The Jammu and Kashmir Municipal Act, 1951

Act 8 of 1951

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THE JAMMU AND KASHMIR MUNICIPAL ACT, 2008
(1951 A.D.)

ACT NO. VIII OF 2008

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Amendments made (after 1956 edition) by Act No.—

1. XVII of 1958.
2. XXVI of 1962.
3. XXI of 1963.
4. XXXII of 1963.
5. XXII of 1966.
7. XXI of 1968.
8. VI of 1969.
THE JAMMU AND KASHMIR MUNICIPAL ACT, 2008
(1951 A.D.)

ACT NO. VIII OF 2008


An Act to consolidate and amend the law relating to the administration of municipalities in the State.

Whereas it is expedient to make better provision for and to consolidate and amend the law relating to the administration of municipalities in the Jammu and Kashmir State;

Now, therefore, in exercise of the inherent powers under section 5 of the Jammu and Kashmir Constitution Act, 1996, read with the Proclamation issued by His Highness and published in the extraordinary issue of the Government Gazette dated 7th Har, 2006, Yuvaraj Shree Karansinghji Bahadur has been pleased to enact as follows:—

PART I

CHAPTER I

Preliminary

1. Title, extent and commencement.—(1) This Act may be called the Jammu and Kashmir Municipal Act, 2008.

(2) It extends to the whole of Jammu and Kashmir State.

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

2. Repeal.—The Municipal Act No. XIII of 1998 is hereby repealed.

Saving clause.—But all municipalities constituted, committees established, limits defined, appointments, rules, regulations, bye-laws and orders made, notifications and notices issued, taxes, tolls, rates

and fees imposed or assessed, contracts entered into and suits instituted under the said Act shall, so far as may be, be deemed to have been respectively constituted, established, defined, made, issued, imposed or assessed, entered into and instituted under this Act.

1. Notwithstanding anything contained in this Act, a Municipal Committee established under the Jammu and Kashmir Municipal Act, 1998, shall continue to function in all matters including preparation of electoral rolls and holding of elections of members of Municipal Council under this Act, until a Municipal Council is established under the provisions of this Act.

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

(1) “annual value” means—

(a) in the case of land, the gross annual rent at which the land might at the time of assessment reasonably be expected to let from year to year:

Provided that, in the case of land assessed to land revenue or of which the land revenue has been wholly or in part released, compounded for, redeemed or assigned and is being cultivated by the owner himself and is not let out by him, the annual value shall be deemed to be four times the aggregate of the following amounts, namely:—

(i) the amount of land revenue for the time being assessed on the land, whether such assessment is leviable or not; or when the land revenue has been wholly or in part compounded for or redeemed, the amount which, but for such composition or redemption, would have been leviable; and

(ii) when the improvement of the land due to canal irrigation has been excluded from account in assessing the land revenue, the amount of owner’s rate or water advantage rate, or other rate imposed in respect of such improvement;

and in the case of land assessed to land revenue of which the land revenue has been wholly or in part released, compounded for, redeemed or assigned and which is let out by the owner for agricultural, horticultural or other purposes, the annual value shall be deemed to be the gross amount of rent or profits fixed or realised by the owner whichever is greater for the year under assessment:

1. Separate paragraph to section 2 added by Act XII of 2010.
(b) in the case of any house or building, the gross annual rent at which such house or building, together with its appurtenances and any furniture that may be let for use or enjoyment therewith, may reasonably be expected to let from year to year less an allowance not exceeding 20 per cent of the gross annual rent as the Executive Officer in each particular case may consider reasonable on account of the furniture let therewith, cost of repairs of buildings and the expenditure incurred by the owner on the upkeep of the land, buildings and furniture or on any other account whatever.

Explanation.—(i) For the purposes of this clause, it is immaterial whether the house or building and the furniture, and the land let for use or enjoyment therewith, are let by the same contract or by different contracts and if by different contracts, whether such contracts are made simultaneously or at different times.

(ii) the term “gross annual rent” shall not include any tax payable by the owner in respect of which the owner and tenant have agreed that it shall be paid by the tenant;

(c) in the case of any house or building, the gross annual rent of which cannot be determined under clause (b), 5 percent on the sum obtained by adding the estimated present cost of erecting the building, less such amount as the Executive Officer may deem reasonable to be deducted on account of depreciation (if any) to the estimated market value of the land valued with building as part of the same premises:

Provided that—

(i) in the calculation of the annual value of any premises no account shall be taken of any machinery thereon;

(ii) when a building is occupied by the owner under such exceptional circumstances as to render a valuation at 5 per cent. on the cost of erecting the building, less depreciation, excessive, a lower percentage may be taken;

(2) “boat” includes any vessel used or capable of being used on water as a means of conveyance or habitation or for commercial purposes and shall include also steam and motor launches;

(3) “building” means any shop, house, hut out-house, shed, superstructure and stable whether used for the purpose of human habita-
tion or otherwise and whether of masonry, bricks, wood, mud, thatch metal or any other material whatever; 1[and includes a wall and a well, a boat and a house boat used for residential or commercial purposes].

(4) "building line" means a line which is in rear of the street-alignment and to which the main external wall of a building abutting on a street may lawfully extend and beyond which no portion of the building may extend in the outer street except as prescribed in the building bye-laws;

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

(6) "Collector" means the Collector appointed under the Jammu and Kashmir Land Revenue Act, 1996;

(7) "Council" means a Municipal Council established by or under this Act;

(8) "Councillor" means any person legally a member of the Municipal Council constituted under this Act;

(9) "erect or reerect" any building includes—

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

(b) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation;

(c) the conversion into more than one place for human habitation of a building originally constructed as one such place;

(d) the conversion of two or more places of human habitation into a greater number of such places;

(e) such alteration of a building as affects an alteration in its drainage or sanitary arrangements or affects its stability;

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

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

(h) reconstruction of a building or a portion thereof by means of props, commonly known as "Pand Pand" in Kashmir Valley;

(10) "Executive Officer" means an Executive Officer appointed under the provisions of this Act and includes an acting Executive Officer or any Municipal Officer empowered under this Act to exercise, perform or discharge any of the powers, duties or functions of an executive Officer;

(11) "explosive" and "petroleum" have the meanings assigned to these words in 1[the Jammu and Kashmir Explosives Act of 1977 and 2[the Jammu and Kashmir Petroleum Act of 1988 respectively] ;

(12) "factory" means a place which is declared to be a factory by the Government in this behalf;

(13) "Gazette" means the Government Gazette published under the authority of the Jammu and Kashmir Government;

(14) "infectious disease" means cholera, plague, small-pox, tuberculosis, typhus, meningitis or such other dangerous disease as the Council may notify in this behalf;

(15) "inhabitant" includes any person ordinarily residing or carrying on business, or owning or occupying property, in any Municipality or in any local area which the Government has by notification under this Act proposed to declare to be a Municipality;

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

(17) "Medical Officer of Health" means such person as the Government may appoint as Medical Officer of Health, for the purposes of this Act;

1[(18) Omitted];

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

1. Now Central Act IV of 1884.
(20) "notification" and "notified" respectively means "publication" and "published" in the Government Gazette;

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

(22) "occupier" includes any person, for the time being paying or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used or damages on account of the occupation of such land or building, and also an owner living in or otherwise using, his own land or building and also a rent-free tenant;

(23) "offensive matter" includes animal carcasses, dung, dirt, putrid or putrefying substances and filth of any kind;

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

[(24-a) "President" means the president elected under section 20 of this Act;

(25) "public place" means a space which is open to the use or enjoyment of the public, whether or not private property and whether or not vested in the Council;

(26) "public street" shall mean any street—

(a) heretofore levelled, paved, metalled, channelled, sewered or repaired out of Municipal or other public funds, or

(b) which, under the provisions of section 205, is declared to be, or under any other provisions of this Act becomes, a public street;

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

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

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

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

and shall include also the drains or gutters therein, or on either side, and the land, whether covered or not by any pavement, verandah or other erection, up to the boundary of any abutting property not accessible to the public;

(29) "tax" shall include any toll, rate, cess, fee or other impost leviable under this Act;

(30) "vehicle" means a wheeled conveyance capable of being used on a street:

(31) "year" means the financial year of the Jammu and Kashmir Government.

CHAPTER II

Constitution of Municipalities

4. Procedure for constituting Municipality.—(1) The Government may by notification, express its intention to declare any local area a Municipality under this Act.

(2) Every such notification shall define the limits of the local area to which it relates.
(3) A copy of every notification under sub-section (1) with a vernacular translation thereof shall forthwith be affixed in some conspicuous places within that area.

(4) Should any inhabitant desire to object to a notification issued under sub-section (1) he may, within six weeks from the date of its publication in the Gazette or from the date of affixation of the notice within that area, submit his objection in writing to the Government and the Government shall taken his objection into consideration.

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

(6) The Government may, by notification, direct that all or any of the provisions of this Act or of the rules made thereunder shall, with such exceptions and adaptations as may be considered necessary, apply to the local area constituted as Municipality under this section and such provisions and the rules shall forthwith apply to such Municipality without further notification.

(7) When a local area, the whole or part of which was a notified area or a town area, is declared to be a Municipality under this section, the Council shall be deemed to be the perpetual successor of such notified area or town area committee in respect of all its rules, bye-laws, taxes, and all other matters what-so-ever and the notified area or the town area committee, as the case may be, shall continue in office, and shall, notwithstanding anything contained in this Act, be deemed to be the Council, until the election of members is notified by the Government under this Act.

(8) A Council shall come into existence at such time as the Government may, by notification, appoint in this behalf.

5. Notification of intention to alter limits of Municipality.—(1) The Government may, by notification in the Gazette and in such manner as it may determine, declare its intention to include within a Municipality any local area in the vicinity of the same and defined in the notification.

(2) Any inhabitant of a Municipality or local area in respect of which a notification has been published under sub-section (1) may,
should he object to the alteration proposed, submit his objection in writing through the Minister-in-charge of Municipalities to the Government within six weeks from the publication of the notification in the Gazette; and the Government shall take such objection into consideration.

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

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

6. Notification of intention to exclude local area from Municipality.—(1) The Government may, by notification, and in such manner as it may deem fit, declare its intention to exclude from a Municipality any local area comprised therein and defined in the notification.

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

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

7. Effect of exclusion of local area from Municipality.—When a local area is excluded from a Municipality under section 6—

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

(b) the Government shall, after consulting the Council concerned, frame a scheme determining what portion of the balance of the Municipal Fund and other property vested in the Council shall vest in the Government for the benefit of the local area so excluded and in what manner the liabilities of the Council shall be determined.

8. Power to exempt Municipality from provisions of Act unsuited thereto.—(1) Should the circumstances of any Municipality be such that in the opinion of the Government, any of the provisions of this Act are unsuited thereto, the Government may, by notification, exempt the Municipality or any part of it, from the operation of those provisions or apply such provisions with such modification as may be considered necessary by the Government.

(2) While such exemption as aforesaid remains in force, the Government may make rules for the guidance of the Council and public officers in respect of the matters exempted from the operation of the said provisions.

CHAPTER III

Councils

Constitution of Councils

9. Constitution of Council.—There shall be established for each Municipality a Council having authority over the Municipality and consisting of such number of elected members not less than eight as the Government may fix in this behalf, \[x \times x \times x\].

1. Words "except as is here-in-after provided" omitted by Act V of 1955.
2. Section 9-A relating to appointment of Councillors to represent Backward classes and commercial interests in the Municipal Councils of Jammu and Srinagar was inserted by Act V of 1955 for a period of 5 years from 5th November, 1955. That date has since expired and accordingly it has been omitted.
3. Section 10 omitted by Act V of 1955. (For earlier amendment see Act LI of 2081).
(2) Every citizen who is not less than 1[eighteen] years of age and is not otherwise disqualified under this Act or rules made thereunder on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice shall be entitled to be registered as a voter at such election.

2[(3) Omitted.]

3["12. Selection.—(1) Notwithstanding anything contained in this Act, the Government may select persons as Councillors from amongst those who have special knowledge or practical experience in respect of Municipal affairs, women and other weaker sections of the society from a panel recommended by the Council.

(2) The persons selected under sub-section (1) shall have no right to vote but shall be treated as Councillors for all other purpose:

Provided that the number of persons to be selected shall not exceed one-fourth of the total membership of the Council:

Provided further that out of the persons so selected at least one-half shall comprise of women and weaker sections”].

13. Duration of Council.—The normal life of a Council shall be four years from the date of its first meeting unless its term is extended by the Government from time to time; provided that the total period for which the life of the Council may be so extended shall not exceed two years.

14. Resignation of Councillors.—If a Councillor wishes to resign his office, he shall submit an application in writing, through the President of the Council, to the Government and if such resignation is accepted it shall be notified in the Gazette on a date not less than 15 days and not more than 60 days of the receipt of the said Councillor’s application by the President whereupon such Councillor shall be deemed to have vacated his seat.

15. Disqualifications for membership.—(1) No person shall be eligible for election 4[x x x] as a Councillor, who—

4. Words “or appointment” deleted. These words were inserted by Act LI of 2011 which were to remain in force for 5 years w.e.f. 12-4-1955, which date has since expired.
(a) has been sentenced by a Criminal Court to imprisonment or whipping 1[for an offence (other than an offence of a political nature or an offence not involving moral turpitude)] punishable with imprisonment for a term exceeding six months, such sentence not having been reversed or quashed, or against whom an order has been passed under section 118 of the Code of Criminal Procedure, in proceedings instituted under section 110 of the said Code, such order not having been subsequently reversed or quashed, or

(b) is an undischarged insolvent or being a discharged insolvent has not obtained from a competent court a certificate that his insolvency was caused by misfortune without any misconduct on his part, or

(c) is mute or a leper, or

(d) has directly or indirectly any share or interest in any contract with, by or on behalf of a Council, or

2[(e) Omitted.]

(f) is not a voter on the electoral rolls of any constituency, or

(g) has not resided in the Municipality for not less than 12 months preceding the date of filling his nomination form, 3[xxx.] or

(h) is holding an office of profit under the Government or a Council, or

(i) is not a State Subject as defined in the State-Subject Definition Notification No. I-L/84 dated the 20th April, 1927, or

4[(ii) has been convicted of an offence punishable under the Protection of Civil Rights Act, 1955 ; provided that such disqualification shall cease after a period of six years from the date of such conviction, if the convicted person makes a declaration that he will not repeat any such offence.]

(j) is under any other provisions of this Act or rules made thereunder ineligible to be a Councillor.

1. Substituted by Act VII of 2011 for “for an offence”.
2. Clause (e) omitted by Act XXVII of 1978.
3. Certain words deleted. Those words were inserted by Act LI of 2011 which were to remain in force for 5 years w.e.f. 12-4-1955, which date has since expired.
4. Inserted ibid.
(2) The Government may by notification remove any Councillor—

(a) if during the term for which he has been elected, 1[xxxx], he becomes subject to any disqualification specified in sub-section (1), which if it had existed at the time of his election 1[xxxx] would have rendered him ineligible for election 1[xxxx];

(b) if he has without reasonable cause in the opinion of the Government absented himself for more than three consecutive months from the meetings of a Council,

(c) if being a legal practitioner he acts or appears in any legal proceeding on behalf of any person against the Council, or

(d) fails to pay any arrears of any kind due by him to the Municipality within three months after a special notice in this behalf has been served upon him under this Act:

Provided that, before the Government notifies the removal of a Councillor under this sub-section, the reason for his proposed removal shall be communicated to the Councillor concerned and he shall be given an opportunity of tendering an explanation in writing.

16. Casual vacancies how to be filled up.—(1) Whenever a vacancy occurs by death or resignation of any 2[elected] Councillor, or by his removal by the Government under section 15 sub-section (2), or by his refusal to take or make the oath of his office as required by sub-section (1) of section 24 within the period specified in sub-section (3) thereof or otherwise, a new Councillor shall, within a period of three months from the date of such vacancy, be elected 1[x x x x] in accordance with the rules made under this Act to fill the place:

Provided, that the Government may, in consultation with the Council, direct that a vacancy shall be left unfilled for such time as it may deem fit.

(2) Every person elected 1[x x x x] to fill a casual vacancy shall hold his seat for the time for and subject to the condition upon which it was tenable by the person in whose place he has been so elected 1[x x x x], and no longer; but he may, if otherwise not disqualified, be re-elected 1[x x x x].

1. Certain words deleted. Those words were inserted by Act LI of 2011 which were to remain in force for 5 years w.e.f. 12-4-1955, which date has since expired.

2. Word "elected" deleted by Act LI of 2011, which was to remain in force for five years from 12th April, 1955. That date has since expired so the word "elected" has again been supplied.
17. Re-eligibility of Councillors.—A person who has already been elected a Councillor shall, if otherwise duly qualified, be eligible for re-election.

18. Incorporation of Council.—Every Council shall be a body corporate by the name of the Municipal Council of its Municipality and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and subject to the provision of this Act or of any rules made thereunder to transfer any property held by it, to contract and to do all other things necessary for the purposes of its constitution; and may sue and be used in its corporate name.

19. Duly appointed contractors and their agents or employees to be public servants.—Every contractor duly appointed by the Council for the collection of a tax and a duly appointed agent or employee of such contractor shall be deemed to be a public servant within the meaning of section 21 of the Ranbir Penal Code.

Explanation.—“Duly appointed agent or employee” in this section would mean a person about whose appointment prior approval has been obtained by the contractor from the Council.

20. President and Voice-President.—Every Council shall at its first meeting elect from amongst its Councillors a President and a Voice-President.

21.—Term of office of President and Vice-President.—(1) The term of office of a President or Vice-President shall be four years or the residue of his term of office as Councillor whichever is less.

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

22. Resignation of President or Vice-President.—Whenever a President or a Vice-President vacates his seat as a Councillor or tenders in writing to the Council his resignation of office, or the three-fourths of the Councillors serving on a Council pass a resolution expressing non-confidence in him, he shall vacate his office.
23. Casual vacancies of President or Vice-President.—Whenever a vacancy of the office of President or Vice-President occurs by death, resignation or otherwise, a new President or Vice-President shall be elected.

24. Notification of elections and vacancies.—(1) Every election of a President, Vice-President or a Councillor 1[x x x x] shall be notified by the Government and no Councillor shall enter upon his duties until his election 1[x x x x] has been so notified and until notwithstanding anything contained in the Judicial Oaths Rules, Samvat 1950, he has taken or made at a meeting of the Council, an oath or affirmation in the following form, namely :

"I, A. B., having been elected 1[x x x x] Councillor or the Municipal Council of do solemnly swear (or affirm) that I will faithfully discharge the duty upon which I am about to enter."

(2) If any person omits or refuses to take or make the oath or affirmation as required by sub-section (1) within three months of the date of the notification of his election 1[x x x x], his election 1[x x x x] shall be deemed to be invalid unless the Government for any reasons which it may consider sufficient extends the period within which such oath or affirmation may be taken or made.

25. Functions of President.—It shall be the duty of the President of a Council to—

(a) preside, unless prevented by reasonable cause, at all meetings of the Council and subject to the provisions of the rules or bye-laws made under this Act, regulate the conduct of business at such meetings;

2[“b) superintend, subject to the provision of Act the financial and executive administration the Council and perform such other duties as may be delegated to him from time to time].”

26. Functions of the Vice-President.—It shall be the duty of the Vice-President of a Council—

1. Certain words deleted. These words were inserted by Act LI of 2011 which were to remain in force for 5 years w.e.f. 12-4-1955, which date has since expired.

(a) in the absence of the President and unless prevented by reasonable cause, to preside at the meetings of the Council and he shall when so presiding exercise the same authority as is vested in the President in this behalf under this Act;

(b) to exercise such of the powers and perform such of the duties of the President as the President may from time to time delegate to him and in the absence of a President to exercise the powers and perform the duties of a President.

27. Functions of the Council.—Subject to the provisions of this Act, the Municipal administration of a Municipality shall vest in the Council.

Standing Committees.

28. Appointment of Standing Committees.—(1) A Council shall, as soon as possible and not later than one month after its first meeting, elect not more than five Councillors to be members of each of the following Standing Committees:

   (1) Finance,
   (2) Health, and
   (3) Works and Buildings.

Members of Standing Committees shall hold office for two years:

Provided that a Councillor elected on one Standing Committee shall not be eligible for election to any other Standing Committee.

(2) Any Councillor who ceases to be a member of the Standing Committee shall be eligible for re-election.

(3) After the term of office of a Standing Committee has expired, the Council shall hold fresh election of the members of the Standing Committee in the manner indicated in sub-section (1).

(4) The Government may depute not more than two persons out of the persons nominated under section 12 of this Act to sit in any meeting of a Standing Committee and participate in its discussions. Such persons though not entitled to vote, shall be treated as members of the Committee in all other respects.

29. Election of the Chairman of Standing Committee.—(1) Each Standing Committee shall at its first meeting elect one of their members to be Chairman of the Standing Committee until a new Standing Committee is constituted.

(2) In the absence of the Chairman the members of a Standing Committee present shall choose one of their member to preside over their meeting.

(3) A member of the Standing Committee who ceases to be Chairman shall be eligible for re-election as such.

(4) If any casuals vacancy occurs in the office of Chairman, the Standing Committee shall, as soon as it conveniently can after the occurrence of such vacancy, elect one of their number to fill the vacancy and every Chairman so elected shall continue in office so long only as the person in whose place he is elected would have been entitled to continue, if such vacancy had not occurred.

30. Absence from meetings of Standing Committee.—A member of a Standing Committee who absents himself from all meetings of the Standing Committee during two consecutive months shall cease to be a member of the Standing Committee, and his office as such member shall be deemed to be vacant.

31. Casual vacancies in the Standing Committee.—If any casual vacancy occurs in the office of a member of a Standing Committee, the Council shall, as soon as they conveniently can after the occurrence of such vacancy, elect one of their members to fill the vacancy and every Councillor so elected shall continue in office so long only as the person in whose place he is elected would have been entitled to continue if such vacancy had not occurred.

32. Each Standing Committee to continue in office till a new Committee is constituted.—Each Standing Committee in existence on the day for the retirement of Councillors shall continue to hold office until such time as a new Standing Committee is constituted under section 28 of this Act, notwithstanding that the members of the said Committee, or some of them, may no longer be Councillors.

33. Powers and functions of the Standing Committees.—Subject to the provisions of this Act—

(1) the Finance Standing Committee shall—

(i) prepare the annual budget for the consideration of the Council,
(ii) supervise the assessment and collection of taxes other than octroi or terminal tax,

(iii) grant leases of immovable property and sanction contracts of value not exceeding Rs. 5,000 relating to any of the matters specified in the preceding sub-clause, and

(iv) perform such other functions as may be assigned to it by the Council;

(2) the Health Standing Committee shall—

(i) look after conservancy, epidemic diseases, slaughter houses, cow sheds, stables, markets, inns and hotels, board and lodging houses and statistics relating to births, deaths and diseases,

(ii) sanction contractors, the value whereof does not exceed Rs. 5,000 relating to any of the matters aforesaid, and

(iii) perform such other functions as may be assigned to it by the Council;

(3) the Works and Buildings Standing Committee shall—

(i) deal with works and buildings and municipal property,

(ii) sanction contracts of value not exceeding Rs. 5,000, relating to matters specified in this clause, and

(iii) perform such other functions as may be assigned to it by the Council.

CHAPTER IV.

Conduct of Business

34. Time for holding meetings.—(1) Every Council shall meet for the transaction of business at least once in every month.

(2) The President or in his absence or, during the vacancy of his office, a Vice-President may, whenever he thinks fit, and shall, on a requisition made in writing by not less than one-fifth of the total number of Councillors, convene either an ordinary or a special meeting at any other time.
(3) The day, time and place of a meeting shall in every case be
fixed by the President or Vice-President: acting under sub-section (2),
or in the event of both the President or the Vice-President being in-
capable of acting, by the Executive Officer.

35. Ordinary and special meetings.—(1) Every meeting of a
Council shall be either ordinary or special.

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

(3) When a special and an ordinary meeting are called for the
same day, the special meeting shall be held as soon as necessary
quorum is present.

36. Quorum.—The quorum necessary for the transaction of
business at a special meeting of a Council shall be one-half and at an
ordinary meeting one-third of the number of the Councillors actually
serving at the time:

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

37. Chairman of meeting.—At every meeting of a Council the
President, if present, or in his absence or during the vacancy of his
office, the Vice-President, and if there be no President or Vice-
President, present, then such one of their number as the Councillors
present may elect, shall preside as Chairman.

38. Preservation of order.—(1) The presiding authority shall
preserve order and may direct any Councillor whose conduct is in
his opinion grossly disorderly to withdraw immediately from the
meeting of the Council. Any Councillor so ordered to withdraw shall
do so forthwith and shall absent himself during the remainder of the
day's meeting. If any Councillor is ordered to withdraw a second time
within fifteen days, the presiding authority may suspend the Councillor
from attending the meetings of the Council, for any period not ex-
ceeding fifteen days and the Councillor so directed shall absent himself
accordingly:
Provided that the presiding authority may remit the period of suspension on an assurance being given by the Councillor of his good behaviour in future:

Provided also that such suspension from the service of the Council shall not prevent any Councillor from serving on any Standing Committee.

(2) The presiding authority may, in the case of grave disorder arising in the meeting, suspend the meeting for a period not exceeding three days.

(3) If any person who has been ordered to withdraw unlawfully remains in the meeting, the presiding officer may take such steps as he may deem fit to cause him to be removed.

39. Vote of majority decisive.—Except as otherwise provided by this Act, all questions which come before any meeting of a Council shall be decided by a majority of votes of the Councillors present, the Chairman of the meeting, in case of an equality of votes, having a second or casting vote.

40. Decision in emergent cases by circulation.—In any case of emergent nature, the President or Vice-President may, suo moto or at the instance of the Executive Officer, circulate any such case amongst the Councillors, and the opinion expressed by the majority of the Councillors shall be deemed to be the decision of the Council under the preceding section.

41. Record of proceedings.—(1) Minutes of the proceedings at each meeting of a Council shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the Chairman of the meeting or of the next ensuing meeting, and shall, at all reasonable times and without payment, be open to inspection by any inhabitant.

(2) A copy of every resolution passed at any meeting of a Council shall, within three days from the date of the meeting, be forwarded to the Ministry, Local Self Government.

42. Meetings must ordinarily be open to the public.—Every meeting shall be open to public unless the presiding authority deems any inquiry or deliberation pending before the Municipality such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.
43. Modifications and cancellation of resolutions.—No resolu-
tion of a Municipality shall be modified or cancelled within three
months after the passing thereof, except by a resolution supported by
not less than two-thirds of the total number of Councillors and passed
at the general meeting whereof proper notice shall have been
given setting forth fully the resolution which it is proposed to be
modified or cancelled at such meeting, and the motion for the modi-
fication or cancellation of such resolution.

CHAPTER V

Emergency Powers and Delegation of Powers

44. Extraordinary powers of President or Vice-President in case
of emergency.—(1) On the occurrence or threatened occurrence of any
event involving or likely to involve extensive damage to human life
or grave inconvenience to the public the President, or in his absence,
or during the vacancy of his office, a Vice-President or during the
absence of both the President and the Vice-President, the Executive
Officer may direct the execution of any work or the doing of any act
which the Council is empowered to execute or do and the immediate
execution or doing of which is, in his opinion, necessary for the service
or safety of the public and may direct that the expense of executing
such work or doing such act shall be paid from the Municipal Fund:

Provided that every direction given under this section shall be
reported to the next following meeting of the Council.

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

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

(4) No direction given under this section shall be questioned in
any Court on the ground that the case was not one of emergency.

45. Delegation of powers by the Government.—(1) The Govern-
ment may delegate any of its powers under this Act to the Minister-
in-Charge, Local Self Government or any other officer or authority.
(2) The Government may at any time call for any case pending before such officer or authority and pass such orders thereon as it thinks proper.

46. Delegation of powers by the Council to its officers.—(1) Notwithstanding anything contained in this Act, a Council may, with the previous sanction of the Government, delegate to the President, Vice-President or to any of its officers, all or any of the powers conferred by this Act for a specific period.

(2) The delegation by the Council of any power under sub-clause (1) may be made subject to the condition that all or any orders made in pursuance of such delegation shall be subject to the right of appeal to, or revision by, the Council within such period as may by bye-laws be prescribed.

47. Delegation of powers of Executive Officer.—The Executive Officer may, and when so required by the Government shall, delegate any of the powers vested in him under this Act to any Municipal Officer under him for the efficient performance of work.

48. Vacancies and irregularities not to invalidate proceedings.—No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in any Council or on account of any defect or irregularity not affecting the merits of the case.

CHAPTER VI.

OFFICERS AND SERVANTS.

49. Officers and servants.—The Executive Officer of a Council shall from time to time be appointed ["by the Government in consultation with president of the Council concerned for a renewable period of not exceeding four years"]

50. Powers of the Executive Officer.—The Executive Officer shall be the Principal Executive Officer of the Council and all other officers and servants of the Council shall be subordinate to him. He shall have the same right to being present at any meeting of the Council or of the Standing Committees, and of taking part in the
discussions thereat if he had been a Councillor or a member of such Committee, and may at any time make a statement or explanation of facts but he shall not have the right to vote or move any proposition at any such meeting. He shall be bound to attend any meeting whenever required to do so by the Council.

1[51. Appointment and salary of other Principal Officers.— The Government may in consultation with the president of the Council concerned, appoint fit, proper and duly qualified persons to be the Medical Officer of Health, the Executive Engineer, the Assistant Engineer, the Secretary, the Revenue and Khilafwarzi Officer, Horticulture Officer and Octroi Officer or any other gazetted officer required by the Council for whom a post exists”].

52. Appointment of other officers and servants.—Subject to the provisions of this Act the Council may appoint such other officers and servants as are necessary for the efficient carrying out of the purposes of this Act and may assign to them such duties and pay them such salaries and allowances as it may determine from time to time:

Provided that—

(i) the power of appointing such officers and servants whose minimum monthly salary is less than one hundred but is not less than Rs. 75 shall vest in the President of the Council;

(ii) the power of appointing officers and servants subordinate to and working directly under the Medical Officer of Health whose monthly salary does not exceed Rs. 65 shall vest in the Medical Officer of Health;

(iii) the power of appointing all other officers and servants shall vest in the Executive Officer;

Provided further that while making appointments the Council or the President, as the case may be, shall take into consideration the recommendation, if any, of the Executive Officer.

53. Payment of pension and gratuities to Municipal Officers and servants.—The Council may pay pensions, gratuities, compassionate allowance to its officers and servants and make on their behalf payments to Provident Fund, annuity funds and grant leave or acting allowances in accordance with the bye-laws to be made in this behalf.

54. Municipal Officer or servant not to be interested in any contract with the Council.—(1) No person shall be eligible for employment as a Municipal Officer or servant if he—

(a) has, directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the Council, other than an interest in land held on a lease from the Council or is a Director, Secretary, Manager or other salaried officer of an incorporated company which has any such share or interest; or

(b) has acted or is acting professionally in relation to any matter on behalf of any person having therein any such share or interest as aforesaid.

(2) If any Municipal Officer or servant acquires directly or indirectly, by himself or by his partner any share or interest as aforesaid, otherwise than as such officer or servant, he shall cease to be a Municipal Officer or servant and his office shall become vacant.

CHAPTER VII.

CONTRACTS.

55. Authority to contract.—(1) Subject to the provisions of this Act, the Executive Officer may on behalf of the Council enter into any contract, the value whereof does not exceed Rs. 1[2,000].

(2) No contract made by or on behalf of a Council whereof the value or amount exceeds Rs. 1[2,000] shall be entered into unless it has been sanctioned by—

(a) the concerned Standing Committee when its value does not exceed 1[fifty thousand rupees].

(b) the Municipal Council when its value or amount exceeds 1[fifty thousand rupees].

Provided that when the estimated cost of a municipal work exceeds 1[one lakh rupees] the contract relating to that work shall not be entered into unless the estimates pertaining the Superintendent

Engineer of the district concerned [empowered by the Government in this behalf] to that work have been checked by the Engineer Public Works Department of the Province in which the Municipality is situated and administrative approval of the Government has been obtained thereto.

56. Mode of executing contract and transfer of property.—
(1) Every contract made by or on behalf of a Council whereof the value or amount exceeds fifty rupees shall be in writing and every such contract shall be signed by the Executive Officer, the Secretary and one Municipal Councillor and shall bear the common seal of Municipal Council.

(2) Subject to the provisions of this Act, no transfer of any immovable property belonging to the Council shall be made unless three-fourth of the Councillors serving on the Council vote for such transfer and if the value of the property exceeds Rs 10,000, the prior approval of the Minister-in-Charge of the Local Self Government is obtained.

Privileges and Liabilities.

57. Suits against Council and the officer.—No suit shall be instituted against a Council or against any officer or servant of a Council, in respect of any act purporting to be done in its or his official capacity until the expiration of one month next after notice in writing has been, in the case of a Council, delivered or left at its office, and in the case of an officer or servant, delivered to him, or left at his office or place of abode stating the cause of action and the name and place of abode of the intending plaintiff, and the plaint must contain a statement that such notice has been so delivered or left:

Provided that nothing in this section shall apply to any suit instituted under section 54 of the Jammu and Kashmir Specific Relief Act, 1977.

3[57-A. Trial of suits against Council or the officers.—Every suit or proceeding instituted against a Council or against any officer or servant of the Council in respect of any act purporting to be or to have been done in its or his official capacity, shall be taken up from day to day and concluded within a period of six months, unless, for reasons to be recorded in writing, it is not possible for the Court to do so.

57-B Temporary injunction to be granted after notice.—No Court shall grant any order of temporary injunction in any suit instituted against a Council or against an officer or servant of a Council in respect of any purporting to be done in its or his official capacity unless the Council, Officer or the servant of the Council, as the case may be, has been given opportunity to show cause, why such order should not be made.]

58. Liability of Councillors.—(1) Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to a Council if such loss, waste or misapplication is reported by the Examiner Local Accounts or other Audit authority empowered by the Government in this behalf to be a direct consequence of his neglect or misconduct in the performance of his duty, while a Councillor and he may, after being given an opportunity, by notice served in the manner provided for the service of summonses in the Civil Procedure Code, to show cause by written or oral representation why he should not be required to make good the loss, be surcharged with the value of such property or the amount of such money by the officer specially empowered by the Government in this behalf and if the amount is not paid within fourteen days from the expiry of the period of appeal prescribed by sub-section (2) if no appeal has been preferred; or within fourteen days of the decision of the appeal if an appeal has been preferred; such officer shall proceed forthwith to recover the amount as if it were an arrear of land revenue and have it credited to the Municipal Fund.

(2) The person against whom an order under sub-section (1) is made, may, within thirty days of the date of service of such order, appeal to the Minister-in-Charge of the Local Self Government and the appellate authority shall have the power of confirming, modifying or disallowing the surcharge:

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

Provided further that nothing in this section shall be deemed to debar the aggrieved party from seeking a remedy in a Civil Court against an order made under sub-section (1).
59. Property vested in the Council.—Subject to any special reservation made or any special conditions imposed by the Government all property of the nature hereinafter in this section specified and situate within the limits of the Municipality shall vest in and be under the control of the Council and shall together with all other property not being specially reserved by the Government which may become vested in the Council be held and applied by it for the purposes of this Act—

(a) all public walls, gates, markets, slaughter houses, manure and night-soil depots, public buildings of every description and public streets and bridges which have been constructed out of the Municipal Fund;

(b) all public streams, ghats, springs and works for supply, storage and distribution of water for public purposes and also any adjacent land (not being private property) appertaining to any public tank or well;

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

(d) all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind or dead bodies of animals collected by the Council within the limits of the Municipality;

(e) all public lamps or lamp posts and apparatus connected therewith or appertaining thereto;

(f) all land and other property transferred to the Council by the Government or acquired by gift, purchase or otherwise for local public purposes.

60. Map of immovable property.—The Council shall maintain a register and a map or maps of all immovable property of which it is the proprietor or which vests in it or which it holds in trust for the Government.

61. Management of public institutions.—(1) The management, control and administration of every public institution maintained out of the Municipal Fund shall vest in the Council.
(2) When any public institution has been placed under the direction, management and control of the Council, all property, endowments and funds belonging thereto shall be held by the Council in trust for the purposes to which such property, endowments and funds were lawfully applicable at the time when the institution was so placed.

62. Procedure when immovable property cannot be acquired by agreement.—Whenever the Council is unable to acquire by agreement any land within or without the limits of the Municipality for the purposes of this Act the Government may, at the request of the Council, proceed to acquire such land under the provisions of the Jammu and Kashmir Land Acquisition Act, 1991, and on payment by the Council of the compensation awarded under that Act and of any other charges incurred in acquiring the land, the land shall vest in the Council.

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

63. Municipal Fund.—There shall be a Municipal Fund for each Municipality and it shall be held by the Council in trust for the purposes of this Act subject to the provisions herein contained.

64. Credits to Municipal Fund.—There shall be credited to the Municipal Fund—

(a) all moneys received by or on behalf of the Council under the provisions of this Act or of any other law for the time being in force or under any contract;

(b) all proceeds of the disposal of property by, or on behalf of the Council;

(c) all rent accruing from any property of the Council;

(d) all moneys raised by any tax levied for the purposes of this Act;

(e) all fees payable and levied under this Act;
(f) all moneys received by way of compensation or for compounding offences under the provisions of this Act;

(g) all moneys received by, or on behalf of the Council, from the Government or private individuals by way of grant or gift or deposits;

(h) all interests and profits arising from any investment of, or from any transaction in connection with any money belonging to the Council; and

(i) all fines, forfeitures for offences committed within the Municipality under Police Act II of 1983, *Jammu and Kashmir Motor Vehicles Act, 1998, and Jammu and Kashmir Prevention of Cruelty to Animals Act, 1990, or the rules made thereunder or under any other Act or rules under it, in which provision is made for the credit of such fines to the Municipal Fund.

65. Application of Municipal Fund.—The Council shall apply out of the Municipal Fund such sums as may be required for—

(a) the payment of any amounts falling due on any loan legally contracted by the Council;

(b) the construction, maintenance, improvement, cleaning and repair of all public streets, bridges, embankments, drains, privies, latrines, urinals, tanks and water courses;

(c) the watering and lighting of the streets;

(d) the planting and preservation of trees and maintenance of municipal gardens and parks;

(e) the holding of fairs and industrial exhibitions;

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

(g) of debts and obligations incurred on contracts entered into;

(h) the cost of auditing the municipal accounts;

(i) the expenses of every election of members held under this Act;

*Now Indian Motor Vehicles Act, 1939.
(j) the salaries, allowances and contribution to pension and leave salaries of any officer, whose services may at the request of the Council be placed by the Government at the disposal of the Council;

(k) the salaries and allowances of Municipal Officers and servants and all pensions, gratuities, contributions and compassionate allowances payable under the provisions of this Act;

(l) the salaries and fees of experts for service or advice in connection with any matter arising out of the administration or undertaking of the Council;

(m) all expenses and costs incurred by the Council or by any Municipal Officer or Standing Committees, on behalf of the Council in the exercise of any power conferred or the discharge of any duty imposed on it or him by this Act, including moneys which the Council is required or empowered to pay by way of compensation;

(n) every sum payable—

(i) by order of the Government or under an award made under the Arbitration Act of 2002 or a decree or order of a Civil Court, as the case may be;

(ii) under a compromise of any suit or any other legal proceedings or claim;

(o) contribution to public institutions, buildings or lands which the Government may after consulting the Council declare to be in the interest of the inhabitants of the city;

(p) expenses incurred in providing the number plates of houses and name plates of streets;

(q) registration of births, marriages and deaths, public vaccination and any sanitary measures;

(r) contribution towards the cost of [Directorate] established by the Government for the purpose of advising, assisting and controlling the local bodies; and

(s) other charges, expenditure whereon may be declared by the Council with the sanction of the Government to be an appropriate charge on the Municipal Fund.

66. Custody of Municipal Fund.—The Municipal Fund shall be kept in the State Treasury or into any bank approved by the Government.

[CHAPTER VIII A]

Eviction

66-AA. In this Chapter “unauthorised occupation in relation to a property vested in the Council (hereinafter in this Chapter referred to as the ‘property’)” means the occupation by any person of such property without authority for such occupation and includes the continuance in occupation by any person of such property after the authority (whether by way of lease, mortgage or otherwise) under which he was allowed to occupy such property, has expired.

66-B. Issue of show cause notice.—If the Executive officer is of the opinion that any person is in unauthorised occupation of any property and that he should be evicted, the Executive officer shall issue in the manner hereinafter provided a notice in writing calling upon that person to show cause why an order of eviction should not be made.

(2) The notice shall—

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in the property, to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than ten days from the date of issue thereof.

(3) The executive officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the property, and in such other manner as may be prescribed whereupon the notice shall be deemed to have been duly given to all persons concerned.

66-C. Eviction of unauthorised occupants.—(1) If, after considering the cause if any, shown by any person in pursuance of a notice under section 66-B and any evidence he may produce in support of the same and after giving him a reasonable opportunity of being heard, the Executive officer is satisfied that the property is in unauthorised
occupation, the Executive officer shall make an order of eviction, for reasons to be recorded therein, directing that the property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the property.

(2) If any person refuses or fails to comply with the order of eviction within thirty days of the date of its service under sub-section (1), the Executive officer may evict that person from and take possession of the property and may, for that purpose, call upon the officer Incharge Police Station of the area to render such assistance as may be necessary for evicting that person.

66-D. Disposal of property left by unauthorised occupants.—Where any person has been evicted from any property under section 66-C, the Executive officer may, after giving three months notice to the person from whom possession of the property has been taken and after publishing a notice in at least one daily news paper having circulation in the locality, remove or cause to be removed any article remaining on such property and may make an order for the proper custody of such article:

Provided that if the owner of the article refuses or fails to take delivery thereof after notice or if the article is subject to speedy and natural decay, the Executive officer may cause it to be disposed of by public auction and the owner shall be entitled to the sale proceeds thereof.

66-E. Appeals.—(1) Any person aggrieved by an order of the Executive officer made in respect of any property under section 66-C or section 66-D may prefer an appeal to the District Judge of the District in which the property is situate and the period of limitation in respect of such appeal shall be three months from the date of order.

(2) An appeal under sub-section (1) shall not operate as a stay of the proceedings under any order appealed from:

Provided that the District Judge may stay the execution of the order under section 66-C and section 66-D if he is satisfied that substantial loss may result to the party applying for stay of execution unless the order is made and that sufficient security has been given by the applicant for the due performance of such an order as may ultimately be binding upon him.
66-F. Bar of proceedings.—Notwithstanding anything contained in this Act or in any other law for the time being in force, nothing done or purporting to have been done by the Executive officer under section 66-C and 66-D shall be called in question in any court except as provided in section 66-E.

66-G. Chapter VIII-A to have over-riding effect.—The provisions of this Chapter shall have effect notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force.

CHAPTER IX
Budget Estimates

67. Only sums covered by a budget grant to be expended from the Municipal Fund.—Except as hereinafter provided, no payment of any sum shall be made out of the Municipal Fund unless the expenditure of the same is covered by a current budget grant and a sufficient balance of such budget grant is still available notwithstanding any reduction of transfer thereof which may have been made under the provisions of this Act.

68. Preparation of budget estimates.—(1) The Executive Officer shall, each year on or before 15th of Magh, cause to be prepared the budget estimates of the income and expenditure of the Council in the manner prescribed under the rules prepared by the Government in this behalf, and he shall cause the same to be laid before the Finance Standing Committee for its approval.

(2) Such estimates amongst other things shall—

(a) provide for the repayment of all loans with interest due thereon for the repayment of which the Council is liable;

(b) allow for a cash balance at the end of the said year of not less than fifteen thousands of rupees.

(3) The Finance Standing Committee shall, after adopting the estimates before first of Phagan, consider the budget estimates prepared by the Executive Officer and make such modifications and additions thereto as it shall think fit and submit the same to the Council before 15th of Phagan.
(4) The Council after considering the budget estimates shall forward the same to the Minister-in-Charge, Local Self Government on or before the 1st of Chet, who shall sanction the budget estimates with such modifications as he may consider necessary and return the same to the Council on or before the 30th of Chet, and thereupon the Council shall operate the estimates as sanctioned by the Minister-in-Charge, Local Self Government.

(5) In case the budget estimates are not received by the Council duly sanctioned by the Minister-in-Charge before the 30th Chet, the Council may operate upon the estimates to the extent of the grants provided against each head in the preceding year.

69. Appropriations or extra grants.—The Council may with the sanction of the Minister-in-Charge transfer or add the amount or a portion of the amount of one budget grant to the amount of any other budget grant under the same or different heads or provide extra grants etc. in the manner as may be prescribed in the rules made by the Government in this behalf:

1["Provided that the Council may be re-appropriation, sanction an amount not exceeding ten thousand rupees for any budget head without the sanction of the Minister-in-Charge".]

70. How the fund shall be drawn against.—No payment out of the Municipal Fund shall be made by the Government Treasury or any bank in which the moneys of the Council are deposited except upon a bill or cheque signed by the Executive Officer.

— CHAPTER X

Audit and Accounts

71. Audit and Accounts.—Subject to any rules made by the Government in this behalf the accounts of receipts and expenditure of the Council shall be kept in such manner and in such form as the 2[Secretary to Government, Finance Department] may from time to time prescribe.

72. Transmission of accounts to Government.—The Council shall, as soon as the accounts of the past year have been finally passed by it, transmit to the Government an account in such a form as the Government may from time to time prescribe.

2. Substituted by Act XXI of 1968 for "Accountant General".
73. Annual Administration Report and statements of accounts by the Council.—(1) The Executive Officer shall, as soon as may be after the 1st day of Baisakh, in each year cause to be prepared a detailed report of the Municipal Administration of the Council during the previous year, together with a statement showing the amount of receipts and disbursements respectively credited and debited to the Municipal Fund during the previous financial year, and the balance at the credit of the said fund at the close of the said financial year.

(2) The Executive Officer shall thereupon forward a copy of the said report and statement to each Councillor and to the Government.

74. Monthly abstract of accounts.—(1) The Executive Officer shall prepare monthly an abstract of the receipts and expenditure of the month last preceding and such abstract shall be examined and signed by the Secretary to Government, Finance Department or any other officer authorised by him in this behalf.

(2) The Finance Standing Committee shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the Executive Officer shall forthwith furnish to the Finance Standing Committee any explanation concerning receipts and disbursements which it may call for.

(3) The abstracts of the municipal account signed by the Secretary to Government, Finance Department or any officer authorised by him shall be published in the Government Gazette half yearly in the prescribed form.

75. Audit of Municipal accounts.—(1) The municipal accounts shall be examined and audited from time to time by the Secretary to Government, Finance Department or any officer authorised by him. The Secretary to Government, Finance Department or the officer authorised by him shall forthwith report to the Finance Standing Committee any material impropriety or irregularity which he may at any time observe in the expenditure or in the recovery of moneys due to the Council or into the municipal accounts.

(2) The annual report of the audit of the municipal accounts under sub-section (1) shall be published in the Government Gazette.

(3) The Secretary to Government, Finance Department shall have the right to communicate to the Council at any time any matter relating to the accounts of the Council or to the audit of the said accounts.

1. Substituted by Act XXI of 1968 for "Accountant General".
76. Municipal authorities to remedy defects and report to Government.—(1) The Council or the Finance Standing Committee, or the Executive Officer, as the case may be, shall forthwith remedy any defects or irregularities that may be pointed out by the Secretary to Government, Finance Department and shall report to the Government the action taken by the Municipal authority concerned:

Provided that, if there is a difference of opinion between the Municipal authority and the Secretary to Government, Finance Department or if the Municipal authority does not remedy any defect or irregularity within a period considered by the Secretary to Government, Finance Department to be reasonable, the matter shall be referred to the Government within 30 days and the Government shall be competent to pass such orders thereon as they think fit. The order of the Government shall be final and the Municipal authority shall take action in accordance therewith.

(2) If within any period fixed by an order made by the Government under sub-section (1), the Municipal authority fails to comply with such orders, the provisions of section 256 shall with all necessary modifications be deemed to apply as if such order had been issued under section 255.

CHAPTER XI

Taxation.

77. Taxes to be imposed under this Act.—(1) Subject to any general or special orders passed by the Government in this behalf, the Council may impose any of the following taxes in the whole or any part of the Municipality:

(i) a tax not exceeding six per cent on the annual value payable by the owner on buildings and lands;

(ii) a tax on persons practising any profession or art or carrying on any trade or calling in the Municipality;

(iii) a tax payable by the owner, on all or any vehicles, boats or animals used for riding, driving, draught or burden and dogs kept or used within the Municipality;

1. Substituted by Act XXI of 1968 for "Accountant General".
(iv) for the purpose of constructing or maintaining works for the supply of water to the Municipality or paying the principal or interest or both of any loan raised for the constructing of such works, a tax payable by the occupier, or if there be no occupier by the owner on the annual value of such building or lands as are so situated that their occupiers can benefit by the works;

(v) a tax payable by the occupier of any building in respect of which the Council has in exercise of the powers conferred by this Act, undertaken the house-scavenging;

(vi) lighting tax for providing lights in public streets, and thoroughfares.

(2) The Council may, with the previous sanction of the Government, impose—

(i) a tax on entertainments in a Municipality;

(ii) an octroi on animals or goods or both brought within the octroi limits for consumption or use therein, or a terminal tax on goods imported or exported from the terminal tax limits:

Provided that a terminal tax and an octroi shall not be in force in any Municipality at the same time; and

(iii) any other tax.

78. Procedure in imposing taxes.—(1) A Council may, at a special meeting, pass a resolution to propose the imposition of any tax under section 77.

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

(3) Any inhabitant objecting to the proposed tax may, within 30 days from the publication of the said notice, submit his objection in writing to the Council, and the Council shall, at a special meeting, take his objection into consideration.

(4) If the Council decides to amend its proposal or any of them, it shall publish its amended proposals and notice indicating that they are in modification of those previously published for objection.
(5) Any objection which may within 30 days be received to the amended proposal shall be dealt with in the manner prescribed in sub-section (3).

(6) If no such objection is received within the said period of 30 days, or if all such objections having been considered as aforesaid are deemed insufficient, the Council shall by notification announce the date from which the tax shall come into force.

(7) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

79. Preparation of assessment list.—The Executive Officer shall cause an assessment list of all buildings and lands on which any tax is imposed to be prepared, containing—

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

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

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

(d) the annual value, area or length of frontage on which the property is assessed; and

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

80. Publication and completion of assessment list.—When the assessment list has been completed, the Executive Officer shall give public notice thereof and of the place where the list or a copy thereof may be inspected and every person claiming to be either owner or occupier of property included in the list and any authorised agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

81. Public notice of time fixed for revising assessment.—(1) The Executive Officer shall, at the time of the publication of such assessment list, give public notice of a time not less than one month thereafter, when it will proceed to revise the valuation and assessment: and in all cases in which any property is for the first time assessed or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.
(2) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice or orally or in writing at that time.

82. Settlement of list.—(1) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person or by authorised agents as they may think fit and the revision of the valuation and assessment has been completed, the amendments made in the list shall be authenticated by the signatures of not less than two members of the Finance Standing Committee who shall at the same time certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been entered therein; and subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax leviable.

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

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

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

84. New list need not be prepared every year.—It shall be in the discretion of the Council to prepare for the whole or any part of the Municipality a new assessment list every year or to adopt the valuation and assessment contained in the list for any year, with such
alterations as may be in particular cases be deemed necessary as the valuation and assessment for the year following, giving to persons affected by such alterations the same notice of the valuation and assessment as if a new assessment list had been prepared.

**General Provisions**

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

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

(2) A Council by a resolution passed at a special meeting and confirmed by the Government, may—

(a) abolish, suspend or reduce in amount any tax imposed under the foregoing sections, or

(b) exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property.

87 **Powers of Government in regard to taxes.**—(1) The Government may by order exempt in whole or in part from the payment of any such tax any person or class of persons or any property or description of property.

(2) In particular and without prejudice to the generality of the foregoing provision the following buildings and lands shall be exempt from the property tax:

(a) places set apart for public worship and either actually so used or for no other purpose; and
(b) places used for the charitable purpose of sheltering the destitute, orphanages or animals, homes and school for the deaf and dumb, charitable hospitals and dispensaries and such similar institutions run purely on philanthropic lines as are approved by the Council.

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

88. Remission of tax on unoccupied immovable property.—(1) When any property assessed to a tax under clause (i) of sub-section (1) of section 77, has remained unoccupied and unproductive of rent throughout the year or the period in respect of which any instalment is payable, the Finance Standing Committee shall remit the amount of the tax or of the instalment, as the case may be:

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

(2) When any such property as aforesaid—

(a) has not been occupied or productive of rent for any period of not less than 60 consecutive days; or

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

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

the Finance Standing Committee may remit such portion (if any) of the tax or instalment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall lie upon the claimant.
(4) For the purposes of this section neither the presence of a caretaker nor the mere retention in an otherwise unoccupied dwelling house of the furniture used in it shall constitute occupation of the house.

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

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

(2) If any person so called upon to furnish such information omits to do so or furnishes information which is untrue, he shall be punishable with fine which may extend to 1[five hundred rupees].

90. Obligation of transfer and transferee to give notice of transfer.—(1) Whenever the title to or over any building or land of any person primarily liable for the payment of property taxes on such property is transferred, the transferor and the transferee shall, within three months after the execution of the instrument of transfer or after its registration if it be registered, or if no instrument is executed, within three months of the actual transfer, give notice of such transfer to the Executive Officer.

(2) Whenever the title to or over any building has devolved upon any person by inheritance or otherwise, the successor-in-interest shall, within three months of the date of the death of the former owner, give notice in writing of such inheritance to the Executive Officer.

(3) The notice to be given under this section shall be in such form as the Executive Officer may direct and the transferee or the person to whom the title passes, as the case may be, shall, if so required, be bound to produce before the Executive Officer any documents evidencing the transfer or succession.

(4) Every person who makes a transfer as aforesaid without giving such notice to the Executive Officer shall, in addition to any other liability which he may incur through such neglect, continue

liable for the payment of the property tax assessed on the premises transferred until he gives notice or until the transfer shall have been recorded in the Municipal Registers.

(5) But nothing in this section shall be held to affect—

(a) the liability of the transferee or heir for the payment of the said tax, or

(b) the prior claim of the Council for the recovery of the tax due thereupon.

91. Power of entry for the purposes of valuation or taxation.—The Executive Officer may authorise any person—

(a) after giving 24 hours' notice to the occupier or, if there be no occupier, to the owner of any building or land, at any time between sunrise and sunset, to enter, inspect and measure any building for the purposes of valuation;

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

92. Power to examine articles liable to octroi.—Every person bringing or receiving within the octroi (or terminal) limits of any Municipality any articles on which octroi (or terminal tax) is payable, shall, when required by an officer duly authorised by the Executive Officer in this behalf, and so far as may be necessary for ascertaining the amount of tax chargeable—

(a) permit that officer to inspect, examine, weigh and otherwise deal with the article; and

(b) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature which he may possess relating to the article.

93. Power to search where octroi is leviable.—(1) If any person, bringing or receiving a conveyance or package within the octroi (or terminal tax) limits of a Municipality on which octroi (or terminal tax) is or is believed to be leviable, shall refuse, on the demand of an officer authorised by the Executive Officer in this behalf, to permit
the officer to inspect, weigh or otherwise examine the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi (or terminal tax) is payable, or shall refuse to communicate that officer any information and exhibit to him any bill, invoice or document of a like nature which he may possess relating to the article, or with the intention of defrauding the Council or a lessee under section 99 shall communicate any such information which is false or exhibit any such bill, invoice or document of a like nature which is false, forged or fraudulent, he shall be punishable with a fine which may extend to 1[five hundred rupees.]

(2) Any such person may demand that the conveyance or package or both, as the case may be, shall be taken without unnecessary delay before the Executive Officer or a Magistrate who shall cause the inspection to be made in his presence.

94. Penalty for evasion of octroi or terminal tax.—If animals or articles passing the octroi (or terminal tax) boundary of a Municipality are liable to the payment of octroi (or terminal tax) then every person who, with the intention to defraud the Council or a lessee under section 99, causes or abets the introduction of, or himself introduces or attempts to introduce within the said octroi (or terminal tax) boundary, any such animal or articles upon which payment of the octroi (or terminal tax) due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend either to ten times the value of such octroi (or terminal tax) or to 1[five hundred rupees.] which ever may be greater.

95. Extension of taxation limits by agreement.—(1) When a Council, with the sanction of the Government, has agreed with the Cantonment Authority or the Committee of an adjoining Town Area or 2[Notified Area Committees or Panchayat] that in consideration of the payment of a lump sum or otherwise, the same limits for octroi or terminal tax or any toll or tax shall be established for the contracting parties, the Council may fix limits under section 261 so as to include so much of the area controlled by the said contracting parties as it may deem necessary, and shall have the powers of collecting such toll or, tax octroi or terminal tax on animals or articles brought within such limits and the provisions of this Chapter for the assessment and collection of such toll, octroi or terminal tax shall apply in the same way as if the said limits were wholly comprised in the area of the Municipality.

(2) The total of the proceeds of such taxes or tolls made in the joint area of the Municipality and Cantonment or Town Area or 1[Notified Area or Panchayat Area] and the cost thereby incurred shall be apportioned between the Municipal Fund and the fund subject to the control of the Cantonment Authority or the Town Area or 1[Notified Area or Panchayat Area] Committee in such proportion as shall have been determined by agreement.

96. Taxation on articles exported.—When terminal tax is leviable on animals or articles conveyed out of the terminal tax limits the provisions of sections 92, 93, 94 and 95 shall be deemed, so far as may be, to apply in respect of the animals and articles so conveyed.

97. Taxes when payable.—Subject to the provisions of sections 78 and 82, any tax imposed under this Chapter and payable periodically shall be payable on such dates and in such instalments (if any) as the Council may, from time to time, direct.

98. Recovery of tolls, octroi or terminal tax by the Executive Officer.—(1) In case of non-payment of any octroi or terminal tax or of any toll on demand, the officer empowered to collect the same may seize any article on which octroi or terminal tax is chargeable or any vehicle, vessel or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

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

Provided that the Executive Officer may, if the articles are of a perishable nature, which could not be kept for five days without serious risk of damage, permit those to be sold after the lapse of shorter time as he may, having regard to the nature of the articles, think proper.

99. Power to lease the collection of octroi, terminal tax or tolls.—The collection of any octroi, terminal tax or toll may be leased by the Council with the previous sanction of the Government for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of the octroi, ter-

minal tax or toll shall in respect thereof—

(a) be bound by any order made by the Council for their guidance;

(b) have such powers exercisable by officers of the Council under this Act as the Council may from time to time, confer upon them;

(c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the Council for the management and collection of the toll, octroi or terminal tax.

100. Octroi to be controlled by Octroi Act.—The levy of octroi and other matters connected therewith shall, until such time as the Council levies or collects the octroi itself, be governed and controlled by the provisions of the Jammu and Kashmir Octroi Act, 1958.

Recovery of Municipal Claims

1101. Presentation of the Bill.—(1) When any arrears of tax, water rate, rent, fee or any other money claimable by a Council under this Act, shall have become due, the Executive Officer shall with the least practicable delay cause to be served on the person liable for the payment thereof, a notice calling upon him to pay the sum claimed as due within such time as may be fixed therein.

(2) Every such notice shall specify—

(a) the period for which, and

(b) the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of the time within which an appeal may be preferred as hereinafter provided against such claim.

(3) If the person liable for the payment of the said sum does not within the specified time either—

(a) pay the sum demanded in the notice, or

(b) show cause to the satisfaction of the Executive Officer, or

(c) prefer an appeal in accordance with the provisions hereinafter mentioned,

the Executive Officer shall issue a declaration showing the amount claimed as due and such declaration shall be published in the prescribed manner.

(4) Such declaration shall be conclusive evidence of its contents and shall not be called in question in any Court.

(5) Declaration issued under sub-section (3) shall be produced by the Executive Officer before the Collector who shall proceed to recover the sum in the same manner as if it were arrears of land revenue.

102. Fees and costs chargeable.—Fees for every notice issued under sub-section (3) of section 101 and for every distress made and the cost of maintaining any livestock seized under the preceding section according to the rate respectively specified in such behalf by the Council shall be included in the costs of recovery.

103. Appeal against notice of demand.—Appeals against any notice of demand issued under sub-section (3) of section 101 may be made to the Government or [to such authority] as may be empowered by the Government in this behalf according to section 104 of this Act.

But no such appeal shall be heard and determined unless—

(a) the appeal is brought within one month next after service of the notice of demand complained of; and

(b) an application in writing, stating the grounds on which the claim of the Council is disputed, has been made to the Council as follows. that is to say—

(i) in the case of rate on buildings or lands, within the time fixed in the notice of the assessment or alteration thereof according to which the bill is prepared;

(ii) in the case of any other claim for which a bill has been presented under sub-section (1) of section 101 within 15 days next after the presentation of such bill; and

(c) the amount claimed from the appellant has been deposited by him or sufficient security has been furnished by the appellant to the satisfaction of the Executive Officer.

104. Appeals against taxation.—(1) An appeal against the assessment or levy of or against the refusal to refund any tax under this Act shall lie to the Government or to such other authority as may be empowered by it in this behalf whose orders shall be final.

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

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

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

(5) Costs awarded under this section to the Council shall be recoverable by the Council as though they were arrears of a tax due from the appellant.

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

105. Limitation of appeals.—(1) No appeal shall lie in respect of a tax on any land or building unless it is preferred within one month after the date of its final determination, and no appeal shall lie in respect of any other tax unless it is preferred within one month from the time when the demand for the tax is made:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the authority before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.
(2) No appeal shall be entertained unless the appellant has paid municipal tax in respect of which the appeal is preferred due from him to the Council up to the date of such appeal.

106. Taxation not to be questioned except under this Act.—(1) No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act.

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

CHAPTER XII

Extinction and Prevention of Fire

107. Establishment and maintenance of fire brigades.—For the prevention and extinction of fire the Council may, or if the Government so direct shall, establish and maintain a fire brigade and may provide any implements, machinery or means of communicating intelligence, which the Council may think necessary for the efficient discharge of their duties by the brigade, or transfer the control of such brigade to the Police Department when the Government so direct. All costs for the maintenance of the fire brigade shall be paid from the Municipal Fund.

108. Power of fire brigade and other persons for suppression of fire.—(1) On the occasion of a fire in a Municipality any Magistrate, the Secretary of the Council, any member of the Council, any member of a fire brigade then and there directing the operations of men belonging to the brigade, and any Police Officer above the rank of a head constable may—

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

(b) close any street or passage in or near which the fire is burning;
(c) for the purpose of extinguishing the fire break into or through or pull down, or cause to be broken into or through or pulled down, or use for the passage of houses or other appliances, any premises;

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

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

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

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

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

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

109. Limitation on operation of Chapter.—The power conferred by the last foregoing section shall be subject to any regulations, conditions or restrictions which may be imposed by rules.

CHAPTER XIII

Water Supply

109 to 119. Repealed.

CHAPTER XIV

Powers for Sanitary and Other Purposes

BATHING AND WASHING PLACES

120. Bathing and washing place.—The Health Standing Committee may set apart suitable places for the purposes of bathing and may specify the time at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals, clothes, or for any other purpose connected with

the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and any other act by which water in public places may be rendered foul or unfit for use.

121. Fixation of places for washing infected clothes.—The Health Standing Committee may fix, by notice, places at which articles of clothing, bedding or other articles which have been exposed to infection shall be washed and no person shall wash any such articles at any place not so fixed.

Burial and Burning places

122. Powers in respect of burial and burning places.—(1) The Council may, and if so directed by the Government shall, within one month of the date of issue of such direction, by public notice, order any burial or burning ground situate within Municipal limits or within one mile thereof which is certified by the Medical Officer of Health to be dangerous to the health of persons living in the neighbourhood to be closed, from the date to the specified in the notice, and shall in such cases, if no suitable place for burial or burning exists within reasonable distance, provide a fitting place for the purpose.

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

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

(3) No burial of burning ground, whether public or private, shall be made or formed within the Municipality or at a distance of less than one mile from any of its limits after the commencement of this Act, except with the sanction in writing of the Council which shall not be granted unless the Medical Officer of Health has certified in writing for the information of the Council that such burial or burning round is not prejudicial to public health:

Provided that no such burial or burning ground shall be made or formed, except with the sanction of the Government.
(4) Should any person, without permission of the Council, bury or burn, or cause or permit to be buried or burnt, any corpse at any place which is not a burial or burning ground or any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to two hundred rupees.

123. Removal of corpses.—(1) The Council may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

(2) Whoever carries a corpse along a route prohibited by the Council, or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to one hundred rupees.

Dangerous Animals

124. Disposal of mad and astray dogs and other animals—

(1) The Medical Officer of Health may—

(a) authorise any person—

(i) to destroy, or cause to be destroyed, or confine or cause to be confined for such period as the Medical Officer of Health may direct, any dog or other animal suffering or reasonably suspected to be suffering from rabies, or bitten by any dog, or other animal suffering or suspected as aforesaid or is otherwise dangerous to the public, provided that no animal whose destruction is prohibited under section 298-A Ranbir Penal Code shall be so destroyed:

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

(b) issue a temporary or standing order that any dogs without collars or other marks distinguishing them as private property found straying on the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed and destroy or cause them to be destroyed accordingly. Public notice shall be given of any such order.
(2) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

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

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

(b) if the Medical Officer of Health has by public notice during the prevalence of rabies directed that dogs shall not be at large without muzzles,—

shall be punishable with fine which may extend to 1[two hundred fifty rupees.]

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

127. Taking elephants along public roads.—Whoever, without a permit from the Executive Officer or in contravention of the terms of the permit issued by the Executive Officer, takes an elephant along a street shall be punished with fine which may extend to fifty rupees.

Dangerous or insanitary Buildings or Places

128. Power to require buildings, wells, etc., to be secured.—Should any building, or any well, tank, reservoir, pool, depression or excavation be in a condition as may be deemed by the Executive Officer to be dangerous to the persons dwelling or working therein or in the neighbourhood or to persons passing by, the Executive Officer may, by notice, require the owner or occupier thereof to repair, protect or enclose the same, and should it appear to be necessary in order to prevent imminent danger, he shall forthwith take such steps to avert the danger as may be necessary.

129. Buildings etc., in dangerous state.—Should any building, wall or structure or anything affixed thereto, or any bank, or tree, be deemed by the Executive Officer to be in a ruinous state or in any way dangerous, or there be any fallen building or debris or other material which is unsightly or is likely to be in any way injurious to health, he may, by notice, require the owner thereof either to re-

move the same or to cause such repair to be made to the building, wall, structure or bank, as the Executive Officer may consider necessary for the public safety, and should it appear to be necessary in order to prevent imminent danger, the Executive Officer shall forthwith take such steps, at the expense of the owner, to avert the danger as may be necessary.

130. Cleaning of filthy building or land.—Should the owner, part owner, or occupier of any building or land suffer the same to be in a filthy or unwholesome state, the Medical Officer of Health may, by notice, require him within 24 hours to cleanse the same or otherwise put it in a proper state and thereafter to keep it in a clean and proper state, and, if it appears to be necessary for sanitary purposes to do so, may, at any time by notice, direct the occupier of any building to lime-wash or otherwise cleanse the said building inside and outside in the manner and within a period to be specified in the notice.

131. Paving or draining of cattle stands.—The Medical Officer of Health may, by notice, require the owner or occupier of any land on which cattle or other animals are habitually tethered to have the same properly paved, or drained, or both, in accordance with the bye-laws prepared by the Council in this behalf.

132. Power to prohibit use for human habitation of building unfit for such use.—Should any building, or any part of any building, appear to the Council to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or any sufficient reasons, the Council may, by notice, prohibit the owner or occupier thereof from using the same for human habitation, or suffering it to be so used, until it has been rendered fit for such use to the satisfaction of the Medical Officer of Health and no such owner or occupier shall inhabit such building or suffer it to be so inhabited until the Council shall have informed in writing the owner or occupier that the prohibition has been withdrawn.

133. Powers to require owner to clear away noxious vegetation.—The Medical Officer of Health may, by notice, require the owner or occupier of any land to clear away and remove any thick vegetation or undergrowth which may appear to the Medical Officer of Health to be injurious to health or offensive to the neighbourhood.

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

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

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

(a) in any place within the limits of any Municipality, is injurious or facilitates practices which are injurious to the health of persons dwelling in the neighbourhood; or

(b) in any place within or beyond the limits of any Municipality is likely to contaminate the water supply of such Municipality otherwise render it unfit for human consumption:

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

Provided that if it is notified by the Government that the cultivation of such crop, the use of such manure, or the employment of such method of irrigation is prohibited or conditions are imposed with respect thereto, the Council shall be deemed to have ordered such prohibition, or imposed such conditions, and shall issue notices in accordance with the notification:

Provided also that when on any land to which such prohibition applies the act prohibited has been practised during the five years next preceding the prohibition in the ordinary course of husbandry, compensation shall be paid from the Municipal Fund to all persons interested therein for any damage caused to them by the effect of such prohibition.
(2) Should any person fail within 6 months from the date of its service to comply with a prohibitory notice issued under sub-section (1), he shall be punishable with fine which may extend to two hundred rupees and with a further fine which may extend to five rupees for every day during which the offence continues.

**Dangerous or Offensive Trades**

137. Regulation of offensive and dangerous trades.—(1) No place within a Municipality shall be used—

for melting for tallow, dressing raw hides, boiling bones, offal or blood as a soaphouse, oilboiling house, dying house, tannery, or gut scrapping;

as a brick field, brick kiln, charcoal kiln, pottery or lime kiln;

as any other manufactory, engine house, store house or place of business from which offensive or unwholesome smells, gases, noices or smoke arise;

as a yard or depot for trade in unslaked lime, hay, straw, thatching grass, wood, charcoal, or coal, or other dangerously inflammable material;

as a store house for any explosive, or for petroleum or any inflammable oil or spirit;

and for any other purposes which are prescribed by Council as dangerous or offensive or as being or likely to be a nuisance to the public or dangerous to life, health or property;

except under a licence from the Council which shall be renewable annually.

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

(3) Whoever, without a licence, uses any place for any such purpose as is specified in this section or in contravention of the condition of any such licence, shall be punishable with fine which may extend to one hundred rupees, and with a further fine not exceeding ten rupees for every day during which the offence is continued.
1[(4) No place shall be used for a saw mill or for installation of a dry cleaning workshop laboratory or establishment where dry cleaning operations are conducted as distinct from a dry cleaner's shop or office where custom is invited, received and such business transacted.

(5) Notwithstanding anything in any law for the time being in force, the Government may reserve and notify within the Municipal limits an area or areas for purposes of installing saw mills or dry cleaning workshop, laboratories or establishments for conducting sawing operations or dry cleaning operations therein, as the case may be.]

138. Consent of Council to use new factories.—(1) Within any Municipality to which this section shall have been extended by the Government no person shall use as a factory any place which has not previously been so used without having obtained the consent of the Council.

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

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

Provided further that if the Council neglect or omit to give their consent within a period of 90 days from the date of application, such consent shall be deemed to have been given except in so far as no other provision of the bye-laws framed by the Council in this behalf is contravened.

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

(2) If the owner of a cinematograph or other apparatus uses the apparatus or allows it to be used, or if any person takes part in any public dramatic or circus performance or pantomime or dance, or if

1. Sub-sections (4) and (5) inserted by Act XXXII of 1963.
the occupier of any premises allows those premises to be used, in con- 
travention of the provisions of this section, or of any condition of a 
licence granted under this section, he shall be liable to a fine not 
exceeding two hundred rupees and in case of a continuing offence to 
a further penalty of fifty rupees for each day during which the offence 
continues, and the licence, if any, shall be liable to be revoked by the 
Council.

140. Power to prohibit such trades.—(1) Whenever it appears 
that any place registered or licensed under the preceding section is 
a nuisance to the neighbourhood or likely to be dangerous to life, 
health or property, the Council may, and if so required by the Gov-
ernment shall, by notice require the occupier thereof to discontinue 
use of the such place or to effect such alterations, additions or im-
provements as will in the opinion of the Council render it no longer 
nuisance or dangerous.

(2) Whoever, after any notice has been given under this section, 
uses such place or permits to be used in such a manner as to be a 
nuisance to the neighbourhood or dangerous, or does not effect such 
alterations, additions or improvements, shall be punishable with fine 
which may extend to two hundred rupees, and with a further fine not 
exceeding fifty rupees for every day during which the offence is con-
tinued.

141. Use of steam whistles, etc.—(1) No person shall use or em-
ploy in any factory or other place any whistle or trumpet, or any other 
mechanical contrivance which emits an offensive noise for the purpose 
of summoning or dismissing workmen or persons employed, nor shall 
any person by means of any contrivance increase the noise emitted 
in any such factory or place by the exhaust pipe of any engine, with-
out the written permission of the Executive Officer, in granting which, 
the Executive Officer may impose such conditions as he may deem 
proper, restricting the times at which such whistle or trumpet, or 
other contrivance may be used.

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

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

142. Provision of drains, privies, etc.—(1) The Health Standing Committee may, by notice require the owner of any building or land to provide, add to, move, remove, repair, alter or otherwise change in form or shut out from view any drain, urinal, privy, cesspool, latrine or other receptacle for filth or refuse and it may prescribe the pattern according to which new ones should be made.

(2) The Health Standing Committee may, by notice, require any person employing more than 20 workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order and to be daily cleaned.

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

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

143. Demolition of drains, privies, latrine, urinals and cesspools and making alterations therein.—The Executive Officer, may, by notice, require any person who may construct any new drain, privy, latrine, urinal, cesspool or receptacle for filth or refuse without his permission in writing or contrary to his directions or the provisions of this Act or rules or bye-laws made thereunder, or who may construct, rebuild or open any drain, privy, latrine, urinal cesspool or receptacle for filth or refuse which has been ordered under this Act to be demolished or stopped up or not to be made, to demolish the drain, privy, latrine, urinal cesspool or receptacle or to make such alterations therein as he may think fit.

144. Unauthorised building over drains, etc.—The Executive Officer may, by notice, require any person, who may without person newly erect or rebuild any building over any sewer, drain, culvert, water-course or water pipe vested in the Council to pull down or otherwise deal with the same as he may think fit.
145. Removal of latrines etc. near any source of water supply.—
(1) The Executive Officer may, by notice, require any owner or occupier on whose land any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of such notice.

(2) Whoever, without the permission of the Executive Officer, makes or keeps for a longer time than one week after notice under this section any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse within fifty feet of any spring, well, tank reservoir or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to 1[five hundred rupees] and, when a notice has been issued, with a further fine not exceeding 1[twenty-five rupees] for each day during which the offence is continued after the lapse of the period allowed for removal.

146. Discharging sewerage.—Whoever without the permission of the Executive Officer, causes or knowingly or negligently allows the contents of any sink, sewer, or cesspool or any other offensive matter, to flow, drain or be put upon any street or public place, or into any irrigation channel or any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to 2[two hundred and fifty rupees].

147. Making or altering drains without authority and discharging sewerage.—(1) No person shall, without the permission of the Executive Officer, make, alter or cause to be made or altered any drain leading into any of the sewers or drains vested in the Council, nor shall he allow any refuse or offensive matter to flow or drain or be put upon any street or place or into any sewer or drain not set apart for this purpose.

(2) Any person acting in contravention of the terms of sub-section (1) shall be punishable with fine not exceeding 2[two hundred and fifty rupees].

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

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

149. Power of Council to lay or carry wires, pipes, drains or sewers through private land subject to payment of compensation for damages sustained, provided that no nuisance is created.—The Council may carry any cable, wire, pipe, drain, sewer or channel of any kind, for the purpose of establishing telephone or other similar communications or of carrying out and establishing or maintaining any system of lighting, drainage or sewerage through, across, under or over any road, street or place laid out as or intended for a road or street, and after giving reasonable notice in writing to the owner or occupier, into through, across, under over or up the side of any land or building whatsoever situate within the limits of the Municipality, and for the purpose of the introduction, distribution or outfall of water or for the removal or outfall of sewerage without such limits and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, sewer or channel as the case may be in any effective state for the purpose for which the same may be used or intended to be used:

Provided that no nuisance more than is necessarily caused by the proper execution of the work is created by any such operation; and the interference is considered indispensable; and

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

150. Provision as to wires, pipes, drains or sewers laid or carried above surface of ground.—In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain, sewer or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment.
151. Previous notice to be given.—The Council shall cause not less than fourteen days' notice in writing to be given to the owner or occupier before commencing any operations under section 149.

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

(2) Any person acting in contravention of the terms of subsection (1) shall be punishable with a fine not exceeding [two hundred and fifty rupees.]

153. Connection may be made or required by the Council in the case of sewerage.—The Council may, at any time, establish any connection or communication from any water main, drain or sewer to any premises, or may, by notice, require the owner of such premises to establish any such connection or communication in such manner and within such time as the Council, by notice in this behalf, may prescribed, at the cost of such owner or occupier.

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

(2) For the purpose of efficiently draining any building or land the Executive Officer may, by notice, in writing—

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

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

155. Prohibition of sale of diseased animals or unwholesome articles intended for human food.—No person shall sell, store for sale, expose or hawk about for sale, or keep for sale, any animal intended for human consumption which is diseased, or any food, drink or drug intended for human consumption or medical treatment, or manufacture any such food, drink or drug which is unsound, unwholesome or unfit for human food.

156. Prohibition of adulterants in places where butter, ghee, etc., are manufactured or stored.—(1) No person shall keep or permit to be kept in any shop or place in which milk is stored or in any manufactory, shop or place in which butter, ghee, wheat, flour, mustard oil, tea, edible oil, edible fat or any articles notified by the Government in this behalf is manufactured or stored, any substance intended to be used for the adulteration of such milk, butter, ghee, wheat, flour, mustard oil or other articles.

(2) If any article capable of being so used is found in any such manufactory, shop or place, the Court shall, unless and until the contrary is proved, presume, in any prosecution under this section, that it is intended to be used for the purpose of adulteration.

157. Prohibition of sale of certain articles which are not of the prescribed standard of purity.—No person shall, directly or indirectly, sell, expose or hawk about for sale, or manufacture, or store for sale, any drug or article of food or drink to which the Government has, by notification, applied this section unless it fulfils the conditions specified in such notification.

158. Substitutes.—No person shall sell or offer, expose, manufacture or store for sale, as being any specified drug or articles of food or drink to which the Government has, by notification, extended this section, any article (hereinafter referred to as a 'substitute') which resembles or purports to be such notified drug or article but differs therefrom in nature, substance or quality.
159. Prohibition of sale, etc. of food or milk not of the nature, substance or quality of the articles demanded by the purchaser.—(1) No person shall, directly or indirectly, himself or by any other person on his behalf, sell, expose or hawk about for sale, or manufacture or store for sale, any article of food or drink which is not of the nature, substance or quality of the article demanded:

Provided that an offence shall not be deemed to be committed under this section in the following cases, namely:—

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

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

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

160. Licence required for dealing in milk, etc.—No person shall, without otherwise than in conformity with the terms of licence granted by the Executive Officer in this behalf,—

(a) carry on in any Municipality the trade or business of a dealer in, or importer, vendor or hawker of, milk or milk products; or

(b) use any place for the sale of milk, butter or other milk products.

161. Provisions relating to prosecution.—In any prosecution under sections 155, 156, 157 and 158—

(a) the Court shall, until and unless contrary be proved, presume that any animal, food, drink, drug or a substitute therefor found in the possession of a person who is in the habit of selling that class of animal or of manufacturing, storing or selling such article, was being kept, manufactured or stored for sale by such person;
(b) it shall be no valid defence for such person to plead that he was ignorant that the animal, food, drink, drug, or a substitute was diseased, unsound, unwholesome, unfit for human food or adulterated or did not fulfil the conditions specified or was a substitute, as the case may be.

162. Inspection of place for sale of food or drink, and seizure of unwholesome articles or utensils found therein.—(1) The Medical Officer of Health, or any Municipal Officer authorised in this behalf by the Council, may enter into and inspect any market, building, shop, stall or place used for the sale of any animal, food, drink or drug intended for human consumption or medical treatment or for the preparation, manufacture or storage of the same for sale, and to inspect and examine any such animal, food, drink or drug and any utensil or vessel used for preparing, manufacturing or containing any such food, drink or drug.

(2) If any such animal appears to such officer to be diseased or if any such food or drink or drug appears to him to be unsound, unwholesome or unfit for human consumption or medical treatment, as the case may be, or to be adulterated or not to fulfil the specified conditions or to be a substitute, or if any such utensil or vessel is of such kind or in such state as to render any food, drink or drug prepared, manufactured or contained therein unwholesome or unfit for human consumption or medical treatment, he may seize and remove such animal, food, drink, drug, utensil or vessel in order that the same may be dealt with as hereinafter in this Chapter provided.

(3) The Medical Officer of Health or the authorised officer may, instead of removing any such animal, food, drink, drug, utensil or vessel seized under sub-section (2), leave the same in such safe custody as the Medical Officer of Health directs in order that the same may be dealt with as hereinafter in this Chapter provided and no person shall remove such animal, food, drink, drug, utensil or vessel from such custody or interfere or tamper with the same in any way, while it is so detained.

163. Destruction of animal and articles seized under section 162.—(1) When any animal, food, drink, drug, utensil or vessel is seized under sub-section (2) of section 162, it may be destroyed by the Medical Officer of Health or the authorised officer making the seizure with the consent of the owner or the person in whose possession it was found:
Provided that, the authorised officer so destroying any animal, food, drink, drug, utensil or vessel shall report such destruction to the Medical Officer of Health.

(2) If any food, drink or drug seized is of a perishable nature and is in the opinion of the officer making the seizure infected, unsound, unwholesome or unfit for human consumption or medical treatment, it may be destroyed without such consent and in such manner as may be prescribed by the Medical Officer of Health in this behalf.

(3) The expenses incurred in taking any action under sub-sections (1) and (2) shall be paid by the person in whose possession such animal, food drink, drug, utensil or vessel was at the time of its seizure and no claim shall lie for compensation for any animal or article so destroyed.

164. Taking before Magistrate of animals and articles seized under section 162.—(1) Any animal, food, drink, drug, utensil or vessel seized under sub-section (2) of section 162 but not destroyed in pursuance of section 163 shall, subject to the provision of sub-section (3) of section 162, be taken before a Magistrate as soon as may be after such seizure.

(2) If it appears to the Magistrate, that such animal, food, drink, drug, utensil or vessel was rightly seized, he shall cause the same to be forfeited to the Council or to be destroyed at the expense of the person in whose possession it was found at the time of its seizure.

(3) If the Magistrate is of the contrary opinion, the person from whose shop it was taken shall be entitled to have it restored to him.

165. Foods and drugs, directed to be destroyed, deemed to be the property of the Council.—When any authority directs in exercise of any powers conferred by this Chapter that any animal, food, drink or drug be destroyed or so disposed of as to prevent its being used as food or medicine, it shall thereupon be deemed to be the property of the Council.

166. Application of provisions of this Chapter to other articles.—The provisions of this Chapter shall, so far as they are applicable, apply to such other article as the Government may, by notification in the Government Gazette, declare to be dangerous for human use.
MUNICIPAL ACT, 2008 (1951 A.D.)

On Restraint and Infection

167. Information to be given of existence of dangerous disease.—Whoever—

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

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

(c) being the person incharge of, or in attendance on, any person suffering from any such disease in such dwelling, and being cognizant of the existence of the disease therein, fails forthwith to give information or knowingly gives false information to the Medical Officer of Health or to any other officer to whom the Council may require information to be given respecting the existence of such disease, shall be punishable with fine which may extend to one hundred rupees:

Provided that a person, not required to give information in the first instance, but only in default of some other person, shall not be punishable if it be shown that he had reasonable cause to suppose that the information had been, or would be, duly given.

168. Powers of Medical Officer of Health to inspect places and take measures to prevent spread of dangerous disease.—The Medical Officer of Health, or any other Municipal Officer authorised by him in this behalf, may, at any time by day or by night, without notice or after giving such notice of intention as may in the circumstances appear to him to be reasonable, inspect any place in which any dangerous disease is reported or suspected to exist and take such measures as he may think fit to prevent the spread of the said disease beyond such place.

169. Prohibition of use for drinking or for other domestic purpose of water likely to cause dangerous disease.—(1) If it appears to the Medical Officer of Health that the water in any well, tank, or other place is likely, if used for the purpose of drinking or for any other domestic purpose, to endanger or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for such purposes.
(2) No person shall remove or use for such purpose any water in respect of which any such public notice has been issued.

170. Power of Medical Officer of Health to remove patients to hospital in certain cases.—(1) When, in the opinion of the Medical Officer of Health, any person is suffering from a dangerous disease and is also without proper lodging or accommodation or is lodged in such a manner that he cannot be effectually isolated so as to prevent the spread of infection, and the said officer considers that such person should be removed to a hospital or place at which patients suffering from such disease are received for medical treatment, he may, with the approval of the Executive Officer, direct or cause the removal of such person to such hospital or place:

Provided that all costs incurred for the removal and the treatment of any such patient shall be borne by the Council:

Provided also that if any such person is a woman, she shall not be removed to any such hospital or place unless the same has accommodation for woman, of a suitable kind, and set apart from the portion assigned to males.

(2) The person (if any) who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

171. Power of Medical Officer of Health to disinfect building, tank, pool or well.—(1) If the Medical Officer of Health, or any Municipal Officer authorised by him in this behalf, is of the opinion that the cleansing or disinfecting of any building, boat, or any part of a building or of any article therein which is likely to retain infection or of any tank, pool or well adjacent to a building, would tend to prevent or check the spread of any dangerous disease, he may cause to be cleansed or disinfected such building, boat, part, article, tank, pool or well and may, by written notice, require the occupier of such building or any part thereof to vacate the same for such time as may be prescribed in such notice.

(2) The cost of cleansing or disinfecting any building or part thereof, or any article therein under sub-section (1) shall be paid by the occupier of such building and the cost of cleansing or disinfecting any tank, pool, or well under the said sub-section, shall be paid by the person in actual possession of such tank, pool or well or if there be no such person, by the owner thereof:
Provided that, if in the opinion of the Executive Officer, the owner or occupier is from poverty unable to pay the said cost, the Executive Officer may direct payment thereof to be made from the Municipal Fund.

172. Power of Medical Officer of Health to destroy huts and sheds.—(1) If the Medical Officer of health is of the opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures with the approval of the Executive Officer for having such hut or shed and all the materials thereof destroyed.

(2) Compensation not exceeding the value of the hut shall be paid by the Council to any person who sustains loss by the destruction of any such hut or shed, but, except as so allowed by the Executive Officer, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers conferred by sub-section (1).

173. Infected building not to be let without being first disinfected.—No person shall let a building or any part of a building in which he knows or has reason to know that a person has been suffering from a dangerous disease,—

(a) unless the Medical Officer of Health has disinfected the same and has granted a certificate to that effect, and

(b) until a date specified in such certificate as that on which the building or part may be occupied without causing risk of infection.

Explanation.—For the purpose of this section the keeper of a hotel or inn shall be deemed to let part of his building to any person accommodated therein.

174. Infected articles not to be transmitted etc. without previous disinfection.—(1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in sub-section (1) shall apply to a person who transmits, with proper precaution, any such article for the purpose of having the same disinfected.
175. Restrictions on carriage of patient or dead body in public conveyance.—(1) No person who is suffering from a dangerous disease, shall enter, or cause or permit himself to be carried in a public conveyance, nor shall any other person knowingly cause or permit a person in his charge and suffering from a dangerous disease or the dead body of any person who had died from such disease to be carried in a public conveyance without—

(a) previously notifying to the owner, driver, or person in-charge of such conveyance that he is so suffering, and

(b) taking proper precautions against spreading such disease.

(2) Notwithstanding anything contained in any enactment relating to public conveyance for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid or any such dead body in such conveyance unless payment or tender of sufficient compensation for the loss and expense he must incur in disinfecting such conveyance is first of all made to him.

(3) No owner, driver or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid or any such dead body in contravention of sub-section (1).

176. Disinfection of public conveyance after carriage of patient or dead body.—(1) The owner, driver or person incharge of any public conveyance in which any person suffering from a dangerous disease or the dead body of any person who had died from such disease has been carried shall immediately take the conveyance for disinfection to a place appointed for the purpose by the Medical Officer of Health.

(2) The person incharge of such place shall forthwith intimate to the Medical Officer of Health the number of the conveyance and proceed to disinfect the conveyance.

(3) No such conveyance shall be used until the Medical Officer of Health has granted a certificate stating that it may be used without causing risk of infection.

177. Power to Council to provide special conveyance of patient or dead body.—(1) The Council shall provide and maintain suitable conveyance for the free carriage of persons suffering from any dangerous disease or the dead bodies of persons who have died from any such disease.
(2) When such conveyances have been provided it shall not be lawful, without the sanction of the Medical Officer of Health to carry any such person or dead body in, or for any such person to cause himself to be carried in, any other public conveyance.

178. Power of Council to take special measures on outbreak of dangerous disease or infectious epizootic disease.—In the event of the Municipality being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious epizootic disease breaking out or being likely to be introduced into the Municipality, the Council, if it considers that the other provisions of this Act, or the provisions of any other enactment for the time being in force, are insufficient for the purpose, may, with the sanction of the Government—

(a) take such special measures; and

(b) by public notice, prescribe such temporary rule to be observed by the public or by any person or class of persons, as they may deem necessary to prevent the outbreak of such disease or the spread thereof.

CHAPTER XVI

Beggars

179. Soliciting alms.—(1) Whoever, in any street or public place within the Municipality, begs importunately for alms, or exposes, or exhibits with the object of exciting charity, any deformity, or disease, or any offensive sore or wound, shall be punishable with imprisonment of either description, which may extend to three months, or with a fine not exceeding fifty rupees, or with both:

Provided that,—

(a) in the case of a first offence, the Court may, if it thinks fit, instead of sentencing the offender to any punishment, release him after due admonition:

(b) in any case, the Court may, if it is satisfied of the inability of the offender to earn a livelihood owing to physical infirmity or debility, and if the person in charge of any poor house in the Municipality certifies that he is willing to receive him, direct that the offender be received into such poor house, after being released on entering into a bond, with or without sureties, to appear and receive sentence, when called upon during such period, not exceeding three years, as the Court may direct.
(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1989, an offence punishable under this section shall be cognizable; and notwithstanding anything contained in this Act, a Court may take cognizance of such an offence in the manner provided by section 190 of the Code of Criminal Procedure, 1989.

180. Importing beggars.—Whenever the Executive Officer receives information that any person within the Municipality lives wholly or in part on the proceeds of the begging of others, he may apply to a Magistrate, who shall deal with such person, as nearly as may be, as if the information received about him was of the description mentioned in section 109 of the Code of Criminal Procedure, 1989, and for the purposes of any proceedings under this section the fact that a person lives as aforesaid may be proved by evidence of general repute or otherwise.

Disorderly Houses

181. Power over disorderly houses and prostitutes.—(1) The Council may, with the sanction of the Government, by public notice in writing, prohibit in any specified part of the Municipality, the residence of any person who practices prostitution.

(2) Whoever after the date specified in the public notice issued under sub-section (1)—

(a) being a tenant, lessee or occupier of any premises knowingly permits such premises or any part thereof to be used for the purposes of habitual prostitution within the prohibited area, or

(b) being a lessor or landlord, of any premises or the agent of such lessor or landlord, lets the same or any part thereof, within the prohibited area with knowledge that such premises or some part thereof, are used for the purposes of habitual prostitution, or is wilfully a party to the continued use of such premises for the purposes of habitual prostitution, or

(c) being a practising prostitute resides within the prohibited area,

shall be punishable with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both, and in the case of a continuing offence with additional fine not exceeding ten rupees for every day after the first during which the offence continues.
182. Brothel.—On the complaint of the Executive Officer or of three or more inhabitants of the Municipality that a house within the limits of the Municipality is used as a brothel or by disorderly persons of any description, to the annoyance of the inhabitants of the vicinity or that any such house is used as a brothel in the neighbourhood of a cantonment or of an educational or charitable institution or boarding house, or of any place of worship, any Magistrate of the first class having jurisdiction in the place where the house is situated may summon the owner or the occupier of the house, and on being satisfied that the house is so used and that it is a source of annoyance or offence to the neighbours, or that it is in the neighbourhood of a cantonment or of an educational or charitable institution or boarding house, or of any place of worship, may order the owner or occupier to discontinue such use of it; and if he fails to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used.

CHAPTER XVII.

Scavenging and House-Scavenging

183. Removal and deposit of offensive matter.—(1) The Council may fix places within or, with the approval of the Collector of the Province, beyond the limits of the Municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals and may, by public notice, give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed and deposited at such place:

Provided that, no such place shall be fixed within the limits of a Municipality which is within 25 feet of the centre of any public road.

(2) The Executive Officer shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit or final disposal of rubbish, offensive matter sewage and the carcasses of dead animals accumulating in the city.

184. Failure to remove offensive matter.—Whoever, being the owner or occupier of any building or land keeps or knowingly or negligently allows to be kept for more than 24 hours otherwise than in some receptacle or pit, any dirt, dung bones, ashes, nightsoil or
filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle or pit to be in a filthy or noxious state or neglects to employ proper means to cleanse or purify the same shall be punishable with a fine which may extend to fifty rupees.

185. Depositing, throwing earth or materials or refuse, rubbish or offensive matter or nuisance on roads or into drains.—(1) No person shall, without the permission of the Executive Officer or in disregard of his orders, throw or deposit or permit others under his control to throw or deposit earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or into any public sewer or drain or any drain communicating therewith, nor shall he permit any person under his control to whom the provisions of sections 82, 83 and 84 of the Ranbir Penal Code are applicable to commit a nuisance into any such place or upon any street.

(2) Any person acting in contravention of the provisions of sub-section (1) shall be punishable with fine which may extend to 1[two hundred and fifty rupees.]

186. Undertaking by Council of house-scavenging generally.—(1) Subject to the provisions hereinafter contained with respect to customary rights of sweepers, the Executive Officer may at any time undertake the house-scavenging of any house or building on the application or with the consent of the occupier.

(2) The Executive Officer may by public notice, except in cases to which section 192 is applicable, undertake the house-scavenging of any houses or buildings in the Municipality from any date not less than two months after issue of the notice.

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

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

(5) In deciding whether to exclude any house or building from the notice, the Executive Officer shall consider, among other matters, the efficiency of the arrangements for house-scavenging made by the occupier (if any) and the purpose to which he applies the matter dealt with in house-scavenging.

Explanation.—For the purposes of this Chapter, house-scavenging means the removal of filth, rubbish, ordure or other offensive matter from a privy, latrine, urinal, cesspool or other common receptacle for such matter in or pertaining to a house or building.

187. Continuance of house-scavenging once undertaken by the Council.—When once the Council has taken the house-scavenging of any house or building under this Chapter it may continue to perform such house-scavenging without the consent of the occupier for the time being of such house or building.

188. Obligation of Council to perform house-scavenging properly.—When the Council has undertaken the house-scavenging of any house or building, it shall be bound to perform the same properly until it shall have relieved itself of the obligation by an order under section 186, sub-section (4).

189. Power of Municipal servants for house-scavenging purposes.—The servants of the Council employed in house-scavenging may, at all reasonable times, do all things necessary for the proper performance of any house-scavenging undertaken by the Council.

190. Vesting in Council of collections from house-scavenging.—All matter removed by the servants of the Council in the course of house-scavenging shall belong to the Council.

191. Punishment of customary sweepers for negligence.—(1) Should a sweeper who has a customary right to do the house-scavenging of a house or building (hereinafter called the ‘customary sweeper’) fail to perform such house-scavenging in a proper way and at reasonable intervals the occupier of the house or building or the Council may complain to a Magistrate.

(2) The Magistrate receiving such complaint shall hold an enquiry, and, should it appear to him that the customary sweeper has failed to perform the house-scavenging of the house or building in a proper way or at reasonable intervals, he may impose upon such sweeper a fine which may extend to ten rupees, and upon a second or any later conviction in regard to the same house or building may also direct the right of the customary sweeper to do the house-scavenging of the house or building to be forfeited and thereupon such right shall be forfeited accordingly.
(3) Should any sweeper (other than a customary sweeper) who is under contract to do the house-scavenging of a house or building discontinue to do such house-scavenging without having given 14 day's notice to his employer or without reasonable cause he shall, on conviction, be punishable with a fine which may extend to ten rupees.

192. Punishment of cultivators for failure to provide for proper house-scavenging.—(1) Should any person, who himself or any member of whose family residing with him cultivates land within Municipal limits or in a village within two miles from the Municipal limits, fail to provide for the proper house-scavenging of any house or building occupied by him without the limits of the Municipality, the Medical Officer of Health may complain to a Magistrate.

(2) The Magistrate receiving the complaint shall hold an enquiry and should appear to him that such person has not provided for the proper house-scavenging of the house or building, he may pass an order empowering Council to undertake the same, and thereupon the Council shall be entitled to undertake such house-scavenging.

CHAPTER XVIII.

Slaughter Houses.

193. Places for slaughter of animals for sale.—(1) The Council may, and shall when so required by the Government, fix premises either within or without its limits, for the slaughter of animals for sale, or of any specified description of such animals, and may grant and withdraw licence for the use of such premises, or if they belong to the Council, charge rent or fees for the use of the same.

(2) When such premises have been fixed by the Council beyond Municipal limits, it shall have the same powers to make bye-laws for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such premises have been fixed by the Council no person shall slaughter any such animal for sale within the Municipality at any other place.

(4) Any person who slaughters for sale any animal at any place within a Municipality other than one fixed by the Council under this section, if any places have been so fixed, shall be punishable with fine which may extend to 1 (two hundred and fifty rupees.)
194. Selling animals, meat etc., outside licensed markets without licence.—(1) Without a licence from the Executive Officer no person shall sell or expose for sale any animal, or any meat or fish intended for human food in any place other than a Municipal or licensed market.

(2) Nothing in sub-section (1) shall apply to meat or fish sold in any hotel or eating house for consumption on the premises.

195. Disposal of dead animals.—(1) Whenever any animal in the charge of any person dies otherwise than by slaughter, either for sale or for some religious purposes, the person in charge thereof, shall within 24 hours, either—

(a) convey the carcass to a place (if any) fixed by the Council under section 183 for the disposal of the dead bodies of animals, or to any place at least one and a half miles beyond the limits of the Municipality; or

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

(2) In respect of the disposal of the dead body of an animal under clause (b) of sub-section (1) the Council may charge such fees as it may, by public notice have prescribed.

(3) For the purpose of this section the word “animal” shall be deemed to mean all horned cattle, elephants, camels, horses, ponies, asses, mules, deer, sheep, goats, swine, dogs and other large animals.

(4) Any person bound to act in accordance with sub-section (1) of this section shall, if he fails so to act, be punishable with fine which may extend to fifty rupees.

CHAPTER XIX
Weights and Measures

196. Inspection of weights and measures.—The Executive Officer or any Municipal Officer authorised by him in this behalf may, at all reasonable times, enter in or upon any place where weights or measures or weighing or measuring instruments are used or kept for the purpose of trade and inspect such weights or measures or weighing or measuring instruments.
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CHAPTER XX

Streets

197. Powers in connection with streets.—The Council—

(a) may layout and make a new public street and construct tunnels and other works subsidiary thereto;

(b) may widen, lengthen, extend, enlarge, raise or lower the level of or otherwise improve any existing public street vested in the Council;

(c) may close temporarily any public street or any part thereof for any public purposes;

(d) may turn, divert, discontinue or close any public street so vested;

(e) may provide within its discretion building-sites of such dimensions as it deems fit to abut on or adjoin any public street made, widened, lengthened, extended, enlarged, improved or the levels of which have been raised or lowered by the Council under clauses (a) or (b) or by the Government;

(f) subject to the provisions of any rule prescribing the conditions on which property may be acquired by the Council, may acquire any land, along with the building thereon, which it deems necessary for the purpose of any scheme or work undertaken or projected in exercise of the powers conferred under the preceding clauses; and

(g) subject to the provisions of this Act prescribing the conditions on which property vesting in the Council may be transferred, may lease, sell or otherwise dispose of any property acquired by the Council under clause (f); or any land vesting in and used by the Council for a public street and no longer required therefor, and in so doing may impose conditions regulating the removal and construction of buildings upon it and the other uses to which such land may be put:

Provided that the land owned by proprietors other than the Government shall become the absolute property of the Council after it has continuously vested in the Council for use as a public street for a period of twenty years; but that the possession of such land that
ceases to be required for use as public street before the expiry of twenty years from the time that it became vested in the Council shall be transferred to the proprietor thereof, on payment by him of reasonable compensation to the Council for improvements of such land, and subject to such restrictions as the Council may impose on the future use of such land, and that should the proprietor be unable or unwilling to pay the amount of such compensation, the Council may, subject to such conditions as it may deem fit, sell the land and shall pay to the owner the proceeds, if any, over and above the amount of such compensation, which shall be paid into the Municipal Fund or may dispose it of in such manner as it may deem fit.

1[197-A. Power to prohibit use of public streets for certain kind of traffic.—(1) The Council may, and if so, required by the Government shall—

(a) prohibit vehicular traffic in any public street or any portion thereof so as to prevent danger, obstruction or inconvenience to the public or to ensure quietness in any locality;

(b) prohibit in respect of all public streets, or any particular public street, the transit of any vehicle of such form, construction, weight or size or laden with such heavy or unwieldy objects as may be likely to cause injury to the roadways or any construction thereon, except under such conditions and upon the payment of such charges as may be specified by the Council generally or specially in each case.

(2) Notices of such prohibition as are imposed under subsection (1) shall be posted in conspicuous places at or near both ends of public streets or portions thereof to which they relate. unless such prohibition applies generally to all public streets.]

198. Power to require protection of streets during cutting down of trees, erection or demolition of buildings, etc.—(1) No person shall cut down any trees or cut off a branch of any tree, or erést or demolish any building or part of a building, or alter or repair the outside of any building, where such action is of a nature to cause obstruction, danger or annoyance or risk of obstruction, danger or annoyance to any person using a street, without the previous permission in writing of the Executive Officer.

(2) The Executive Officer may, at any time by notice, require that any person doing or proposing to do any of the acts referred to

in sub-section (1) shall refrain from beginning or continuing the act unless he puts up, maintains an provides from sunset to sunrise with sufficient lighting, such boardings or screens as are specified or described in the notice and may further, at any time by notice, require the removal, within a time to be specified in the notice, of any boarding or screen erected in anticipation or in pursuance of any of the said acts.

(3) Whoever contravenes the provisions of sub-section (1) or fails to comply with the terms of a notice under sub-section (2) shall be punishable with fine which may extend to 1[two hundred fifty rupees] and when the contravention or non-compliance is a continuing one, with a further fine which may extend to 1[twenty five rupees] for every day after the first during which the contravention or non-compliance continues.

199. Notice to be given and sanction obtained before making a street.—(1) No person shall lay out or make or commence to lay out or make a street without the sanction of the Council.

(2) Every person who intends to lay out or make a street shall give notice in writing to the Executive Officer of such intention.

(3) Where a Council has issued an order under clause (b) of section 200 no notice under sub-section (2) shall be deemed to be valid until the particulars required under such order have been furnished to the satisfaction of the Executive Officer.

200. Order of Council on notice being given under section 199.—The Executive Officer may, within one month of the receipt of the notice required by sub-section (2) of section 199, issue—

(a) an order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(b) an order requiring further particulars.

201. Sanction of Council with regard to new streets.—Within two months after the receipt of the notice required by sub-section (2) of section 199 the Council may refuse to sanction the proposed street or may sanction it either absolutely or subject to such written directions as to level, metalling, paving, means of drainage, direction and width as the Council may deem fit to issue, and the person laying out or making such street shall comply with the sanction of the Council in every particular:

Provided that, should the Council neglect or omit for four months after the receipt of such notice, or if an order has been issued under clause (b) of section 200, fail within the period specified in such order to make and deliver to the person who has given such notice an order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposed street absolutely except in so far as it may contravene any bye-law or any building or town planning scheme sanctioned under the Jammu and Kashmir Town Planning Act, 1997, or any general or special order of the Government prohibiting the construction of building in any particular area.

202 Power of sanction.—Every sanction for the laying out or making of a street which shall be given or be deemed to have been given by a Council, shall remain in force for one year only from the date of such sanction. Should the laying out or making of street not have been commenced within the period of one year, the sanction shall be deemed to have lapsed; but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of this Act.

Explanation.—A street shall be deemed to be made or laid out when it is demarcated on the ground by permanent boundary marks.

203. Penalty.—Whoever begins, continues or completes the laying out or marking of a street without giving the notice required by section 199 or in contravention of any written directions made under section 201 or of any bye-law or provision of this Act, shall be liable to a fine which may extend to 1 [one thousand rupees].

204. Notice to owner of land under street.—In any case where the Executive Officer considers that any land is being or has been laid out as a street without the notice required by section 199 having been given or in contravention of any directions made by the Council under section 201 or of any bye-law or provision of this Act, the Council may, by notice in writing, require the owner of the land to alter the street in such manner as it deems necessary.

205. Power to require repairs of streets and to declare such streets public.—(1) (a) when the Executive Officer considers that in any street or in any part of such street within the Municipality it is necessary for the public health, convenience or safety, that any work should be done for the levelling, paving, metalling, flagging, channelling draining, lighting or cleaning thereof, the Executive Officer may, by written notice, require the owner or owners of such streets or part thereof, to carry out such work in a manner and within a time to be specified in such notice, and

(b) should the owner refuse or should he fail to carry out the work within the time specified, the Executive Officer may, by written notice, require the owners of the land or buildings, fronting, adjoining or abutting upon such street or part thereof to carry out the work in such manner and within such time as may be specified in the notice.

(2) If compliance with the terms of the notice issued under clause (b) of sub-section (1) is not effected within the time specified, the Executive Officer may, if he thinks fit, execute himself the work and may recover under the provisions of section 101 the expenses incurred in doing so in such proportion as he may deem equitable from the owners of the street and persons served with a notice under clause (b) sub-section (1).

(3) After such work has been carried out by the persons served with a notice under clause (b) of sub-section (1) or as provided in sub-section (2) by the Council at the expense of such persons and the owner of the street, the street or part thereof, in which such work has been done, may, and on the requisition of the owner or owners of the major portion of the said street or part thereof, or on the requisition of a majority of the persons served with a notice under clause (b) of sub-section (1), shall be declared by a public notice to be a public street and shall vest in the Council.

(4) A Council may, at any time, by notice fixed up in any street or part thereof not maintainable by the Council, give intimation of their intention to declare the same as a public street and unless within one month next after such notice has been so put up, the owner or any one of several owners of such street or such part of a street lodge objection thereto at the Municipal Office, the Council may, by notice in writing, put up in such street or such part, declare the same to be a public street vested in the Council.

(5) This section shall not take effect in any Municipality until it has been specially extended thereto by the Government of its own motion or at the request of the Council.

206. Punishment for immovable encroachment or overhanging structure over streets.—(1) Whoever without the written permission of the Executive Officer makes any immovable encroachment on or under any street, on, over or under any sewer or water course or erects or re-erects any immovable over-hanging structure projecting into a street at any point above the said ground level, shall be punishable with fine which may extend to 1[five hundred rupees.]

(2) The Executive Officer may, by notice, require the owner or occupier of any building to remove, or alter, within a specified time not exceeding six weeks, such immovable encroachment or overhanging structure as aforesaid, and no compensation shall be claimable in respect of such removal or alteration:

Provided that if a period of more than three years has elapsed from the completion of the encroachment or overhanging structure, no prosecution shall lie under sub-section (1); nor shall such encroachment or overhanging structure be required to be removed or altered without payment of reasonable compensation.

207. Power to permit occupation of public street and to remove obstruction.—(1) The Executive Officer may grant permission in writing on such conditions as he may deem fit for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at his discretion withdraw permission, to any person to—

(a) place in front of any building any movable encroachment upon the ground level of any public street or over or on any sewer, drain, or water course or any movable overhanging structure projecting into such public street at a point above the said ground level;

(b) take up or alter the pavement or other materials for the fences or posts of any public street;

(c) deposit or cause to be deposited building materials, goods for sale, or other articles on any public street;

(d) make any hole or excavation on, in or under any street, or remove materials from beneath any street, so as to cause risk of subsidence; or

(e) erect or set up any fence, post, stall or scaffolding in any public street.

(2) Whoever does any of the acts mentioned in sub-section (1) without the written permission of the Executive Officer shall be punishable with fine which may extend to one hundred rupees and the Executive Officer or the Secretary to the Council or the Medical Officer of Health or any person authorised by the Executive Officer may—

(i) after reasonable opportunity has been given to the owner to remove his material and he has failed to do so, remove or cause to be removed by the police, or any other agency, any such movable encroachments or overhanging structures and any such materials, goods or articles of merchandise and any such fence, post, stall or scaffolding;
(ii) and take measures to restore the street to the condition it was in before any such alteration, excavation or damage.

(3) If the material specified in clause (i) of sub-section (2) has not been claimed by the owner within a fortnight of its having been deposited for safe custody by the Executive Officer, or if the owner shall fail to pay to the Council the actual cost of removal or deposit in safe custody, the Executive Officer may have the material sold by auction at the risk of the owner, and the balance of the proceeds of such sale shall after deduction of expenditure incurred by the Executive Officer be paid to the owner, or if the owner cannot be found or refuses to accept payment, the balance shall be kept in deposit by the Executive Officer until claimed at the risk of the person entitled thereto, and if no claim is made within one year the Council may credit the amount to the Municipal Fund.

Explanation.—For the purposes of this section "movable encroachment" includes a seat of settee and "movable hanging structure" includes an awning of any material.

208. Power to regulate line.—(1) Should any house, shop, wall, or other building or part of a building project beyond the regular line of a street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the Council may, whenever such house, shop, wall or other building or part thereof, has been, either entirely or in greater part taken down or burned down or has fallen down, by notice require such building or part when being rebuilt to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the Council:

Provided that the Council shall make full compensation to the owner of the building, or of the land thus vacated for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The Council may, on such terms as it may think fit, allow any building to be set forward for improvement of the line of the street.

209. Removal of projections and obstructions on payment of compensation.—The Executive Officer may subject to the payment
of reasonable compensation, by notice require the owner or occupier of any building within a period of not less than 6 weeks, to be specified in such notice, to remove or alter any balcony, projection, structure or verandah erected with the sanction of the Council, overhanging, projecting into or encroaching on any street or into or on any drain, sewer or aqueduct therein.

210. Power to attach brackets for lamps.—The Council may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto, or inconvenience.

211. Destroying direction posts, lamp-posts, etc.—Whoever, without being authorised by the Executive Officer, defaces or disturbs any municipal direction post, lamp-post or lamp or extinguishes any municipal light in any public place, shall be punishable with fine which may extend to [five hundred rupees.]

212. Bill-sticking without permission.—(1) Whoever, without the consent of the owner or occupier or other person for the time being in charge affixes any posting bill, notice, placard or other paper or means of advertisement against or upon any building, wall, tree, board, fence or pole or writes upon, soils, deface or marks any such building, wall, tree, board, fence or pole, with chalk or paint or in any other way whatsoever, shall be punishable with fine which may extend to [two hundred and fifty rupees.]

(2) Notwithstanding anything contained in section 267, a Court may take cognizance of any offence under sub-section (1) of this section upon the complaint of the owner or occupier or other person in charge of the property in respect of which such offence is alleged to have been committed.

213. Picketing animals and collecting carts.—(1) Whoever, without the permission of the Executive Officer, pickets animals or collects carts on any street, or uses any street as a halting place for vehicles or animals of any description or as a place of encampment, or causes or permits animals to stray, shall be punishable with fine which may extend to [five hundred rupees.]

(2) Any animal found picketed tethered or straying on any public street without the permission of the Executive Officer or any officer authorised by him in this behalf may be removed to a pound by any officer or servant of the Council or by a Police Officer.

214. Driving vehicles without light.—(1) Whoever drives or propels any vehicle not properly supplied with lights in any street during the period from half an hour after sunset to half an hour before sunrise, shall be punishable with fine which may extend to ₹two hundred and fifty rupees.]

(2) Whoever in driving, leading or propelling a vehicle along a street fails without reasonable excuse—

(a) to keep to the left, or

(b) when he is passing a vehicle going in the same direction to keep to the right of that vehicle,

shall be liable to a fine which may extend to ₹two hundred fifty and rupees.]

215. Beating drums, etc.—Whoever, in contravention of any general or special prohibition issued by the Executive Officer, without the permission of the Executive Officer, beats a drum or tom-tom, blows a horn or trumpet or beats or sounds any brass or other instrument or utensil or uses a loud speaker, shall be punishable with fine which may extend to ₹two hundred rupees.]

Explanation.—In the case of bands, each individual member of such band shall be punishable under this section.

216. Discharging fire-arms, etc.—Whoever discharges fire-arms or lets off fire-works, fire-balloons or detonators or engages in any game in such a manner as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property shall be punishable with fine which may extend to fifty rupees.

217. Quarrying, blasting, cutting timber or building.—Whoever quarries, blasts, cuts timber or firewood or carries on building operations in such a manner as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood shall be punishable with fine which may extend to ₹two hundred and fifty rupees.]

218. Names of streets and numbers of buildings.—(1) The Council may cause a name to be given to any street, and to be affixed on any building in such place as it may think fit, and may also cause a number to be affixed to any building and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Whoever shall destroy, pull down or deface any name or number affixed to any street or building under this section or put up any different name or number from that put up by order of the Council, shall be punishable with fine which may extend to two hundred and fifty rupees.

219. Inflammable materials.—The Executive Officer may, where it appears to him to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting timber, wood, dry grass, straw or other inflammable materials, or placing mats or thatched huts or lighting fires in any place or within any limits specified in the notice.

220. Roofs and external walls not to be made of inflammable materials.—The Executive Officer may direct that, within certain limits to be fixed by him, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials without the permission of the Executive Officer in writing, and the Executive Officer may, by written notice, require any person, who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as he may think fit within the period fixed by him and if such person fails to comply with such direction within the time fixed by the Executive Officer, the Executive Officer may have the roof or wall removed or altered at the expense of such person.

CHAPTER XXI

Buildings

221. Prohibition of erection or re-erection of buildings without Permission.—(1) No person shall erect or re-erect or commence to erect or re-erect any building without the sanction of the Executive Officer.

(2) Every person, who intends to erect or re-erect any building shall give notice in writing to the Executive Officer of such intention.

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(3) A Council shall, by bye-law—

(a) prescribe the manner in which notice of the intention to erect or re-erect a building shall be given to the Council;

(b) require that with every such notice shall be furnished a site plan of the land on which it is intended to erect or re-erect such building and a plan and specification of the building of all such character and with such details as the bye-law may require;

(c) where the building appears likely to be used as a factory, require the provision of adequate housing accommodation in connection therewith.

(4) Where bye-laws have been framed under this section no notice under sub-section (2) shall be considered to be valid until the information, if any, required by such bye-laws has been furnished to the satisfaction of the Executive Officer.

1[(5) The Executive Officer shall, within seven days of its receipt, decline to accept a plan as sufficient for purposes of granting sanction under this Act, if it does not bear the signature and seal of a registered Architect or a Draftsman in token of its having been prepared by such Architect or Draftsman and in that case the notice, if any, given under sub-section (2) shall not be considered valid.]

222. Powers of Executive Officer to refuse erection or re-erection of buildings.—(1) The Executive Officer shall refuse to sanction the erection or re-erection of any building in contravention of any bye-law made under this Act or in contravention of any scheme sanctioned under 2[the Jammu and Kashmir Town Planning Act, 1963.]

(2) The Executive Officer may refuse to sanction the erection or re-erection of any building for any other reasons, to be communicated in writing to the applicant, which he deems to be just and sufficient, as affecting such building, or if the land, on which it is proposed to erect or re-erect such building, is Government property or vests in the Council and the consent of the Government or, as the case may be, of the Council has not been obtained, or if the title to the land is in dispute between such person and the Council or the Government.

(3) Subject to the provisions of sub-section (1), the Executive Officer may sanction the erection or re-erection of any building either absolutely or subject to such modifications in accordance with the bye-law and rules as he may deem fit.

2. Substituted ibid.
*1[(4) Notwithstanding anything contained in sub-section (1) or sub-section (2) but subject to the provisions of byelaws made in this behalf under this Act, if the Executive Officer neglects or omits, within sixty days of the receipt from any person of a valid notice of such person's intention to erect or re-erect a building or within one hundred and twenty days, if the notice relates to a building on the same or part of the same site, on which sanction for the erection of a building has been refused within the previous twelve months, to pass orders, sanctioning or refusing to sanction such erection or re-erection, such erection or re-erection shall, unless the land on which it is proposed to erect or re-erect such buildings belongs to or vests in the Council, be deemed to have been sanctioned, except in so far as it may contravene any bye-law or any general or special order of the Government prohibiting the construction of buildings in any particular area:

Provided that, should a reasolution conveying or refusing such sanction be suspended under section 253, the period prescribed by sub-section (4) shall commence to run afresh from the date of communication of final orders by the Minister, Local-self Government or the Government:

Provided further that if not less than one-fifth of the members present vote against a resolution conveying sanction, the sanction shall be deemed not to have been conveyed until after the laps of fourteen days from the passing of the resolution.]

223. Power of Executive Officer to direct modification of a sanctioned plan of a building before its completion.—If at any time before the completion of a building of which the erection has been sanctioned under section 222, the Executive Officer or the Council finds that any modification of the sanctioned plan is necessary, the Executive Officer or the Council may, subject to the compensation for any loss to which the owner may be put, direct that the building be modified accordingly.

224. Lapse of sanction after one year, from the date of sanction.—2[(1) Every sanction for the erection or re-erection of any building which shall be given or be deemed to have been given by the Executive Officer, shall remain in force for 3[two years] only from the date of such sanction, or for such longer period as the Executive Officer may have allowed when conveying sanction under section 222.

2. Section 224 re-numbered as sub-section (1), proviso, sub-section (2) and (3) added by Act XIX of 1976. S. 32.
Should the erection or re-erection of the building not have been commenced within 3[two years] and completed within 3[three years] or such longer period as may have been allowed by the Executive Officer the sanction shall be deemed to have lapsed: but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of this Act:

1[Provided that the Minister Incharge Local Self Government shall always have power to revoke any sanction for erection or re-erection of any building at any time before commencement of erection or re-erection of any building.]

(2) Every order made by the Executive Officer of the Minister Incharge Local Self Government under this section shall be final and shall not be called in question in any original suit, application or proceeding and no injunction shall be granted by any court or other authority irrespect of any action taken or to be taken in pursuance of the power conferred by or under this section.

(3) The provisions of this section shall have effect notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force.

225. Power to Executive Officer to stop progress of building work unlawfully commenced or carried out.—(1) In any case in which the erection of building has been commenced or is being carried on in contravention of the provisions of this Act 2[or any rule or bye-law made thereunder,] the Executive Officer may, by written notice, require the building operations to be discontinued from the date of the service of such notice.

(2) Any person failing to comply with the terms of such notice shall be punishable with fine which may extend to 3[two thousand rupees] and when the non-compliance is a continuing one, with a further fine which may extend to 3[one hundred rupees] for every day after the first during which the non-compliance continues.

226. Power of Executive Officer to direct removal of persons from buildings in which works are being unlawfully carried on or which are unlawfully occupied.—(1) Should a building be begun, erected or erected—

(a) without sanction as required by section 221 (1); or

(b) without notice as required by section 221 (2); or

1. Section 224 re-numbered as sub-section (1), proviso, sub-section (2) and (3) added by Act XIX of 1976. S. 32.
3. Substituted ibid.
(c) when sanction has been refused; 1[or]

(d) in contravention of the terms of any sanction granted; or

(e) when sanction has lapsed; or

(f) in contravention of any bye-law made under section 261, clause (27); ]

the Executive Officer may after giving twenty-four hour's notice direct all persons engaged in any capacity in the work of erecting or re-erecting the building in question or part thereof to remove themselves and shall take such measures as will prevent any one of such persons from again entering into or remaining upon such building or part thereof except with his permission.

or

(2) All expenditure incurred in the enforcement of the provisions of this section may be recovered from the person offending.

227. Erection and use of temporary buildings to be approved by the Council.—(1) No building shall be erected for a temporary purpose without the sanction of the Executive Officer or otherwise than in accordance with any bye-laws made in this behalf under this Act.

(2) If any building erected for a temporary purpose is not used strictly for such purpose and in accordance with any bye-laws made under this Act or is erected without the sanction of the Executive Officer, the building may be demolished by the Executive Officer at the expense of the owner thereof, whether he is prosecuted under this Act or not.

228. Compensation.—(1) No compensation shall be claimable by an owner for any damage which he may sustain in consequence of the prohibition of erection of any building.

(2) The Council shall make reasonable compensation to the owner for any damage or loss which he may sustain in consequence of the prohibition of the re-erection of any building or part of a building except in so far as the prohibition is necessary under any rule or bye-law.

1. In clause (c) word "or" added by Act XXII of 1966.
2. Clauses (d), (e) and (f) inserted ibid.
Provided that the Council shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back unless for a period of three years or more immediately preceding such notice the building has by reason of its being in a ruinous or dangerous condition become unfit for human habitation.

(3) The Council shall make reasonable compensation to the owner for any damage or loss which he may sustain in consequence of the inclusion of his land in a public street but in assessing such compensation regard shall be had to the benefits accruing to that owner from the development of the land belonging to him and affected by such street.

1[229. Penalty for disobedience.—(1) Should a building be erected or re-erected—

(a) without sanction as required by section 221 (1) ; or

(b) without notice as required by section 221 (2) ; or

(c) when sanction has been refused ; or

(d) in contravention of the terms of any sanction granted ; or

(e) when the sanction has lapsed or has been revoked under section 224 ; or

(f) in contravention of any bye-law made under clause (27) of section 261 ; or

(g) in the case of a building of which erection has been deemed to be sanctioned under section (222) (4) if it contravenes any bye-law or any scheme sanctioned under the Jammu and Kashmir State Town Planning Act, 1963.

the Executive Officer shall issue a notice in writing stating the reasons, calling upon the person to show cause within a period of three days, if the contravention relates to clauses (a), (b), (c) or (d) and within five days if contravention relates to clause (e), (f) or (g) why the building should not be altered or demolished as he may deem necessary to remove the contravention.

(2) The Executive Officer shall cause the notice to be affixed on
the outer door or some conspicuous part of the building whereupon the
notice shall be deemed to have been duly served upon such person.

(3) If the person to whom notice has been given refuses or fails
to show cause within the period specified under sub-section (1) of its
service upon him or if after hearing that person and considering any
evidence which he may produce in support of his claim within that
period, the Executive Officer is satisfied that the erection of the build-
ing is in contravention of the provisions of this section, he shall by
order direct the person to demolish, alter or pull down the building or
part thereof so far as is necessary to remove the contravention within
seven days if the person fails to comply with the direction, the Execu-
tive Officer shall after the expiry of the said period of seven days
cause the building or part thereof to be demolished altered or pulled
down as the case may be, and may for that purpose use such police
force as may be necessary.

(4) Any person aggrieved by the order of the Executive Officer
directing the person to demolish, alter or pull down the building or
part thereof under sub-section (3) may prefer an appeal to the Minister
Incharge Local Self Government or the authority appointed by him in
this behalf within seven days after the date of the aforesaid order
of the Executive Officer. The memorandum of appeal need not be
accompanied by a copy of order appealed from:

Provided that the Minister Incharge Local Self Government or
the authority appointed by him in this behalf shall decide the appeal
within ten days from the date of appeal is filed:

Provided further that the Minister Incharge Local Self Govern-
ment or the authority appointed by him in this behalf may, either
before or after the filing of the appeal, compound the offence and
accept by way of compensation such sum as he or it may deem rea-
sonable subject to such rules, regulations and orders as may be pres-
ccribed. Where an offence has been compounded no further action shall
be taken against the aggrieved person in respect of the offence so
compounded.

(5) An appeal against the order of the Executive Officer shall not
operate as stay of proceeding under the order appealed from:
Provided that the Minister Incharge Local Self Government of the authority appointed by him in this behalf may stay the enforcement of that order if he is satisfied—

(a) that substantial loss may result to the person applying for stay of execution unless the order is made; and

(b) that sufficient security as the Minister or the authority may determine has been given by the applicant for due performance of the order as may be ultimately binding upon him.

(6) No Court shall have jurisdiction to entertain any application, suit or proceeding in respect of any order or section made or taken under sub-section (1) of section 225 or section 226 or this section.

229-A. Registration of Architects and Draftsmen.—(1) The Executive Officer may, on application in a prescribed form and on payment of such fees as may be prescribed by the Council, register any person as registered Architect or a registered draftsman and issue a licence to him to act as such for purpose of drawing plans under this Act:

Provided that such person possesses the minimum qualifications prescribed for recruitment as Architect or Draftsman in the P.W.D. and possesses practical experience of at least six months:

Provided further that the conditions of minimum qualifications shall not apply to the previously registered, up to 1st January, 1965, as Architect or Draftsman.

(2) Each such licence shall be valid for a period of one year from the date of issue or last renewal and shall be renewable every year on an application, in a prescribed form for renewal and on payment of such fees as may be prescribed by the Council.

(3) The Council may by bye-laws prescribe—

(a) the form and manner in which application for registration of an Architect or a Draftsman shall be made;

(b) the form of licence and the qualifications of an Architect or Draftsman;

(c) fees to be paid to a registered Architect or a registered Draftsman for any work done by him;

(d) the conditions subject to which the registration shall be valid; and

(e) classification of plans to be prepared by the registered Architect and the registered Draftsman.

(4) If any registered Architect or registered Draftsman, demands or receives more than the fees so prescribed or contravenes any of the provisions of this Act, or rules, or bye-laws made thereunder or in the opinion of the Executive Officer, acts negligently, his licence shall be liable to be cancelled by the Executive Officer.

1[229.-B Sanction subject to other Laws.—Notwithstanding anything contained in this Act, an order sanctioning erection or re-erection of a building under this Act shall be and always be deemed to have been subject to the provisions of any other law for the time being in force.]

CHAPTER XXII.

Powers of entry and Inspection.

230. Inspection of drains, privies and cesspools.—(1) The Executive Officer may authorise any person to enter, between sunrise and sunset, into any building or upon any land and to inspect any drain, privy, latrine, urinal, cesspool, cable, wire, pipes, sewer, or channel therein, or thereon, and to cause the ground to be opened where such person as aforesaid may think fit for the purpose of preventing or removing any nuisance arising from the trains, privies, latrines, urinals, cesspools, cable, wires, pipes, sewers or channels.

(2) If, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but if it be found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain or other work, if any, opened, injured or removed for the purpose of such inspection, shall be filled in, made and reinstated by the Executive Officer.

(3) No building other than a latrine, urinal or privy, shall be entered under this section until six hours' notice in writing has been given to the occupier of the building by the Executive Officer or by the person authorised by him to make the entry.

231. Inspection of Buildings, etc.—(1) The Medical Officer of Health may authorise any person, after giving three hours' notice to the occupier, or if there be no occupier, to the owner of any tent, building or boat, to enter and inspect at any time, between sunrise and sunset, where such inspection appears necessary for sanitary reasons.

(2) If the building to be inspected is a stable for horses or a house or shed for cows or other cattle, previous notice shall not be required before inspection.

232. Other powers of entry on buildings or land.—The Executive Officer may authorise any person, after giving twenty-four hours' notice to the occupier or, if there be no occupier, to the owner of any building or land or boat, at any time between sunrise and sunset—

(a) to enter on land to inspect, evaluate or survey, and to take levels or measurements of any building or land or boat;

(b) to enter into any building or on any land or boat for the purpose of examining works under construction, of ascertaining the course of sewers or drains, or of executing or repairing any work, which he is by this Act empowered to execute or to maintain;

(c) to enter into any building or any land or tent or boat for the purpose of inspecting or repairing water, electric or other installations and for taking readings of meters connected therewith;

(d) to enter into any building or any land for the purpose of ascertaining whether any building is being or has been erected or re-erected without sanction or in contravention of any sanction given by the Executive Officer or of any bye-law made under this Act or any scheme sanctioned under the Jammu and Kashmir Town Planning Act, 1997, and to take such measurements and to do any other such acts as may be necessary for such purpose.

233. Inspection of weights and measures end seizure of false weights, etc.—(1) The Executive Officer, or any person authorised by him in this behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale of any goods, food, drink or drug and may inspect any instruments for weighing, weights or measures found therein and test the same with other weights or measures, and may seize any such instrument for weighing, weights or measures which the person so authorised reasonably believes to be false or not in accordance with bye-laws made by the Council and may take the same to be examined or tested by the officer appointed for the purpose.

(2) Every person for the time being in charge of or employed in such market, building, shop, stall or place shall, if so required by the person making such inspection, produce for such inspection and comparison all instruments for weighing, weights and measures kept therein.

234. Inspection of places for illicit slaughter of animals.—If there are reasonable grounds for believing that any animal has been, is being or is about to be, slaughtered, in any place or premises not fixed for such purpose under section 193 or in contravention of any bye-law made under this Act, the Executive Officer, the Medical Officer of Health, or any person authorised by the Executive Officer in this behalf, may, at all reasonable times, enter into and inspect any such place or premises.

235. Search for inflammable or explosive material in excess of authorised quantity.—(1) The Executive Officer or any person authorised by the Executive Officer may enter upon at any reasonable time and inspect any house or building which is suspected to contain petroleum, explosive or other inflammable material, in excess of the quantity permitted to be kept in such house or building under the provisions of this Act or of any rule, bye-law or public notice made or published thereunder.

(2) Should any such excess quantity of such material be discovered, it may be seized and held subject to such order as a Magistrate may pass with respect to it.

(3) If the Magistrate decides that the material seized was stored in the house or building contrary to the provisions of this Act or of any rule, bye-law or public notice made or published thereunder he shall pass an order confiscating the same.

(4) Subject to any general rules for the time being applicable thereto, the material confiscated may be sold by order of the Magistrate and the proceeds, after defraying the expenses of such sale, shall be credited to the Municipal Fund.

(5) No order of confiscation under this section shall operate to prevent any other criminal or civil proceedings to which the person storing the material in excessive quantity may be liable.

236. General explanation.—The Executive Officer may authorise persons to exercise the powers of entry conferred by the foregoing sections of this Chapter either generally in regard to all buildings, boats, tents and lands or particularly in regard to specified buildings, boats, tents and lands or classes of buildings, boats, tents and lands.
237. Precaution to be observed in entering dwellings.—When any building or boat used as a human dwelling is entered under this Act, due regard shall be paid to the social or religious sentiments of the occupier; and before any apartment in the actual occupancy of any woman, who according to customs does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw and every reasonable facility shall be afforded to her for withdrawing.

CHAPTER XXIII

Notice and consequences of non-compliance

238. Reasonable time for compliance to be fixed.—When any notice under this Act requires any act to be done for which no time is fixed by this Act, a reasonable time for doing the same shall be specified in the notice.

239. Authentication of service and validity of notice.—(1) Every notice issued by the Council under this Act or under any rule or bye-law shall be in writing, signed by the Executive Officer or by any officer specially authorised by the Council in that behalf, and every such notice may be served in the manner provided for the service of summons in the Civil Procedure Code so far as may be applicable.

(2) When the place of abode or business of the person to whom the notice is addressed is not within the limits of the Municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the owner of any property has no place of abode or business within the Municipality, every such notice addressed to him as such owner may be served on the occupier.

(4) No notice, issued by the Council under this Act or under any rule or bye-law, shall be invalid for defect of form.

240. Service when owner or occupier are different persons.—Whenever it is provided by this Act that any notice may be given to the owner or occupier of any land or building, and the owner or occupier are different persons, such notice shall be given to one of them primarily liable to comply with such notice, and in case of doubt, to both of them.

241. Publication of public notices.—Every public notice given by a Council under this Act or any rule or bye-law shall be published by proclamation or in such other manner as the Council may by bye-law direct.
242. Penalty for disobedience of order of Council.—Whoever disobeys any lawful direction or prohibition given by the Council or the Executive Officer by public notice under this Act or any written notice lawfully issued thereunder (or fails to comply with the conditions subject to which any permission was given to him by the Council or any other officer empowered under this Act, under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to 1[five hundred rupees.] and, in case of a continuing breach, with a further fine which may extend to 1[fifty rupees] for every day after the first during which the breach continues:

Provided that when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

243. Compensation for damage.—Every person convicted of an offence under this Act on account of any act or omission, shall, notwithstanding any punishment to which he may have been sentenced for such offence, pay compensation, the amount of which shall be determined by the Magistrate before whom he was so convicted, to the Council for any damage that may have occurred to any property of the Council, in consequence of such act or omission.

244. Power of Council in event of non-compliance.—Whenever the terms of any notice have not been complied with, the Council may, after six hours' notice, by its officers, cause the act to be done.

245. Penalty for obstruction.—Any person wilfully obstructing the Council, or any officer or servant of the Council, or any person authorised by the Council, in the exercise of the powers conferred by this Act, shall be punishable with fine which may extend to one hundred rupees.

246. Recovery of costs of execution.—(1) Where, under this Act, the owner or occupier of property is required by the Council or the Executive Officer to execute any work and default has been made in complying with the requirement, and the Council or the Executive Officer has executed the work, the Council or the Executive Officer, as the case may be, may recover the cost of the work from the person in default.

(2) As between themselves and the Council both owner and occupier shall be deemed to be in default for the purpose of this section, but that one of them shall be deemed to be primarily in default upon whom, as between landlord and tenant, the duty of doing the

required act would properly fall either in pursuance of the contract of tenancy or by law.

(3) When the person primarily in default is the owner and the Council has recovered the whole or any part of the cost from the occupier, or he has paid the same upon its demand, he may deduct the sum so recovered or paid from the rent from time to time becoming due from him to the owner, or otherwise recover it from such owner:

Provided that no occupier shall be required to pay under sub-section (3) any sum greater than the amount for the time being due from him to the owner, either in respect of rent due at the date of such demand as aforesaid or thereafter accruing, unless he has refused on application to him by the Council truly to disclose the amount of his rent and the name and address of the person to whom it is payable: but the burden of proof that the sum so demanded by the Council from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a Council under this section may be recovered either by suit or on application to a Magsistrate having jurisdiction within the Municipality or as arrears of tax by distress and sale of the movable property of the person from whom the money is recoverable, and if payable by the owner of the property shall, until it is paid, be a charge on the property.

(5) Nothing in this section shall affect any contract between an owner and an occupier.

(6) Where under section 128 or section 129 the Council has executed any work, the cost thereof may be recovered from the owner or occupier in connection with work done under section 128 and from the owner in connection with the work done under section 129, in the manner herein provided for the recovery of the costs of work from a defaulting owner or occupier and subject to the provisions herein contained.

247. Relief to agents and trustees.—(1) When any person, by reason of his receiving or being entitled to receive the rent of immovable property as agent or trustee, of a person or society, would, under this Act, be bound to discharge any obligation imposed by this Act on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hand funds belonging to the owner sufficient for the purpose.
(2) The burden of proving the fact entitling an agent or trustee to relief under this section shall lie on him.

(3) When any agent or trustee has claimed and established his right to relief under this section, the Council may give him notice to apply to the discharge of such obligation as aforesaid, the first moneys which shall come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

248. Payment of compensation.—(1) The Council may make compensation out of the Municipal Fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the Council, its officers and servants, under this Act, and shall make such compensation where the damage was caused by the negligence of the Council, its officers or servants and the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) Should any dispute (for the settlement of which no express provision is made by any other section) arise touching the amount of any compensation which the Council is by this Act required to pay (or empowered to receive) for injury to or in respect of any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement, in the manner provided by the Land Acquisition Act, 1990, with reference to the acquisition of and payment of compensation for land for public purposes so far as it can be made applicable.

CHAPTER XXIV

Police

249. Co-operation of police.—(1) The Inspector General of Police and his subordinates shall, as far as may be, co-operate with the Executive Officer for carrying into effect the provisions of this Act and for the maintenance of public health, safety and convenience in the Municipality.

(2) It shall be the duty of every Police Officer in a Municipality—

(i) to communicate without delay to the proper Municipal Officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, bye-law or regulation made under it; and
(ii) to assist the Executive Officer or any Municipal Officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Executive Officer or servant under this Act or any such rule, bye-law or regulation.

250. Power of Police Officer to arrest persons.—(1) If any Police Officer sees any person committing an offence against any of the provisions of this Act or any rule or bye-law made under it he shall if the name and address of such person are unknown to him and if the said person is unknown to him, and if such person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false, arrest such person.

(2) No person arrested under sub-section (1) shall be detained in custody—

(a) after his true name and address are ascertained, or

(b) without the order of a Magistrate, for any longer time, not exceeding twenty-four hours of arrest, than is necessary for bringing him before a Magistrate.

CHAPTER XXV

Appeals and revision

251. Appeals.—(1) Except as otherwise provided in this Act—

(a) any person aggrieved by any permission, prohibition, notice or order of a Standing Committee, the Executive Officer, the Medical Officer of Health or any other Municipal Officer acting under the provisions of this Act may appeal to the Council;

(b) any person aggrieved by any order passed by the Council, may appeal to the Minister, Local Self Government, or such other officer as may be empowered by the Government in this behalf.

(2) The period of limitation for filing of appeals under this section shall be thirty days from the date of such permission, prohibition notice or order, exclusive of the time requisite for obtaining a copy thereof.

(3) The provisions of section 5 of the Limitation Act, 1995, shall, in so far as may be, be applicable to the proceedings under this section.

1[251-A. An appeal under section 251 shall not operate as a stay of the proceedings under an order appealed from:

Provided that the appellate authority may stay the execution of the order appealed from, if he is satisfied that substantial loss may result to the party applying for stay of execution unless the order is made and that sufficient security has been given by the applicant for the due performance of such an order as may ultimately be binding upon him.

252. Powers to revise orders.—Notwithstanding anything contained in this Act, the Government may call for the record of any case which is pending before or has been decided by any officer or authority under this Act, and if such officer or authority appears—

(a) to have exercised a jurisdiction not vested in him by law; or
(b) to have failed to exercise a jurisdiction so vested; or
(c) to have acted in the exercise of his jurisdiction illegally or with material irregularity;
may make such order in the case as it thinks fit.

CHAPTER XXVI

CONTROL

2[252-A. Notwithstanding anything to the contrary contained in this Act or in any other law, rule or bye-law for the time being in force, the Minister Incharge Local Self Government shall have the power and shall be deemed always to have had the power of transferring officers and servants from one Council or a Notified Area Committee to the other Council or a Notified Area Committee, from a Council or a Notified Area Committee to a Town Area Committee and from a Council or Notified Area Committee to a Department of the Government and vice versa:

Provided that the conditions of service of such officers and servants are not affected by such transfers.]

253. Power to call for records.—The Minister for Local Self Government may at any time require the Council or the Executive Officer—

(a) to produce any record, correspondence, plan or other documents:

1. Inserted by Act XI of 1973 by Sec. 8.
2. Section 252-A substituted by Act VI of 1969. (It was inserted by Act XXII of 1966).
(b) to supply any return, plan, estimate, statement, account or statistics; and

(c) to furnish or obtain any report.

254. Power to cause inspection to be made.—(1) The Minister for Local Self Government may empower any officer by a general or special order to inspect or examine any Municipal Department, office, service, work or thing and to report thereon and any officer so empowered may, for the purpose of such inspection or examination, exercise all the powers conferred by the preceding section.

(2) Any officer so empowered shall be a public servant within the meaning of section 21 of the Ranbir Penal Code.

255. Power to direct the taking of action.—If, on receipt of any information or report obtained under the above preceding sections, the Minister for Local Self Government is of opinion—

(a) that any duty imposed on any Municipal authority by or under this Act or the rules or bye-laws made thereunder, has not been performed or is being performed or has been performed is an imperfect, inefficient or unsuitable manner; or

(b) adequate financial provisions require to be made for the performance of any such duty;

the Minister for Local Self Government may, by written order, direct the Council or the Executive Officer in the period to be specified in the order to make arrangements to the satisfaction of the Minister for the performance of the duties referred to in clause (a) or to make financial provision to his satisfaction for the performance, of any such duty, as the case may be.

256. Procedure when Municipal authority fails to take action.— (1) If, within the period fixed by any order issued under the preceding section, any action directed thereunder, has not been duly taken, the Minister for Local Self Government may, by order—

(a) appoint some person to take action so directed;

(b) fix the remuneration to be paid to him; and

(c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Municipal Fund and, if necessary that any one or more of the taxes authorised by Chapter XI shall be levied or increased.
(2) The person appointed under sub-section (1) may, for the purpose of taking the action directed as aforesaid, exercise any of the powers conferred on any Municipal Officer by or under this Act which are specified in that behalf in the order issued under sub-section (1), including the power to draw cheques on the account of the Municipal Fund.

(3) Any Bank or State Treasury having the custody of any account referred to in sub-section (2) shall be bound to honour cheques drawn as aforesaid on that account to the extent of the balance standing to the credit of the Municipal Fund.

257. Power to demand punishment.—Notwithstanding anything contained in this Act, if Government or any officer authorised by the Government in this behalf, after making necessary enquiries, is of the opinion that any officer or servant of the Council is negligent in the discharge of his duties, the Council shall, on the requirement of the Government, take suitable action against him.

258. Power to suspend any resolution or order.—(1) If the Government are of opinion that the execution of any resolution or order of the Council or of any other Municipal authority or officer subordinate thereto or the doing of any act which is about to be done or is being done by or on behalf of the Council, is not in conformity with law or with the rules or bye-laws made thereunder, or is likely to lead to a breach of the peace or to cause injury or annoyance to the public or to any class or body of persons or is likely to cause waste or damage of Municipal Funds, the Government may, by order in writing, suspend the execution of such resolution or order or prohibit the doing of any such act.

(2) A copy of such order of the Government shall thereupon be sent to the Council by the Government.

(3) The Council may, notwithstanding anything contained in this Act, or the rules or bye-laws made thereunder, take the matter into consideration.

(4) If the Council after having taken the matter into consideration are of opinion that the resolution, order or act is not in contravention of or in excess of the powers conferred by this Act or any other law for the time being in force or the execution of the resolution or the doing of the act is not likely to lead to a breach of the peace or cause
injury or annoyance to the public or to any class or body of persons or is not likely to cause waste or damage to Municipal Funds, the Council shall pass a resolution accordingly and shall send a copy of the said resolution together with a copy of the proceedings relating to the resolution to the Government.

(5) When the Government have considered the resolution passed by the Council and the proceedings relating to the said resolution, the Government may either cancel, modify or confirm the order passed by them under sub-section (1) or take such other action in respect of the matter as may, in the opinion of the Government, be just or expedient having regard to all the circumstances of the case.

259. Power of Government to dissolve Council in case of incompetency or default or excess or abuse of powers.—If at any time upon representation made or otherwise it appears to the Government that the Council is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act or any other law for the time being in force, or exceeds or abuses its powers, the Government may, after having given an opportunity to the Council to show cause why such an order should not be made, or, if it appears to the Government that the case is one of emergency, forthwith issue an order directing that all the Councillors shall vacate their office as and from such date as may be appointed and declare the Council to be superseded. Such order shall be published in the Government Gazette and the reasons for making it shall be stated therein.

260. Consequences of supersession.—(1) When the Council is superseded under the preceding section, the following consequences shall ensue:

(a) all powers and duties of the Council and Standing Committees may, until the Council is reconstituted, be exercised and performed by such person as the Government may appoint in that behalf, and the person so appointed shall be called the Administrator of the Municipality;

(b) all property vested in the Council shall, until the Council is reconstituted, vest in the Administrator in trust for the purposes of this Act.

(2) The Administrator of the Municipality shall be a corporation sole and may sue and be sued in the name of “The Administrator of the Municipality”.
(3) The Administrator of the Municipality shall be subject to the
control of the Government and such other person or persons as it
may direct, and shall be subject also to all other restrictions, limita-
tions and conditions imposed by this Act on the Council and the
Standing Committees.

(4) The Administrator of the Municipality may at any time be
removed by the Government who shall also have power to appoint
another person in his place.

(5) The Government may, if it thinks fit, at any time constitute
another Council according to the provisions of this Act in the place
of the Council superseded under the preceding section.

CHAPTER XXVII

Bye-Laws

261. A Council may, and shall, if so required by the Government,
by bye-laws—

(1) render licences necessary for the proprietors or drivers of
vehicles, boats or animals kept or used or plying for hire within the
limits of the Municipality and for persons working as job porters for
the conveyance of goods within the said limits and fix fees payable
for such licences and the conditions on which they are to be granted
and may be revoked, and may by such conditions provide among
other things for a minimum breadth for wheel tyres and for the mini-
mum diameter of the wheels;

(2) limit the rates which may be demanded for the hire of any
carriage, cart or other conveyance or of animals hired to carry loads
for persons or for the services of persons hired to carry load or to
impel or carry such conveyances, and limit the loads which may be
carried by any animal or carriage, cart, or other conveyance plying
for hire within the limits of the Municipality:

Provided that the operation of any bye-law made under the pro-
visions of clause (a) or clause (b) may, with the sanction of the Gov-
ernment be extended to—

(1) any railway station;
(ii) the whole or any part of any road so far as such road is situated within ten miles of the limits of the Municipality;

(ii) the whole or any part of any road leading from the limits of any one Municipality or Town Area to the limits of any other Municipality or Town Area, if the distance between the said Municipalities or Town Areas does not exceed fifty miles, and the Councils of the said Municipalities or the Committees of the said Town Areas consent to the extension of such bye-laws;

(3) provide for the proper registration of births, marriages and deaths, and the verification of deaths and the causes of deaths;

(4) fix, and from time to time vary, the number of persons who may occupy a building or part of a building which is let in lodgings or occupied by members of more than one family, or which is situated within such congested areas as may be specified in the bye-law; and provide—

(i) for the registration and inspection of such buildings,

(ii) for the licensing of hotels and lodging houses and for the fees payable for such licences and conditions on which they may be granted or revoked,

(iii) for promoting cleanliness and ventilation in such buildings,

(iv) for the notice to be given and the precautions to be taken in the case of any infectious or contagious disease breaking out in such buildings,

(v) for the scavenging, removal and disposal of all rubbish, filth, nightsoil, sullage or sewage in such buildings,

(vi) in the case of hotel, serral and lodging-house keepers and the secretaries of residential clubs for the maintenance of registers, in such form as the Council may prescribe, of visitors and lodgers, and

(vii) generally for the proper regulation of such buildings;

(5) provide—

(i) for the licensing, inspection and proper regulation of bakeries, aerated water factories, dairies, ice-factories, flour mills, foodgrain godowns, dispensing chemists, shops and places where articles of food and drink are sold,
(ii) for the inspection and proper regulation of encamping grounds, pounds, serais, slaughter houses and places licensed under section 137,

(iii) for the inspection and proper regulation of markets, for the preparation and exhibition of a price current and for fixing the fees, rents and other charges, to be levied in such markets,

(iv) for defining the standard weights and measures to be used in the Municipality and for the inspection of weights and measures under section 233,

(v) for the holding of fairs and industrial exhibition within the Municipality or under the control of the Council,

(vi) for disposal of corpse and for controlling and regulating the use and management of burial and burning grounds,

(vii) for the supervision, regulation and protection from pollution of public wells, tanks, springs or other sources from which water is or may be made available for the use of the public, whether within or without the Municipality,

(viii) for the licensing, inspection and proper regulation of theatres and other places of public resort, recreation or amusement;

(6) require and regulate the appointment by owners of buildings or land in the Municipality, who are not resident in the Municipality, of persons residing within or near Municipality to act as their agents for all or any of the purposes of this Act or any rules thereunder;

(7) render licences necessary for using premises as stable, cow-houses or houses or enclosures for sheep or goats or swine; and regulate the grant and withdrawal of such licences;

(8) in any Municipality where a reasonable number of slaughter houses has been provided or licensed by the Council, control, regulate or prohibit the admission within the Municipal limits for the purposes of sale of the flesh (other than cured or preserved meal) of any sheep or goat slaughtered at any slaughter house or place not maintained or licensed under this Act, and may provide for the seizure, destruction or disposal otherwise of any flesh brought within Municipal limits in contravention of any such bye-laws;
(9) (i) prohibit the manufacture, sale or preparation or exposure for sale, of any specified articles of food or drink, in any place or premises not licensed by the Council,

(ii) regulate the hours and manner of transport within the Municipality of any specified articles of food or drink, and prescribe the route by which such articles shall be carried,

(iii) prohibit the sale of milk, cream, butter, ghee, curd, meat, game, fish and poultry by persons not licensed by the Council,

(iv) prohibit the import into the Municipality for sale of milk, cream, butter, ghee, curd, meat, game, fish and poultry by persons not licensed by the Council,

(v) make regulations for the grant and withdrawal of licences and the levying of fees therefor under this sub-section;

(10) fix premises within the Municipality in which the slaughter of animals of any particular kind, not for sale, shall be permitted, and prohibit, except, in case of necessity such slaughter elsewhere within the Municipality,

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

(i) with the permission of the Executive Officer or a Municipal Officer empowered by him,

(ii) subject to such conditions as the Executive Officer may impose, and

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

(12) regulate the making and use of connections or communications between private houses and premises and mains or service-cables, wires, pipes, drains, sewers and other channels established or maintained by the Council, under any of the provisions of this Act;

(13) regulate the collection, storage, preservation from pollution and use of rain-water;

(14) regulate the posting of bills and advertisements, and the position, size, shape and style of name-boards, sign-boards and signposts;
(15) regulate, require or prohibit the construction, pattern of construction, maintenance and materials of boundary walls, hedges and fences hereafter erected or re-erected so as to abut on a public street or upon property vested in the Council;

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

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

(18) provide for the seizure and confiscation of ownerless animals straying within the limits of the Municipality;

(19) provide for fixing and collecting rent and prohibiting the use of place at which boats may be moored, loaded or unloaded;

(20) provide for the registration of all or any specified classes of dogs, and in particular and without prejudice to the generality of the foregoing—

(i) provide for the imposition of an annual fee for such registration,

(ii) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the Council on payment of such cost which may be fixed from time to time by the Council,

(iii) provide that any dog, not registered and wearing such token may, if found in any public place, be detained at a place to be set apart for the purpose, and will be liable to be destroyed or otherwise disposed of after a period to be specified in the bye-law;

(21) render licences necessary for hand-carts employed for transport, or hawking articles for sale, and for the persons using such carts, and prescribe the conditions for the grant and revocation of such licences;

(22) provide for the registration, inspection and proper regulation of buildings ordinarily utilized for the residence or treatment of persons suffering from infectious diseases and for the limiting of the number of such persons who reside in such buildings or part of such building;
(23) where the levy and collection of an octroi (or terminal tax) has been sanctioned, fix limits for the purposes of collecting the same, and may prescribe routes by which animals and articles or both which are subject to octroi (or terminal tax) may be imported into the Municipality (or exported therefrom); and also for leasing and collecting octroi and terminal tax and empowering the persons made responsible in this behalf;

(24) regulate the conditions on which and the periods for which permission may be given under sub-section (1) of section 206 and subsection (1) of section 207 and provide for the levy of fees and rents for such permission;

(25) provide for the maintenance, improvement and protection of drainage system;

(26) provide for the licensing of draughtsmen;

(27) regulate in respect of the erection and re-erection of any building within the Municipality or part thereof—

(i) the materials and methods of construction to be used for external and party walls, roofs, floors, stair-cases, lifts, fire-places and chimneys;

(ii) the materials and methods of construction and position of fire-places, chimneys, drains, latrines, privies, urinals and cesspools;

(iii) the height and slope of the roof above the upper most floor upon which human beings are to live or cooking operations are to be carried on;

(iv) the ventilation and space to be left about the building to secure the free circulation of air and for the prevention of fire;

(v) the line of frontage where the building abuts on a street;

(vi) the number and height of the storeys of which the buildings may consist;

(vii) the means to be provided for egress from the building in case of fire;
(iii) the material and methods of construction to be used for godowns intended for the storage of foodgrains in excess of fifty maunds in order to render them ratproof;

(ix) the minimum dimensions of rooms intended for use as living rooms or sleeping rooms;

(x) the ventilation of rooms and the minimum dimensions of doors and windows;

(xi) the position and dimensions or projections beyond the outer face or any external wall of a building; and

(xii) the height of factory chimneys and the provisions to be made for consumption of smoke arising from the combustible used in any fire-place or furnace in a factory;

(28) provide for—

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

(b) the conduct of the proceedings at meeting and the adjournment of meeting,

(c) the custody of the common seal and the purposes for which it shall be used,

(d) the persons by whom receipts shall be granted on behalf of the Council for money received under this Act,

(e) the conditions on which registers, documents, maps and plans of the Council may be inspected by the public, and copies of them supplied and the fees payable for such inspection or for the supply of such copies, and

(f) all other similar matters;

(29) provide for the laying out of streets, and for determining the information and plans to be submitted with applications for permission to lay out streets, and for regulating the level and width of public streets and the height of buildings abutting thereon;

(30) provide for the protection of avenues, trees, grass and other appurtenances of public streets and other places;
(31) provide for the regulation of the use of parks, gardens and other public municipal places;

(32) provide in general for securing cleanliness, safety and order and the good Government and well-being of the Council and for carrying out all the purposes of this Act.

262. Council to prescribe fees for licences.—Except as otherwise provided in this Act, the Council may prescribe fees payable for the grant of a licence issued under this Act or the rules or bye-laws made thereunder.

263. Bye-laws to be made after previous publication.—The power to make bye-laws under this Act is subject to the condition of the bye-laws being made after previous publication, and to the following further conditions, namely:

(a) a draft of the bye-laws shall be published for such time and in such manner as the Government may prescribe in this behalf;

(b) for not less than one month during such period, a printed copy of such draft shall be kept at the municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same free of charge; and

(c) printed copies of such draft shall be obtainable by any person requiring the same, on payment of such fee not exceeding one rupee for each copy, as may be prescribed by the Council.

264. Bye-laws to be subject to sanction of Government.—(1) No bye-law made by the Council under this Act shall have any validity unless it is confirmed by the Government.

(2) Before sanctioning any such bye-law the Government may modify it.

(3) The Government may cancel their confirmation of any such bye-law, and thereupon the bye-law shall cease to have effect.

265. Publication of bye-laws and rules in Gazette and effect of such publication.—All bye-laws and rules made and (when sanction is required) sanctioned under this Act or all bye-laws cancelled under sub-section (3) of the preceding section shall be published in the Government Gazette and shall thereupon have effect as if enacted in this Act.
266. Power of Government to frame forms and make rules.—
(l) The Government may frame forms for any proceeding of the
Council for which it considers that a form should be provided, and
may make rules consistent with this Act to carry out the purposes
thereof and in particular and without prejudice to the generality of
the foregoing powers, may make rules—

(a) with respect to the powers and duties of Council;

(b) as to the division of Municipality into wards or of the in-
habitants into classes or both;

(c) as to the number of representatives proper for each ward
or class;

(d) as to the qualifications of electors and of candidates for
election;

(e) as to the registration of electors;

(f) as to the nomination of candidates, the time of election and
the mode of recording votes;

(g) regulating the procedure for election under this Act, the
contribution towards election expenses by candidates, the deposit of
security by candidates and the conditions of forfeiture of such deposits;

(h) prescribe the qualifications and conditions of service of per-
sons appointed by the Council or of officers appointed by the Govern-
ment to hold offices under the Council;

(i) as to the priority to be given to the several duties of the
Council;

(j) as to the authority on which money may be paid from the
municipal fund and as to the management and regulation of provident
fund established under this Act;

(k) as to the formation and working of the municipal fire-
brigade;

(l) as to the procedure to be observed for the punishment, sus-
pension or removal of officers or servants of the Council and as to
appeals from orders or appointment, punishment or removal;
(m) as to the condition on which property may be acquired by the Council or on which property vested in the Council, may be transferred by sale, mortgage, lease, exchange or otherwise;

(n) as to the intermediate office or offices, if any, through which correspondence between the Council and the Government or the officers of the Government shall pass;

(o) for the preparation of plans and estimates of works partly or wholly to be constructed at the expenses of the Council, and for the preparation and periodical revision of maps and registers made under sub-section (2) of section 60 and for the authorities by which and the conditions, subject to which such plans, estimates, maps and registers are to be prepared and sanctioned;

(p) for the assessment and collection of, and for the compounding for, refunding or limiting refunds of taxes imposed under this Act, and for preventing evasion of the same; and for fixing the fees payable for notices of demand;

(q) as to the accounts to be kept by the Council as to the conditions on which such accounts are to be open to inspection by inhabitants paying any tax under this Act, as to the manner in which such accounts are to be audited and published, and as to the power of the auditors in respect of disallowances and surcharge;

(r) as to the preparation of estimates of income and expenditure of the Council;

(s) as to the returns, statements and reports to be submitted by the Council;

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

(u) as to the publication of notices;

(v) to regulate the proceedings of persons empowered to accept composition under section 269 for alleged offences; and

(w) generally for the guidance of the Council and public officers in carrying out the purposes of this Act.

(2) Rules under clause (g) of sub-section (1) may, among other matters, provide—
(i) for the investigation of allegations of corrupt practices or intimidation at elections;

(ii) for making void the election of any person proved to the satisfaction of the Minister-in-Charge Local-Self Government, to have been guilty of corruption or intimidation or to have connived at, or abetted the exercise of corruption or intimidation on his behalf by any other person;

(iii) for rendering incapable of municipal officer either permanently or for a term of years any person whose election may have been made void as aforesaid for corruption or intimidation or for connivance at, or abetment of, the same;

(iv) for the definition of the practices at municipal elections which are to be deemed to be corrupt or to amount to intimidation;

(v) for prescribing the authority by which questions relating to the matters referred to in clauses (d), (e) and (f) of sub-section (1) shall be determined;

(vi) for authorising the officer deciding any objection to an election to order the objector to pay the costs of all proceedings taken upon such objection if the latter be, in the opinion of such officer, frivolous or vexatious; such order shall be final; and

(vii) for authorising Courts to take cognizance of the breach of any such rules on the complaint of the Minister-in-Charge, Local-Self Government or some person authorised by him in writing.

(3) In making rules under clauses (d) to (g), both inclusive, and clauses (m) and (r) of sub-section (1), the Government may direct that a breach of any provision thereof shall be punishable with fine which may extend to five hundred rupees.

(4) All rules made under this Act, shall be subject to previous publication.

(5) A rule under this section may be general for all Municipalities or for all Municipalities not expressly excepted from its operation or may be special for the whole or any part of any one or more Municipalities as the Government directs.

CHAPTER XXVIII

PROSECUTION AND PENALTIES

267. Authority for prosecution.—Unless otherwise expressly provided, no Court shall take cognizance of any offence punishable under this Act or any rule or bye-law thereunder, except on the complaint of, or upon information received from the Executive Officer or some person authorised by him in this behalf, or the Medical Officer of Health in respect of offences under Chapters XIV, XV, XVII and XVIII.

Explanation.—The Executive Officer may authorise any person to make complaints or give information without previous reference to him, either generally in regard to all offences against this Act and the rules or bye-laws thereunder, or particularly in regard only to specified offences of a specified class. The person authorised may be authorised by office, if he is Medical Officer of Health, or Municipal Engineer or Secretary of the Council or Officer-in-Charge of a Police Station; in other cases the authority must be personal. The authority must in all cases be in writing and may at any time be cancelled by the Executive Officer.

268. Penalties.—(1) Whoever—

(a) obstructs or refuses to submit to the lawful authority of any person acting in pursuance of this Act shall, on conviction before a 1[Judicial Magistrate], be punished for such offence with a fine which may extend to 2[five hundred rupees or with imprisonment which may extend to one year or with both.]

(b) does, or abets the doing of any other act in contravention of any of the provisions of this Act, or any rules, bye-laws, notices or licences issued thereunder, or obstructs any person lawfully acting in pursuance of this Act for which no punishment is provided elsewhere in this Act shall, on conviction before a 1[Judicial Magistrate], be punished for each such offence with a fine which may extend to 3[one thousand rupees or with imprisonment which may extend to one year or with both] and should the offence or breach be a continuing one with a further fine which may extend to rupees ten for every subsequent day till it continues.

(2) In addition to any fine which may be imposed on any person under this Act, the offender may also be required to remedy the mis-

1. Substituted by Act XL of 1966 for "Magistrate".
3. Substituted ibid.
chief, so far as may be possible, or it may be so remedied by the Council at his cost.

(3) No compensation, except as otherwise expressly provided for, shall be claimable for any loss or expenditure to which any person may be put in consequence of complying with, or enforcement of any lawful order of the Council.

(4) The punishment provided for under this Act shall be in addition to any other proceedings which may be taken under this Act.

269. Power to compound offences.—(1) Except as otherwise provided in this Act, the Executive Officer, or with the authorisation of the Council, any other officer or the Medical Officer of Health in respect of offences under Chapters XIV, XV, XVII and XVIII, may accept from a person against whom a reasonable suspicion exists that he has committed an offence against this Act, or any rule or bye-law, a sum of money by way of composition for such offence.

(2) On payment of such sum of money the suspected person if in custody, shall be discharged, and no further proceeding shall be taken against him in regard to the offence or alleged offence so compounded for.

(3) Sums paid by way of composition under this section shall be credited to the municipal fund.

(4) Authorization under sub-section (1) to accept composition for alleged offences may be given by the Council, either generally in regard to all offences under this Act and the rules and bye-laws thereunder, or particularly in regard only to specified offences or offences of a specified class, and may at any time be withdrawn by the Council.

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CHAPTER XXIX

MUNICIPAL ELECTION INQUIRIES

270. Definitions.—In this Chapter, unless there is anything repugnant in the subject or context,—

(a) "Commission" means a person or persons appointed by the Government to hold an inquiry in respect of any election under this Act.

(b) "costs" means all costs, charges and expenses of, or incidental to, an inquiry;
(c) "election" means any election held under the provisions of this Act or of any rules made thereunder;

(d) "inquiry" means an inquiry in respect of an election by the Commission;

(e) "pleader" means any person entitled to appear and plead for another in a Civil Court, and includes an advocate and a vekil of the High Court.

271. Appointment of Commission by the Government.—The Government may appoint a Commission consisting of one or more persons to hold an enquiry.

POWERS OF COMMISSION

272. In respect of the following matters a Commission shall have the powers which are vested in a Court under the Code of Civil Procedure, when trying a suit:—

(a) discovery and inspection,

(b) enforcing the attendance of witnesses and requiring the deposit of their expenses,

(c) compelling production of documents,

(d) examining witnesses on oath,

(e) granting adjournments,

(f) reception of evidence taken on affidavit, and

(g) issuing commissions for the examination of witnesses;

and may summon and examine suo moto any person whose evidence appears to be material, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1989.

273. Application of the Evidence Act.—The provisions of the Jammu and Kashmir Evidence Act, 1977, shall, subject to the provisions of this Chapter, be deemed to apply in all respects to an inquiry.
274. Stamping document.—Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence on the ground that it is not duly stamped or registered.

275. Witness not excused from answering on ground that answer will incriminate.—(l) No witness shall be excused from answering any question relating to any matter relevant to a matter in issue in an inquiry upon the ground that the answer to such question will incriminate or may tend, directly or indirectly, to incriminate him, or that it will expose, or tend, directly or indirectly, to expose him to a penalty or forfeiture of any kind; provided that—

(i) no person who has voted at an election shall be required to state for whom he has voted; and

(ii) a witness who, in the opinion of the Commission, has answered truly all questions which he has been required by the said Commission to answer shall be entitled to receive a certificate of indemnity and such certificate may be pleaded by such person in any Court and shall be deemed to be a full and complete defence to or upon any charge under Chapter IX-A of the Ranbir Penal Code, 1989, arising out of the matter to which such certificate relates, nor shall any such answer be admissible in evidence against him in any suit or other proceeding.

(2) Nothing in sub-section (1) shall be deemed to relieve a person receiving a certificate of indemnity from any disqualification in connection with an election imposed by any law or any rule having the force of law.

276. Appearance, application or act before Commission.—Any appearance, application or act before the Commission may be made or done by the party in person or by a pleader duly appointed to act on his behalf:

Provided that any such appearance shall, if the Commission so directs, be made by the party in person.

277. Expenses incurred in attending to give evidence to be part of costs.—The reasonable expenses incurred by any person in attending to give evidence may be allowed by the Commission to such person, and shall, unless the Commission otherwise directs, be deemed to be part of the costs.
278. **Report of Commission.**—At the conclusion of the inquiry, the Commission shall submit a report of its findings to the Government and such report shall include the opinion of the Commission on the amount of the costs, including counsel's fees as the Commission may deem fit, to be paid, and the person by whom and to whom such costs shall be paid.

279. **Government if in agreement with finding of Commission to pass orders accordingly.**—On receiving the report of the Commission, the Government shall pass orders either declaring the candidate duly elected or declaring the election to be void, and such orders shall be notified in the Gazette. Such orders shall be final and shall specify the amount of costs to be paid, and the person or persons by whom and to whom such costs shall be paid:

Provided that the Government before passing final orders may remand any case for further inquiry or refer any point arising in any case to a Civil Court for opinion and the Civil Court shall deal with any case forwarded to it as nearly as may be according to the procedure applicable under the Code of Civil Procedure to the hearing of appeals.

280. **Payment of costs.**—A certified copy of any order passed by the Government under the preceding section regarding the costs of inquiry may be produced before the principal Civil Court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, and such Court shall execute such order or cause it to be executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit.

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

(2) Any person who wilfully acts in contravention of the provisions of this section shall be punished with imprisonment of either description for a term not exceeding three months or with fine, or with both.

282. **Power to make rules.**—The Government may make rules consistent with this Act to carry out the purposes of this Chapter and all such rules shall be subject to publication.
CHAPTER XXX

NOTIFIED AREAS

283. Constitution of notified areas.—The Government may, by notification, declare that, with respect to some or all of the matters upon which a Municipal Fund may be expended, improved arrangements are required within specified area, hereinafter called a notified area, which, nevertheless, is not expedient to constitute a Municipality.

1[283-A. When a local area, the whole or part of which was a Town Area under the Town Area Act, Svt. 2011, is declared to be a Notified Area under this Chapter, the Notified Area Committee shall be deemed to be the perpetual successor of such Town Area Committee in respect of all its rules, general and special orders, taxes and all other matters whatsoever.]

284. Power of Government to impose taxation and regulate expenditure of proceeds thereof.—The Government may—

(1) impose in any notified area any tax which could be imposed there by the Council under this Act if the notified area were a Municipality;

(2) apply or adapt to the notified area for the assessment and recovery of any tax imposed under clause (1), any of the provisions of this Act or any rules for the time being in force with respect to the assessment and recovery of any tax imposed under this Act;

(3) arrange for the due expenditure of the proceeds of taxes imposed under clause (1) and for the preparation and maintenance of proper accounts;

(4) appoint a committee of one or more persons for the purpose of clauses (2) and (3);

(5) extend to any notified area the provisions of any section of this Act subject to such modifications and restrictions, if any, as the Government may think fit.

285. Application of Act to Notified Areas.—For the purposes of any section of this Act which may be extended to a notified area, the committee appointed for such area under the preceding section shall be deemed to be a Municipal Council under this Act and the area to be a Municipality.

286. Discontinuance of notified areas.—The Government may, at any time, cancel or modify any notification under section 283 or any order under section 284.

287. Application of funds of areas ceasing to be notified.—When, by reason of any order of cancellation under section 286, any notified area ceases to be notified, the unexpended funds shall be applied as the Government may think fit.