The Jammu and Kashmir Town Area Act, 1954

Act 27 of 1954

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THE JAMMU AND KASHMIR TOWN AREA ACT, 2011
(1954 A.D.)

(Act No. XXVII of Svt. 2011)

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1. XXVII of 1960.
2. XXXVI of 1963.
5. XXII of 1968.
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11. XX of 1976.
THE JAMMU AND KASHMIR TOWN AREA ACT, 2011
(1954 A.D.)

(Act No. XXVII of 2011.)

[Received the assent of the Sadar-i-Riyasat and published in Government Gazette dated 5th Sawan, 2011.]

An Act to make better provisions for the administration of town areas in the Jammu and Kashmir State.

Whereas it is expedient to make better provisions for the administration of town areas in the Jammu and Kashmir State;

It is hereby enacted as follows:—

CHAPTER I

Preliminary.

1. *Short title, commencement and extent.*—(1) This Act may be called the Jammu and Kashmir Town Area Act, 2011.

(2) It shall come into force on such day as the Government may, by notification in the Government Gazette, appoint in this behalf and from that date the Jammu and Kashmir Town Area Act, Svt. 1997, shall be repealed:

Provided that all existing Town Area Committees shall be deemed to have been constituted under this Act and all taxes imposed, fees charged, orders passed, transaction entered into and suits instituted under the Town Area Act, 1997, shall be deemed respectively to have been imposed, charged, passed, entered into and instituted under this Act.

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

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

(i) "annual value" means the gross annual rent at which a house or land may reasonably be expected to let from year to year;

(ii) "boat" shall mean 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;

(iii) "building" includes any shop, house, hut, out-house, shed, superstructure and stable whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever and includes a wall and a well, but does not include mud-wall built round agricultural land not abutting on a public road;

(iv) "erect" or "re-erect" 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 effects an alteration in its drainage or sanitary arrangements or materially affects its stability;

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

(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 or land;

(v) "explosive" means gun-powder, nitro-glycerine, dynamite, gun-cotton, blasting powder, fulminate of mercury or of other metals, coloured fires and every other substance used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect, and includes fog signals, fireworks, cartridges, ammunition, of all descriptions and every adaptation or preparation of an explosive;

(vi) "Gazette" means the Government Gazette;

(vii) "inhabitant" means any person ordinarily residing or carrying on business or owning or occupying immovable property in any town area and in case of any dispute means any person declared by the Government to be an inhabitant;

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

(ix) Omitted.

(x) "occupier" means, in the case of a house let out to several tenants or to lodgers or travellers, the person who lets the house or receives or is entitled to receive the rents or payments from the tenants or the lodgers or travellers;

(xi) "offensive callings and trades" include melting tallow, dressing raw hides, boiling bones, offal or blood, soap-house, oil-boiling house, dyeing house, tannery or gut scrapping, brick field, lime kiln and any other manufactory, engine house, store house or place of business from which offensive or unwholesome smells, gasses, noises or smoke arise;

(xii) "owner" when used in reference to any land or building includes the person for the time being receiving the rent of 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 who would so receive the same if the land or building were let to a tenant;

(xiii) "prescribed" means prescribed by this Act or by any rule or order made thereunder;

(xiv) "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 Committee;

(xv) "public road" means any road, street, bridge, thoroughfare, passage or place over which the public have a right of way and includes drains;

(xvi) "rule" means a rule made in exercise of the powers conferred by this Act;

(xvii) "street" means any road, footway, lane, square, court, alley or passage, accessible whether permanently or temporarily to the public and whether a thoroughfare or not and includes drains or gutters on either side;

(xviii) "town area" means any local area which the Government has declared or defined under section 3 to be a town area;

(xix) "vehicle" includes a bicycle, tricycle, auto motor car, and every wheeled conveyance which is used or capable of being used on a public street.

CHAPTER II

Constitution of Town Areas and Town Area Committees and the Appointment of Servants.

3. Declaration and defining limits of a town area.—(1) The Government may, by notification in the Government Gazette,—

(a) declare any town, village, suburb, bazar or inhabited place to be a town area for the purposes of this Act and may unite, for the purpose of declaring the area constituted by such union to be a town area, the whole or portion of any town, village, suburb, bazar or inhabited place with
the whole or portion of any other town, village, suburb, bazar or inhabited place;

(b) define the limits of any town area for the like purposes;

(c) include or exclude any area in or from any town area so declared or defined; and

(d) at any time, cancel or modify any notification issued under this section.

3-A. Town Area Committee to be the perpetual successor of Notified Area Committee.—When a local area, the whole or part of which was a Notified Area under the Jammu and Kashmir Municipal Act, Samvat 2008, is declared to be Town Area under this Act, the Town Area Committee shall be deemed to be the perpetual successor of such Notified Area Committee in respect of all its rules, general and special orders, taxes and all other matters whatsoever.

4. Constitution of Town Area Committee.—(1) There shall be established for each town area a Committee to be known as the Town Area Committee consisting of—

(a) a Chairman elected by the Committee or nominated by the Government:

Provided that the Government shall not be empowered to nominate a Chairman except in special and emergent circumstances and for a period not exceeding six months;

(b) such number of elected members which shall be not less than five or more than fifteen as the Government may prescribe in the case of each town area or class of town areas;

(c) Omitted.

3[Provided that in case of first Committee to be constituted in respect of any area declared to be a town area after the commencement of this Act all the members of the Committee including the Chairman shall be nominated by the Government:

Provided also that the term of office of the members nominated for such Committee shall not exceed six months.]

2. Clause (e) omitted as it was inserted by Act XLIX of 2011 for a period of five years w.e.f. 12-4-1933 and that period expired on 12-4-1960.
(2) Notwithstanding anything contained in this Act, the Government may nominate not more than two persons having special or technical knowledge or practical experience in respect of Local Self-Government affairs to sit in any meeting of a Committee and take part in its discussions and such persons though not entitled to vote shall be treated as members in all respects.

(3) Subject to the provisions of section 9, only persons whose names are enrolled as electors of a town area, shall alone be eligible for election as members of the Committee of that town area.

(4) The election to a Town Area Committee shall be on the basis of adult sufferage and joint electorate system as prescribed by rules.

5. Term of office of members of a Committee.—(1) Subject to the provisions of section 9, the term of office of a member of a Committee shall be four years and shall commence from the date of election or when the election has taken place before the vacancy has occurred, from the date on which the vacancy occurs : [x x x]

Provided that the term of office of a member elected to fill a casual vacancy shall be the residue of the term of the outgoing member:

Provided also that for the purpose of holding general elections of a town area, the Government may, by notification in the Gazette, curtail or extend the term of office of the members of that Committee.

(2) If a member wishes to resign, he shall forward his resignation in writing to the Government through the Chairman and shall be deemed to have vacated his office from the date of receipt by the Committee of information that his resignation has been accepted by the Government.

6. Removal of members.—(1) The Government may, after affording him an opportunity to make an explanation, remove any member of a Committee who, in its opinion, has so abused his position as a member as to be unfit to act as such member or who is persistently remiss in the discharge of his duties as such member.

(2) A member removed under this section shall not be eligible for further election [x x x] for a period of three years from the date of his removal:

Provided that the member so removed shall be entitled to apply to the Government within one month from the date of communication of the removal.

1. Certain words omitted as those words were inserted by Act XLI of 2011 for a period of five years w.e.f. 12-4-1955 and that period expired on 12-4-1960.
order to him for review of the order of his removal and the Government may, if there is a sufficient cause, review its order.

7. Notification of Election.—Every election of a Chairman, Vice-Chairman or a Member and every appointment of a member shall be notified by the Government in the Government Gazette and no member shall enter upon his duties until his election or appointment has been so notified.

7-A. Qualification for membership.—(1) A person shall not be qualified to be chosen to fill a seat in a Town Area Committee to be filled by election unless he makes and subscribes before the Returning Officer or the Assistant Returning Officer an oath or affirmation on or before the date of scrutiny of nomination papers, in the following form, namely :

'I, A. B., having been nominated as a candidate to fill a seat in the Town Area Committee of _______________ do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established and that I will uphold sovereignty and integrity of India.'

(2) A person shall not be qualified to be a member of a Town Area Committee on a seat to be filled by appointment unless before entering upon his duties he makes and subscribes before some person authorised in this behalf by the Government an oath or affirmation in the following form, namely :

'I, A. B., having been appointed as a candidate to fill a seat in the Town Area Committee of _______________ do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of the State as by law established and that I will uphold sovereignty and integrity of India.]

8. Incorporation of the Committee.—Every Town Area Committee shall be a body corporate by the name of the Town Area Committee of the town by reference to which the town area is known and shall have perpetual succession and common seal, with power to acquire property, both movable and immovable, and subject to the provisions 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 purpose of its constitution and may sue and be sued in its corporate name.

9. Disqualifications for membership.—A person shall be disqualified for being chosen as, or for being a member of a Town Area Committee,—

(a) if he is under 2[25] years of age ;

(b) if he has been adjudged by a competent Court to be of unsound mind ;

(c) if he 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.

(d) if he is a person who has been convicted of and sentenced for an offence (other than an offence of a political nature) punishable with imprisonment for not less than two years, unless a period of 3 years or such less period as the [Government] may allow in any particular case, has elapsed since his release ; provided that this clause shall not apply to an offender who has been released under the provisions of section 562 of the Code of Criminal Procedure, 1989 ;

(e) if he is in arrears in the payment of any dues to the town area ;

(f) if he is a mute or leper ;

(g) if he holds an office of profit under the Jammu and Kashmir Government or Government of India or of any other State in India or is a whole-time employee in any Municipal or local body in the State;

(h) if he has directly or indirectly any share or interest in any contract with, by or on behalf of the Committee while owning such share or interest ;

'(i) if he is not a permanent resident of the State ;]

(j) if he has ordinarily resided in the town area for less than 12 months preceding the date of filing the nomination form ;

(k) if he cannot read and write ;

'(l) if he 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.

10. **Liabilities of members of Town Area Committee.**—Every member of a Town Area Committee shall be liable for the loss, waste, or misapplication of any money or other property belonging to the Committee if such loss, waste, or misapplication is a direct consequence of his neglect or misconduct while a member of the Committee and a suit for compensation

may be instituted against him by the Committee with the previous sanction of the Government.

11. **Election and term of office of Chairman and Vice-Chairman.**—

(1) The Chairman of a Committee declared to have an elected Chairman under clause (a) of sub-section (1) of section 4 shall be elected by the members of a Committee at its first meeting from amongst its members for a period of four years or the residue of the term of his office as member, whichever is less.

(2) Every Town Area Committee shall have a Vice-Chairman to be elected from amongst its members and such Vice-Chairman shall, during the absence of the Chairman discharge all the duties of the Chairman.

(3) An outgoing Chairman or Vice-Chairman, if otherwise qualified, shall be eligible for re-election.

(4) Whenever a vacancy in the office of Chairman or Vice-Chairman occurs by death, resignation or otherwise, a new Chairman or Vice-Chairman, as the case may be, shall be elected in the manner provided in this section.

(5) The term of office of Vice-Chairman shall be four years, or the residue of his term of office as member, whichever is less.

(6) Whenever—

(i) an elected Chairman or Vice-Chairman vacates his seat or tenders in writing his resignation of office to the Director of Local Bodies he shall vacate his office only when a notification is issued by the Government in this behalf;

(ii) two-thirds of the members serving in a Committee pass a resolution expressing lack of confidence in an elected Chairman or Vice-Chairman, the resolution shall be forwarded to the Director of Local Bodies and thereupon the Government may by a notification remove him from office after affording him an opportunity to make an explanation in writing. The Government may also pass such interim orders as it may deem fit.

**Explanation.**—It will not be valid ground for defence for the Chairman or Vice-Chairman against whom a vote of no confidence is passed that the meeting of the Committee was not convened by him.

(7) Any elected Chairman or Vice-Chairman may be removed from office by the Government on the ground of abuse of his powers or his failure to perform his duties, after affording him an opportunity to make an explanation

1. Substituted by Act XXX of 1978, s.4.
in writing: provided that the Chairman or the Vice-Chairman so removed shall be entitled to apply to the Government within one month from the date of communication of the order of his removal to him for review of the order and the Government may, if there is a sufficient cause, review its order.]

12. **Conduct of business.**—(1) Every Town Area Committee shall meet at least once a month for the transaction of business subject to rules as may be made from time to time by the Government. The Chairman or in his absence the Vice-Chairman shall preside at all such meetings and in the absence of the Chairman and the Vice-Chairman, any member elected by the members present shall preside.

(2) The quorum for a special meeting of the Committee shall be one-half and for an ordinary meeting one-third of the total number of members of the Committee:

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

(3) All questions which come before any meeting of a Committee shall be decided by a majority of votes of the members present, the Chairman of the meeting in case of an equality of votes having a second or casting vote.

1[12-A. **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 Town Area Committee or on account of any defect or irregularity not affecting the merits of the case.]

**CHAPTER III.**

**Town Area Budget and Servants.**

13. **Town Area Budget.**—The Town Area Committee shall prepare and submit for sanction to the 2[Government] annually and on such date as may be specified by it from time to time in this behalf, a Budget showing the anticipated receipts and expenditure of the town area for the ensuing year.

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2. Substituted: *ibid.*
14. **Employment of servants.**—(1) The Town Area Committee may appoint a Secretary, a Medical Officer of Health and 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 salaries and allowances as it may determine from time to time:

Provided that the power of appointment and punishment of such servants shall vest in the Chairman, the Committee, the Director Local Bodies and the Government respectively to such extent as the Government may from time to time by order determine.

(2) Rules to regulate the exercise of these powers including the matter of appeal, etc., shall be made by the Government.

(3) (a) In the absence of a written contract to the contrary, every officer or servant employed by a Committee shall be entitled to one month's notice before discharge or to one month's wages in lieu thereof, unless he is discharged during a period of probation or for misconduct or was engaged for a specified term and discharged at the end of it.

(b) Should any officer or servant employed by a Committee in the absence of a written contract authorising him so to do and without reasonable cause resign his employment or absent himself from his duties without giving one month's notice to the Committee, he shall be liable to forfeit a sum not exceeding one month's wages out of any wages due to him and if no wages of less than one month's wages are due to him he shall be liable to a penalty not exceeding wages for a month or an amount equal to the difference between one month's wages and the wages due to him.

(c) Should any sweeper employed by a Committee in the absence of a written contract authorising him so to do and without reasonable cause resign his employment or absent himself from his duties without giving one month's notice to the Committee or neglect or refuse to perform his duties or any of them, he shall be liable to punishment of fine not exceeding one month's pay.

(4) With the sanction of the Government the Committee may give an extraordinary pension or gratuity:

(a) to any officer or servant injured in the performance of his duty as such officer or servant;

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1. Proviso substituted by Act XXX of 1978, s.5.
2. Proviso 2nd deleted *ibid.*
(b) to the family of any officer or servant who is killed or meets his death in the performance of his duty as such officer or servant.

(5) A pension, gratuity or annuity shall not exceed the sum to which under any general or special orders of the Government for the time being in force, such officer or servant or his family would be entitled if the service had been service under the Government.

(6) If a person serving or having served under a Committee has been or is transferred from or to the service of Government or is partly employed by the Government and partly by a Committee, the Committee shall contribute to his pension and leave allowances to the extent required by the rules in force for the time being made by the Government in this behalf.

(7) If an officer or servant of a Committee is a Government official, the Committee may—

(a) if his services are wholly lent to it, contribute to his pension, gratuity and leave allowance in accordance with any general or special orders of the Government in force for the time being;

(b) grant him leave, absentee or acting allowance.

(8) The Committee may, with the previous sanction of the Government, pay pensions, gratuities, compassionate allowance to its whole-time officers and servants according to such rules as may be sanctioned by the Government in this behalf.]

1[14-A. Notwithstanding anything to the contrary contained in this Act or in any other law, rule, 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 Town Area Committee to other Town Area Committee, from a Town Area Committee to a Municipal Council or a Notified Area Committee and from a Town 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.]
16. Interest of member and town area employees in contracts, etc.—No member or servant of a Committee shall, without the previous sanction in writing of the Government, interest himself in any contract under him made with that Committee and any person found to have so interested himself shall be liable to removal from his office or membership, as the case may be, unless he has already resigned or notified his intention to do so.

17. Town area servants to be deemed public servants.—Every officer or servant employed by the Committee, whether wholly or partly, and every member of the Committee and a contractor duly appointed by the Committee for the collection of a tax or fee and 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.

CHAPTER IV.

The Town Fund and Property.

18. Constitution of the Town Fund.—For each town area there shall be formed a Town Fund and there shall be placed to the credit thereof—

(a) the proceeds of any tax imposed under the provisions of this Act ;

(b) all fines realised in cases in which prosecution for offences committed within the limits of such town area are instituted under this Act or the rules made thereunder, or under section 36 of the Police Act or under any other Act in which provision is made for the credit of such fines to the Town Fund;

(c) all sums ordered by a Court to be placed to the credit of the Town Fund;

(d) the sale proceeds, except in so far as any private person is entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the town servants;

(e) such portion of the rent or other proceeds of Nazool property or of the rent of camping and other areas as the Government may direct to be placed to the credit of the Town Fund;

(f) all sums received by way of [x x x] subvention or gift ; and

(g) all other incomes of the Town Area Committee and such other sums as may be assigned to the Town Fund by any general or special order of the Government.

19. Control of Town Fund.—Subject to any rules made in this behalf by the Government, the Town Fund shall be under the control of the Town Area Committee and shall be applied to—

(a) the repayment of the principal and interest of any sum advanced as a loan by the Government or of any amount falling due on any loan legally contracted by the Committee or the Sanitation Cess Fund or any fund controlled by or on behalf of the Government for the purposes of this Act;

(b) the payment of the salary and allowances of the town area establishment;

(c) the purchase of stationery and other contingent expenditure necessary for carrying on the business of the Town Area Committee;

(d) the payment of expenses incurred for the maintenance of public roads and bridges within the town area limits not being roads and bridges of which the maintenance is undertaken by the Government;

(e) the payment of expenses incurred for the repair of public wells, springs and tanks or for the provision of an adequate supply of pure drinking water;

(f) the payment of expenses incurred generally for carrying out the sanitation, drainage, lighting and improvement of the town area;

(g) the payment of expenses incurred on providing medical relief or opening and maintaining Reading Rooms, Libraries or Adult Education Centres, erection of town halls, subscribing to Government Gazette, buying books of reference, installing and maintaining radio sets or making grants in furtherance of such purposes;

(h) the expenses incurred in carrying out any scheme referred to in section 20; and

(i) the payment of any other sums which the Government may, by general or special order, declare to be an appropriate charge on the Town Fund.

19-A. Power of Town Area Committee to borrow.—(1) The Town Area Committee may borrow money by way of loans or debentures from such

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1. Section 19-A inserted by Act XXV of 1974, s. 5.
sources and on such terms and conditions as may be approved by the Government.

(2) The Committee shall maintain a Sinking Fund for repayment of money borrowed under sub-section (1) and shall pay every year into the Sinking Fund such sum as may be sufficient for repayment within the period fixed for all the money so borrowed.

(3) The Sinking Fund or any part thereof shall be applied in or towards, the discharge of the loan for which such fund is created, and until such loan is wholly discharged it shall not be applied for any other purpose.

20. Power to require Committee to carry out certain orders.—The Government may, by order, require a Town Area Committee to carry out any scheme detailed in such order for protection against fire, for adequate supply of pure drinking water, for the drainage of the town area, for improvements of the roads or sanitation of the town area or any other measure in the interest of the town area.

21. Custody of Town Fund.—The Town Fund shall be kept in the State Treasury or with the previous sanction of the Government in any recognised bank.

1[21-A. Audit of accounts.—The accounts of the Town Area Committees shall be examined and audited by the 1[Secretary to Government, Finance Department] or any other officer authorised by him who may also prescribe the manner and forms for maintenance of accounts in this behalf. The 2[Secretary to Government, Finance Department] or the officer so authorised by him shall report to the Minister-in-charge and any other officer nominated by the Government in this behalf any material impropriety or irregularity which he may observe in the expenditure or in the recovery of money due to the Town Area Committee:

Provided that the Chairman of the Committee shall forthwith remedy the defects or irregularity that may be pointed out by the 1[Secretary to Government, Finance Department] or the officer so authorised by him in this behalf and shall report to the Minister-in-charge, Local Self Government and the Officer nominated by the Government the action taken by him thereon:

Provided further that if there by difference of opinion between the Town area Committees and the 2[Secretary to Government, Finance Department], the matter shall be referred to the Minister-in-charge, Local Self Government whose orders shall be final.]

22. **Authority to contract.**—(1) Subject to the provisions of this Act, the Chairman may on behalf of the Committee enter into any contract the value whereof does not exceed Rs. 5000.

(2) No contract the value or amount whereof exceeds Rs. 5000 but does not exceed Rs. 25000 shall be entered into on behalf of a Committee unless it has been sanctioned by the Committee.

(3) No contract the value or amount whereof exceeds Rs. 25000 but does not exceed Rs. 50000 shall be entered into by or on behalf of a Committee unless it has been sanctioned by the Director Local Bodies.

(4) No contract the value or amount whereof exceeds Rs. 50000 shall be entered into by or on behalf of Committee unless it has been sanctioned by the Government:

Provided that when the estimated cost of a work exceeds ten thousand rupees, it shall not be entered into unless the estimates pertaining to that work have been checked by an Executive Engineer specially empowered by the Government in this behalf:

Provided further that when the estimated cost of a work exceeds fifty thousand rupees it shall not be entered into unless the estimates pertaining to that work have been checked by the Superintending Engineer of the district concerned.

23. **Execution of contracts.**—(1) Every contract made by or on behalf of a Committee, the value or amount whereof exceeds twenty rupees, shall be in writing and every such contract shall be signed by the Chairman [and in his absence by the Vice-Chairman and in the absence of both by the Secretary.]

(2) Every transfer of immovable property belonging to a Committee must be made by an instrument in writing executed by the Chairman or Vice-Chairman and by at least two other members of the Committee whose execution thereof shall be attested by the Secretary and no such transfer of immovable property shall be made without previous sanction of the Government.

(3) No contract or transfer of the description mentioned in this section executed otherwise than in conformity with the provisions of this section shall be binding on the Committee or the Government.

24. **Taxes which may be imposed.**—A Committee may from time to time and subject to the provisions of this chapter and the rules made in this behalf, impose in the whole or any part of the town area any one or more of the undermentioned taxes and fees with the previous sanction of Government:—

(a) a town rate in the form of a tax—

(i) upon all owners or occupiers of buildings or lands within the limits of the town area assessed according to the annual value of such buildings or lands; provided that if any land is assessed to cesses under the Land Revenue Act, the amount of the cesses so assessed shall be deducted from the tax assessed on such land under this section:

Provided further that the amount assessed in respect of any building or land shall not exceed 6½ per cent of the annual value of the building or land;

(ii) upon all residents of the town area assessed according to their circumstances; provided that the amount assessed on any one person according to his circumstances shall not exceed Rs. *7/8/- per month in any one town area;

(b) a tax upon persons including Government servants who practise any specified profession or art or carry on any specified business, trade or calling in the town area;

(c) a tax payable by the owner on all or any vehicles, animals used for riding, draught or burden or dogs when such vehicles or animals or dogs are kept within the limits of the town area:

Provided that no tax shall be payable on vehicles or animals used mainly for agricultural purposes;

(d) modified octroi known as Dharat on animals or goods, or both, brought within the town limits for consumption [or for sale] or for use therein or a terminal tax on goods imported into or exported from the terminal tax limits; provided that a terminal tax and Dharat shall not be in force in a town area at the same time;

(e) Teh bazaar;

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*Now Rs. 7.50
(f) lease of right to collect night-soil or town refuse;

(g) adda fee;

(h) tax on boats let out on hire;

(i) entertainment tax;

(j) slaughter house fee;

(k) building fee;

[(l) a tax on timber imported into the town area for being sold, or for being stored for more than sixty days.]

(m) chhaja tax;

(n) thara tax;

(o) tehi Zamini;

(p) water tax;

(q) lighting tax;

(r) such other tax or fee as may be approved by the Government.

25. Procedure in imposing taxes.—(1) A Committee may, at a special meeting, pass a resolution proposing the imposition of any tax or fee under section 24.

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

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

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

(5) If no objection to the proposed tax or fee is received within the said period of 30 days or if all such objection having been considered as aforesaid are deemed insufficient, the Committee may forward its proposal to the Government with the objections, if any, which have been received as aforesaid and for such orders as Government may give.

(6) When any proposal of a Committee has been sanctioned by the Government, the Government shall notify the imposition of the tax or fee and shall in the notification specify a date \([x \times x \times x]\) on which the tax or fee shall come into force.

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

26. Assessment of tax.—(1) Subject to any rules made in this behalf by the Government, the Committee established for any town area shall, as soon as may be prepare a list of the persons liable to pay the tax imposed under items (a), (b) and (m) to (q) of section 24 and of the amounts to be paid respectively by such persons as and when it proceeds to impose tax on those items.

(2) Every assessment list prepared under sub-section (1) shall, except in case of tax under items (a) (ii) and (q) of section 24, contain the following particulars :—

(a) a description of the property sufficient for its identification ;

(b) the name of the owner or occupier ; and

(c) the annual value of the property.

(3) The Committee shall, when so required by the officer as may be authorized by the Government in this behalf from time to time, revise the assessment list prepared under sub-section (1).

(4) Every assessment in a list prepared under sub-section (1) or revised under sub-section (3) shall be subject to confirmation by the officer authorized as aforesaid and any such assessment which he refuses to confirm shall be altered by the Committee under his directions.

(5) An assessment, when confirmed by the officer authorised as aforesaid, shall not be subject of alteration except upon revision of the assessment list under sub-section (3) or in pursuance of an order passed in appeal under the provisions of section 31.

27. **Duty of furnishing true information regarding liability to town area taxation.**—Every person shall, on demand by an officer duly authorized by the Committee in this behalf, furnish such information as may be necessary in order to ascertain whether such person is liable to pay any town area tax; and every hotel or lodging housekeeper shall also, on demand made as aforesaid, furnish a list of all persons residing in such hotel or lodging house.

28. **Power of entry for the purpose of valuation or taxation.**—The Committee may authorize any person,--

(a) after giving 24 hours’ notice to the occupier or, if there by 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 purpose 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.

29. **Exemption from tax.**—Subject to any rules made in this behalf by the Government, the Government may, by order, exempt in whole or in part from the payment of any tax imposed under this Act, any person or class of persons or property or description of property.

30. **Publication of assessment list.**—The Town Area Committee shall cause a copy of every assessment list prepared or revised as aforesaid and confirmed by the officer authorized by the Government in this behalf to be posted in a conspicuous place within the town area and shall cause a register of assessments to be maintained at such place and in such manner as the Government may prescribe.

31. **Appeals from assessment of levy of tax.**—(1) An appeal against the assessment of levy of a tax or fee shall lie to the [Government] and the decision of the [Government] shall be final and shall not be called in question in any Court.

(2) Court-fee shall not be payable on an appeal presented under sub-section (1) of this section.

(3) An appeal under sub-section (1) shall not be admitted after the expiry of thirty days from the date of posting of assessment list and in cases in which there is no assessment list prepared, from the date of demand, unless the appellant shows sufficient reason for failing to appeal within the said period.

32. **Payment of tax.**—A tax or fee assessed or imposed under this Act shall be payable in such instalments and each instalment shall become due on such date as the Town Area Committee may, subject to any rules made by the Government in this behalf, direct by notice posted in a conspicuous place within the town area:

Provided that any person so desirous may pay the amount of any instalments in advance.

33. **Writ of demand.**—On failure of any person to pay any instalment of a tax or fee under this Act on or before the specified date, the Chairman, or in his absence the Vice-Chairman, shall cause a writ of demand to be served on the defaulter or delivered at or affixed to his place of residence within the town area and addressed by registered post to such place of residence or any other place where he may be known to reside. A process charge of ₹/4/- per writ of demand issued in addition to any postal charges incurred under this section may be added to the arrear claimed and recovered as such.

1[34. **Presentation of the Bill.**—(1) When any arrears of tax, water rate, rent, fee or any other money claimable by a Town Area Committee under this Act shall have become due, the Chairman 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 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 Chairman, or

(c) prefer an appeal,

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

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*Now Twenty-five paisa.

1. Section 34 substituted by Act XXX of 1978, s.7.
(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 Chairman before the Collector who shall proceed to recover the sum in the same manner as if it were arrears of land revenue.

CHAPTER VI

Collection of Dharat (Modified Octroi) or Terminal Tax.

35. Collection to be controlled by Chairman Town Area Committee.—The Collection of Dharat or terminal tax shall be under the control of the Chairman whether made departmentally or through a duly appointed contractor.

36. Omitted.

37. Duty of importer to allow inspection of goods and documents relating thereto and to pay the tax demanded.—Every person importing, within the limits of a town area, any article on which Dharat or terminal tax is leviable shall, when required by a servant of the Town Area Committee authorised by the Chairman in this behalf or the contractor or his authorised agent and so far as may be necessary for ascertaining the amount of the tax chargeable,—

(a) permit such servant to inspect, examine, weigh and otherwise to deal with the articles;

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

(c) pay the Dharat or terminal tax [at the rate sanctioned under this Act];

and any person bringing within such limits any goods, whether taxable or not, in a closed package shall allow such servant or the contractor or his authorised agent to inspect the contents of the same in order to ascertain whether tax is leviable or not:

[Provided that the prior approval of the Chairman to the appointment of the agent so authorised shall be necessary.]
38. Officer demanding or collecting of Dharat or terminal tax to tender a bill or a receipt.—Every servant of a Town Area Committee or contractor, [or his authorised agent], demanding Dharat or terminal tax by the authority of the Chairman, shall tender to every person introducing any article on which the tax is claimed a bill specifying the articles taxable, the amount claimed and the rate at which tax is calculated or if the Dharat or terminal tax is paid on demand, a receipt giving the same particulars.

39. Procedure in case of non-payment on demand.—(1) In the case of non-payment of Dharat or terminal tax on demand, the contractor or his agent or servant or a servant of the Town Area Committee empowered to collect the same may seize any article, on which the Dharat or terminal tax is chargeable, of sufficient value to satisfy the demand:

Provided that if the seizure is by a contractor of Dharat or terminal tax, his servant or agent, a report shall immediately be made to the Chairman.

(2) The Chairman may cause any property so seized, or so much thereof as may be necessary, to be sold by auction to satisfy the demand together with the expenses occasioned by the seizure, custody and sale thereof unless the demand and expenses are in the meantime paid after the lapse of one week from the seizure and after due notice has been given fixing the time and place of sale:

Provided that articles of perishable nature which cannot be kept without serious risk of damage may be sold after the lapse of such shorter time as he may, having regard to the nature of the articles, think proper.

40. Penalty for evasion of payment of Dharat or terminal tax.—If any goods passing through the limits of a town area are liable to the payment of Dharat or terminal tax, every person who, with intent to defraud the Town Area Committee, causes or abets the introduction of, or himself introduces or attempts to introduce within the said town area limits any such goods upon which payment of the Dharat or terminal tax due on such introduction has not been made or tendered shall, on conviction before a [Judicial Magistrate], be sentenced to fine which may extend to five times the amount of such Dharat or terminal tax or to fifty rupees, whichever be greater.

41. Bar of action.—(1) No civil suit shall lie against the Government or against any servant of a Town Area Committee for damages for any act bona fide done or ordered to be done in pursuance of this Act.

(2) Notwithstanding anything contained in the Limitation Act, 1995, all prosecutions of any servant of a Town Area Committee and all actions

1. Inserted by Act XXVII of 1960.
which may be lawfully bought against a Town Area Committee or against any servant of a Town Area Committee in respect of anything done or alleged to have been done in pursuance of this Act, shall be instituted within six months from the date of the act complained of and not afterwards:

Provided that no such suit shall be instituted until the expiration of one month after notice has been given stating the cause of action and the name and the place of abode of the intending plaintiff and the plaintiff shall contain a statement that such notice has been given.

(3) In a suit for damages against a Town Area Committee it shall be lawful for the Court if tender of sufficient amends shall have been made before the action was brought in awarding the amount so tendered to refuse costs to the plaintiff and direct him to pay the cost of the defendant.

42. Restriction or prohibition of the importation or exportation of goods.—The Government may restrict or prohibit the importation into or exportation from any town area where Dharat or terminal tax is imposed under this Act, of goods of any specified description.

CHAPTER VII.

Duties and Powers and other Similar Matters.

43. Duties of the Chairman.—The duties of the Chairman shall be—

(a) to convene and preside at all meetings of the Committee, to control the transaction of business thereat and to maintain a record of such business;

(b) to supervise the collection of taxes and other dues of the Committee;

(c) to supervise the work of the servants and employees of the Committee;

(d) to conduct all correspondence on behalf of the Committee;

(e) subject to the control of the Committee, to apply the Town Fund to any or all of the purposes prescribed by section 19;

(f) to report to Government against any member who has, in his opinion, abused his position as member or who is persistently remiss in the discharge of his duties;
(g) to perform such other duties as may be required of or imposed on him by or under this Act or by or under any of the rules made under this Act; and

(h) to furnish such periodical reports and returns and records as may be required by the Government.

44. Appointment of Sub-Committee.—A Committee may constitute Sub-Committees for the purpose of exercising such powers, discharging such duties or performing such functions as it may delegate to them, or may appoint individual members or Sub-Committees, to enquire into and report or advise on any matter which it may refer to them.

45. Sanitation order.—The Town Area Committee may, by general or special order in writing, provide and, if so advised by the Government, shall provide for all or any of the following matters within the town area, namely:

(a) the regulation of offensive callings or trades;

(b) the disposal of corpse by burning or burial;

(c) the repair or removal of dangerous or ruinous buildings;

(d) the prohibition of the storage of more than a fixed quantity of petroleum and other inflammable articles in any place or building;

(e) the regulation or prohibition of any description of traffic;

(f) the disposal of mad and stray dogs;

(g) the cleansing of any filthy building or land; and the closing of any building not fit for human habitation;

(h) the disinfection of any building or article which the Committee may consider necessary in order to prevent the spread of any infectious or contagious disease;

(i) the licensing of premises for manufacture, preparation for sale or sale of articles of food or drink, and the regulation of the transport within the town area of articles of food and drink;

(j) the licensing of vehicles kept or plying for hire, the control of traffic, the setting apart of places where vehicles plying for hire may stand;

[(ii) the prohibition.--

(i) of vehicular traffic in any public road or any portion thereof so as to prevent danger, obstruction or inconvenience to the public or to ensure quietness in any locality;

(ii) in respect of all public roads, or any particular public road, 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 Town Area Committee generally or specially in each case:

Provided that notices of such prohibitions as are imposed under sub-clauses (i) and (ii) shall be posted in conspicuous places at or near both ends of public roads or portions thereof to which they relate unless such prohibition applies generally to all public roads.]

(k) the prohibition of the tethering of cattle in any street or public place;

(l) licensing of yards or depots for trade in hay, straw, thatching, grass, wood, charcoal or coal, or other dangerously inflammable material;

(m) the prevention or removal of any movable or immovable encroachment over any street, drain, sewer or channel and the recovery of the expenses incurred on such prevention or removal or in rectifying any damage caused to the street, drain, sewer or channel by such prevention or removal;

(n) regulating the posting of advertisements and notice boards, and with the previous sanction of Government:

(o) the regulation of slaughter houses;

(p) the prohibition for reasons of public health of the use of any place for the sale of meat without a licence granted by the Committee or in contravention of the conditions laid down in the same;

(q) the fixing of the conditions subject to which, the circumstance in which and the areas or localities in respect of which, licences for the sale of meat may be granted, refused, suspended or withdrawn;

(r) the prohibition of brick-kilns and potters' kilns in any specified area;

(s) the licensing of store-houses for any explosive or for petroleum or any inflammable oil or spirit;

(t) the prohibition of the keeping of a brothel or the residence of a public prostitute in any specified part of the town.

(u) the regulation of the erection or re-erection of buildings (including the prevention of the erection or re-erection of any building for any reason the Government may deem to be just and sufficient or in pursuance of a general scheme sanctioned by the Government restricting the erection or re-erection of building or any class of buildings);

(v) the protection of trees;

(w) defining the standard weights and measures to be used in the town area and for inspection of weights and measures;

(x) the holding of fairs and industrial exhibitions within the town area or under the control of the Committee;

(y) the licensing, inspection and proper regulation of the theatres, cinemas and other places of public resort, recreation or amusement; and

(z) the provision for the seizure and confiscation of ownerless animals straying within the limits of the town area.

1[45-A. Restriction on the opening of saw mills.—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 customer is invited, received and such business transacted.

45-B. Powers of Government to grant permission for installation of saw mills etc.—Notwithstanding anything in any law for the time being in force, the Government may reserve and notify within the Town Area 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.]

2[46. Prohibition of erection or re-erection of building without permission.—(1) No person shall erect or re-erect or commence to erect or re-erect any building without the sanction of the Chairman.

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

(3) A Committee shall, by bye-laws,—

(a) prescribe the manner in which notice of the intention to erect or re-erect a building shall be given to the Chairman;]
(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-laws may require;

(c) where the building appears likely to be used as a factory, require the provisions 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 Chairman.

(5) The Chairman, 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.

46-A. *Powers of Chairman to refuse erection or re-erection of buildings.*—

(1) The Chairman 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 the Jammu and Kashmir State Town Planning Act, 1963.

(2) The Chairman 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 Committee and the consent of the Government or, as the case may be, of the Committee has not been obtained, or if the title to the land is in dispute between such person and the Committee or the Government.

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

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2) but subject to the provisions of bye-laws made in this behalf under this Act, if the Chairman 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 Committee, 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 resolution conveying or refusing such sanction be suspended under section 68 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 lapse of fourteen days from the passing of the resolution.

46-B. Power of Chairman 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 46-A the Chairman or the Committee find that any modification of the sanctioned plan is necessary, the Chairman or the Committee may, subject to the compensation for any loss to which the owner may be put, direct that the building be modified accordingly.

46-C. Lapse of sanction after one year from the date of sanction.—
(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 Chairman, shall remain in force for one year only from the date of such sanction, or for such longer period as the Chairman may have allowed when conveying sanction under section 46-A. Should the erection or re-erection of the building not have been commenced within one year and completed within two years or such longer period as may have been allowed by the Chairman, the sanction shall be deemed to have lapsed; but such lapse shall not bar any subsequent application for the fresh sanction under the foregoing provisions of this Act:

Provided that the Minister Incharge Local Self Government or any person authorised by him in this behalf 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 Chairman or the Minister Incharge Local Self Government or any person authorised by him in this behalf 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 in respect 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 to the contrary contained in this Act or in any other law for the time being in force.

46-D. Power of Chairman to stop progress of building work unlawfully commenced or carried out.--(1) In any case in which the erection or re-erection has been commenced or is being carried on in contravention of the provisions of this Act or any rule or bye-law made thereunder, the Chairman 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 two thousand rupees and when the non-compliance is a continuing one, with a further fine which may extend to one hundred rupees for every day after the first during which the non-compliance continues.

46-E. Power of Chairman 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 re-erected--

(a) without sanction as required by section 46(1) ; or
(b) without notice as required by section 46(2) ; or
(c) when sanction has been refused ; 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 or order made under clause (u) of section 45 ;

the Chairman may after giving twenty-four hours' 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.

(2) All expenditure incurred in the enforcement of the provisions of this section may be recovered from the person offending.
46-F. Erection and use of temporary buildings to be approved by the Committee.--(1) No building shall be erected for a temporary purpose without the sanction of the Chairman 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 Act or is erected without the sanction of the Chairman, the building may be demolished by the Chairman at the expense of the owner thereof, whether he is prosecuted under this Act or not.

46-G. 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 Committee 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-laws:

Provided that the Committee 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 proceeding such notice the building has by reason of its being in a ruinous or dangerous condition become unfit for human habitation.

(3) The Committee 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.

46-H. Penalty for disobedience.--(1) Should a building be erected or re-ereected--

(a) without sanction as required by section 46(1); or

(b) without notice as required by section 46(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 46-C; or

(f) in contravention of any bye-law made under section 45(u); or
(g) the case of a building of which erection has been deemed to be sanctioned under section 46-A.(4) if it contravenes any bye-law or any scheme sanctioned under the Jammu and Kashmir State Town Planning Act, 1963;

The Chairman 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) and (d) and within five days if contravention relates to clauses: (e), (f) or (g), why the building should not be altered or demolished as he may deem necessary to remove the contravention.

(2) The Chairman 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 Chairman is satisfied that the erection of the building 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, and if the person fails to comply with the direction, the Chairman 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 Chairman 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 Chairman. 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 the appeal is filed:

Provided further that the Minister Incharge, Local Self Government 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 reasonable subject to such rules, regulations and orders as may be prescribed. 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 Chairman shall not operate as stay of proceeding under the order appealed from :

Provided that the Minister Incharge Local Self Government or 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 action made or taken under subsection (1) of section 46-D or section 46-E or this section.

46-I. Registration of Architects and Draftsmen.—(1) The Chairman may, on application in a prescribed form and on payment of such fees as may be prescribed by the Committee, register any person as registered Architect or 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 Public Works Department and possesses practical experience of at least six months :

Provided further that the conditions of minimum qualifications shall not apply to those who are previously registered up-to 1st January, 1978 as Architects or Draftsmen.

(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 Committee.

(3) The Committee 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 fee so prescribed or contravenes any of the provisions of this Act, or rules, or bye-laws made thereunder or in the opinion of the Chairman, acts negligently, his licence shall be liable to be cancelled by the Chairman.

46-J. 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 shall always be deemed to have been subject to the provisions of any other law for the time being in force.

47. Provisions for sanitation and conservancy.—The Town Area Committee, by general or special order in writing, may, and if so advised by the Director of Health Services or such other officer as the Government may nominate in this behalf shall, provide, if funds permit, for all or any of the following matters within the town area:

(a) the protection from pollution and periodical examination of all sources of water used for drinking and bathing purposes;

(b) the prohibition of the removal or use for drinking purposes of any water from any stream, well, tank, spring or other source where such removal or use causes or is likely to cause disease or injury to health, and the prevention of such removal or use by the filling in of any well, tank, spring or other receptacle or by any other method that may be considered advisable:

(c) the prohibition of the deposit or storage of manure, refuse or other offensive matter in the manner prejudicial to the public health, comfort or convenience;

(d) the excavation of earth and the filling up of all excavations and depressions injurious to health or offensive to the neighbourhood;

(e) the removal of noxious vegetation;

(f) protection against fire;

(g) the disposal or destruction of materials likely to convey infection;

(h) the registration of births and deaths;
(i) the condemnation and destruction of food which is unfit for human consumption;

(j) the prohibition for reasons of public health of the use of any place for the sale of fish, milk, butter, ghee, meat, game, poultry, fruit, vegetable or sweetmeats in default of a licence granted by the Committee or otherwise than in accordance with the conditions of the licence;

(k) the fixing of the conditions, subject to and the circumstances, in which and the area or localities in respect of which, licences for the sale of fish, fruit, vegetables, milk, butter, ghee, curd, meat, poultry or sweetmeats may be granted, refused, suspended or withdrawn;

(l) the setting apart of suitable places for bathing, washing and watering animals and for washing clothes;

(m) the provisions, repair or removal of drains, privies and latrines;

(n) the prohibition for reasons of public health of the use of any open place for committing nuisance or camping in the ground without having a sanitary tent;

(o) the removal of hedges and trees overhanging on public streets and walls, etc.;

(p) the securing or enclosing untented buildings becoming a nuisance;

(q) the provisions of troughs and pipes on streets and lanes;

(r) prohibition against letting infected houses, doing of acts by diseased persons, keeping of injurious animals and feeding of animals on deleterious substances;

(s) the disposal of dead animals;

(t) the removal or alteration of roofs and external walls made of inflammable material;

(u) undertaking of house scavenging by the Committee;

(v) any other measure which may be necessary generally for conservancy of the town.

1[47-A. Cleaning of filthy buildings or lands. -- Should the owner, part owner, or occupier of any building or land suffer the same to be in a filthy

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1 Section 47-A inserted by Act XXX of 1978, s.9.
or unwholesome state, the Chairman may, by notice, require him within 24 hours to clean 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 limewash or otherwise clean the said building inside and outside in the manner and within a period to be specified in the notice.]

48. Power to suspend action of the Committee.—The [Government] may, by order in writing, suspend the execution of any resolution or order of the Committee or Chairman if in its opinion such resolution or order is in excess of the powers conferred on the Committee or the Chairman, as the case may be, by law or if the execution of such resolution or order 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.

49. Power to provide for the performance of duties in case of default of a Committee.—(1) If any Town Area Committee refuses or omits to perform any prescribed duty, the [Government], or such other officer as may be empowered by it in this behalf, may direct the execution of any work or the doing of any act which a Committee is empowered to execute or do and the immediate execution or doing of which is, in its opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the Committee.

(2) Should the expenses be not so paid, the [Government] or the officer empowered by it, as the case may be, may make an order directing the person having the custody of the balance of the Town Area Fund to pay the expense or so much thereof as may from time to time be possible from that balance, in priority to all other charges against the same.

50. Power of Government to dissolve Committee in case of incompetency or default or excess of abuse of powers.—[(1) If at any time upon representation made or otherwise it appears to the Government that the Town Area Committee 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 Committee 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 members of the Committee shall vacate office as and from such date as may be appointed and declare the Committee to be superseded. Such order shall be published in the Government Gazette and the reasons for making it shall be stated therein.

2. Sub-section (1) of section 50 substituted by Act XXX of 1978, s. 9.
(2) When a Committee is so superseded, the following consequences shall ensue—

(a) all members of the Committee shall, from the date of notification, vacate their seats as such members;

(b) all powers and duties of the Committee may, during the period of supersession, be exercised and performed by such person or persons as the Government may appoint in that behalf;

(c) on the expiration of the period of supersession specified in the order, the Committee shall be reconstituted and the persons who vacated their offices under clause (a) of sub-section (2) shall not be deemed disqualified for re-election as members.

51. Application of Town Fund when any area ceases to be a town area.—When an area ceases to be a town area for the purposes of this Act, the balance of the Town Fund, if any, shall be applied for the benefit of the inhabitants of the said area in such manner as the Government may direct and all property vested in the Committee shall, until the Committee is reconstituted, vest in the Government.

52. Powers of the Government to make rules.—(1) The Government may make rules applicable to all or any town area for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), such rules may relate to all or any of the following matters or be for all or any of the following purposes:

(a) to regulate and control the powers conferred by this Act or by any rule made under this Act on any officer of Government or of the Committee.

(b) to prescribe for any such officer or for the Committee, any duty in addition to those prescribed by this Act;

(c) to prescribe or regulate in respect of all or any town areas the number of members to compose the Committee established therein:

(d) the method of filling casual vacancies of members of Committee;

(e) the division of town area into wards or constituencies;

(f) the qualifications of electors and of candidates for election to the Committee, as to the registration of such electors, as to nomination of such candidates, as to the time of election and mode of recording votes, as to the method of settling disputes or questions arising from election and generally for regulating all elections under this Act;
(g) regulating the election of Chairman or Vice-Chairman;

(h) the custody of the Town Fund;

(i) the form in which accounts are to be kept or registers maintained;

(j) the proportions in which the Town Fund shall be expended and as to the preparation of estimates of income and expenditure;

(k) the preparation of plans and estimates for works of construction involving expenditure from a Town Fund, and as to the authorities by whom and the conditions subject to which such plans and estimates may be sanctioned;

(l) the returns, statements and reports to be submitted by the Committee;

(m) to regulate the imposition, assessment and collection of any tax imposed under this Act and to prevent the evasion of the same;

(n) the exemption from taxation of any person or class of persons or property or description of property;

(o) the constitution of Dharat or terminal tax posts and the exhibitions of Dharat or terminal tax tariff thereof;

(p) the grant of refunds on export of animals or goods on which Dharat or terminal tax has been levied;

(q) the custody and storage of animals and goods declared not to be for use or consumption within the town area into which they are brought;

(r) the exemption from Dharat or terminal tax on re-import of animals and goods that have once paid it and are exported from town area into which they have been brought;

(s) the qualifications and conditions of service of persons appointed under section 14 to hold office under the Committee;

(t) the formation and working of the fire-brigades;

(u) the conditions on which property may be acquired by the Committee or on which property vested in the Committee may be transferred by sale, mortgage, lease, exchange or otherwise;
(v) the time and place of the meetings of the Committee, the conduct of proceedings at meetings and adjournment of meetings, record of proceedings, the manner in which notice of ordinary and special meetings and adjourned meetings shall be given.

(3) The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

1[(4) Until rules are made by the Government under the foregoing provisions of this section the rules made under the Jammu and Kashmir Town Area Act, Samvat 1997, and in force immediately before the repeal of that Act, shall, notwithstanding such repeal, continue in force and shall be deemed to have always continued in force in so far as they are not repugnant to the provisions of this Act. Anything done or any action taken under the said rules prior to the commencement of the Jammu and Kashmir Town Area (Second Amendment) Act, 1957 shall be deemed to be as good and valid in law as if the said rules were in force on the day when the thing was done or action was taken.]

53. Procedure for making general orders.—(1) Before making any general order under sections 45 and 47, the Town Area Committee shall give public notice of its intention to make such general order. Any inhabitant of the town may, within 30 days of the publication of such notice, submit an objection to such general order in writing to the Committee. On the expiry of 30 days from the date of such publication, the Committee shall take into consideration any objection which may have been received and may make such amendments of the general order as it may deem fit and shall then submit the general order so amended together with the objections, if any, which have been received to the [Government] and it may sanction or refuse to sanction the issue of such general order or return it to the Committee for further consideration.

(2) A general order sanctioned under sub-section (1) shall be published in such manner as may be prescribed in the rules made by the Government under this Act.

54. Appeal against special orders.—Any person to whom a special order has been issued by the Town Area Committee, the Chairman or the Vice-Chairman under sections 45 and 47 may, within thirty days of the date of such special order, appeal against such order to the [Government] whose decision on such appeal shall be final and shall not be called in question in any Court; provided that no appeal shall lie from any special order passed by a committee, the Chairman or the Vice-Chairman under clause (f) of section 45.

1. Sub-section (4) to section 52 added by Act X of 1957.
55. **Powers of Committee to lay or carry pipes, drains or sewers through private property subject to payment of compensation for damage sustained.**—A Committee may, for the purpose of carrying out, establishing or maintaining any system of drainage, sewerage or water supply, carry any pipe, drain, sewer or channel of any kind into, through, across, under, over or on the side of any land or building wherever situate within the limits of the town area, and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining such pipe, drain, sewer or channel:

Provided that—

(a) reasonable notice shall be given to the owner or occupier of any such land or building;

(b) reasonable compensation shall be paid to the owner or occupier for any damage sustained by him and directly occasioned by the carrying out of any such operations or for any substantial interference with the rights of such owner or occupier to the due enjoyment of such land or building; and

(c) in the event of any dispute as to the notice to be given or the compensation to be paid, the matter shall be referred by the Committee to the [Government] whose decision shall be final.

56. **Powers to attach brackets for lamps, name-plates of streets and number of houses and penalty for destroying the same.**—A Committee may attach to the outside of any building brackets for lamps or name-plates of streets and may cause a number to be affixed to every house in the town area for the purposes of identifying it, and any person who wilfully disturbs, defaces or destroys any such bracket, name-plate or number shall, on conviction before a [Judicial Magistrate], be liable to a fine which may extend to twenty-five rupees.

CHAPTER VIII.

**Offences.**

57. **Penalties.**—(1) Whoever does, or abets the doing of, any act in contravention of any of the provisions of this Act or any rule or general or special order, notice, order or licence issued thereunder or obstructs any person lawfully acting in pursuance of this Act, shall, on conviction before a [Judicial Magistrate], be punished for each such offence with a fine which may extend to Rs. 50 and should the offence or breach be a continuing one,

2. Substituted by Act XL of 1966 for "Magistrate".
with a further fine which may extend to Rs. 5 for every subsequent day till it continues.

(2) In addition to such fine the offender may also be required to remedy the mischief so far as may be possible or it may be so remedied by the Committee at his cost.

(3) No compensation except as otherwise expressly provided for in this Act 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 Committee.

(4) The punishment provided for above shall be in addition to any other proceedings which may be taken under this Act.

1[58. Power of Government to delegate powers.--The Government may, by notification in the Government Gazette, delegate all or any of its powers, except the powers under section 52, to any authority appointed by it in this behalf.]

59. Delegation of powers by the Committee.--(1) The Committee may, with the approval of the 2[Government], and shall, if so required the 2[Government] delegate to the Chairman, Vice-Chairman or to any of its officers any of its powers under this Act.

(2) The delegation by the Committee of any of its powers under subsection (1) may be made subject to the condition that any orders made in pursuance of such delegation shall be subject to revision by the Committee within thirty days.

60. Acquisition of land.--When any land whether within or without the limit of a town area is required for the purposes of this Act, the Government may, at the request of the Town Area Committee proceed to acquire it under the provisions of the Land Acquisition Act, 1990 and on payment by the Committee of the compensation awarded under that Act and of any other charges incurred in acquiring the land, the land shall vest in the Committee.

61. Composition of offence.--A Town Area Committee and if so authorised by the Committee, its Chairman or Vice-Chairman may accept from any person against whom a reasonable suspicion exists that he has committed an offence punishable under this Act or under any rule made under this Act, a sum of money by way of compensation for such offence. On payment of such sum, no further proceedings shall be taken against such person in respect of such offence.]

2. Substituted ibid.
62. Authority for prosecution.—No Court shall take cognizance of any offence punishable under this Act or any rule made thereunder except on the complaint of the Town Area Committee or of some person authorised specially by name or office by the Committee in this behalf.

63. Jurisdiction of Courts to try offences.—Offences under this Act shall be triable by any ¹Judicial Magistrate] within whose jurisdiction any such offence may have been committed:

Provided that any ¹Judicial Magistrate] who is the Chairman of the Town Area Committee shall not himself try any case under this Act.

64. Payment of compensation.—(1) The Committee may make compensation out of the Town Area Fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the Committee, its officers or servants under this Act, and shall make such compensation where the damage was caused by the negligence of the Committee, 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:

Provided that if the amount of compensation in any case exceeds Rs. 300 the sanction of the officer authorised in this behalf by the Government and in case it exceeds Rs. 500 the sanction of the Minister, and if it exceeds Rs. 1,000 the sanction of the Government shall be necessary.

(2) Should any dispute arise touching the amount of any compensation which the Committee is required by this Act to pay for damage to any building or land, it shall be settled in such manner as the parties may agree or in case of dis-agreement, the case will be referred to the ¹[Government] whose decision will be final and binding on the parties.

65. Appeal from order of Committee.—Subject to the provisions of section 54, any person aggrieved by any permission, prohibition, notice or order of a Committee or of any officer duly authorised by the Committee may, within sixty days from the date of such order, appeal to the ¹[Government] whose orders on the appeal shall be final.

66. Proceedings to be suspended in certain cases.—When any order is subject to appeal and an appeal has been instituted against it, all proceedings to enforce such order shall be suspended pending the decision of the appeal.

1. Substituted by Act XL of 1966 for "Magistrate".
67. **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.

68. **Power to call for record.**—The Government may, at any time, require the Town Area Committee—

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

(b) to supply any return, plan, estimate, statement, account or statistics; and

(c) to furnish or obtain any report.

69. **Power to cause inspection to be made.**—(1) The Government may empower any officer by a general or special order to inspect or examine any Town Area Committee, 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.

70. **Power to direct the taking of action.**—If on receipt of any information or report obtained under the preceding sections and after the remarks of the Town Area Committee have been obtained thereon, the Government is of opinion—

(a) that any duty imposed on any Town Area Authority by or under this Act or the rules or bye-laws made thereunder, has not been performed or is being or has been performed in a perfunctory manner; or

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

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the Government may, by written order, direct the Town Area Committee in the period to be specified in the order to make arrangements to the satisfaction of the Government for the performance of the duties referred to in clause (a) or to make financial provision to its satisfaction for the performance of any duty, as the case may be.

71. Procedure when Town Area 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 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 Town Fund and, if necessary, that any one or more of the taxes authorised by Chapter V 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 Town Area 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 Town Fund.

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