

(2) The Board of Councillors may by notice require any person using any place for the storage for private use of timber, firewood, or other combustible things to take special steps to guard against danger from fire.

(3) Where the Chairman-in-Council is of opinion that the means of egress from any building are insufficient to allow safe exit in the event of fire, it may by notice require the owner or the occupier of the building to alter or reconstruct any staircase in such manner, or to provide such additional or emergency staircase, as it may direct; and when any building, booth or tent is used for purposes of public entertainment, the Chairman-in-Council may require, subject to the foregoing provisions of this section, that it shall be provided with an adequate number of clearly indicated exits so placed and maintained as may readily afford the audience ample means of safe egress, that the seating shall be so arranged as may not interfere with free access to the exits, and that gangways, passages and staircases leading to the exit shall, during the presence of the public, be kept clear of obstruction.

*(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Sections 332, 333.)*

332. (1) No new well, tube-well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the Board of Councillors.

Prohibition of construction of wells, tanks, etc. without permission of Board of Councillors.

(2) The Board of Councillors may grant such permission, subject to such conditions as it may deem necessary, or may, for reasons to be recorded in writing, refuse such permission.

(3) If any work is begun or completed without permission as aforesaid, the Chairman-in-Council may—

- (a) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chairman-in-Council may direct, or
- (b) grant permission to retain such work for reasons to be recorded in writing, in exceptional circumstances if such retention is not otherwise objectionable:

Provided that the Board of Councillors may impose such fine not exceeding five hundred rupees for such contravention, as it may deem fit.

333. (1) If, in the opinion of the Chairman-in-Council,—

- (a) any pool, ditch, tank, well, pond, swamp, quarry, hole, drain, cesspool, watercourse or any collection of water, or
- (b) any land on which water may, at any time, accumulate,

Filling in of pools, etc., which are a nuisance.

is or is likely to become a breeding place of mosquitoes or, in any other respect, becomes a nuisance, the Chairman-in-Council may by notice require the owner or the person having control thereof, to fill up, cover over, weed or stock with larvicidal fish, drain, or drain off the same in such manner and with such materials, or to take such steps for removing or abating the nuisance, as the Chairman-in-Council direct, within such period as may be specified in the notice.

(2) If a person to whom a notice is issued under sub-section (1) to fill up, cover over, or drain off a well, delivers to the Chairman within the period specified in the notice for compliance therewith, written objections to such notice, the Chairman shall make further inquiry into the case, and shall not institute any prosecution for failure to comply with such notice. The Chairman may, nevertheless, if he deems the execution of the work called for by such notice to be of urgent importance, cause such well to be securely covered over to prevent breeding of mosquitoes and, in every such case, the Chairman shall determine whether the expenses of any work already done as aforesaid shall be paid by such owner or shall be met out of the Municipal Fund or shall be shared and, if so, in what proportions.

(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Sections 334-337.)

Regulation
or
prohibition
of certain
practices
relating to
cultivation.

334. The Board of Councillors, on the report of the Director of Health Services or the Chief Medical Officer of Health of the district or upon any expert opinion that the cultivation or practices relating to the cultivation of any description of crop or the use of any kind of pesticide or manure or the irrigation of any land in any place within the limits of the municipal area is injurious to the public health, may, with the previous sanction of the State Government, by public notice regulate or prohibit the cultivation or any practice relating to cultivation, or use of any pesticide or manure or irrigation so reported to be injurious.

Cleansing of
insanitary
private tank
or well used
for drinking
purposes.

335. (1) The Chairman-in-Council may by notice require the owner of, or the person having control over, any private water course, spring tank, well or other place, the water of which is used for drinking, bathing, or washing purposes, to keep the same in good repair and to cleanse it of silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the Chairman-in-Council may think fit.

(2) If the water of any place which is used for drinking, bathing or washing purposes, as the case may be, is proved to the satisfaction of the Chairman-in-Council to be unfit for any such purpose, the Chairman-in-Council may by notice require the owner or the person having control thereof—

- (a) to refrain from using, or permitting the use of, such water, or
- (b) to close or fill up such place or enclose it with a substantial wall or fence.

Duty of the
Chairman-
in-Council
in respect of
public well
or receptacle
of stagnant
water.

336. (1) The Chairman-in-Council shall maintain in a clean condition all wells, tanks and reservoirs which are not private property and may fill them up or drain them when it appears necessary so to do.

(2) All wells, tanks and reservoirs as aforesaid, when maintained by the Municipality, shall be open to use and enjoyment by all members of the public.

Prohibition
against, or
regulation
of, washing
animals or
clothes or
fishing in
public water
courses,
tanks, etc.

337. The Chairman-in-Council may, in the interest of public health, regulate or prohibit the washing of animals, clothes or other things or fishing in any public spring, tank, well, public water course or part thereof within the municipal area and may set apart any such place for drinking or bathing or washing clothes or animals or for any other specified purpose.

*(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Sections 338-340.)*

338. (1) The Board of Councillors may construct or provide and maintain public toilets and wash-houses or places for bathing or washing of clothes, and may require the payment of such rents, and fees for the use of any such toilet, wash-house or place as it may determine.

Provision of public toilets and wash-houses.

(2) The Board of Councillors may farm out the collection of such rents and fees for any period, not exceeding three years at a time, on such terms and conditions as it may think fit.

339. (1) The Chairman-in-Council may by public notice prohibit the washing of clothes by washermen in pursuance of their calling, within the municipal area except at—

Provision against washing by washermen at unauthorised places.

- (a) public wash-houses or places maintained or provided for the purpose, or
- (b) such other places as the Chairman-in-Council may appoint for the purpose, if sufficient number of public wash-houses are not maintained or provided.

(2) When any such prohibition has been made, no person who is by calling a washerman shall, in contravention of such prohibition, wash clothes, except for himself or for personal and family service or for hire on and within the premises of the hirer, at any place within the limits of the municipal area other than a public wash-house or place maintained or appointed under this Act.

340. No person shall—

- (a) bathe in, or in any manner defile, water in any place set apart by the Municipality or by the owner thereof for drinking only; or
- (b) deposit any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purpose; or
- (c) wash clothes in any place set apart as aforesaid for drinking or bathing purpose; or
- (d) wash any animal or any cooking utensils or wool, skins or other foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing purpose or washing clothes; or
- (e) cause or suffer to drain into or upon any place set apart as aforesaid for drinking, or bathing purpose or washing clothes or cause or suffer anything to be brought thereinto or do anything whereby the water may be fouled or corrupted.

Prohibition against defiling water of tanks etc., whether public or private.

(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Sections 341-344.)

Unoccupied
buildings or
lands.

341. If any building or land, by reason of abandonment, disputed ownership or other cause, remains unoccupied, and thereby becomes a resort of idle and disorderly persons or if, in the opinion of the Chairman-in-Council, becomes a nuisance, the Chairman-in-Council may, after due inquiry by notice, require the owner or the person claiming to be the owner to secure, enclose, clear or cleanse the same.

Abatement
of over-
crowding in
dwelling-
house or
dwelling-
place.

342. (1) If it appears to the Chairman-in-Council that any dwelling-house or other building, which is used as a dwelling-place, or any room in such dwelling-house or building, is generally so overcrowded as endangers the health or safety of the inmates thereof, it may, by a written notice, require the owner or the occupier of the building or the room to abate such overcrowding by reducing the number of lodgers, occupants or other inmates of the building or room within such time, not exceeding four weeks, as may be specified in the notice, or may pass such order as it may deem just and proper.

(2) The Chairman-in-Council may, by written order, declare the extent of surface or cubic space which shall be deemed, for the purposes of sub-section (1), to be necessary for each occupant of a building or room.

(3) It shall be incumbent on every tenant, lodger or other inmate of a building or room to abate overcrowding or vacate, on being required by the owner so to do, in pursuance of any notice issued under sub-section (1).

(4) Nothing in this section shall apply to overcrowding of a casual nature or on a festive occasion.

Prohibition
against
feeding
certain
animals on
filth.

343. No person shall feed any animal, or permit any animal, which is kept for dairy purpose or may be used for food, to be fed, on filth.

Premises not
to be used
for keeping
animals,
birds, etc.,
without
licence.

344. No person shall use, or permit to be used, any land or premises for keeping cattle, horse, pig, dog, or other quadruped animal or any kind of bird for any purpose whatsoever without, or otherwise than in conformity with, the terms of a licence granted by the Board of Councillors on payment of such fees as may be determined by the Board of Councillors by regulation:

Provided that the Board of Councillors may, by a written order, exempt any class of animal or bird from such licence or from any purpose for which such class of animal or bird may be kept.

*(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Sections 345-347.)*

345. (1) If any cattle, horse, pig, dog, or other four-footed animal or bird is kept on any land or premises in contravention of the provisions of this Chapter or is found roaming or straying or tethered on any street or public place or is found causing nuisance or danger to the public, the Chairman may direct any officer or employee of the Municipality to seize such cattle, horse, pig, dog or other four-footed animal or bird and may cause it to be impounded or removed to and maintained in such place as may be appointed by the Municipality for this purpose; and the cost of such seizure and impounding or removing and maintenance shall be recoverable by sale of such animal or bird, as the case may be, by auction:

Seizure of certain animals or birds.

Provided that any person claiming such animal or bird may, within seven days of such seizure, get it released on his paying all the expenses incurred by the Municipality in seizing, impounding or removing, or maintaining such animal or bird and on his producing such evidence in support of his claim as the Chairman may think sufficient.

(2) The proceeds of sale of any animal or bird by auction under subsection (1) shall be applied in meeting the expenses incurred on account of seizure, impounding or removal, and maintenance of such animal or bird and of holding such sale; and the surplus, if any, shall be held in deposit by the Chairman and shall, if not claimed by the owner of such animal or bird within a period of ninety days from the date of sale, be credited to the Municipal Fund.

346. The Chairman may—

- (a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;
- (b) by public notice direct that after such date as may be specified in the notice, dogs which are without a licence distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be confined and cause them to be otherwise dealt with or destroyed, if necessary.

Power to deal with infected dogs or animals.

347. (1) Whenever the Chairman is of opinion that the user of any premises for keeping any animal or bird, even if licensed, is causing a nuisance and that such nuisance should immediately be stopped, the Chairman may, by order, require the owner or the occupier of such premises to stop such nuisance within such period as may be specified in the order.

Power to stop nuisances from animals within premises.

(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Sections 348, 349.)

(2) If, at the end of such period, the nuisance is not stopped, the Chairman or any other officer authorised by him in this behalf may cause such use of such premises to be stopped forthwith by such means as he thinks fit and direct such owner or occupier to show cause why the licence for keeping the animal or the bird, as the case may be, shall not be cancelled.

(3) If such owner or occupier does not show cause to the satisfaction of the Chairman or if the nuisance is not abated, the nuisance shall be stopped by the seizure and auction of the animal or the bird found in the premises after cancellation of the licence therefor.

Control and
removal of
*khatal*s.

348. Subject to the provisions of any other law for the time being in force for removal of *khatal*s, the Board of Councillors may make regulations specifically for control of *khatal*s, within the municipal area or removal of *khatal*s therefrom. Such regulations may provide for restricting the *khatal*s within a specified zone or zones or setting up of milk colony exclusively for rearing of cattle within or outside the municipal area and seizure of animals for violation of regulations and penalty for offenders.

Power to
require
repair,
alteration,
removal or
conversion
of latrines
etc.

349. (1) The Chairman-in-Council may require, by written notice, the owner or the occupier of any land or building to comply with any of the following within such period as may be specified in the notice:—

- (a) to close, remove, alter, repair, cleanse, disinfect or otherwise pur to order any cesspool, drain, receptacle for sewage, septic tank or any other type of latrine;
- (b) to require such cesspool, drain, receptacle for sewage, septic tank or other type of latrine to be provided for any land or building, whether or not, in addition to the existing ones;
- (c) to cause any service privy or urinal in any land or building to be converted into or replaced by sanitary latrine of specified design, model or standard;
- (d) to provide specified devices to the existing cesspool, drain, receptacle for sewage, septic tank or latrine to abate the mosquito menace.

(2) Upon the issue of notice under sub-section (1), it shall be incumbent upon every owner or occupier to comply with the same within the period specified in the notice.

(3) On the failure of the owner or the occupier to comply with the notice, the Chairman-in-Council may cause the work to be done and recover the expenses thereof from the owner or the occupier of the land or the building or from both in such proportions as it may deem reasonable.

*(Part VIII.—Community Health.—Chapter XXI.—
Public Safety and Nuisances.—Section 350.—
Chapter XXII.—Restraint of infection.—Sections 351-354.)*

350. Subject to the provisions of this Act and of any other law for the time being in force, the Board of Councillors may take measures for abatement of any nuisance caused by the pollution of noise, foul odour, visual irritation, sensory annoyance, respiratory affection or the like in such cases and manners, and by fixing such standards, as may be prescribed.

Power to abate nuisances caused by pollution.

CHAPTER XXII

Restraint of infection.

351. It shall be the duty of the Board of Councillors 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 animal therein by way of mass inoculation, vaccination, immunisation, and disinfection.

Board of Councillors to take measures for prevention and checking of dangerous diseases.

352. Any person being in charge of, or in attendance upon, whether as a medical practitioner or otherwise, 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 as respects the existence of such disease to the Chairman.

Obligation to give information of dangerous disease.

353. The Chairman may at any time, by day or by night and without notice or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, cause inspection of 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 submit a report to the State Government.

Power of Chairman to cause inspection of a place and take measures to prevent spread of dangerous disease.

354. (1) If the Chairman is of opinion that the cleansing or disinfection of any building or any part thereof or of any article in such building or part thereof will tend to prevent or check the spread of any dangerous disease, he may by notice require the owner or the occupier to cleanse and disinfect such building or part thereof or of any article therein in such manner and within such time as may be specified in the notice.

Power of Chairman to cause disinfection of building, tank, pool or well.

(2) The Chairman may, if he thinks fit, cause such cleansing or disinfection to be done by the employees of the Municipality and may by notice require the occupier of such building or part thereof to vacate the same for such time as he may specify in the notice.

*(Part VIII.—Community Health.—Chapter XXII.—
Restraint of infection.—Sections 355, 356.)*

(3) The cost of cleansing or disinfecting under sub-section (2) shall be paid,—

- (a) in the case of any building or any part thereof or any article contained therein, by the occupier of such building or part thereof, and
- (b) in any other case, by the person in actual possession thereof or, if there is no such person, by the owner:

Provided that if, in the opinion of the Chairman, such occupier or person or owner is, owing to poverty, unable to pay the cost, he may direct the payment thereof to be made from the Municipal Fund.

Power of
Chairman to
dest. oy
infectious
buildings,
structures,
huts or
sheds.

355. (1) Where the destruction of any building, structure, hut or shed is, in the opinion of the Chairman-in-Council, necessary to prevent the spread of any dangerous disease, it may by notice in writing require the owner to destroy the building, structure, hut or shed and the materials thereof within such time as may be specified in the notice.

(2) Where the Chairman-in-Council is satisfied that the destruction of any building, structure, hut or shed is immediately necessary for the purpose of preventing the spread of any dangerous disease, he may, order the owner or the occupier thereof to destroy the same forthwith or may cause it to be destroyed after giving not less than six hours' notice to the owner or the occupier, as the case may be.

(3) Compensation may be paid by the Board of Councillors, in such case as it may think fit, to any person who sustains substantial loss by the destruction of any such building, structure, hut or shed, but, except otherwise provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by the exercise of any power under this section.

Power of
Chairman to
close
lodging and
eating
houses.

356. The Chairman may, on being satisfied that it is in the public interest so to do, by written order direct that any lodging house or any place where articles of food and drink are sold, prepared, 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 Chief Medical Officer of Health of the district certifies that it has been disinfected or is free from infection.

(Part VIII.—Community Health.—Chapter XXII.—
Restraint of infection.—Sections 357-359.)

357. When the municipal area or any part thereof is visited or threatened by an outbreak of any dangerous disease, the Chairman may, by public notice, restrict in such manner, or prohibit for such period, as may be specified in the notice, the sale or preparation of any article of food or drink or drug for human consumption, or the sale of any fish, flesh, fruit or vegetable of any description, or the use of any container or packages, as may be specified in the notice.

Power of Chairman to restrict or prohibit sale of fish, flesh, food, drink, articles, etc.

358. If the Chairman is of opinion that the water in any tank or other place is likely to endanger human life or cause the spread of any disease, he may—

Control over well and tanks, etc.

- (a) by public notice prohibit the use of such water for consumption; or
- (b) by notice in writing require the owner or the person having control of such well, tank or place to take such steps as may be directed by the notice to prevent the public from having access to, or from using, such water; or
- (c) take such other steps as he may consider expedient to prevent the outbreak or spread of any such disease.

359. (1) In the case of any municipal area or any part thereof being visited or threatened by an outbreak of any dangerous disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Chairman, if he thinks that the other provisions of this Act and the provisions of any other law for the time being in force are insufficient for the purpose, may, with the previous approval of the Board of Councillors,—

Special measures in case of outbreak of dangerous or epidemic diseases.

- (a) take such special measures, which may extend to destruction of the sources of infection like foodstuff, drugs, drinks, flesh, fish, fruits, vegetables, articles, containers, packages, or clothing, as may be necessary, and
- (b) by public notice, give such directions to be observed by the public or by any class or section of the public as he thinks necessary,

to prevent the outbreak or spread of the disease:

Provided that where, in the opinion of the Chairman, immediate measures are necessary, he may take action without such approval as aforesaid and, if he does so, shall forthwith report such action to the Board of Councillors:

Provided further that no compensation shall be claimed by any one affected by the measures taken under clause (a).

(2) No person shall commit a breach of any direction given under subsection (1) and if he does so, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

*(Part VIII.—Community Health.—Chapter XXII.—
Restraint of infection.—Sections 360-362.)*

Disposal of
infectious
corpses.

360. Where any person dies from any dangerous disease, the Chairman may, by notice in writing,—

- (a) require any person having charge of the corpse to carry the same to mortuary for being disposed of in accordance with law, or
- (b) prohibit the removal of the corpse from the place where death occurred, except for the purpose of being burnt or buried or being carried to a mortuary.

Prohibition
of making or
selling of
food etc. or
washing of
clothes by
infected
persons.

361. No person shall, while suffering from, or in circumstances in which he is likely to spread, any dangerous disease,—

- (a) make, carry or offer for sale, or take any part in the business of making, carrying or offering for sale, any article of food or drink or any medicine or drug for human consumption or any article of clothing or bedding for personal use or wear, or
- (b) take any part in the business of washing or carrying of clothes.

Duty of
persons
suffering
from
dangerous
disease.

362. No person shall,—

- (a) knowing that he is suffering from a dangerous disease, expose other persons to the risk of infection by his presence or conduct in any public street or public place;
- (b) having the care of a person who he knows to be suffering from a dangerous disease, cause or permit such person to expose other persons to the risk of infection by his presence or conduct in any street or place as aforesaid;
- (c) place or cause to be placed in a dustbin or other receptacle for the desposit of rubbish, any matter which he knows to have been exposed to infection from a dangerous disease and which has not been disinfected properly;
- (d) throw or cause to be thrown into any latrine or urinal any matter which he knows to have been exposed to infection from a dangerous disease and which has not been disinfected properly.

XXII of 1993.]

*(Part VIII.—Community Health.—Chapter XXIII.—
Vital Statistics.—Sections 363-365.)*

CHAPTER XXIII

Vital Statistics.

18 of 1969.

363. Subject to the provisions of the Registration of Births and Deaths Act, 1969, the Board of Councillors shall cause a register to be maintained wherein the births and deaths taking place within the municipal area shall be entered 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 prescribed.

Registration
of births and
deaths.

364. It shall be the duty of the father or the mother of every child born within the municipal area or, in default of the father or the mother, of any relation of the child living in the same premises or, in default of such relation, of the person having charge of the child to give, to the best of his or her knowledge and belief, to the officer empowered in a municipal area in this behalf, within eight days of such birth, information containing such particulars as may be prescribed:

Information
of births.

Provided that—

- (a) in the case of an illegitimate child, no person shall, as father of such child, be required to give any information under this Act containing the particulars of birth of such child, and the officer empowered under this section 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 of 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;
- (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 officer empowered under this section a report of such birth in such time and in such form as may, from time to time, be specified by the State Government.

365. In case any new-born 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 officer empowered under section 364, within eight days of finding of such

Information
respecting
finding of
new-born
child.

*(Part VIII.—Community Health.—Chapter XXIII.—
Vital Statistics.—Sections 366-368.)*

child, such information containing the particulars of birth of such child as such person possesses.

Information regarding death.

366. It shall be the duty of the nearest relation present at the time of the death or in attendance during the last illness of any person dying within the municipal area and, in default of such relation, 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 hereinbefore mentioned, of each inmate of such premises and of the undertaker 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 officer specially empowered in this behalf for the area within which the death took place, information containing such particulars as may be prescribed within twenty-four hours of its occurrence:

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;
- (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 may, from time to time, be specified by the State Government.

Medical practitioner to certify cause of death.

367. In the case of a person who had 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 officer specially empowered in this behalf a certificate of the cause of death of such person in such form as may, from time to time, be specified by the State Government, 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.

Duties of police in regard to unclaimed corpses.

368. 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 to inform thereafter the officer specially empowered in this behalf within whose jurisdiction such corpse was found.

*(Part VIII.—Community Health.—Chapter XXIII.—
Vital Statistics.—Section 369.—Chapter XXIV.—
Disposal of the Dead.—Section 370.)*

369. No sexton or keeper of a registered burial or burning ground or other place for disposal of the dead, whether situated within the municipal area or not, shall 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 an officer specially empowered in this behalf or by a registered medical practitioner or any other medical practitioner authorised by the State Government in this behalf.

Sextons,
etc., not to
bury, etc.,
corpse.

CHAPTER XXIV

Disposal of the Dead.

370. (1) Every owner or person having the control of any place already used for burying, burning or otherwise disposing 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 apply to the Board of Councillors within a period of three months from the commencement of this Act to register the name of such place and the Board of Councillors shall cause the same to be registered.

Registration
of places for
disposal of
the dead.

(2) Such application shall be accompanied by a plan of the place to be registered, showing the locality, boundaries and extent of the same, and shall bear the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor. The application shall also contain information as regards the name of the owner or the person or the community interested therein, the system of management and such further particulars as the Board of Councillors may require.

(3) The Board of Councillors may, on receipt of such application and plan, register the name of the place as aforesaid in a register which shall be maintained for such registration.

(4) If the Board of Councillors is not satisfied with the plan or the information or the other particulars referred to in sub-section (2), it may refuse or postpone registration until such plan or information or other particulars are furnished to its satisfaction.

(5) Every place vesting in the Municipality or a board appointed by the State Government for administration of any place used for burying, burning or otherwise disposing of the dead shall be registered in the register maintained under sub-section (3) and shall be classified as public or private, and a plan showing the locality, extent and boundaries thereof and bearing the signature of an officer authorised by the Board of Councillors in this behalf shall be deposited in the office of the Municipality.

*(Part VIII.—Community Health.—Chapter XXIV.—
Disposal of the Dead.—Sections 371-374.)*

Provision for, and registration of, new places for disposal of the dead.

371. (1) If any existing place for the disposal of the dead appears, at any time, to be insufficient, the Board of Councillors shall, with the sanction of the State Government, provide other fit and convenient place, either within or outside the municipal area, for the said purpose, and shall cause the same to be registered under the provisions of this Chapter.

(2) All the provisions of this Act or the rules or the regulations made thereunder shall apply to any place provided under sub-section (1) outside the municipal area and vesting in the Municipality, as if such place were situated within the municipal area.

Permission for opening new place for disposal of the dead or reopening of place.

372. (1) No place, which has not previously been lawfully used or registered as a place for the disposal of the dead, shall be opened by any person for the said purpose except in conformity with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979, and without the written permission of the Board of Councillors who, with the approval of the State Government, may grant or withhold such permission.

West Ben.
Act XIII of
1979.

(2) Such permission may be subject to such conditions as the Board of Councillors may think fit to impose for the purpose of preventing any annoyance to, or danger to the health of, any person residing in the neighbourhood.

(3) No place for the disposal of the dead, which has fallen into disuse, shall be used again as such.

Power to require closing of burning and burial grounds.

373. (1) Where the Board of Councillors, after making, or causing to be made, any local enquiry, is of opinion that any burning or burial ground or other place for the disposal of the dead has become offensive to, or dangerous to the health of, persons residing in the neighbourhood or for any other reasons to be recorded in writing, it may, with the previous approval of the State Government and by notice in writing, require the owner or the person in charge of such ground or place to close the same from such date as may be specified in the notice.

(2) No corpse shall be burnt or buried or otherwise disposed of at the burning or burial ground or place in respect of which a notice has been issued under this section.

Power to direct reopening of any place closed for the disposal of the dead.

374. If, at any time after inspection, the Board of Councillors is of opinion that any place formerly used for the disposal of the dead, which has been closed under the provisions of this Chapter or under any other law or authority, has, by lapse of time, become no longer injurious to health and may, without inconvenience or risk of danger, be again used for the said purpose, it may direct that such place may be reopened for the disposal of the dead.

*(Part VIII.—Community Health.—Chapter XXIV.—
Disposal of the Dead.—Sections 375, 376.)*

375. (1) No person shall, without the written permission of the Board of Councillors under sub-section (2),—

Prohibitions regarding burials within places of worship and exhumation.

- (a) make any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, of any place of worship;
- (b) make any interment or otherwise dispose of any corpse in any place which is closed under the provisions of this Chapter;
- (c) build or 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 registered under this Chapter;
- (d) exhume any body from any place for the disposal of the dead except under the provisions of the Code of Criminal Procedure, 1973, or any other law for the time being in force.

(2) The Board of Councillors may, in special cases, grant permission for any of the purposes as aforesaid, subject to such general or special orders as the State Government may, from time to time, make in this behalf.

(3) Any contravention of the provisions of sub-section (1) shall be deemed to be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973.

376. No person shall—

- (a) retain a corpse on any premises without burning, burying or otherwise lawfully disposing of the same for so long a time after death as creates a nuisance:

Acts prohibited in connection with disposal of dead.

Provided that after the expiration of not less than twentyfour hours from the death of any person, the Board of Councillors may, with the assistance of the police, if necessary, cause the corpse of such person to be burnt or buried. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets, if any, of the deceased:

Provided further that the Board of Councillors may charge from the person or persons responsible for the disposal of the dead body such fees as may be determined by regulations;

*(Part VIII.—Community Health.—Chapter XXIV.—
Disposal of the Dead.—Section 377.)*

- (b) carry a corpse or part of a corpse along any street without having the same decently covered or without taking such precautions to prevent risk of infection or injury to the community health as the Board of Councillors may, by public notice from time to time, require;
- (c) carry a corpse or part of a corpse along any street along which the carrying of corpse is prohibited by a public notice issued by the Board of Councillors in this behalf, except when no other route is available;
- (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 a corpse or part of a corpse, while conveying the same, on or near any street without urgent necessity;
- (f) bury or cause to be buried any corpse or part of a corpse in a 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 metres from the surface of the ground;
- (g) build or 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 metre 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 Board of Councillors;
- (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 Board of Councillors.

Disposal of
dead
animals.

377. (1) Whenever any animal in charge of any person dies, the person in charge thereof shall, within twenty-four hours, either—

- (a) convey the carcass to a place provided or appointed under this Act for the final disposal of carcasses of dead animals, or
- (b) give notice of the death to the Chairman whereupon he shall cause the carcass to be disposed of.

(2) The Board of Councillors may charge such fees as may be determined by regulations for the disposal of the carcass of a dead animal under clause (b) of sub-section (1).

*(Part IX.—Other Authorities.—Chapter XXV.—
Notified Area.—Sections 378, 379.)*

PART IX

OTHER AUTHORITIES

CHAPTER XXV

Notified Area

378. (1) Whenever, in the opinion of the State Government, it is necessary to make provisions for all or any of the purposes of this Act in respect of—

Constitution
of notified
area.

- (i) any urbanised area which does not fulfil the conditions for being immediately constituted a municipal area under this Act, or
- (ii) any area which is comprised in a newly developing town, or
- (iii) any area in which new industries have been or are being established,

the State Government may, by notification, specify such area and declare its intention so to do.

(2) Any inhabitant of the area in respect of which a notification has been published under sub-section (1) may, if he objects to the making of any provision as aforesaid, submit his objection in writing to the State Government within three months from the date of publication of the notification.

(3) The State Government may, after considering the objections, if any, received by it during the period referred to in sub-section (2), make an order—

- (a) withdrawing the notification under sub-section (1), or
- (b) constituting the area specified in the notification or any part thereof as a notified area for the purposes of this Chapter.

(4) The State Government may, by order made after declaration by notification of its intention so to do followed by the consideration of any objection thereto received within three months from the date of publication of the notification, add new areas to a notified area constituted under this section.

379. (1) The State Government may, by order to be published in the *Official Gazette*,—

Power to
apply
enactments
to, and
constitute
authority in,
notified
area.

- (a) extend to a notified area with such incidental or consequential modifications as the State Government may consider necessary for giving effect to the provisions of this Chapter—
 - (i) any provision of this Act which applies to a Municipality, or
 - (ii) any rule or regulation in force in any municipal area; and

*(Part IX.—Other Authorities.—Chapter XXV.—
Notified Area.—Sections 380-383.)*

(b) appoint, for a notified area, a committee consisting of not less than five and not more than nine members, to be known as the Notified Area Authority, to carry out all or any of the purposes of this Chapter.

(2) The State Government shall appoint a Chairman and may also appoint a Vice-Chairman from amongst the members of a Notified Area Authority referred to in clause (b) of sub-section (1).

Conse-
quences of
application
of the Act to
a notified
area.

380. (1) When any tax is imposed in a notified area under any of the provisions of this Act as extended to such area, the proceeds of such tax shall be expended in the same manner in which, and for the same purposes for which, the Municipal Fund may be expended by a Municipality.

(2) When any provision of this Act or the rules or the regulations made thereunder is extended with or without modification to a notified area, such provision or rule or regulation shall, unless a different intention appears, operate as if the notified area were a municipal area and the powers and duties of the Chairman-in-Council were vested in the Chairman appointed under sub-section (2) of section 379 and those of the Board of Councillors, in the Notified Area Authority.

Abolition or
alteration of
a notified
area.

381. The State Government may, at any time and in accordance with the provisions of this Act, by notification,—

- (a) constitute a notified area or any part thereof to be a municipal area, or
- (b) include a notified area or any part thereof within a municipal area.

Conse-
quences of
abolition or
alteration of
notified
area.

382. (1) When the whole of a notified area is constituted to be a municipal area, the notified area shall cease to exist and the properties, funds and other assets vested in the Notified Area Authority and all the rights and liabilities of the Notified Area Authority shall vest in, and shall devolve on, the Municipality.

(2) When a part of a notified area is constituted to be, or is included in, a municipal area, such part shall be deemed to have been excluded from such notified area, and so much of the properties, funds and other assets vested in, and such of the rights and liabilities of, the Notified Area Authority, as may be allocated by the State Government by order in this behalf shall vest in, and shall devolve on, the Municipality.

Officers and
other
employees.

383. A Notified Area Authority may, subject to the approval of the State Government, appoint such officers and other employees as may be necessary for the purpose of giving effect to the provisions of this Chapter.

(Part IX.—Other Authorities.—Chapter XXV.—
Notified Area.—Sections 384, 385.)

384. (1) Whenever, in the opinion of the State Government, it becomes necessary to make provisions for regulation of urban growth in any non-municipal urban area, identified as such in the latest Census Report, the State Government may, by notification, entrust a *Gram Panchayat* or a *Panchayat Samiti*, as the case may be, constituted under the West Bengal *Panchayat Act, 1973*, with powers and duties to enforce all or any of the provisions of this Act or the rules made thereunder on matters relating to—

Special provision relating to non-municipal urban area.

- (a) building regulations,
- (b) street alignment,
- (c) conversion of land or building from one use to another, and
- (d) public safety and nuisance.

(2) The exercise of any power or discharge of any duty entrusted on a *Gram Panchayat* or a *Panchayat Samiti* under sub-section (1) shall, notwithstanding anything contained in the West Bengal *Panchayat Act, 1973*, be deemed to be the performance of the functions assigned to the *Gram Panchayat* or the *Panchayat Samiti*, as the case may be, in respect of the matter referred to in clause (o) of sub-section (1) of section 20, or item (ii) of clause (a) of sub-section (1) of section 109, as the case may be, of that Act.

385. (1) The State Government may, by notification, make rules for carrying out the purposes of this Chapter.

Power to make rules.

(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 qualifications for appointment of members of a Notified Area Authority and the manner of filling casual vacancies in the office of such members;
- (b) the term of office of the Chairman, and the other members, the Vice-Chairman of a Notified Area Authority;
- (c) any other matter relating to the constitution and functions of a Notified Area Authority;
- (d) the manner in which powers and duties are to be exercised by a *Gram Panchayat* or a *Panchayat Samiti* with regard to non-municipal urban areas.

(Part X.—Powers, Procedures, Penalties and Savings.—
Chapter XXVI.—Procedure.—A. Licences and written
permissions.—Section 386.)

PART X

POWERS, PROCEDURES, PENALTIES AND SAVINGS

CHAPTER XXVI

Procedure

A. Licences and written permissions.

Signature,
conditions,
duration,
suspension,
revocation,
etc. of
licences and
written
permissions.

386. (1) Wherever it is provided in this Act or the rules or the regulations made thereunder that a licence or a written permission shall be issued by the Board of Councillors or by any other officer empowered to grant the same under this Act or the rules or the regulations made thereunder or by any other officer of the Municipality authorised by the Board of Councillors or the officer empowered as aforesaid in this behalf, the same shall specify, in addition to any other matter 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 thereof;
- (b) the purpose and the period (if any) for which it is granted;
- (c) the restrictions or conditions, if any, subject to which it is granted;
- (d) the name and address of the person to whom it is granted; and
- (e) the fee, if any, paid for the licence or the written permission.

(2) Except as otherwise provided in this Act or the rules or the regulations made thereunder, for every licence or written permission as aforesaid, a fee may be charged at such rate as may, from time to time, be fixed by the Board of Councillors, and such fee shall be payable by the person to whom the licence or the written permission is granted.

(3) Save as otherwise provided in this Act or the rules or the regulations made thereunder, any licence or written permission granted under this Act or the rules or the regulations made thereunder may, at any time, be suspended or revoked by the Board of Councillors 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 its restrictions 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 licence or the permission was granted:

Provided that—

- (a) before making any order of suspension or revocation of the licence or the written permission, a reasonable opportunity shall be accorded to the grantee to show cause why it should not be suspended or revoked;

*(Part X.—Powers, Procedures, Penalties and Savings.—
Chapter XXVI.—Procedure.—B. Entry and
inspection.—Section 387.)*

- (b) every such order shall contain a brief statement of the reasons for the suspension or the revocation of the licence or the written permission.
- (4) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall, for the purposes of this Act or the rules or the regulations made thereunder, be deemed to be without a licence or written permission until the licence or the written permission is renewed.
- (5) Every grantee of any licence or written permission under this Act shall, at all reasonable times while such licence or written permission remains in force, if so required by the Board of Councillors or by the officer by whom it was granted, produce such licence or written permission.

B. Entry and inspection.

387. The Board of Councillors or any officer or other employee of the Municipality authorised by the Board of Councillors or empowered by or under this Act in this behalf may enter into or upon any land or building with or without assistants or workmen—

Powers of
entry and
inspection.

- (a) for the purpose of 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;
- (b) for the purpose of ascertaining whether or not circumstances exist which render it necessary, or require the Board of Councillors or any officer or other employee of the Municipality authorised or empowered in this behalf, to take any action or execute any work under this Act or the rules or the regulations made thereunder;
- (c) for the purpose of taking any action or executing any work authorised or required by this Act or the rules or the regulations made thereunder;
- (d) to make such inquiry, inspection, examination, measurement, valuation or survey as may be authorised or required by or under this Act or as may be necessary for the proper administration of this Act;
- (e) generally for the purpose of efficient discharge of the functions by any of the authorities under this Act or the rules or the regulations made thereunder.

*(Part X.—Powers, Procedures, Penalties and Savings.—
Chapter XXVI.—Procedure.—B. Entry and
inspection.—Sections 388-390.)*

Power to enter land or adjoining land in relation to any work.

388. (1) The Board of Councillors or any person authorised by it or empowered by or under this Act in this behalf may enter upon any land within one hundred metres of any work authorised 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 purposes connected with the execution of the same.

(2) Every person as aforesaid shall, in exercising any power conferred by this section, do as little damage as may be, 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.

Breaking into building.

389. (1) It shall be lawful for the Board of Councillors or any person authorised by it or empowered by or under this Act in this behalf to make any entry into any place and to open or to cause to be opened any door, gate or other barrier,—

- (a) if he considers the opening of such door, gate or other barrier 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 Board of Councillors or the person authorised or empowered in this behalf shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situate to witness the entry into such place or the opening of such door, gate or other barrier and may issue an order in writing to them or to any one of them so to do.

Time of making entry.

390. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no entry into any place authorised by or under this Act shall be made except between the hours of sunrise and sunset:

Provided that if the Chairman-in-Council is satisfied that the erection of any building or the execution of any other work has been commenced, or is being carried on, in any premises in contravention of the provisions of this Act or any other evasion of the provisions of this Act or the rules or the regulations made thereunder is being committed between the period of sunset and sunrise, it may, for reasons to be recorded in writing, enter such premises during such period to make an inspection thereof and take such action as may be necessary under this Act.

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*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—B. Entry and inspection.—Section 391.—C. Public notices and
advertisements.—Section 392.—D. Evidence.—Section 393.)*

391. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no land or building shall be entered without giving the owner or the occupier thereof, as the case may be, not less than twenty-four hours' written notice of the intention to make such entry:

Notice for entry.

Provided that no such notice shall be necessary if the Chairman-in-Council considers, for reasons to be recorded in writing, that there is immediate urgency for such entry and the service of a written notice may defeat its purpose.

C. Public notices and advertisements.

392. Every public notice given under this Act or the rules or the regulations made thereunder shall be in writing under the signature of the Chairman or any officer of the Municipality authorised in this behalf by the Board of Councillors, 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 advertisement in local newspapers or by publishing the same otherwise as the Chairman-in-Council may think fit.

Public notices how to be made known.

D. Evidence.

393. Wherever under this Act or the rules or the regulations made thereunder the doing of, or the omission to do, or the validity of, anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of—

Proof of consent etc. of Board of Councillors or any officer of the Municipality.

- (a) the Board of Councillors, or
- (b) the Chairman-in-Council, or
- (c) the Chairman or any officer of the Municipality,

as the case may be, a written document signed,—

- (i) in the cases referred to in clause (a), by the Municipal Secretary, and
 - (ii) in the cases referred to in clause (b) or clause (c), by the Chairman or such officer of the Municipality,
- purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—E. Notices etc.—Sections 394-397.)

E. Notices etc.

Notices etc.
to fix
reasonable
time.

394. 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.

Signature on
notices etc.
to be
stamped.

395. (1) Every licence, written 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 Chairman or any officer of the Municipality shall be deemed to be properly signed if it bears a facsimile of the signature of the Chairman or such officer, as the case may be, stamped thereupon.

(2) Nothing in sub-section (1) shall be deemed to apply to a cheque drawn upon the Municipal Fund.

Notice etc.
by whom to
be served or
issued.

396. 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 authorised by the Chairman in that behalf.

Service of
notices etc.

397. (1) Every notice, bill, summons, requisition or other document required or authorised 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 other municipal authorities or 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—
 - (i) sent under certificate of posting, or
 - (ii) delivered at the registered office or at the principal office or place of business of the company;
- (b) where the person to be served is a partnership, 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—
 - (i) sent under certificate of posting, or
 - (ii) delivered at the place of business of the partnership;

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*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—E. Notices etc.—Section 397.)*

- (c) where the person to be served is a corporation, society or any other body or authority, if the document is addressed to the secretary, treasurer or other officer of such corporation, society or other body or authority at its principal office and is—
 - (i) sent under certificate of posting, or
 - (ii) delivered at the principal office of such corporation, society or other body or authority;
- (d) if such notice, bill, summons, requisition or other document is, in any other case, 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 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 under certificate of posting to such person.

(2) Any notice, bill, summons, requisition or other document required or authorised 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 notice, bill, summons, requisition or other document is served on a partnership under this section, such notice, bill, summons, requisition or other document shall be deemed to be duly served on each partner.

(4) For the purpose of enabling any notice, bill, summons, requisition or other document to be served on the owner of any premises, the Chairman 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 notice, bill, summons, requisition or other document is to be served is a minor, the service thereof upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—F. Enforcement of orders to execute work etc.—
Sections 398, 399.—G. Recovery of expenses.—Section 400.)

F. Enforcement of orders to execute work etc.

Time for complying with requisition or order, and power of Board of Councillors to enforce requisition or order in default.

398. (1) When, under this Act or the rules or the regulations made thereunder, any requisition or order is made by a written notice 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 a period within which—

- (a) such requisition or order shall be complied with, and
- (b) any written objection thereto shall be received by such authority or officer.

(2) If any such requisition or order or any part thereof is not complied with within the period specified under sub-section (1), the Board of Councillors may, subject to such regulations as may be made by the Board of Councillors in this behalf, take such measures or cause such work to be executed or such thing to be done as may, in its opinion, be necessary for causing due compliance with such requisition or order; and, except as 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 with such requisition or order, shall be paid by the person or persons to whom such notice is issued.

(3) The Board of Councillors may take any measure, 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.

Submission of objections to comply with notice.

399. (1) Any person who has been served with a written notice under sub-section (1) of section 398 in which a period for receiving objections has been specified may, within such period, deliver to the municipal authority or the officer of the Municipality, as the case may be, a written objection setting forth the reasons which he may desire to urge for the withdrawal or modification of such notice.

(2) Every such objection shall be placed before the Chairman for determination.

G. Recovery of expenses.

Power of Board of Councillors to enter into agreement for payment of expenses in instalments.

400. (1) When, under this Act or the rules or the regulations made thereunder, any expenses of any measures taken or work executed or thing done by or under the order of any municipal authority or any officer of the Municipality are incurred by such authority or officer in the event of any

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*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—G. Recovery of expenses.—Sections 401, 402.)*

person not complying with any requisition or order under this Act or the rules or the regulations made thereunder, the Chairman may, if he thinks fit and with the approval of the Board of Councillors, 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 the same in such instalments 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 Board of Councillors may determine.

(2) Every such agreement shall provide for adequate security against the whole amount due from such person.

401. 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 Board of Councillors, 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.

Execution of work by occupier on the failure of owner.

402. (1) Whenever under this Act or the rules or the regulations made thereunder any person is, 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,

Relief to receivers, agents and trustees.

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 or sufficient for the purpose of discharging such obligation, he 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 person fails to apply to a court of competent jurisdiction under sub-section (1) or, after the 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.

(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—H. Payment of Compensation.—Sections 403-405.—
I. Legal proceedings.—Section 406.)

H. *Payment of Compensation.*

General
power of
Municipality
to pay
compensa-
tion.

403. In any case not otherwise expressly provided for in this Act or the rules or the regulations made thereunder, the Board of Councillors may pay compensation to any person who sustains damage by reason of the exercise of any power under this Act or the rules or the regulations made thereunder by any municipal authority or any officer of the Municipality.

Compensa-
tion to be
paid for
damage to
property of
Municipality.

404. Any person who has been convicted of an offence punishable 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 Board of Councillors may consider reasonable.

Recovery
of certain
dues of
Municipality.

405. 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 a property tax:

Provided that no proceedings for the recovery of any such sum under this section shall be commenced after the lapse of three years from the date on which such sum becomes due.

I. *Legal proceedings.*

Power to
institute etc.
legal
proceedings
and obtain
legal advice.

406. The Board of Councillors may—

- (a) initiate, or withdraw from, any proceedings against any person who is charged with—
 - (i) any offence under this Act or the rules or the regulations made thereunder, or
 - (ii) any offence which affects or is likely to affect any property or interest of the Municipality, or
 - (iii) committing any nuisance whatsoever;
- (b) institute, or withdraw from, or compromise, any proceedings under this Act;
- (c) contest or compromise an appeal against assessment of any property tax or other tax;
- (d) withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the Municipality;

*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—I. Legal proceedings.—Section 407.)*

- (e) defend or compromise any suit or other legal proceeding or claim 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 authority or officer or other employee under this Act or the rules or the regulations made thereunder;
- (f) institute or prosecute any suit, proceeding or claim, or withdraw from, or compromise, any suit, proceeding or claim, instituted or made, as the case may be, in the name of the Municipality or the Board of Councillors or the Chairman;
- (g) obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing lawful exercise or discharge of any power or duty vesting in, or imposed upon, any municipal authority or any officer or other employee of the Municipality, such legal advice and assistance as it may, from time to time, consider necessary or expedient.

407. (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 any act done or purporting to be done under this Act or the rules or the regulations made thereunder until after 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 the accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required by 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.

Notice,
limitation
and tender of
relief in suits
against
Board of
Councillors
etc.

(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—I. Legal proceedings.—Section 408.—
J. Power and duties of Police-officers.—Section 409.)

(4) Nothing in the foregoing provisions of this section shall apply to any suit instituted under section 38 of the Specific Relief Act, 1963.

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Indemnity.

408. 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 of a Magistrate in respect of anything done lawfully and in good faith and with due regard to the provisions of this Act or the rules or the regulations made thereunder.

J. Power and duties of Police-officers.

Co-operation of the police.

409. (1) The Director General and Inspector-General of Police, West Bengal, and the police-officers subordinate to him 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 Board of Councillors, the Chairman-in-Council or the Chairman or any officer or other employee of the Municipality in carrying out any order made by a Magistrate under this Act.

(2) It shall be the duty of every police-officer—

- (i) to communicate without delay to the Chairman or any officer of the Municipality any information which he receives in respect of any design to commit, or any commission of, any offence under this Act or the rules or the regulations made thereunder, and
- (ii) to assist the Board of Councillors, the Chairman-in-Council or the Chairman or any officer or other employee of the Municipality reasonably demanding his aid for the lawful exercise of any power vesting in the Municipality or the Board of Councillors or the Chairman-in-Council or the Chairman or such 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 Director General and Inspector-General of Police, West Bengal, on the recommendation of the Chairman-in-Council or the Chairman in that behalf, exercise the powers of a police-officer for such of the purposes of this Act as may be specified in such order.

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*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—J. Power and duties of Police-officers.—Section 410.—
K. General Provisions.—Sections 411-413.)*

410. (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 the name and address of such person are unknown to him and 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.

Power of police to arrest offenders.

(2) No person arrested under sub-section (1) shall be detained in custody after his true name and address are ascertained or without the order of a Magistrate for a period longer than twenty-four hours from the time of arrest, excluding the period necessary for the journey from the place of arrest to the court of the Magistrate.

(3) On the written application of the Chairman, any police-officer above the rank of a constable shall arrest any person who obstructs the Chairman or any member of the Chairman-in-Council or any 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.

K. General Provisions.

411. No notice, order, requisition, licence, written permission or any other document issued under this Act shall be invalid merely by reason of defect of form.

Validity of notices and other documents.

412. 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 lawful keeper thereof or other person authorised by the Chairman in this behalf, be admissible in evidence of the existence of such document or entry, and shall be admitted as evidence of the matters and the 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.

Admissibility of document or entry as evidence.

413. No officer or other employee of the Municipality shall, in any legal proceeding to which the Board of Councillors is not a party, be required to produce any register or document the contents of which can be proved by a certified copy or to appear as a witness to prove any matter or transaction recorded therein save by order of the court made for special cause.

Evidence of officer or other employee of Municipality.

(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVI.—
Procedure.—K. General Provisions.—Sections 414-416.—
Chapter XXVII.—Rules and Regulations.—Sections 417-419.)

Prohibition
against
removal of
mark.

414. No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorised by this Act or the rules or the regulations made thereunder.

Prohibition
against
removal or
obliteration
of notice.

415. No person shall, without any authority in that behalf, remove, destroy, deface or otherwise obliterate any notice exhibited by or under the orders of the Board of Councillors or any municipal authority or any officer or other employee of the Municipality empowered in this behalf.

Prohibition
against
unauthorised
intermeddling
with property
of the
Municipality.

416. (1) No person shall, without any 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.

(2) No person shall interfere with, or encroach upon, or otherwise damage, any property belonging to, or vested in, the Municipality.

CHAPTER XXVII

Rules and Regulations.

Power to
make rules.

417. (1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.

(3) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the *Official Gazette*, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

Power to
amend
Schedule.

418. The State Government, on its own or on the recommendation of a Municipality or number of Municipalities, may by notification add to, amend, or alter any Schedule to this Act.

Power to
make
regulations.

419. (1) The Board of Councillors may, after previous publication, make regulations not inconsistent with the provisions of this Act or the rules made thereunder for discharging its functions under this Act.

(Part X.—Powers, Procedures, Penalties and Savings.—
Chapter XXVII.—Rules and Regulations.—Sections 420-422.)

(2) The draft of regulations shall be published in the manner prescribed and shall not be proceeded with until after the expiration of a period of one month from the date of such publication or such longer period as the Board of Councillors may appoint.

420. No regulation made by the Board of Councillors under this Act shall have any validity unless and until it is approved by the State Government.

Regulations to be subject to approval of State Government.

421. (1) If the State Government is, at any time, of opinion that any regulation made by the Board of Councillors under this Act should be cancelled or modified, either wholly or in part, it shall cause the reasons for such opinion to be communicated to the Board of Councillors and shall appoint a reasonable period, not less than fifteen days, within which the Board of Councillors may make such representation with regard thereto as it may think fit.

Power of State Government to cancel or modify regulations.

(2) On receipt and consideration of any such representation or, if 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 such cancellation or modification shall not affect anything done or suffered or omitted to be done under such regulation before such date.

(4) Any notification under sub-section (2) shall be published in local newspapers or in such other manner as the State Government may decide.

422. (1) Any rule or regulation made under this Act may provide that a contravention thereof shall be punishable—

Penalty for breach of rules or regulations.

- (a) with fine which may extend to one thousand rupees;
- (b) with an additional fine in the case of a continuing contravention, which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention; and
- (c) with additional fine which may extend to fifty rupees for everyday during which the contravention continues after receipt of a notice from the Municipality requiring the offender to discontinue such contravention.

(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVII.—
Rules and Regulations.—Sections 423, 424.—Chapter XXVIII.—
Delegation, Co-ordination and Control.—Sections 425, 426.)

(2) Any rule or regulation made under this Act may further provide that the offender shall be required to remedy, in so far as such remedy lies in his power, the mischief, if any, caused by the contravention of any rule or regulation made under this Act.

Rules and regulations to be available for inspection and purchase.

423. (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 all such rules and regulations shall be kept at the office of the Municipality and shall be sold to the public at such price as the Board of Councilors may determine.

Doubts as to powers, duties or functions of municipal authorities.

424. If any doubt arises as to the municipal authority to which any particular power, duty or function appertains, the Chairman shall refer the matter to the State Government and the decision of the State Government thereon shall be final.

CHAPTER XXVIII

Delegation, Co-ordination and Control.

Delegation of power by the State Government.

425. (1) The State Government may, with regard to the Municipalities generally or to any Municipality or group of Municipalities in particular and subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies any of the powers vested in, or the functions imposed upon, the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

(2) The State Government may, by notification, appoint one or more Deputy Director or Assistant Director of Local Bodies to exercise the powers and perform the functions of the Director of Local Bodies.

(3) Notwithstanding anything contained in this Chapter, the State Government may authorise the District Magistrate or the Sub-divisional Magistrate to exercise any of the powers or perform any of the functions within his jurisdiction, on matters delegated under sub-sections (1) and (2).

Supervision by Director of Local Bodies.

426. (1) The Director of Local Bodies, in addition to the powers or functions delegated to him, may—

(a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Municipality or any work in progress under the direction of a municipal authority;

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(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVIII.—
Delegation, Co-ordination and Control.—Sections 427-429.)

- (b) inspect or examine any department of the Municipality or any office, service, work or thing under the control of the Board of Councillors;
- (c) record, in writing, for the consideration of the Board of Councillors, any observation he thinks proper in regard to the proceedings or duties of any of the municipal authorities.

(2) For the purpose of inspection or examination, the Director of Local Bodies may require the Chairman or any officer of the Municipality—

- (a) to produce any book, record, correspondence, plan or other document,
- (b) to furnish any return, plan, estimate, statement, account or statistics, or
- (c) to furnish or obtain any report.

(3) When a requisition is made under sub-section (2), the Chairman or any officer of the Municipality, as the case may be, shall comply with such requisition.

427. The State Government may, at any time,—

- (a) call for any document in the possession or under the control of the Chairman or any officer of the Municipality;
- (b) require the Chairman or any officer of the Municipality to furnish any return, plan, estimate, statement, account, report or statistics, or any information whatsoever.

Power of State Government to call for documents, returns or information from Chairman or any officer of Municipality.

428. Any work or institution constructed or maintained, or any programme undertaken in whole or in part, at the expense of the Municipality and all registers, books, accounts or other documents relating thereto shall, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

Inspection of municipal works and institutions by Government officers.

429. (1) The State Government may, after giving the Board of Councillors a reasonable opportunity of being heard, annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity:

Power to suspend action under the Act.

Provided that pending the hearing to be given to the Board of Councillors, the State Government may suspend the operation of such proceeding or resolution or order.

(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVIII.—
Delegation, Co-ordination and Control.—Sections 430, 431.)

(2) The State Government, on receiving any information that the Board of Councillors or any other municipal authority is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such act, and such prohibition shall be binding on the Municipality:

Provided that the State Government shall immediately thereafter give an opportunity to the Board of Councillors to make its representation in the matter upon which the State Government shall give its final order with reasons in writing.

Powers of
State
Government
in case of
default.

430. (1) If, at any time, it appears to the State Government that the Board of Councillors has made default in performing any duty imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, and may direct that the expenses of performing it shall be paid to such agency from the Municipal Fund within such time as it may fix.

Power of the
State
Government
to intervene
in case of
gross neglect
or serious
irregularity.

431. (1) If, in the opinion of the State Government, the Board of Councillors has shown gross neglect in the performance of the duties imposed upon it by or under this Act or any other law for the time being in force, or has committed serious irregularities in the performance of such duties, the State Government may by order direct the Board of Councillors to show cause within the period specified in the order why it shall not be dissolved on grounds of charges mentioned in this order.

(2) If the Board of Councillors fails to answer the charges within the period specified in the order or within such further time as may be allowed by the State Government, or if the answers do not convince the State Government, the State Government may dissolve the Board of Councillors by an order published in the *Official Gazette* with effect from the date of the order.

(3) When an order of dissolution has been passed, all the powers and functions vested upon the municipal authorities under this Act or any other law for the time being in force, shall be exercised by such person or persons to be designated as Administrator or Board of Administrators as the State Government may appoint for the purpose.

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*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVIII.—
Delegation, Co-ordination and Control.—Sections 432, 433.)*

(4) The State Government shall hold a general election to the Municipality within six months of its dissolution and shall take steps for the constitution of a new Board of Councillors immediately thereafter:

Provided that the period of six months as aforesaid may be extended by an order to be made by the State Government in this behalf by a further period, not exceeding six months, in circumstances considered unavoidable by the State Government and recorded in the order.

(5) If, in the opinion of the State Government, instead of an order of dissolution, the neglect or irregularity in the affairs of the Municipality can be remedied by temporary supersession, partial or total, the State Government may, by order and for reasons to be recorded in writing, take over the administration of the municipal area either entirely or in respect of specified departments or area of activities for a period not exceeding six months and appoint the Director of Local Bodies or such other authority as it deems fit to discharge the functions of the municipal authorities with regard to such department or area of activity or the Municipality at large in accordance with such procedure as may be prescribed:

Provided that the State Government may by order extend the period of six months as aforesaid by a further period, not exceeding six months, for reasons to be recorded in the order.

(6) On the expiry of the period of supersession, the Board of Councillors and the other municipal authorities shall be restored to their respective offices to enable them to complete their normal tenure in office for the rest of the term.

(7) If any question arises as to what constitutes a gross neglect or a serious irregularity under this section, the opinion of the State Government as recorded in writing in the order, under this section shall be final and conclusive and the same shall not be questioned in any court of law.

432. (1) The State Government may require the Municipalities to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development, as it may deem fit and proper.

Co-ordination for purposes of planning and development.

(2) When so required, it shall be the duty of the Municipality to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

433. (1) The Board of Councillors shall convene a meeting of the citizens in each area covered by a borough committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

Civic participation.

*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVIII.—
Delegation, Co-ordination and Control.—Sections 434-438.)*

(2) The views of the citizens on the said report and statement shall be recorded and considered in such manner as may be prescribed.

Services of
Municipal
Engineering
Directorate.

434. (1) The State Government may require the Municipality to avail of the Services of the Municipal Engineering Directorate of the State Government in all matters in which the State Government considers such services necessary.

(2) The power of the State Government under sub-section (1) shall include the power to post a technical officer, namely, an engineer, architect, or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, for a Municipality or a group of Municipalities who shall discharge his functions in such manner as the State Government may decide.

Training and
Research
Programmes
of Institute
of Local
Government
and Urban
Studies.

435. (1) The State Government may require the Municipality to participate in such training and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the municipal functionaries and personnel.

(2) It shall be obligatory on the part of the Municipality to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

Appointment
of officers
for Muni-
cipalities from
cadres of
State
Government.

436. Notwithstanding anything contained elsewhere in this Act, the State Government may appoint, from its own cadre, an officer to be posted for a Municipality or a group of Municipalities by way of support service on such terms and conditions as the State Government may decide:

Provided that an officer so appointed shall be under the administrative control of the Chairman-in-Council and shall be withdrawn if the Board of Councillors so desires.

Withdrawal
of sections
extended by
State
Government.

437. Where there is any specific provision in any section of this Act for its being extended by the State Government to any municipal area, the State Government may, at any time, by order, withdraw such section if extended to any municipal area, from operation in such municipal area, and thereupon such section shall cease to be in force in the said municipal area from the date of such order.

Disputes.

438. If any dispute arises on any matter between the Board of Councillors and any other local authority or between the municipal authorities themselves, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court.

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*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVIII.—
Delegation, Co-ordination and Control.—Sections 439-441.)*

439. (1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken by or against any Municipality or other municipal authority under the Bengal Municipal Act, 1932, may be continued or instituted by the Municipality or the Board of Councillors, as the case may be, constituted or appointed under this Act.

Savings as to certain suits and proceedings.

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Commissioners or the Board of Commissioners under the Bengal Municipal Act, 1932, shall vest in the Board of Councillors constituted or appointed under this Act.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Bengal Municipal Act, 1932.

440. Save as otherwise provided in this Act, whoever contravenes any provision of any of the sections, sub-sections, clauses or provisos, or any other provision of this Act as mentioned in column 1 of Schedule IV or fails to comply with any order or direction lawfully given to him or any requisition lawfully made to him under any of the aforesaid provisions, shall be punishable—

Penalties and punishments.

- (i) with fine which may extend to the amount, or with imprisonment for a term which may extend to the period, specified in that behalf in column 3 of the said Schedule or with both, and
- (ii) in the case of a continuing contravention or failure, with an additional fine which may extend to the amount specified in column 4 of the said Schedule for every day during which such contravention or failure continues after conviction upon first such contravention or failure.

441. (1) With effect from the date of coming into force of this Act, the Bengal Municipal Act, 1932, shall stand repealed.

Repeal and savings.

(2) Notwithstanding such repeal,—

- (a) every budget passed, loan taken, assessment made, building plan sanctioned, licence or permission or sanction granted or any other similar action taken under the Bengal Municipal Act, 1932, and in force at the commencement of this Act, shall be deemed to have been passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued;

*(Part X.—Powers, Procedures, Penalties and Savings.—Chapter XXVIII.—
Delegation, Co-ordination and Control.—Section 442.)*

- (b) all properties, movable or immovable, all rights of whatever kind, used, enjoyed or possessed by, and all interest of whatever kind, owned by, or vested in a Municipality as constituted under the Bengal Municipal Act, 1932, shall, at the commencement of this Act, be deemed to be owned by, or vested in, the Municipality as constituted under this Act;
- (c) all contracts made or liabilities incurred by a Municipality as constituted under the Bengal Municipal Act, 1932, and legally subsisting against such Municipality shall, at the commencement of this Act, pass on to the Municipality as constituted under this Act; and
- (d) all officers or other employees appointed under the Bengal Municipal Act, 1932, and continuing in office immediately before the commencement of this Act shall be deemed to have been appointed under this Act.

Ben. Act XV
of 1932.

Removal of
difficulties.

442. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, not inconsistent with the provisions of this Act, do or cause to be done anything which may be necessary for removing the difficulty.

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(Schedule I.)

SCHEDULE I

(See section 118.)

Professions, trades and callings.

Every certificate of enlistment shall be granted under one or other of the classes mentioned in the second column of the following table:—

Serial No.	Classes
(1)	(2)
1.	Company or association or body of individuals which exercises any profession, trade or calling whatsoever for profit or as a benefit society, not being a registered co-operative society.
2.	Statutory Corporation set up by the Government for trading concerns sponsored by the Government and carrying on business for profit.
3.	Company, club, association or body of individuals, having no paid-up capital, which exercises any profession, trade or calling whatsoever for profit or as a benefit society, not being a registered co-operative society, merchant, banker, not being a registered co-operative society, money-lender, whole-sale trader, owner or occupier of a market, <i>bazar</i> or theatre or place of public entertainment, broker or <i>datal</i> in jute, cotton, precious stones, landed property, country produce, silk or other merchandise, retail trader or shop-keeper, boarding-house-keeper, hotel-keeper, lodging-house-keeper, tea-stall-keeper and eating-house-keeper.
4.	Commission agent, broker not included in serial number 3, architect, engineer, contractor, medical practitioner, dentist, barrister, and legal practitioner.
5.	Itinerant vendors hawking goods for sale.
6.	Any other trade, profession or calling not enumerated in serial numbers 1 to 5.

(Schedule II.)

SCHEDULE II

(See section 201.)

**Purposes for which premises may not be used without a
licence or written permission.**

1. Aerated water—manufacturing.
2. Asafoetida—storing.
3. Aloe fibre and yarn—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
4. Ammunition—storing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
5. Arecanut—soaking of.
6. Article made of flour—baking, preparing, keeping, or storing for human consumption (for other than domestic use).
7. Ash—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever, dumping or shifting.
8. Bakelite goods—manufacturing or processing.
9. Bamboo—storing for sale, hire or manufacture.
10. Bidi leaves—storing or processing.
11. Biscuit—baking, preparing, keeping or storing for human consumption (for other than domestic use).
12. Blasting powder—storing.
13. Blood—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
14. Bone—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
15. Bread—baking, preparing, keeping or storing for human consumption (for other than domestic use).
16. Brick—manufacturing.
17. Camphor—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever or boiling.
18. Candle—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
19. Carbide of calcium—storing.
20. Cardboard—storing.
21. Carpet—manufacturing.
22. Cashewnut—storing, packing, preparing or manufacturing by any process whatsoever.
23. Catgut—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
24. Celluloid goods—storing.

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25. Cement—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
26. Charcoal—dumping, shifting, selling or storing.
27. Chemical preparation—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
28. Chilli—grinding by machinery.
29. Chilli (dried)—selling wholesale or storing for wholesale trade.
30. Chlorate mixture—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
31. Cinder—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever, dumping or shifting.
32. Cinematograph film—shooting of, treating or processing.
33. Cloth—dyeing, bleaching mercerizing or storing.
34. Coal—dumping, shifting, selling or storing.
35. Cocoanut fibre—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
36. Cocoanut husk—soaking of.
37. Cocoanut shell—storing.
38. Coir yarn—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
39. Coke—storing.
40. Combustible material—storing.
41. Combustible—baking, preparing, keeping or storing for human consumption (for other than domestic use).
42. Compound gas (oxygen, nitrogen, hydrogen, carbon-dioxide, sulphur, chlorine, acetylene)—storing.
43. Copra—preparing or storing or selling wholesale.
44. Cotton of all kinds, cotton refuse, cotton seed—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
45. Cow-dung cake—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
46. Detonator—storing.
47. Dry leaf—storing.
48. Dye (stuff)—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
49. Dynamite—storing.
50. Explosive—storing.
51. Explosive paint (nitro-cellulose, lacquer, enamel)—storing.
52. Fibre—selling or storing.
53. Fat—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

(Schedule II.)

54. Felt—storing.
55. Fin—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
56. Firewood—Selling or storing.
57. Fire work—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
58. Fish—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
59. Fish oil—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
60. Flax—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
61. Fleshing—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
62. Flour—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
63. Fuel—using for any industrial purpose.
64. Fulminate of mercury—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
65. Furniture—making or storing for sale.
66. Gas—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
67. Gelatine—storing.
68. Ghee—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
69. Gold—refining.
70. Grain—selling wholesale or storing for wholesale trade.
71. Gram—husking by machinery.
72. Grass—storing.
73. Groundnut—selling wholesale or storing for wholesale trade.
74. Gun-cotton—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
75. Gunny-bag—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
76. Gunpowder—storing, packing, pressing, preparing or manufacturing by any process whatsoever.
77. Hair—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever, dyeing or drying.
78. Hay—selling or storing.
79. Hemp—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
80. Hessian cloth—storing.

(Schedule II.)

81. Hides—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
82. Hoof—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
83. Horn—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
84. Ice—manufacturing.
85. Incense—storing.
86. Jaggery—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever or selling wholesale.
87. Jute—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
88. *Khaki*—preparing.
89. Lac—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
90. Lead—melting.
91. Leather—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
92. Lime—storing, packing, pressing, cleansing, preparing of manufacturing by any process whatsoever.
93. Limeshell—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
94. Manure—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
95. Machinery—using for any industrial purpose.
96. Match—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
97. Meat—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
98. Metals (including precious metals)—beating, breaking, hammering and casting.
99. Methylated spirit or denatured spirit—storing.
100. Nitro-compound—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
101. Nitro-mixture—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
102. Offal—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
103. Oil—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever or boiling.
104. Oilseeds—storing.
105. Paddy—boiling or husking by machinery.
106. Paint—manufacturing or storing.

(Schedule II.)

107. Paper—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
108. Petroleum product—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
109. Phosphorus—storing.
110. Pitch—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
111. Plastic or plastic goods—manufacturing or storing.
112. Plywood—storing.
113. Pottery—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
114. Polythene—manufacturing or storing.
115. Radio—manufacturing, assembling, servicing and repairing.
116. Resin (including rosin)—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
117. Rug—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
118. Sago—manufacturing or distilling.
119. Saltpetre—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
120. Shellac—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
121. Silk—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
122. Sisal fibre—storing.
123. Skin—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
124. Soap—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
125. Spirit—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
126. Straw—selling or storing.
127. Sugar—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
128. Sugar-candy—packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
129. Sulphur—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
130. *Surki*—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
131. Sweetment—baking, preparing, keeping or storing for human consumption (for other than domestic use).
132. Tallow—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever or melting.
133. Tar—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

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134. Tarpaulin—storing.
135. Thatching material—selling or storing.
136. Thinner—storing.
137. Tiles—manufacturing.
138. Timber—selling or storing.
139. Tobacco (including snuff, cigar, cigarette and bidi)—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
140. Turpentine—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.
141. Varnish—manufacturing or storing.
142. Wool—storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever, dyeing or drying.
143. Yarn—dyeing or bleaching.
144. Manufacturing article from which offensive or unwholesome smell, fume, dust or noise arises.

In general, premises may not be used without a licence or written permission for the purpose, or the doing, in the course of any industrial process, of anything, which, in the opinion of the Board of Councillors, is likely to be dangerous to human life or health or property or is likely to create or cause a nuisance:

Provided that no licence shall be required for the storage only of any of the articles mentioned in this Schedule for domestic use and limited to such quantity as may, from time to time, be fixed by the Board of Councillors.

SCHEDULE III

[See section 106(4).]

Parts of plant or of combination of plant and machinery in certain cases not be excluded in calculating the annual value of any land or building.

The following parts of a plant or combination of plant and machinery whenever and only to such extent as any such part is, or is in the nature of, a building or structure:—

Acid Concentrators;

Sins and Hoppers;

Blast Furnaces;

Burners, Forges, Furnaces, Kilns, Ovens and Stoves, Chambers for—

Absorption of gases or fumes,

Aerographing and Spraying

Bleaching,

Chemical Reaction,

Conditioning or Treatment,

Cooling,

Dyeing,

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- Dust or Fume Collecting,
- Fibre Separation (Wool Carbonising),
- Fuming,
- Impregnating,
- Refrigerating,
- Sandblasting,
- Sterilising,
- Sulphuric Acid,
- Chimneys,
- Cooking Ovens;
- Condensers and Scrubbers—
 - Acid,
 - Alkali,
 - Gas,
 - Oil,
 - Tar;
- Conveyor Gantries;
- Cooling Ponds;
- Crane Gantries;
- Cupolas;
- Economisers;
- Elevators and Hoists;
- Evaporators;
- Fan Drifts;
- Floating Docks and pontoons with any Bridges or Gangways not of a temporary nature used in connection therewith;
- Flues;
- Flumes and Conduits;
- Foundations, Settings, Gantries, Supports, Platforms and Stagings for plant and machinery;
- Gas—
 - Holders,
 - Producers and Generators,
 - Purifiers and Cleaners;
- Head Gear—
 - Mine, Quarry and Pit,
 - Hydraulic Accumulators,
 - Well;

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Pits, Beds and Bays—

Casting,

Cooling,

Drop,

Inspecting or Testing,

Liming, Soaking, Tanning, or other treatment, Settling;

Rack;

Refuse, Destructors and Incinerators;

Restorts;

Ship Construction and Repair—

Cradles,

Grids,

Slipways,

Uprights,

Silos;

Stages, Staithes and Platforms for loading, unloading and handling materials;

Stills;

Superheaters;

Tanks;

Towers for—

Absorption of gases or fumes,

Chemicals Reaction,

Cooling,

Oil Refining and Condensing Treatment,

Water,

Transporter Gantries,

Transversers and Turntables,

Vats,

Weighbridges,

Wireless Masts.

(Schedule IV.)

SCHEDULE IV

Penalties.

(See section 440.)

Explanation.—The entries in the second column of the following table, headed “Subject”, are not intended as definition of the offences referred to in the provisions mentioned in the first column, or as abstracts of those provisions, but are inserted as reference to the subject thereof.

Sections, sub-sections, clauses or provisos.	Subject.	Maximum fine or imprisonment which may be imposed for contravention.	Daily fine which may, in addition, be imposed for continuing offences.
1.	2.	3.	4.
Section 115, sub-section (2).	Submission of returns and inspection of holdings for the purpose of assessment.	Five hundred rupees.	
Section 115, sub-section (3).	Inspection of holding for the purpose of assessment.	Five hundred rupees.	
Section 116, sub-sections (1) and (2).	Notice of transfer.	Fifty rupees.	
Section 120, sub-section (2).	Certificate of enlistment to be obtained within six months of coming into force of the Act.	One hundred rupees.	
Section 121, sub-section (2).	Prohibition of advertisement without written permission of Chairman.	Five hundred rupees.	One hundred rupees.
Section 122, sub-section (1).	Licence for use of site for the purpose of advertisement.	Five hundred rupees.	One hundred rupees.
Section 129.	Carts or carriages not to be kept without being registered and without number.	Fifty rupees.	Five rupees.

(Schedule IV.)

Sections, sub-sections, clauses or provisos.	Subject.	Maximum fine or imprisonment which may be imposed for contravention.	Daily fine which may, in addition, be imposed for continuing offences.
1.	2.	3.	4.
Section 135.	Keeping of unauthorised ferry-boat.	Five hundred rupees.	One hundred rupees.
Section 141.	Prohibition of taking unauthorised tolls.	Three hundred rupees.	
Section 173, sub-section (3).	Restrictions on erection of, or addition to, buildings or walls within street alignment or building-line.	Two thousand rupees.	One hundred rupees.
Section 196, sub-section (3).	Power to prohibit removal etc. of lamps.	Five hundred rupees.	
Section 199, sub-section (4).	Power to regulate future construction of building in particular streets or localities.	Two thousand rupees and/or imprisonment for three months.	One hundred rupees.
Section 200, sub-section (1).	Power to prohibit change of authorised use of building.	Two hundred rupees and/or imprisonment for three months.	Five hundred rupees.
Section 201, sub-section (1).	Licence to be obtained for use of premises for non-residential purposes.	Two thousand rupees and/or imprisonment for three months.	Five hundred rupees.
Section 202, sub-section (5).	Premises not to be used for specified purposes.	One thousand rupees.	One hundred rupees.
Section 204.	Prohibition of building without sanction.	Five thousand rupees and/or imprisonment for six months.	One thousand rupees.

(Schedule IV.)

Sections, sub-sections, clauses or provisos.	Subject.	Maximum fine or imprisonment which may be imposed for contravention.	Daily fine which may, in addition, be imposed for continuing offences.
1.	2.	3.	4.
Section 209.	Notice to Board of Councillors before commencement of work.	Two hundred rupees.	
Section 212, sub-section (2).	Completion certificate.	Five hundred rupees.	Fifty rupees.
Section 240, sub-section (1).	Digging for wells etc. without permission.	Five hundred rupees.	Fifty rupees.
Section 270, sub-sections (1) and (2).	Prohibition against deposit of solid wastes.	One hundred rupees.	Ten rupees.
Section 278, sub-sections (1) and (2).	Private markets and slaughter-houses.	One hundred rupees.	Ten rupees.
Section 282.	Municipal licence for articles etc.	Twenty-five rupees.	Ten rupees.
Section 310, sub-section (5).	Control over construction or alteration of private roads.	One thousand rupees.	One hundred rupees.
Section 314.	Removal of materials falling upon or into road or drains.	Five hundred rupees.	Fifty rupees.
Section 315, sub-section (4).	Control over construction or alteration of private drains.	Five hundred rupees.	Fifty rupees.
Section 330.	Power to stop dangerous quarrying.	One thousand rupees.	One hundred rupees.
Section 331.	Precautions against fire.	One thousand rupees.	One hundred rupees.
Section 333, sub-section (1).	Filling in of pools etc. which are a nuisance.	Five hundred rupees.	Fifty rupees.

(Schedule IV.)

Sections, sub-sections, clauses or provisos.	Subject.	Maximum fine or imprisonment which may be imposed for contravention.	Daily fine which may, in addition, be imposed for continuing offences.
1.	2.	3.	4.
Section 339.	Prohibition against washing by washermen at unauthorised places.	One hundred rupees.	Ten rupees.
Section 340.	Prohibition against defilling water of tanks etc.	Five hundred rupees.	One hundred rupees.
Section 341.	Unoccupied buildings or lands.	Five hundred rupees.	Fifty rupees.
Section 342, sub-section (3).	Abatement of overcrowding in dwelling house or dwelling place.	One hundred rupees.	Ten rupees.
Section 343.	Prohibition against feeding certain animals on filth.	One hundred rupees.	Ten rupees.
Section 344.	Premises not to be used for keeping animals, birds, etc., without licence.	Three thousand rupees and/or imprisonment for six months.	Two hundred and fifty rupees.
Section 361.	Prohibition of making or selling of food etc. or washing of clothes by infected persons.	Five hundred rupees.	Fifty rupees.
Section 362.	Duty of persons suffering from dangerous diseases.	One hundred rupees.	
Section 372, sub-section (3).	Permission for opening new place for disposal of the dead or reopening of place.	Five hundred rupees.	Fifty rupees.
Section 373.	Power to require closing of burning and burial grounds.	Five hundred rupees.	Fifty rupees.

(Schedule IV.)

Sections, sub-sections, clauses or provisos.	Subject.	Maximum fine or imprisonment which may be imposed for contravention.	Daily fine which may, in addition, be imposed for continuing offences.
1.	2.	3.	4.
Section 376.	Acts prohibited in connection with disposal of dead.	One thousand rupees and/or imprisonment for three months.	Two hundred rupees.
Section 377.	Disposal of dead animals.	One hundred rupees.	Twenty rupees.
Section 387.	Power of entry and inspection.	Five hundred rupees.	One hundred rupees.
Section 414.	Prohibition against removal of mark.	Two hundred rupees.	
Section 415.	Prohibition against removal or obliteration of notice.	Two hundred rupees.	
Section 416.	Prohibition against unauthorised inter-meddling with property of the municipality.	One thousand rupees.	One hundred rupees.