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**PART IV**—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

**GOVERNMENT OF WEST BENGAL**

**LAW DEPARTMENT**

**Legislative**

**NOTIFICATION**

No. 1643-L.—2nd December, 2010.—The Governor having been pleased to order, under rule 66 of the

Rules of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Kolkata Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information:—

**Bill No. 33 of 2010**

**THE HOWRAH MUNICIPAL CORPORATION  
(AMENDMENT) BILL, 2010.**

**A  
BILL**

*to amend the Howrah Municipal Corporation Act, 1980.*

WHEREAS it is expedient to amend the Howrah Municipal Corporation Act, 1980, for the purposes and in the manner hereinafter appearing;

West Ben. Act  
VIII of 1980.

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

Short title and commencement.

1. (1) This Act may be called the Howrah Municipal Corporation (Amendment) Act, 2010.

(2) This section shall come into force at once, and the remaining sections shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint, and different dates may be appointed, for different sections of this Act.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clause 2.)*

Amendment of  
section 2 of the  
West Ben. Act  
LVIII of 1980.

2. In section 2 of the Howrah Municipal Corporation Act, 1980 (hereinafter referred to as the principal Act),—

(1) clause (1A) shall be renumbered as clause (1AA) and before clause (1AA) so renumbered, the following clause shall be inserted:—

‘(1A) “alteration” means the change from one occupancy to another, or the structural change, such as the addition to any area or height, or the removal of a part of a building or the change to the structure, such as the construction or cutting into or removal of any wall, partition, column, beam, joist, floor, or other support, or the change to or closing of any required means of ingress or egress, or the change to any fixture or equipment;’;

(2) for clause (1B), the following clause shall be substituted:—

‘(1B) “building” means a structure constructed for whatsoever purpose and of whatsoever materials and includes the foundation, plinth, walls, floors, roofs, chimneys, fixed platforms, verandahs, balcony, cornice or projection or part of a building or anything affixed thereto or any wall (other than a boundary wall less than three metres in height) enclosing or intended to enclose any land, signs and outdoor display structures but does not include a tent, samiana or tarpaulin shelter;’;

(3) after clause (1B), the following clause shall be inserted:—

‘(1C) “building of the warehouse class” means a building, the whole or a substantial part of which is used, or intended to be used, as a warehouse, factory, manufactory, brewery, or distillery, or for any similar purpose, which is neither a “domestic building” nor a “public building” as defined in this section, and includes a hut used or intended to be used for any of the purposes mentioned in this clause;’;

(4) after clause (5A), the following clauses shall be inserted:—

‘(5B) “connected-privy” means a privy which is directly connected with a sewer;

‘(5C) “connected-urinal” means a urinal which is directly connected with a sewer;’;

(5) for clause (13), the following clause shall be substituted:—

‘(13) “erection of a building” or “to erect a building” means,—

(a) to erect a new building on any site, whether previously built upon or not;

(b) to re-erect—

(i) any building of which more than one-half of the cubical contents above the level of plinth have been pulled down, burnt or destroyed, or

(ii) any building of which more than one-half of the superficial area of the external walls above the levels of plinth has been pulled down, or

(iii) any frame-building of which more than half of the number of posts or beams in the external walls have been pulled down;

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clause 2.)*

- (c) to convert into a dwelling house any building or any part of a building not originally constructed for human habitation or, if originally constructed for human habitation, subsequently appropriated for any other purpose;
- (d) to convert into more than one dwelling house a building originally constructed as one dwelling house only;
- (e) to convert into a place of religious worship or a sacred building any place or building not originally constructed for such purpose;
- (f) to roof or cover an open space between walls or buildings to the extent of the structure formed by the roofing or covering of such space;
- (g) to convert two or more tenements in a building into a greater or lesser number of such tenements;
- (h) to convert into a stall, shop, office, warehouse or godown, workshop, factory or garage any building not originally constructed for use as such, or to convert any building constructed for such purpose, by sub-division or addition, in greater or lesser number of such stalls, shops, offices, warehouses or godowns, workshops, factories or garages;
- (i) to convert a building, which when originally constructed was legally exempt from the operation of any building regulations, contained in this Act, or under any rules or regulations made under this Act, or contained in any other law in force for the time being, into a building which, had it been originally erected in its converted form, would have been subject to such building regulations;
- (j) to convert into or use as a dwelling house any building which has been discontinued as or appropriated for any purpose other than a dwelling house;
- (k) to make any addition to a building;
- (l) to close permanently any door or window in any external wall;
- (m) to remove or reconstruct the principal staircase or to alter its position;”;

(6) after clause (21A), the following clause shall be inserted:—

‘(21B) “occupancy” or “use group” means the principal occupancy for which building or part of a building is used or intended to be used. For the purpose of classification of a building according to occupancy, an occupancy shall be deemed to include subsidiary occupancies which are contingent upon it. Buildings with mixed occupancies shall mean those buildings in which more than one occupancy are present in different portions thereof. The occupancy classification shall, unless otherwise spelt out in any development plan under any law in force for the time being, include—

- (a) residential buildings, that is to say, any buildings in which sleeping accommodation is provided for normal residential purposes with or without cooking facility or dining facility or both; such building shall include one or two or multi-family dwellings, hostels, apartment houses and flats, and private garages;

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clause 2.)*

- (b) educational buildings, that is to say, any buildings used for school, college or day-care purposes involving assembly for instruction, education or recreation incidental to educational buildings;
- (c) institutional buildings, that is to say, any buildings or part thereof ordinarily providing sleeping accommodation for occupants and used for the purposes of medical or other treatment or care of persons suffering from physical or mental illness, disease or infirmity, care of infants, convalescents or aged persons and or penal for correctional detention in which the liberty of the inmates is restricted; such buildings shall include hospitals, clinics, dispensaries, sanatoria, custodial institutions and penal institutions like correctional home, prisons, mental hospitals and reformatories;
- (d) assembly buildings, that is to say, any buildings or part thereof where groups of people congregate or gather for amusement or recreation or for social, religious, patriotic, civil travel, sports, and similar other purposes, such buildings shall include theatres, motion picture houses, drive-in-theatres, city halls, town halls, auditoria, exhibition halls, museums, skating rinks, gymnasium, restaurants, eating houses, hotels, boarding houses, lodging or rooming houses, guest-houses, dormitories, places of worship, dance halls, club rooms, gymkhana, passenger stations, surface and other public transportation services, recreation piers, and stadia;
- (e) business buildings, that is to say, any buildings or part thereof used for transaction of business for the keeping of accounts and records or for similar purposes; such buildings shall include offices, bank professional establishments, court houses, and libraries for the principal function of transaction of public business and keeping the books and records, and shall also include office buildings (premises) solely or principally used as an office or for office purpose.

*Explanation.—For the purposes of this clause,—*

- (i) the expression “office purpose” shall include the purpose of administration and clerical work (including telephone and telegraph operating and operating computers), and
- (ii) the expression “clerical work” shall include writing, bookkeeping, sorting papers, typing, filing, duplicating, punching cards or tapes, machine calculating; drawing of matter for publication, and editorial preparation of matter for publications;
- (f) mercantile buildings, that is to say, any buildings or part thereof used as shops, stores or markets for display or sale of merchandise, either wholesale or retail, or for office, storage or service facilities incidental to the sale of merchandise and located in the same building; such building shall include establishments wholly or partly engaged in wholesale trade, manufacturer’s wholesale outlets (including related storage facilities), warehouses, and establishments engaged in truck transport (including truck transport booking agencies);
- (g) industrial buildings, that is to say, any buildings or structures or part thereof in which products or materials of all kinds and properties are fabricated, assembled or processed as in assembly plants; such buildings shall include laboratories, power plants, smoke houses, refineries, gas plants, mills, dairies, factories, workshops, automobile repair garages, and printing presses;

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

(Clause 3.)

- (h) storage buildings, that is to say, any buildings or part thereof used primarily for the storage or sheltering of goods, wares or merchandises as in warehouses such building shall include cold storages, freight depots, transit sheds, store houses, public garages, hangars, truck terminals, grain elevators, barns and stables;
- (i) hazardous buildings, that is to say, any buildings or part thereof used for the storage, handling, manufacture or processing of highly combustible or explosive materials or products which are liable to burn with extreme rapidity or which may produce poisonous fumes or explosions during storage, handling, manufacture or processing or which involve highly corrosive, toxic or noxious alkalies, acids or other liquids or chemicals producing flames, fumes, explosions or mixtures of dust or which result in the division of matters into fine particles subject to spontaneous ignition;’;

(7) after clause (27B), the following clause shall be inserted:—

‘(27C) “sewage” means night-soil and other contents of privies, urinals, cesspools or drains and includes trade effluents and discharges from manufactories of all kinds;

(27D) “sky-sign” means any word, letter, model, sign, device or, other representation, in the nature of an advertisement, announcement or direction, which is supported on or attached to any post, pole, standard, framework or other support wholly or in part upon, over or above any building or structure and which is wholly or in part visible against the sky from any point in any street or public place, and includes—

- (a) every part of such support, and
- (b) any balloon, parachute or similar device, employed wholly or in part, for the purpose of any advertisement or announcement, on, over or above any building, structure or erection of any kind, or on or over any street or public place, but shall not be deemed to include—
  - (i) any flagstaff, pole, vane or whether-cock, unless adapted or used wholly or in part for the purpose of any advertisement or announcement,
  - (ii) any sign on any board, frame or other contrivance securely fixed to or on the cornice or blocking course of any wall or to the ridge of a roof, if such contrivance be of one continuous face and not open work and does not extend in height more than one metre above any part of such wall, parapet or ridge, or
  - (iii) any representation which relates exclusively to the business of a railway administration as defined in the Railways Act, 1989, and which is placed wholly upon or over any railway, railway station, yard, platform or station approach, or premises belonging to such railway administration, and which is so placed that it could not fall into any street or public place;’;

24 of 1989.

Insertion of new  
section 11B after  
section 11A.

3. After section 11A of the principal Act, the following section shall be inserted:—

“Area Sabha. 11B. (1) There shall be Area Sabha in every ward comprising one or more polling booths and consisting of persons whose names are included in the part of the electoral roll of the polling booth concerned.

(2) Composition and function of Area Sabha shall be such as may be prescribed.”.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

(*Clauses 4-7.*)

Amendment of  
Section 12.

4. In section 12 of the principal Act, after the words, 'the Leader of the Opposition', the words, 'the councilors' shall be inserted.

Insertion of new  
sections 21A and  
21B after  
section 21.

5. After section 21 of the principal Act, the following section shall be inserted:—

“Public Disclosure. 21A. (1) The Corporation shall publish,—

- (a) the audited financial statements of Balance Sheet, Receipt and payment, and Cash Flow on a half yearly basis, within two months from the end of the second and fourth quarter of a year;
- (b) statutorily audited financial statements for the full financial year, within three months from the date of completion of statutory audit; and
- (c) such other documents relating to development programmes of the Corporation as may be prescribed.

(2) The manner of publication shall be such as may be prescribed.

Citizens' Charter. 21B. (1) The Corporation shall publish a Citizens' Charter containing,—

- (a) the time limits within which civic services shall be provided and licenses, certificates, under the provisions of this Act, shall be issued and the permissions, sanctions shall be granted, subject to the maximum time limit as determined in this Act, if any; and
- (b) the civic services to be provided by the Corporation to the citizens.

*Explanation.*—For the purposes of this sub-section “civic services” shall include roads and streets, open spaces, parks, recreational grounds, play grounds, water and electric supply, street lighting, sewerage, drainage, and other utilities, services and conveniences.

(2) The preparation and publication of Citizens' Charter shall be done in such manner as may be prescribed.”.

Amendment of  
section 174A.

6. In section 174A of the principal Act,—

(a) in sub-section (2),—

- (i) for the words “eight other members”, the words “ten other members” shall be substituted; and
- (ii) after clause (h), the following clauses shall be inserted:—

“(i) one shall be a nominee of the District Magistrate, Howrah, and  
(j) one shall be a nominee of the Department of Forest, Government of West Bengal.”;

(b) in sub-section (4), for the existing proviso, the following proviso shall be substituted:—

“Provided that ordinarily at least one meeting shall be held during every calendar month.”;

(c) in sub-section (5), after the words and figures “plot of 500 square metres or less of land”, the words and figures “with proposed height of building 15.5 metre or less and for all other categories of building other than residential building having 8 metre or less of height” shall be inserted”.

Insertion of new  
sections 174B and  
174C after section  
174A.

7. After section 174A of the principal Act, the following section shall be inserted:—

“Application for  
addition to or repairs  
of buildings. 174B. (1) Every person who intends to execute any of the works specified in clause (1A) and sub-clauses (b) to (m) of clause

(13), of section 2 shall apply for sanction by giving notice in writing of his intention to the Commissioner in such form and containing such information as may be prescribed.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clauses 8, 9.)*

(2) Every such notice shall be accompanied by such documents and plans as may be prescribed.

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

174C. (1) Every person giving any notice of his intention to erect a building under section 174 shall specify the purpose for which such building is intended to be used:

Provided that for any building not more than one class of use, consistent with the occupancy or the use group within the meaning of sub-clause (a) clause (13) of section 2, shall be considered except in respect of the cases where, under this Act or any other law in force for the time being, mixed occupancies of specified nature may be permissible.

(2) Every person giving any notice under section 174B of his intention to execute any of the works specified in sub-clause (b) of clause (13) of section 2 shall specify whether the purpose for which such work is intended to be executed is proposed, or is likely, to be changed by such execution of work:

Provided that if such change would result in mixed occupancies which are contrary to the provisions of this Act or of any other law in force for the time being, such change shall not be allowed.

(3) No notice shall be valid until the information required in sub-section (1) or sub-section (2) and any other information and plans which may be required by the rules made in this behalf have been furnished to the satisfaction of the Commissioner alongwith the notice.”.

Omission of section 175.

8. Section 175 of the principal Act shall be omitted.

Insertion of new sections 175B, 175C and 175D after section 175A.

9. After section 175A of the principal Act, the following sections shall be inserted:—

“Sanction accorded under misrepresentation.

175B. If, at any time after the communication of sanction or provisional sanction to the erection of any building or the execution of any work, the Commissioner is satisfied that such sanction or provisional sanction was accorded in consequence of any material misrepresentation or any fraudulent statement in the notice given or information furnished under section 174 or section 174B or section 174C, he may, by order in writing, cancel, for reasons to be recorded, such sanction or provisional sanction, and any building or any work, commenced, erected or executed shall be deemed to have been commenced, erected or executed without such sanction and shall be dealt with under the provisions of this Act:

Provided that before making any such order, the Commissioner shall give a reasonable opportunity to the persons affected as to why such order should not be made.

When building or work may be proceeded with.

175C. (1) Where within a period of sixty days or, in cases falling under sub-clause (b) to sub-clause (m) of clause (13) of section 2, within a period of thirty days of the receipt of any notice under section 174 or section 174B or of any information under section 174C Commissioner does not refuse the sanction to the erection of any building or the execution of any work or, upon refusal, does not communicate the refusal to the person who has given the notice, such person may make a representation in writing to the Mayor:

Provided that a provisional sanction may be given for the erection of a building for the use of which a license or permission is required from any Department of Government or statutory body under any law for the time being in force in accordance with such procedure as may be prescribed:

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

(Clauses 10, 11.)

Provided further that if it appears to the Commissioner that the site of the proposed building or work is likely to be affected by any scheme of acquisition of land for any public purpose or by any proposed regular line of a public street or extension, improvement, widening or alteration of any street, the Commissioner may withhold sanction to the erection of the building or the execution of the work for such period, not exceeding eight months, as he may deem fit, and the period of sixty days or, as the case may be, the period of thirty days, specified in this sub-section, shall be deemed to commence from the date of the expiry of the period for which the sanction has been withheld.

(2) Where the erection of a building or the execution of a work is sanctioned, the person who has given the notice shall erect the building or execute the work in accordance with such sanction and shall not contravene any of the provisions of this Act or the rules or the regulations made thereunder or of any other law in force for the time being.

(3) If the person as aforesaid or anyone lawfully claiming under him does not commence the erection of the building or the execution of the work within two years of the date on which the erection of the building or the execution of the work is sanctioned, he shall give notice under section 174, or, as the case may be, under section 174B for fresh sanction and the provisions of this section shall apply in relation to such notice as they apply in relation to the original notice.

(4) Such person shall, before commencing the erection of the building or the execution of the work within the period specified in sub-section (3), give notice to the Commissioner of the proposed date of commencement of such erection or such execution:

Provided that if the commencement does not take place within fifteen days of the date so notified, the notice shall be deemed not to have been given and fresh notice shall be necessary in this behalf.

Power to stop  
excavation.

175D. If, during excavation or any other operation for the

purpose of construction of any building or execution of any work, any of the underground utilities (such as electric or telephone cables, water-supply, sewerage and drainage mains, and gas pipes) is touched or is likely to be touched, or if the Commissioner is of opinion that such excavation may cause danger to public, the Commissioner may, by a written order, stop forthwith any such excavation or other work till the matter is investigated and decided to his satisfaction.”.

Substitution of  
new section for  
section 176.

**10.** For section 176 of the principal Act, the following section shall be substituted:—

“Period for  
completion of  
building or work.

176. The Commissioner shall, when sanctioning the erection

of a building or the execution of a work, specify a reasonable period within which the building or the work is to be completed, and if the building or the work is not completed within the period so specified, it shall not be continued thereafter without fresh sanction obtained under this Act provided unless the Commissioner, on an application made in this behalf, allows an extension of such period.”.

Substitution of  
new section for  
section 177.

**11.** For section 177 of the principal Act, the following section shall be substituted:—

“Order of demolition  
and stoppage of  
buildings and works  
in certain cases and  
appeal.

177. (1) Where the erection of any building or the execution of any work has been commenced, or is being carried on, or has been completed without or contrary to the sanction referred to in section 175C or in contravention of any of the provisions of this Act or the rules and the regulations made thereunder, the Commissioner may, in addition to any other action that may be taken under this Act, make an order directing

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clause 11.)*

that such erection or work shall be demolished by the person at whose instance the erection or the work has been commenced or is being carried on or has been completed within such period, not being less than five days and more than fifteen days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to such person, as may be specified in the order:

Provided that no order of demolition shall be made unless such person has been given, by means of a notice served in such manner as the Commissioner may think fit, a reasonable opportunity of showing cause why such order shall not be made:

Provided further that where the erection or the execution has not been completed, the Commissioner may by the same order or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct such person to stop the erection or the execution until the expiry of the period within which an appeal against the order of demolition if made may be preferred under sub-section (3).

*Explanation.*—In this chapter, “the person at whose instance” shall mean the owner, occupier or any other person who causes the erection of any building or execution of any work to be done, including alterations or additions if any, or does it by himself.

(2) The Commissioner may make an order under sub-section (1), notwithstanding the fact that the assessment of such building has been made for the levy of the property tax on lands and buildings.

(3) Any person aggrieved by an order of the Commissioner made under sub-section (1) may, within thirty days from the date of the order, prefer an appeal against the order to the Municipal Building Tribunal appointed under section 181.

(4) Where an appeal is preferred under sub-section (3) against an order made under sub-section (1), the Municipal Building Tribunal may stay the enforcement of the order on such terms, if any, and for such period, as it may think fit:

Provided that where the erection of any building or the execution of any work has not been completed at the time of the order made under sub-section (1), no order staying the enforcement of the order made under that sub-section shall be made by the Municipal Building Tribunal unless a surety, sufficient in the opinion of the said Tribunal, has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(5) Save as provided in this section, no court shall entertain any suit, application or other proceeding for injunction or other relief against the Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(6) Every order made by the Municipal Building Tribunal on appeal and, subject to such order, the order made by the Municipal Commissioner under sub-section (1) shall be final and conclusive.

(7) Where no appeal has been preferred against an order made by the Commissioner under sub-section (1) or where an order under that sub-section has been confirmed on appeal, whether with or without modification, the person against whom the order has been made shall comply with the order within the period specified therein, or as the case may be, within the period, if any, fixed by the Municipal Building Tribunal on appeal, and on the failure of such person to comply with the order within such period, the Commissioner may himself cause the building or the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act.

(8) Notwithstanding anything contained in this Chapter, if the Mayor-in-Council is of the opinion that immediate action is called for in relation to a building or a work being carried on in contravention of the provisions of this Act or the rules and regulations made thereunder, it may, for reasons to be recorded in writing, cause such building or work to be demolished forthwith.”.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

(*Clauses 12-14.*)

Insertion of new  
section 177B after  
section 177A.

**12.** After section 177A of the principal Act, the following section shall be inserted:—

“Power of  
Commissioner to  
require alteration  
of work.” 177B. (1) The Commissioner may, at any time during the erection of any building or the execution of any work or at any time within three months after the completion thereof, by a written notice, specify any matter in respect of which such erection or execution is without or contrary to the sanction referred to in section 175C or is in contravention of any condition of such sanction or of any of the provisions of this Act or the rules or the regulations made thereunder and require the person who gave the notice under section 174 or section 174B or the owner of such building or work either—

- (a) to make such alterations as may be specified by the Commissioner in the notice with the object of bringing the building or the work in conformity with such sanction or such condition of such sanction or such provisions of this Act or the rules or the regulations made thereunder, or
- (b) to show cause, within such period as may be stated in the notice, why such alterations should not be made.

(2) If such person or such owner does not show any cause as aforesaid, he shall be bound to make the alterations specified in the notice.

(3) If such person or such owner shows the cause as aforesaid, the Commissioner shall, by an order, either cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he thinks fit.”.

Substitution of  
new section for  
section 178.

**13.** For section 178 of the principal Act, the following section shall be substituted:—

“Completion  
certificates.” 178. (1) Every person giving notice under section 174 or section 174B or every owner of a building or a work to which notice relates shall, within one month after the completion of erection of such building or execution of such work, deliver or send or cause to be delivered or sent to the Commissioner a notice, in writing, of such completion accompanied by a certificate in the form specified in the rules made in this behalf and shall give to the Commissioner all necessary facilities for inspection of such building or work.

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

Provided that if the Commissioner fails, within a period of thirty days of receipt of the notice of completion, to communicate his refusal to grant such permission, such person may make a representation in writing to the Mayor.”.

Substitution of  
new section for  
section 179.

**14.** For section 179 of the principal Act, the following section shall be substituted:—

“Prohibition on  
change of use of  
building.” 179. (1) No person shall, without any written permission of the Commissioner or otherwise than in conformity with the conditions, if any, of such permission—

- (a) use or permit to be used for the purpose of human habitation any part of a building not originally erected or authorized to be used for such purpose;
- (b) change or allow the change of the use of any building for any purpose other than that specified in the sanction under section 175C;

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clause 14.)*

- (c) change or allow the change of the use of any building erected before the commencement of this Act contrary to the use for which such erection was originally sanctioned;
- (d) convert or allow the conversion of a tenement under a particular occupancy or use group to a tenement under another occupancy or use group:

Provided that no such permission shall be given if the new occupancy or use group is otherwise than in conformity with the provisions of this Act or the rules and regulations, made thereunder or of any other law in force for the time being.

(2) If, in any case, such permission is given no change of occupancy or use group shall be allowed before any necessary alterations or provisions have been made to the satisfaction of the Commissioner and in accordance with the provisions of this Act or the rules and the regulations made thereunder or of any other law in force for the time being.

(3) Notwithstanding any other action that may be taken against any person whether owner or occupier or both, contravening any provision of this section, the Commissioner may levy on such person in accordance with such scale as may be determined by regulations, a fine not exceeding in each case rupees one hundred per square meter per month for the area under unauthorised use throughout the period during which such contravention continues.

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

Provided that before making any such order, the Commissioner shall give a reasonable opportunity to the person affected to show cause why such order should not be made.

(5) Any person aggrieved by an order of the Commissioner under sub-section (4) may, within thirty days from the date of the order, prefer an appeal against the order to the Municipal Building Tribunal appointed under section 181.

(6) Where an appeal is preferred under sub-section (5), the Municipal Building Tribunal may stay the enforcement of the order on such terms, if any, and for such period as it may think fit:

Provided that the fine levied under sub-section (3) shall not be waived.

(7) Save as otherwise provided in this section, no Court shall entertain any suit, application or other proceeding for injunction or other relief against Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(8) Every order made by the Municipal Building Tribunal on appeal and subject to such order, the order of the Commissioner under sub-section (4) shall be final and conclusive.

(9) Where no appeal has been preferred against an order made under section (4) or where an order under that sub-section has been confirmed on appeal, whether with or without modification, the person against whom such orders has been made shall comply with the same within the period specified therein, or, as the case may be within the period, if any, fixed by Municipal Building Tribunal on appeal, and on the failure of such person to comply with such order within such period, the Commissioner may require any police officer or any employee of the Corporation to seal up such area after evicting all persons therefrom to prevent its further unauthorized use.”.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clauses 15, 16.)*

Substitution of  
new section for  
section 180.

**15.** For section 180 of the principal Act, the following section shall be substituted:—

*Power to order removal of dangerous buildings.* 180. (1) If any wall or building, or anything affixed thereto, be deemed by the Commissioner to be in a ruinous state, or likely to fall, or to be in any way dangerous, he shall forthwith cause a written notice to be served on the owner and to be put on some conspicuous part of the wall or building or served on the occupier, if any, of the building requiring such owner or occupier forthwith to demolish, repair or secure such wall, building or thing, as the case may require.

(2) The Commissioner may, if it appears to him necessary so to do, cause a proper hoarding or fence or other means of protection to be put up at the expense of the owner of such wall or building for the safety of the public or the inmates thereof, and may after giving them such notice as the Commissioner may think necessary require the inmates of the building to vacate it.

(3) The provisions of this Act and of any rules or regulations made thereunder relating to buildings shall apply to any work done in pursuance, or in consequence, of a notice issued under sub-section (1).

(4) (a) Notwithstanding anything contained in the foregoing sub-sections, the Commissioner may, forthwith or with such notice as he thinks fit, demolish, repair or secure or cause to be demolished, repaired or secured, any such wall or building or thing affixed thereto, on the report of the Chief Architect, certifying that such demolition, repair or securing of the building, wall or thing is necessary for the safety of the public or the inmates of the building.

(b) In any such case the Commissioner may cause the inmates of the building to be summarily removed from the same or such portion thereof as he may consider necessary.

(c) All expenses incurred by the Commissioner in taking action under this sub-section shall be paid by the owner of such wall, building or thing.

(5) Any action taken by the Commissioner under sub-section (4) shall, unless the contrary is proved, be deemed to have been taken lawfully and in good faith and with due care and attention.”.

Insertion of new  
sections 180A,  
180B, 180C,  
180D, 180E,  
180F and 180G  
after section 180.

**16.** After section 180 of the principal Act, the following sections shall be inserted:—

*Power to require alteration of existing buildings.* 180A. The Commissioner may, with a view to promoting public or occupier's convenience, safety, privacy, or sanitation or to securing conformity with the provisions of this Act and the rules and the regulations made thereunder, by order in writing, require the owner of any existing building to make such alterations therein within such period as may be specified in the order:

Provided that before making any such order, the Commissioner shall afford a reasonable opportunity to the owner to show cause why such order should not be made.

Power to order  
building to be  
vacated in certain  
circumstances.

180B. (1) The Commissioner may, by order in writing, direct that any building, which in his opinion is in a dangerous condition or is not provided with sufficient means of egress in case of fire or is occupied in contravention of section 175C or section 178, be vacated forthwith or within such period as may be specified in the order:

Provided that at the time of making such order, the Commissioner shall record a brief statement of the reasons therefor.

*The Howrah Municipal Corporation (Amendment) Bill, 2010.*

*(Clause 16.)*

(2) If any person fails to vacate the building in pursuance of such order, the Commissioner may direct any police officer to remove such person from the building and the police officer shall comply with such direction.

(3) The Commissioner shall, on the application of any person who has vacated or has been removed from any building in pursuance of any order or any direction, as the case may be, under this section, reinstate such person in the building as soon as the circumstances permit.

**Inspection of buildings.** 180C. (1) The Commissioner may, at any time during the erection or re-erection of a building or the execution of any work under this Act, make an inspection thereof without giving any previous notice of his intention so to do.

(2) The Commissioner may inspect any existing building at any time by giving seven days' notice in advance.

**Buildings at corners of streets.** 180D. (1) Notwithstanding the provisions of this Act or the rules and the regulations made thereunder or of any other law in force for the time being, the Commissioner may, in the case of any building which is intended to be erected at the corner of two streets—

- (a) refuse sanction for such reasons as may be recorded in writing, or
- (b) impose restrictions on its use, or
- (c) place special conditions concerning exit to or entry from any street, or
- (d) require it to be rounded off or splayed or cut off to such height and to such extent as he may determine, or
- (e) acquire such portion of the site at the corner as he may consider necessary for public convenience or amenity:

Provided that no such action shall be taken without any scrutiny of such case by the Municipal Building Committee and without prior approval of the Mayor-in-Council in accordance with the provisions of this Chapter.

(2) The Commissioner may, by a written order, require any alteration corresponding to any of the conditions in clauses (b) to (e) of sub-section (1) to be made to any building completed before the commencement of this Act.

**Provisions as to buildings and works on either side of new streets or near flyovers or transportation terminals.** 180E. (1) The sanction to the erection of any building or the execution of any work on either side of a new street may be refused by the Commissioner unless and until such new street has been levelled, and, in the opinion of the Commissioner, where practicable, metalled or paved, drained, lighted and laid with a water main, to his satisfaction.

(2) The sanction to the erection of any such building or the execution of any such work may be refused by the Commissioner if such building or any portion thereof or such work comes within the regular line of any street, the position and direction of which has been laid down by the Commissioner but which has not been actually erected or executed, or if such building or any portion thereof or such work is in contravention of any building plan or any other scheme or plan prepared under this Act or any other law in force for the time being.

(3) The Commissioner may refuse permission for the erection or re-erection of any building, which when completed, will be within such distance from a flyover or over-bridge or transportation terminal or other construction as may be prescribed under the rules and the regulations made in this behalf.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

(Clause 17.)

Provisions against  
use of inflammable  
materials for  
buildings, etc.  
without  
permission.

180F. (1) No roof, verandah, pandal or wall of a building or no shed or fence shall be constructed or reconstructed of cloth, grass, leaves, mats or other inflammable materials except with the written permission of the Commissioner, nor shall any such roof, verandah, pandal, wall, shed or fence constructed or reconstructed in any year, be retained in a subsequent year except with the fresh permission obtained in this behalf.

(2) Every permission granted under sub-section (1) shall expire at the end of the year for which it is granted.

(3) The Commissioner may regulate the use of materials, design or construction, or other practices for interior decoration in accordance with the rules and the regulations made in this behalf.

Power to regulate  
future construction of  
buildings in  
particular streets or  
localities

180G. (1) The Commissioner may, subject to the prior approval of the Mayor-in-Council, give public notice of his intention to declare—

- (a) that in any street or portion thereof specified in such notice, the elevation and construction of the frontage of all buildings or any classes of buildings erected or re-erected after such notice shall in respect of their architectural features, be such as the Mayor-in-Council may consider suitable to the locality; or
- (b) that in any locality specified in such notice, there shall be allowed the erection of only detached or semi-detached buildings or both and that the land appurtenant to each such building shall be of an area not less than that specified in such notice; or
- (c) that the minimum of building plots in particular localities shall be of a specified area; or
- (d) that in any locality specified in the notice, the construction of more than a specified number of buildings on each acre of land shall not be allowed; or
- (e) that in any streets, portions of streets or localities specified in such notice, the construction of any one or more of the different classes of buildings (such as residential, educational, institutional, assembly, business, mercantile, industrial storage and hazardous buildings) shall not be allowed without the special permission of the Mayor-in-Council.

(2) The Mayor-in-Council shall consider all suggestions or objections, received within a period of three months of the publication of such notice, and may confirm the declaration, or may modify it so however that its effect is not extended.

(3) The Commissioner shall publish any declaration so confirmed or modified in the *Official Gazette* and the declaration shall take effect from the date of such publication.

(4) No person shall, after the date of publication of such declaration, erect or re-erect any building in contravention of such declaration.”.

Substitution of  
new section for  
section 182.

17. For section 182 of the principal Act, the following section shall be substituted:—

‘Engagement of  
technical persons.

182. (1) Every person, who intends to erect, add to, or alter, any building, shall, subject to the provisions of this Act, engage such technical person and in such manner as may be prescribed.

(2) The categories, and the qualifications, competence, duties and responsibilities, of the technical persons shall be such as may be prescribed.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

*(Clause 18.)*

(3) The Commissioner may by notification specify the manner or enrolment of, or grant of licence to, the technical persons.

(4) The Commissioner may by order cancel the enrolment of, or revoke the licence granted to, a technical person on the ground of dereliction of any duty or responsibility prescribed under sub-section (2), or professional misconduct or moral turpitude, on his part after giving him a reasonable opportunity of being heard.

(5) If, in any case, any loss of life or property is caused, or is likely to be caused, by reason of any misconduct on the part of a technical person engaged under sub-section (1), such technical person shall be subject to the provisions of section 177A.

*Explanation.*—For the purposes of this section, the expression “technical person” shall mean a technical consultant.’.

Substitution of  
new section for  
section 183.

**18.** For section 183 of the principal Act, the following section shall be substituted:—

“Municipal Building Code. 183. (1) The State Government may make rules—

- (a) for the regulation or restriction of the use of sites for building, and
- (b) for the regulation or restriction of building.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the rules made thereunder may provide for all or any of the following matters:—

- (a) information and plans to be submitted together with application under any of the provisions of this Chapter,
- (b) requirements of sites,
- (c) means of access,
- (d) development of land into land sub-division and layout,
- (e) land use classification and uses,
- (f) open spaces, area and height limitations,
- (g) parking spaces,
- (h) requirements of parts of buildings including plinth, habitable room, kitchen, pantry, bathroom and water closet, loft, ledge, mezzanine floor, store room, garage, roof, basement, chimney, lighting and ventilation of room, parapet, wells, septic tanks and boundary wall,
- (i) provision of lifts,
- (j) exit requirements including doorway, corridor, passageways, staircases, ramps, and lobbies,
- (k) fire protection requirements including materials and designs for interior decoration,
- (l) special requirements of occupancies for residential building, educational building, institutional building, assembly building, business building, mercantile building, industrial building, storage building and hazardous building (including those for assembly, movement, parking, loading, unloading, public conveniences, water-supply and vendors plazas),
- (m) structural design,
- (n) quality of materials and workmanship,
- (o) alternative materials, methods of design, and construction and tests,
- (p) building services including electric supply, air-conditioning, or heating and telephones and telex,
- (q) plumbing services,
- (r) signs and outdoor display structures, and
- (s) any features to be included in building plans under Chapter X or Chapter XIV of this Act.”.

*The Howrah Municipal Corporation (Amendment)  
Bill, 2010.*

**STATEMENT OF OBJECTS AND REASONS.**

It is considered necessary and expedient to amend the Howrah Municipal Corporation Act, 1980 (West Ben. Act LVII of 1980) (hereinafter referred to as the said Act) for the purposes, among others, of—

- (A) regulating the sanction of building plan and construction thereof;
- (B) making provision for the payment of allowances to the Councillors of the Corporation;
- (C) determining detailed procedure for issuing order of demolition and stoppage of buildings and works in certain cases and the procedure of appeal;
- (D) prohibition on change of use of building;
- (E) empowering the Corporation to order removal of dangerous buildings and also to require alteration of existing buildings or vacate any existing building keeping in view the public safety, sanitation, etc.;
- (F) regulating the buildings at corners of streets and the buildings and works on either side of new streets or near flyovers or transportation terminals;
- (G) prohibiting use of inflammable materials for buildings, etc. without permission;
- (H) empowering the Corporation to regulate future construction of buildings in particular streets or localities;
- (I) mandatory engagement of technical persons for carrying out building activities.

- 2. The Bill has been framed with the above objects in view.
- 3. There is no financial implication involved in giving effect to the provisions of this Bill.

KOLKATA,  
*The 2nd December, 2010.*

ASOK BHATTACHARYA,  
*Member-in-charge.*

By order of the Governor,

K. Y. S. MANHAS,  
*Pr. Secy.-in-charge to the Govt. of West Bengal,  
Law Department.*