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Nagaland Municipal Act, 2001

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THE NAGALAND MUNICIPAL ACT, 2001

(Act No. 10 of 2001)

*[Received the assent of the Governor of Nagaland on 26.9.2001
and published in the Nagaland Gazette Extraordinary
Dated 18th Oct. 2001.]*

An Act whereas it is expedient to provide for organization and administration of urban areas ;

It is hereby enacted in the fifty second year of the Republic of India as follows :-

PART - I

CHAPTER - I

PRELIMINARY

1. Short title, extent and commencement :-

- (i) This Act may be called the Nagaland Municipal Act, 2001
- (ii) It extends to the whole of Nagaland
- (iii) It shall come into force on such date as the Government may, by a notification, appoint.

CHAPTER - II

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

- (1) "Annual Value" means the value of any land or building fixed in accordance with the provisions of this Act and the regulations made thereunder for the purpose of assessment to property taxes ;

- (2) "Audit Authority" means the authority prescribed under section 109 ;
- (3) "balance sheet" means the balance sheet of the Municipality prepared under section 107 ;
- (4) "budget estimate" means the budget estimate of the Municipality prepared under section 101 ;
- (5) "budget grant" means the total sum entered on the expenditure side of budget estimate under a major head and adopted by the accordance with the provisions of this Act and the rules and regulations made thereunder;
- (6) "building" means any shop, house, hut, outhouse, stable, a factory, an industrial shed and a temporary structure erected by means of tents and any other structure including structures raised for entertainment purposes whether roofed or not and whether used for the purposes 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;
- (7) "Chairperson" means a Chairperson elected as Chairperson of a Municipal Council or Town Council;
- (8) "Chief Officer of a Municipality" or "Chief Officer" means – the Executive Officer of Municipal Council or Town Council and includes such officer as may be especially authorised in this behalf to carryout the functions of the Chief Officer under the Act.

- (9) "Dangerous disease" means –
- (i) Cholera, plague, chicken-pox, small-pox, tuberculosis, leprosy, enteric fever, cerebrospinal meningitis, diphtheria, dengue fever, acquired immuno deficiency syndrome (AIDS), hepatitis B and C, cerebral malaria and viral pneumonia; and
 - (ii) Any other epidemic, endemic or infectious disease which the Government may, in relation to any municipal area or group of municipal areas, by notification, declare to be a dangerous disease for the purpose of this Act;
- (10) "Debenture" means the debenture referred to in Section 93;
- (11) "Deputy Chairperson" means a Deputy Chairperson elected as Deputy Chairperson of a Municipal Council or a Town Council;
- 11 A. District Planning Board means the District Planning Board constituted by the State Government vide Notification No. PLN-127/71(Pt) dated 5.5.93 and as amended from time to time.
- (12) "Executive Officer" means the Executive Officer of a Municipal Council or a Town Council;
- (13) "Finance Commission" means the Finance commission constituted under section 122;
- (14) "Financial statement" means the financial statement of the Municipality prepared under section 106.
- (15) "Government" means the Government of the State of Nagaland;

- (16) "Hazardous process" means the hazardous process defined in Clause (cb) of section 2 of the Factories Act, 1948 (Act 63 of 1948);
- (17) "land" includes benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over any street;
- (18) "market value" means in the case of a land the present value of the land and in the case of a building, the estimated cost of erecting the building as assessed under this Act, and the rules or regulations made thereunder;
- (19) "Member" in relation to a Municipal Council or a Town Council means a member thereof and includes elected, ex-officio and nominated members;
- (20) "misconduct" means violation of the Code of conduct prescribed by rules;
- (21) "multi-storied building" means a building consisting of four stories and above or a building exceeding an height of twelve metres irrespective of the number of its stories;
- (22) "Municipal Area" means the territorial area of a Municipal Council or a Town Council as the case may be;
- (23) "Municipal assessment Book" means the Municipal Assessment Book maintained under section 139;
- (24) "Municipal Council" means a Municipal Council constituted under section 8;
- (25) "Municipal Fund" means the Municipal Fund constituted under section 84.

- (26) "Municipal Property Tax Committee" means the Municipal Property Tax Committee constituted under section 134;
- (27) "Nationalised Bank" means a bank specified in column 2 of the First Schedule to the Banking companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act 5 of 1970);
- (28) "non-residential building" means any building referred to in clauses (b) to (i) of sub-section (2) of section 340;
- (29) "notification" means a notification published in the Official Gazette of the Government;
- (30) "Nuisance" includes any act, omission or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell, hearing or which is or may be dangerous to the life or injurious to health or property;
- (31) "occupier" includes any person for the time being paying or liable to pay to the owner the rent or fee or contractual payment of adjustment of rent or fee or any portion thereof or damages on account of the occupation of any land or building, and also includes a rent-free tenant;
- (32) "Official Gazette" means the Official Gazette of the State of Nagaland;
- (33) "Owner" includes the person for the time being receiving the rent of any land or building or any part thereof, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver who would receive such rent if the land or building or any part thereof were let to a tenant;

- (34) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (35) "premises" means any land or building or part of a building and includes --
- (a) the garden, ground and out-houses, if any, appertaining to a building, or part of building; and
 - (b) any fitting affixed to a building or part of a building for the more beneficial enjoyment thereof;
- (36) "prescribed" means prescribed by rules made under this Act;
- (37) "public street" means any street which vests in the Municipality as a public street or the soil below the surface of which vests in the Municipality or which under the provisions of this Act becomes, or is declared to be a public street;
- (38) "regulation" means a regulation made by the Municipal Council or the Town Council, as the case may be, under this Act;
- (39) "residential building" means a residential building referred to in clause (a) of sub-section (2) of section 340;
- (40) "rule" means a rule made by the Government under this Act;
- (41) "section" means a section of this Act;
- (42) "State Election Commission" means the Election Commission established under section 30;

- (43) "street" shall mean any road, footway, square, court, alley, gully or passage, accessible, whether permanently or temporarily to the public, and whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any persons as means of access to or from any public place or thoroughfare, whether such persons be occupiers of such building or not, but shall not include any part of such space which the occupier of any such buildings has right at all hours to prevent all other persons from using as aforesaid, and shall include also the drains or gutters therein, or on either side, and the land, whether covered or not by any pavement, verandah or other erection, up to the boundary of any abutting property not accessible to the public;
- (44) "Town Council" means a Town Council constituted under section 20;
- (45) "trade effluent" includes any liquid, gaseous or solid substance which is discharged from any premises use for carrying on any industry, operation or process, or treatment and disposal system other than domestic sewage;
- (46) "valuation register" means the valuation register maintained under section 130;
- (47) "ward" means a territorial constituency provided under section 23;
- (48) "year" means a year commencing on the first day of April of a calendar year and ending on the 31st day of March, of the succeeding calendar year.

PART - II
CHAPTER - I
CONSTITUTION OF MUNICIPALITIES

3. Declaration of intention to create and specify limits of Municipal areas :

- (1) The Government may, after making such inquiry, as it may deem fit, and having regard to –
- (a) the population of any urban area;
 - (b) the density of population therein;
 - (c) the revenue generated for the local administration of such area;
 - (d) the percentage of the employment in non agricultural activities;
 - (e) the economic importance of such area; and
 - (f) such other factors, as may be considered relevant;
- by notification, declare it's intention to create and specify municipal areas.

Provided that such declaration may be made as Municipal Council area where the population of such area is 20,000 and above and Town Council area for such area where the population is below 20,000 but not less than 5,000.

Provided further that the State Government may declare a smaller urban area having a population below 5,000 and not less than 1,000 as Urban Station Committee area.

- (2) A copy of the notification shall be published and shall also be affixed in a conspicuous place of the Office of the Deputy Commissioner and such other place as the Government may direct.

4. Submission of objections :

Any inhabitant of any part of a local area specified in a notification published under Section 3, may, if he objects to anything contained, in the notification, submit his objection in writing through the Deputy commissioner to the State Government within a period of 30 days from the date of publication of the notification and the Government shall consider all such objections.

Provided no objection shall be deemed to be raised in regard to the limit of the Urban area already specified as Town committee area under sub section 4 of section 2 of the Assam Tribal Areas (Administration of Town Committees) Regulations, 1950 (Regulation VI of 1950).

5. Declaration and specification of Municipal area.

On the expiry of a period of 30 Days from the date of publication of the notification issued under Section 3 and after consideration of the objections submitted under section 4, the Government by notification, declare and specify such area or part thereof to be Municipal Council area or Town Council area or Urban Station Committee area, as the case may be

6. Declaration of intention to include or exclude from any Municipal area or from the operation of the Act:

- (1) The Government after consultation with the Municipal Council or Town Council, as the case may be, by notification, declare its intention
- (a) to include within the Municipal council area or Town Council area, any area adjacent thereto; or
 - (b) to exclude from the Municipal area or Town Council area, any area comprised therein; or

- (c) to withdraw any urban area from the operation of this Act.
- (2) Every such notification shall define the limits of the area to which it relates.
- (3) When a notification is issued under subsection (1), the provisions of sub section (2) of Section 3 relating to the publication of the notification of section 4 relating to the submission of objections, shall apply.
- (4) On the expiry of a period of 30 days from the date of publication of the notification referred to in sub section (1) and after consideration of the objections, if any submitted, the Government may, by notification, -
 - (a) include with the Municipal council area or Town Council area, any area adjacent thereto; or
 - (b) exclude from the Municipal council area or Town Council area, any area comprised therein; or
 - (c) withdraw any urban area from the operation of this Act.
- (5) Where any area within the territorial jurisdiction of any local authority is constituted as Municipal Council or Town Council or included in such Municipal Council area or Town Council area, -
 - (a) the provisions of this Act, except as the Government, by notification otherwise direct, all rules, regulations, notifications, orders, direction and powers made, issued or conferred and all taxes, duties, tolls and fees imposed under this Act and in force in Municipal Council Areas or Town Council Areas shall apply to and shall be deemed to have been imposed in the area so constituted or included;
 - (b) the Government may, by notification, issue such orders as it may deem fit

- (i) as the transfer to the Municipal Council or Town Council or disposal otherwise of the assets or institutions of such local authority in the area constituted or included, - and
 - (ii) as to the discharge of the liabilities, if any, of such local authority relating to such assets or institutions.
- (6.) Where any area is excluded from the Municipal Council area or Town Council area and included in the area within the Territorial jurisdiction of any other local authority -
 - (a) the provisions of this Act or any rules, regulations, notifications, orders, directions and power made, issued or conferred and all taxes, duties, tolls and fees imposed under this Act and the force in such Municipal Council area or Town Council area shall cease to apply and shall cease to be imposed in the area so excluded.
 - (b) The Government may, by notification, issued such orders, as it may deem fit.
 - (i) as to the transfer of such local authority or disposal otherwise of the assets or institutions of Municipal Council or Town Council and
 - (ii) as to discharge of liabilities, if any, of such Municipal Council or Town Council relating to such assets or institutions.
- (7) Upon the issue of a notification under sub section (4) withdrawing any urban area altogether from the operation of this Act, -
 - (a) the provisions of this Act and all notifications, rules, regulations, orders, directions and powers issued, made or conferred thereunder, shall cease to apply to such area

- (b) The Municipal fund and also other property vested in the Municipal Council or Town Council shall vest in the Government and the liabilities of the Municipal Council or Town Council shall transferred to the Government;
- (c) any right, privilege, obligation or liability acquires, accrued to or incurred by the Municipal Council or Town Council immediately before such withdrawal, shall vest in or be enforceable against the Government.

Provided that any tax, fee or other amount due from any personal to the Municipal Council or Town Council shall be recoverable by the Government as arrear of land revenue.

- (d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Municipal Council or Town Council, may be continued or instituted by or against the Government.
- (e) the posts of officers and employees of the Municipal Council or Town Council shall be deemed to have been abolished and consequently the cadre of Municipal services comprising such posts shall be deemed to have been correspondingly reduced.

Provided that the Government shall provide alternative employment in other Municipalities to the person becoming surplus consequent upon such abolition or reduction and for that purpose the Government can direct any Municipalities to appoint a person on a post a post to which he may be found suitable by the Government.

CHAPTER – II

MUNICIPAL COUNCIL

7. Municipal Authorities of Municipal Council area :-

The Municipal Authorities for the purpose of giving effect to the provisions of this Act in Municipal Council area shall be, -

- (i) the municipal council
- (ii) the Chairperson
- (iii) the Executive Officer

8. Constitution of Municipal Council :-

- (1) For every Municipal Council area, there shall be constituted a municipal council.

Provided that a Municipal council may not be constituted for such area or part thereof as the Government may having regard to the size of the area and the Municipal services being provided by an industrial establishment in that area and such other factors as the Government may think fit and subject to such conditions as the Government may think fit to impose, by notification, specify to be industrial township.

Provided further that if the Government is of the opinion that the industrial establishment providing municipal services in industrial township, has failed to provide satisfactory municipal services or has failed to fulfill the conditions which the Government had imposed which specifying the municipal area to be industrial township, the Government may, after giving the concerned industrial establishment an opportunity to show cause, declare by a notification that such area has ceased to be industrial township and constitute a municipal council.

- (2) Every municipal Council shall be a body corporate by the name of "The..... Municipal Council" and shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of properties and may by the said name sue and be sued.

9. Composition of Municipal Council :-

- (1) Every Municipal Council shall be elected, ex-officio and nominated members.
- (2) The Government may, by notification, divide the municipal council area into territorial constituencies to be known as wards for the purpose of filling up the seats in the Municipal Council by direct election.
- (3) Members of the State Legislative Assembly representing Legislative Assembly Constituencies which comprise wholly or partly the municipal Council area shall be ex-officio members.
- (4) The Government shall, by notification, nominate such number of members, not exceeding one-fifth of the elected members, from amongst the persons having special knowledge or experiences in Municipal Administration.

10. Duration of Municipal Council etc.,

Every Municipal Council, unless sooner dissolved, shall continue for 5 years from the date appointed for its first meeting and no longer. Provided that the first meeting shall be convened as soon as possible and in no case later than 6 months from the date on which the election of the members is notified by the State Election Commission.

11. Term of office of members of Municipal Council :-

The term of office of the members of Municipal Council shall be coterminous with the duration of Municipal Council.

12. Election of Chairperson/Deputy chairperson.

(1) The Municipal Council shall elect one of its elected members to be the Chairperson in the manner as may be prescribed in this behalf.

(2) The Municipal Council may also elect one of its elected members to be Deputy Chairperson in the manner under sub Section(1)

(3) The election under sub section 1 and 2 shall be conducted at a meeting of Municipal Council to be convened immediately after the meeting held for making and subscribing oath or affirmation by the members but not later than 6 months from the date on which the election of members is notified by the State Election Commission.

(4) The meeting for election of Chairperson and Deputy Chairperson of Municipal Council shall be convened and presided over by the Deputy Commissioner.

(5) If during the election of Chairperson or Deputy Chairperson, as the case may be, there is equality of votes between the candidates and the addition of vote would entitle one of such candidates to be elected as Chairperson or Deputy Chairperson, as the case may be, the Presiding Officer shall decide between such candidates by lot to be drawn in their presence in such manner, as may be prescribed and the candidate on the lot fall, shall be deemed to have received an additional vote.

(6) The Chairperson and Deputy Chairperson shall enter upon their duties as such, immediately after their elections.

13. Term of Chairperson/Deputy Chairperson

The term of the Officer of Chairperson or Deputy Chairperson shall be coterminous with the duration of Municipal Council unless he has ceased to be a member or he has vacated by resignation or removal.

The term of the Officer of Chairperson or Deputy Chairperson shall be coterminous with the duration of Municipal Council unless he has ceased to be a member or he has vacated by resignation or removal.

14. Resignation of Chairperson/Deputy Chairperson.

- (1) The Chairperson/Deputy Chairperson may, at any time, by writing under his hand addressed to the Deputy Commissioner, resign his office.
- (2) A copy of the resignation shall be sent to the Executive Officer for placing before the municipal council.
- (3) The resignation shall take effect on the expiry of a period of fifteen days from the date of the delivery of resignation to the Deputy Commissioner.

Provided that the Chairperson or Deputy Chairperson, as the case may withdraw his resignation within the aforesaid period.

15. Removal of Chairperson/Deputy Chairperson.

- (1) The Chairperson or Deputy Chairperson may be removed from Office by the Municipal Council by adopting a motion expressing want of confidence in the Chairperson or Deputy Chairperson in accordance with the laid down in this section.
- (2) Written notice of the intention to move a motion of no confidence in the Chairperson or Deputy Chairperson, signed by not less than one half of the total number of members serving at the relevant time excluding the ex-officio members and the nominated persons along with a copy of the motion, shall be delivered by any two members, signing the notice to the Deputy Commissioner.
- (3) On receiving the notice referred to in Sub Section (2), the Deputy Commissioner shall convene a meeting of the municipal Council for consideration of the motion, which shall be held at the office of the Municipal Council on the date and time appointed by the Deputy Commissioner for the purpose, which shall not be later than fourteen days from the date on which the said notice was delivered to him.

- (4) The Deputy Commissioner shall send, not less than seven clear days before the date of the meeting, a notice of such meeting and of the date and the time appointed thereof to every member, excepting the ex-officio members and nominated members at his place of residence and shall at the same time cause such notice to be published in such manner as the Deputy Commissioner may deem fit and hereupon every member shall be deemed to have received the notice.
- (5) The meeting convened for the aforesaid purpose shall be presided over by the Deputy Commissioner.
- (6) The motion shall be deemed to have been carried only, when it has been passed by a majority of members, excluding the ex-officio members and nominated members, present and voting.
- (7) When a motion is carried under sub section (6), the Chairperson or Deputy Chairperson shall be deemed to have vacated his office.
- (8) When a motion has been carried by the Municipal Council, the Deputy Commissioner shall send a report to the Government.
- (9) No other business shall be transacted in the meeting convened for considering the no confidence motion.
- (10) The Chairperson or Deputy Chairperson shall be eligible for the re-election.

16. Suspension of Chairperson/Deputy Chairperson ; The Government May,

- (a) When the Chairperson or Deputy Chairperson prima facie appears to be guilty of –
 - (i) encroachment or unauthorized occupation on any Municipal property or land, or
 - (ii) acting against the financial interest of Municipality or
 - (iii) an heinous crime or an offence involving moral turpitude and has remained under detention for more than 48 hours, or

- (iv) where the continuation in office is prejudicial to public interest, suspend the Chairperson or Deputy Chairperson.

Provided that the charges, on which the Chairperson or Deputy Chairperson was suspended, shall be inquired into expeditiously within a period of one month.

Provided further that the period of suspension shall not normally exceed six months.

17. Removal Chairperson/Deputy Chairperson by Government :

Notwithstanding anything contained in section 13, the Chairperson or Deputy Chairperson may be removed from office by the Government at time, by an order in writing on any ground or grounds mentioned in section 16 on the ground of misuse of his power or on persistent failure to perform his duties.

Provided that before passing any such order a reasonable opportunity of being heard shall be given to the Chairperson or Deputy Chairperson.

18. Election for filling up the vacancy in the office Chairperson/ Deputy Chairperson :

- (1) Where a Chairperson or Deputy Chairperson
 - (a) resigns his office, or
 - (b) ceases to be member, or
 - (c) is removed from office by a motion of no confidence or
 - (d) is removed from office by the Government,
- (2) A person removed from office of Chairperson or Deputy Chairperson by Government under section 17 shall not be eligible for re-election during the duration of the Municipal Council.
- (3) The provisions of Sub Sections (4), (5) and (6) of Section 12 shall apply.

CHAPTER – III

TOWN COUNCIL

19. Authorities for Town Council area:

The authorities for the purpose of giving effect to the provisions of this Act in Town Council area shall be, -

- (a) Town Council
- (b) Chairperson
- (c) Executive Officer

20. Constitution of Town Council:

- (i) For every Town Council area there shall be constituted a Town Council.

Provided that a Town Council may not be constituted for such area or part thereof as the Government may, having regard to the size of the urban area and the municipal services being provided by an industrial establishment or the Government machinery in that area and such other factor as the Government may think fit and subject to such conditions as the Government may think it fit to impose, by notification, specify to be an industrial township.

Provided further that if the Government is of the opinion that the industrial establishment providing municipal services in an industrial township, has failed to provide satisfactory services or has failed to fulfill the conditions the Government had imposed while specifying a Town Council area to be industrial township, the Government may, after giving the concerned industrial establishment an opportunity to show cause, declare by a notification that such area has ceased to be an industrial township and constitute a town council thereof.

- (ii) Every town council shall be a body corporate by the name of "The Town Council" and shall have a perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of properties and may by the said name sue and be sued.

21. Composition of Town Council:

- (1) Every Town Council shall have the elected, ex-officio and nominated members.
- (2) The Government may, notification, divide the Town Council area into territorial constituencies to be known as wards for the purpose of filling up the seats in the Town Council by direct election.
- (3) Members of the State Legislative Assembly representing Legislative Assembly constituencies which comprise wholly or partly the Town Council area shall be ex-officio members.
- (4) The Government shall, by notification, nominate such number of members, not exceeding one-fifth of the elected members, from amongst the persons having special knowledge or experience in Municipal administration.

22. Application of provisions of certain section to Town Council area:

Where an area is specified as Town Council area under Section 5 the provisions of sections 10,11,12,13,14,15,16,17 and 18 shall apply to Town Council area as if Town Council so constituted were a Municipal Council.

CHAPTER – IV
ELECTION, RESIGNATION, REMOVAL
AND CASUAL VACANCY.

23. Division of Municipal Council area/Town Council Area into territorial Constituencies:

- (1) For the purpose of election of members under section 9 or section 21, as the case may be, the Government shall, having regard to population, extent of the area and geographical area, divide the municipal council or town council into territorial constituencies to known as 'wards' and each ward shall elect only one member.
- (2) Delimitation of wards shall be done in such manner that
 - (a) the localities included in a ward are contiguous and form a compact territorial block,
 - (b) the population of all the wards as far as practicable, is the same through out the municipal council area or town council area.
 - (c) the numbering of the wards is continuous and in accordance with the prescribed procedure.

24. Election to constitute municipal council/town council:

- (1) an election to constitute municipal council or town council shall be complete –
 - (a) before the expiry of its duration specified under section 10 or
 - (b) before the expiry of a period of six months from the date of its dissolution.
- (2) The first election to a municipal council or Town Council, shall be held within a period of six months from the date of its constitution.

25. Power of Government to direct holding of election :

- (1) Subject to the provisions of this Act and the Rules made thereunder, the Government may, by notification, direct that a general election to a municipal council or Town Council or to fill a casual vacancy of a member, shall be held by such date as may be specified in the notification and different dates may be specified for elections for different municipal councils or Town councils.
- (2) As soon as a notification is issued under subsection (1), the State Election Commission shall take necessary steps for holding such election.

26. Resignation of elected members:

- (1) If any elected member of a municipal council or town council intends to resign his office, he shall submit his resignation in writing to the Government.
- (2) Some resignation may be withdrawn within fourteen days from the date of receipt of acknowledgement by the elected member, failing which the resignation shall be accepted.
- (3) If the resignation is not withdrawn and is accepted by the Government it shall be notified in the official Gazette.

27. Suspension of member of a Municipal Council/Town Council:

Notwithstanding any law for the time being in force, the Government may suspend a member.

- (i) Where a member prima-facie appears to be guilty of -
 - (a) Encroachment or unauthorized occupation any Municipal property or land or
 - (b) Acting against the financial interests of municipal council or town council.
 - (c) An heinous crime or an offences involving moral turpitude has remained under detention for more than 48 hours; or

- (ii) Where the continuation of a member as such is prejudicial to public interest.

Provided that the charge on which the member was suspended shall be inquired into expeditiously within a period of one month.

Provide further that the period of suspension of the member shall in no case exceed six months.

28. Power of Government to remove a member :

The Government may, by notification, remove any member of a municipal council or Town council, if it is of the opinion that

- (a) any of the grounds for suspension mentioned in section 27 has been proved against him, or
- (b) he has flagrantly abused his position as a member, or
- (c) he has, through negligence or misconduct, been responsible for any loss or misapplication of any money or property of municipal council or town council, or
- (d) he has failed to pay arrears of any kind due to the municipal council or town council otherwise than as an agent, receiver, trustee or an executor to the municipal council or town council within three months after a notice in this behalf has been served upon him, or
- (e) he has absented himself during three successive meetings of municipal council or town council without intimation to the municipal council or town council.
- (f) he has absented himself or was unable to attend the meetings of municipal council or town council during twelve successive months for any cause whatsoever, whether approved or not by such municipal council or town council, or
- (g) He has acted in contravention of the provisions of sections 57 I and 57 J or commits any act of misconduct.

29. Casual vacancy:

- (1) Whenever a vacancy occurs by death or the election of a member is declared void, the chairperson of the municipal council or town council shall inform the Government of such vacancy.
- (2) Whenever a vacancy occurs by death, resignation and removal or otherwise of an elected member or the election of an elected member is declared void, the vacancy shall be filled by fresh election.
- (3) The person so elected shall hold office only so long as the person, in whose place is elected, would have held, had the vacancy no occurred.

Provided that if the remainder of the term of the office of the member in whose place the vacancy occurred, is for a period of less than six months, it shall not be necessary to hold the election to filled such vacancy.

30. State Election Commission:

- (1) The superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to the Municipal Council or Town Council shall be vested in the State Election Commission consisting of an Election Commissioner to be appointed by the Governor.
- (2) The conditions of service and tenure of the Election Commissioner shall be such as the Governor may by rules prescribe.

Provided that the Election Commissioner shall not be removed from Office except in the like manner and on the like grounds as a Judge of a High Court and the conditions of service of the Election Commissioner shall not be varied to his disadvantage after his appointment.

- (4) The Government shall, when requested by the Election Commissioner, make available to the Election Commission such staff which the Government considers necessary for discharge the functions conferred on the Election Commission by sub section (1)

31. Election Roll:

For every ward there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and the rules made thereunder.

32. Electoral Registration Officers:

- (1) The Electoral roll for each ward shall be prepared and revised by an electoral officer who shall be such officer of the Government or Municipal Council or Town Council as the Election Commission may, in consultation with the Government, designate or nominate on this behalf.
- (2) To assist the electoral registration officer in discharge of his function under sub section (1) The Election Commissioner may employ such person as it thinks fit.

33. Registration of Electors:

The persons entitled to be registered as electors in the electoral roll of the Assembly constituency in the State as relates to the area comprised within a ward shall be entitled to be registered in the electoral roll of that ward and the provisions in this behalf in the Representation of the People Act, 1950 (Act No: 43 of 1950) shall apply to the registration of electors in the electoral roll of a ward as they apply to the registration of electors in the electoral roll of an assembly constituency.

34. Preparation and revision of electoral rolls:

- (1) The Electoral roll for each ward shall be prepared before each general election in such manner as may be prescribed by rules by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made for the purpose:

Provided that if the Election Commission is satisfied that, instead of preparing a fresh electoral roll of a ward before a general election, it would be sufficient to adopt the electoral roll of the assembly constituency for the time being in force as relates to the ward, it may, by order, for reasons to be specified therein, direct that the electoral roll of the assembly constituency for the time being in force as relates to the ward shall, subject to any rules made for the purpose, be the electoral roll of the ward for the general election.

(2) The electoral roll prepared or adopted, as the case may be, under subsection (1) shall-

(a) unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the manner prescribed by rules by reference to the qualifying date before each bye-election to fill a casual vacancy in a seat allotted to the ward; and

(b) be revised in any year in the manner prescribed by rules by reference to the qualifying date if such revision has been directed by the Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.

(3) Notwithstanding anything contained in sub-section (2), the Election Commission may, at any time, for reason to be recorded in writing, direct a special revision of the electoral roll for any ward or part of a ward in such manner as it may think fit.

Provided that the electoral roll for the ward as in force at the time of the issue of any such direction shall continue to be in force until the completion of the special revision so directed.

Explanation:- In this section, the expression “qualifying date” means such date as the Election Commission may, by order, specify in this behalf.)

35. Correction of entries in electoral roll :-

If the electoral registration officer, on an application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll for any ward-

- (a) is erroneous or defective in any particular; or
- (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within such ward; or
- (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident within such ward or is otherwise not entitled to be registered in that the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry:

Provided that before taking any action on the ground specified in clause(a) or clause(b) or any action under clause(c) on the ground that the person concerned has ceased to be ordinarily resident within such ward or that he is otherwise not entitled to be registered in the electoral roll of such ward, the electoral roll of such ward, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

36. Inclusion of names in electoral roll :-

- (1) any person whose name is not included in the electoral roll of ward may apply to the electoral registration officer for the inclusion of his name in that roll.

- (2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein :

Provided that if the applicant is registered in the electoral roll of any other ward, the electoral registration officer shall inform the electoral registration officer of that other ward and that Officer shall, on receipt of the information, strike off the applicant's name from that roll.

- (3) No amendment, transposition or deletion of any entry shall be made under section 35 and no direction for the inclusion of a name in the electoral roll of a ward shall be given under this section after the last date for making nominations for an election in that ward and before the completion of that election).

37. Appeal :—

An appeal shall lie within such time and in such manner as may be prescribed by rules to the Election Commission from any order of the electoral registration officer under section 35 or section 36.

38. Jurisdiction of civil courts barred – No civil Court shall have jurisdiction :—

- (a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a ward; or
- (b) to question the legality of any action taken by or under the authority of an electoral registration officer or of any decision given by the Election Commission

39. Qualification for membership of Municipal council/Town council :—

A person shall not be qualified to be chosen as a councilor unless he has attained the age of twenty one years and his name is registered as an elector in the electoral roll for a ward :

**40. Disqualification's for membership of Municipal Council/
Town council :-**

- (1) A person shall be disqualified for being chosen as, and for being, a member,
 - (a) if he is of unsound mind and stands so declared by a competent court;
 - (b) if he is an undischarged insolvent;
 - (c) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
 - (d) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislative Assembly of the State;
 - (e) if he is so disqualified by or under any law made by the Legislative Assembly of the State
 - (f) if he holds any office of profit under Municipal Council or Town Council
 - (g) if he holds any office of profit under the Government (or Central Government);
 - (h) if he is a licensed architect, draughtsman, engineer, plumber, surveyor or town planner or is a partner of a firm of which any such licensed person is also a partner;
 - (i) if he is interested in any subsisting contract made with, or any work being done for, the municipal council or town council except as a share holder (other than a director) in an incorporated company or as a member of a co-operative society;
 - (j) if he is retained or employed in any professional capacity either personally or in the name of a firm

of which he is a partner or with which he is engaged in a professional capacity, in connection with any cause or proceeding in which the municipal council or town council or any of the municipal authorities is interested or concerned;

(k) if he, having held any office under the Government, the municipal council or town council or any other authority; has been dismissed for corruption or disloyalty to the State unless a period of four years has elapsed since his dismissal or the disqualification has been removed by the Election Commission.

(l) if he fails to pay any arrears of any kind due by him, otherwise than as an agent, receiver, trustee or an executor, to the municipal council or town council within three months after a notice in this behalf has been served upon him.

(2) Notwithstanding anything contained in sub-section (1)-

(a) a person shall not be deemed to have incurred any disqualification under clause (f) or clause (g) of that sub-section by reason only of this receiving-

(i) any pension; or

(ii) any allowance or facility for serving as the Chairperson or Deputy Chairperson or as member; or

(b) a person shall not be deemed to have any interest in a contract or works such as is referred to in clause (i) of that sub-section by reason only of his having a share of interest in-

(i) any lease, sale, exchange or purchase of immovable property or any agreement for the same; or

- (ii) any agreement for the loan of money or any security for the payment of money only; or
 - (iii) any newspaper in which any advertisement relating to the affairs of the municipal council or town committee is inserted; or
 - (iv) the sale to the municipal council or town council or to any municipal authority or any officer or other employee of the municipal council or town council on behalf of the municipal council or town council, of any article in which he regularly trades or the purchase from the municipal council or town council or from any such authority, officer or other employee on behalf of the municipal council or town council, of any article of a value in either case not exceeding five thousand rupees in the aggregate in any year during the period of the contract or work; or
 - (v) the letting out on hire to the municipal council or town council or the hiring from the municipal council or town council of any article of a value not exceeding two thousand rupees in the aggregate in any year during the period of the contract or work; or
 - (vi) any agreement or contract with the Corporation or any municipal authority for any goods or services which the Corporation may generally supply.
- (3) If a person sits or votes as a member of the municipal council or town council when he knows that he is not qualified or that he is disqualified for such membership, he shall be liable in respect of each day on which he so sits or votes to a penalty of three hundred rupees to be recovered as an arrear of tax under this Act.

41. Right to vote :-

- (1) Every person whose name is, for the time being, entered in the electoral roll for a ward shall be entitled to vote at the election of a member from that ward.

42. Publication of result of election :-

The names of all persons elected as councilors shall, as far as maybe, after each election, be published by the Election Commission simultaneously in the Official Gazette.

43. Disputes regarding election :-

- (1) No election of a member of municipal council or town council shall be called in question except by an election petition presented to the Election Tribunal, appointed by the Govt. in this behalf, within fifteen days of the date of the publication of the result of election under section 42.
- (2) An election petition calling in question any such election may be presented under any of the grounds specified in section 45 by any candidate at such election by an elector of the ward concerned or any member.
- (3) A petitioner shall join as respondents to his petition all the candidates at the election.
- (4) An election petition-
 - (a) shall contain a concise statement of the material facts on which the petitioner relies,
 - (b) shall, with sufficient particulars, set forth the ground or grounds on which the election is called in question, and
 - (c) shall be signed by the petitioner and verified in the manner for verification of pleadings in the spirit of the code of Civil Procedure, 1908.

44. Relief that may be claimed by the petitioner :-

- (1) A petitioner may claim-
 - (a) a declaration that the election of all or any of the returned candidates is void, and

- (b) in addition thereto, a further declaration that he himself or any other candidate has been duly elected.
- (2) The expression "returned candidate" means a candidate whose name has been published in the Official Gazette under section 42.

45. Grounds for declaring elections to be void :-

- (1) Subject to the provisions of sub-section (2) if the Election Tribunal is of opinion-
 - (a) that on the date of his election a returned candidate was not qualified or was disqualified, to be chosen a number or under this Act, or
 - (b) that any corrupt practice has been committed by a returned candidate or his agent or by any other person with the consent of a returned candidates or his agent, or
 - (c) that any nomination paper has been improperly rejected, or
 - (d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected-
 - (i) by the improper acceptance of any nomination, or
 - (ii) by any corrupt practice committed in the interests of the returned candidate by a person other than that candidate or his agent, or a person acting with the consent of such candidate or agent, or
 - (iii) by the improper acceptance or refusal of any vote or reception of any vote which is void, or
 - (iv) by the non-compliance with the provisions of this Act or of any rules or orders made thereunder,
- the court shall declare the election of the returned candidate to be void.

(2) If in the opinion of the Election Tribunal, a returned candidate has been guilty by an agent of any corrupt practice, but the Election Tribunal is satisfied.

- (a) that no such corrupt practice was committed at the election by the candidate, and every such corrupt practice was committed contrary to the orders, and without the consent of the candidate;
- (b) that the candidate took all reasonable means for preventing the commission of corrupt practices at the election; and
- (c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents,

then the Election Tribunal may decide that the election of the returned candidate is not void.

46. Procedure to be followed by the Election Tribunal :-

The spirit of the code of Civil Procedure, 1908 in regard to suits shall be followed by the Election Tribunal in the trial and disposal of an election petition under this Act.

47. Decision of Election Tribunal :-

- (1) At the conclusion of the trial of an election petition, the Election Tribunal shall make an order-
 - (a) dismissing the election petition; or
 - (b) declaring the election of all or any of the returned candidates to be void; or
 - (c) declaring the election of all or any of the returned candidates to be void and the petitioner and any other candidate to have been duly elected.
- (2) If any person who has failed an election petition has, in addition to calling in question the election of the returned candidate, claimed declaration that he himself or any other candidate has been duly elected and the Election Tribunal is of opinion-

- (a) that in fact the petitioner or such other candidate received a majority of the valid votes, or
 - (b) that but for the votes obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes,
- the Election Tribunal shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

48. Procedure in case of equality of votes :-

If during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then, the Election Tribunal shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

49. Finality of decisions :-

- (1) An order of the Election Tribunal on an election petition shall be final and conclusive.
- (2) An election of a member not called in question in accordance with the foregoing provisions shall be deemed to be a good and valid election.

50. Corrupt practices and electoral offences :-

The following shall be deemed to be corrupt practices for the purposes of this Act:-

- (1) Bribery as defined in clause (1) of section 123 of the Representation of the People Act, 1951 (43 of 1951).
- (2) Undue influence as defined in clause (2) of the said section.
- (3) The systematic appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds

of caste, race, community or religion or the use of or appeal to, religious symbols or, the use of or appeal to, national symbols such as the national flag or the national emblem, for the furtherance of the prospects of that candidate's election.

- (4) The publication by a candidate or his agent or by any other person of any statement of fact which is false, and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal from contest of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.
- (5) The hiring or procuring whether on payment or otherwise of any vehicle or vessel by a candidate or his agent or by any other person for the conveyance of any elector other than the candidate himself, and the members of his family or his agent to or from any polling station provided in accordance with the rules made under this Act.

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to or from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power.

Provided further that the use of any public transport vehicle or vessel or any tram car or railway carriage by an elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation In this clause the expression "vehicle" means any vehicle used or capable of being used for the purpose of road transport whether propelled by mechanical power or otherwise and whether used or drawing other vehicle or otherwise.

- (6) The holding of any meeting in which intoxicating liquors are served.
- (7) The issuing of any circular, placard or poster having a reference to the election which does not bear the name and address of the printer and publisher thereof.
- (8) Any other practice which the Central Government may by rules specify to be corrupt practice.

51. Maintenance of secrecy of voting :

- (1) Every Officer or clerk, agency or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not except for some purpose authorized by or under any law communicate to any person any information calculated to violate such secrecy.
- (2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.

52. Penalty for disorderly conduct in or near polling station :

- (1) No person shall, on the date or dates on which a poll is taken at any polling station..
 - (a) use or operate within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud-speaker; or
 - (b) shout or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof,

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officer and other persons on duty at the polling station.

- (2) Any person who contravenes or willfully aids or abets the contravention of the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.
- (3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.
- (4) Any police officer may take such step and use such force, as may be reasonably necessary for preventing any contravention of the provisions of sub section (1), and may seize any apparatus used for such contravention.
- (5) An offence punishable under this section shall be cognizable.

53. Penalty for misconduct at polling station :

- (1) Any person who during the hour fixed for the poll at any polling station, misconducts himself or fails to obey the lawful directions of the presiding officer, maybe removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote a polling station from having an opportunity of voting at that station.

- (3) If any person who has been so removed from a polling station, re-enters the polling station without the permission of the presiding officer, he shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.
- (4) An offence punishable under sub-section (3) shall be cognizable.

54. Breaches of official duty in connection with election:

- (1) If any person to whom this section applies, is without reasonable cause guilty of any Act, or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.
- (2) No suit or other legal proceeding shall lie against any such person for damages in respect of any such act or omission as aforesaid.
- (3) The persons to whom this section applies are returning officers, assistant returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the election, and the expression "official duty" shall for the purposes of this section be construed accordingly.

55. Removal of ballot papers from polling station to be an offence:

- (1) Any person who at an election fraudulently takes or attempts to take a ballot paper out of a polling station, or willfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.
- (2) If the presiding officer of a polling station has reason to believe that any person is committed an offence punishable under sub-section (1), such officer may, before

such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer.

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

- (3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer or when the search is made by a police officer, shall be kept by such officer in safe custody.
- (4) An offence punishable under sub-section (1) shall be cognizable.

56. Other offences and Penalties therefore:

- (1) A person shall be guilty of an electoral offence if at any election he-
 - (a) fraudulently defaces or destroys any nomination paper; or
 - (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of the returning officer, or
 - (c) fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper; or
 - (d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or
 - (e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorized by law to put in; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot paper then in use for the purposes of the election; or

- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or willfully aids or abets the doing of any such acts.
- (2) Any person guilty of an offence under this section shall-
 - (a) if he is a returning officer or an assistant returning officer or a presiding officer or a polling officer or any other officer or clerk employed on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years, or with fine, or with both;
 - (b) if he is any other person, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.
- (3) For the purposes of this section, a person shall be deemed to be an official duty if his duty is to take part in the conduct of any election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election.
- (4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.
- (5) No court shall take cognizance of any offence under section 54, or under clause (a) of sub section (2) of this section unless there is a complaint made by order of, or under authority from, the Election Commission.

57. Power to make rules regulating the election of members:

The Government may make rules to provide for or to regulate all or any of the matter for the purpose of preparation, revision and maintenance of electoral rolls of wards and holding election of members of the municipal council or town council under this Act.

CHAPTER – V

CONDUCT OF BUSINESS

57. A. Oath or affirmation:

- (1) Member of a Municipality, other than an ex-officio member, shall, before assuming his duties as Member, make and subscribe an oath or affirmation of his allegiance to the Constitution of India in the form, as may be prescribed in this behalf.
- (2) Such oath or affirmation shall be made and subscribed before the Deputy commissioner or an officer not below the rank of Extra Assistant Commissioner to be nominated by the Deputy Commissioner.

57. B. Prohibition against sitting and voting before making oath or affirmation :

No person shall sit and vote as an elected member before he has complied with the requirements of section 57 A.

57. C. Time for holding meeting :

Every Municipal shall meet for transaction of business atleast once in every month on such day and at such time as may, from time to time, be fixed by regulations.

57. D. Convening of a meeting :

- (1) The Chairperson or in his absence the Deputy Chairperson of a Municipal Council or Town Council may convene an ordinary or special meeting at any time.
 - (i) whenever he thinks fit and
 - (ii) on a requisition specifying in writing for the purpose of meeting and signed by not less than one-third of the total numbers of the members, excluding the nominated members.

- (2) If the Chairperson or Deputy Chairperson, as the case may be, fails to convene a meeting within a period of seven days from the date of the receipt of requisition, the members, who had signed the requisition, may convene a meeting in accordance with such rules as may be made by the Government within a period of 30 days of making such requisition and notwithstanding any contained in this Act, such meeting shall be deemed to be validly convened the meeting.

Provided that no business other than that are specified in the requisition shall be transacted in such meeting and the quorum for such meeting shall be as mentioned in sub section of Section 57 F.

57. E. Ordinary and Special meeting:

- (1) Every meeting of the Municipality, other than an emergent meeting, shall be either on ordinary or a special meeting.
- (2) Any business may be transacted at an ordinary meeting unless required by the Act or Rules to be transacted at a special meeting.
- (3) When a special and an ordinary meeting are called on the same day, the special meeting shall be held as soon as the quorum is present.

57. F. Quorum:

- (1) Subject to other provisions of this Act, the quorum necessary for transaction of business shall,-
- (a) in the case of an ordinary meeting, be one-third and
- (b) in the case of a special meeting, be one-half of the total elected members actually serving at the time.

Provided that the quorum necessary of a meeting for removal of Chairperson shall be one-half of the total number of elected members.

- (2) Notwithstanding any contained in sub section (1), if at an ordinary or a special meeting, the quorum is not present,

the person presiding shall adjourn the meeting to some other date 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 or not.

57. G. Providing officer of the meeting :

- (1) The Chairperson or in his absence the Deputy Chairperson of Municipal Council or Town Council shall preside over the meeting.

Provided that the Chairperson or Deputy Chairperson shall not preside over the special meeting when the meeting has been concerned for considering a motion for his removal.

- (2) In the absence of Chairperson or Deputy Chairperson, as the case may be, the members present in the meeting shall elect one from amongst themselves to preside over the meeting.

57. H. Decision by majority note:

Except as otherwise provided in this Act or the Rules made thereunder, all questions which come before any meeting of a municipality shall be determined by a majority of vote of the members present and voting.

Provided that the presiding officer of the meeting, in case of equality of votes, shall have a second or a casting vote.

57. I. Members not to vote on matters in which he is interested:

No member shall vote at a meeting of the municipality or a committee thereof on any question relating to his own conduct or vote or take any part in any discussion on any matter, other than a matter affecting generally the residents of the municipal area for which the Municipal Council or Town Council, as the case may be, has been constituted or any particular wards thereof, which affects his pecuniary interest or any property in respect of which he is directly or indirectly interested, or any property for which he is a manager or an agent.

57. J. Maintenance of order at meeting:

- (1) The Presiding Officer at a meeting of the Municipality shall preserve order thereat and shall have such power, as may be prescribed for the purpose of enforcing his decisions.
- (2) The Presiding Officer at a meeting may direct any member whose conduct is, in his opinion, grossly disorderly, to withdraw immediately from the meeting and the member, so directed to withdraw, shall do forthwith and shall absent himself during the remainder of the meeting, failing which such member shall be liable to removed under section 28 on ground of misconduct.

57. K. Adjournment:

- (1) In the case of grave disorder arising in a meeting of the Municipality, the Presiding Officer may adjourn the meeting or suspend any sitting for a time to be mentioned by him and the reasons for such adjournment or suspension shall be recorded in the Proceedings Book.
- (2) No adjournment other than that are referred to in sub section (1) shall be made without the consent of atleast one-half of the members presents.

57. L. Honorarium, allowances and facilities to Members:

The members shall be entitled to receive for attendance at the meeting of Municipality and the Committees thereof allowances at such rates and such honorarium and facilities, as may be prescribed.

57. M. Right to attend meetings:

The Chief Officer of a Municipality and such other officer of the Municipality, as authorized by the Municipality in this behalf, may attend, speak or otherwise take part in the proceedings, of any meeting of the municipality or any of its committees but shall not be entitled to vote in any such meeting.

CHAPTER – VI

POWERS AND FUNCTIONS OF MUNICIPAL COUNCIL / TOWN COUNCIL

58. Obligatory functions of Municipal Council:

Every Municipal council shall, having regard to the availability of financial resources, make reasonable and adequate provisions for the following matters within its territorial area by any method or measure, which it may lawfully use or take, namely :-

- (a) Regulation of land-use and construction of buildings
- (b) Planning for economic and social development
- (c) Sanitation conservancy and solid waste management
- (d) Urban forestry, protection of the environment and promotion of ecological aspects.
- (e) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
- (f) Slum improvement and up gradation
- (g) Provision of Urban amenities and facilities such as parks, gardens, playgrounds.
- (h) Promotion of cultural, educational and aesthetic aspects
- (i) Burials and burials grounds, cremations, cremation grounds and electric crematoriums.
- (j) Cattle ponds, prevention of cruelty to animals.
- (k) Vital statistics including, registration of births and deaths.
- (l) Public amenities including street lighting, parking lots, bus shops and public conveniences.
- (m) Regulation of slaughter houses and tanneries.

59. Additional functions of Municipal Council :

Subject to the financial resources at the disposal and organizational capacity of a municipal council, the Government may, by notification, assign such further functions relating to any other matters in the Twelfth Schedule to the Constitution of India, as may be specified, to the municipal Council.

60. Functions of Town Council :

Subject to the financial resources at the disposal and organizational capacity of a Town Council, the Government may, by notification, assign any of the functions of Municipal Council specified under section 58 or any other matter in the Twelfth Schedule to the Constitution, as may be specified, to the Town Council.

61. General powers of Municipal Council/Town Council :

Subject to the provision of this Act and the rules made thereunder, the administration of Municipal Council area or Town Council area shall vest in the Municipal Council or the Town Council constituted in the respective areas.

62. General power of Chairperson :

- (1) The Chairperson of Municipal Council or Town Council shall exercise such powers and perform such functions, as are conferred upon him by or under this Act and the rules and regulation made thereunder.
- (2) The Chairperson shall preside over the meetings of the Municipal Council or Town Council.
- (3) The Chairperson shall exercise general supervision and control over the functioning of Municipal Council or Town council.
- (4) The Chairperson shall have access to the records of the Municipal Council or Town Council and may issue directions to the Executive Officer and call for reports and information from the Executive Officer with a view to ensuring proper implementation of the decisions of the Municipal Council or Town Council.

63. Power of Chairperson in emergency :

If the Chairperson is satisfied that an emergency has arisen due to flood, epidemic, earthquake, outbreak of extensive fire, riot or extensive damage to any municipal property and is of the opinion that immediate execution of any work or doing of any act, which ordinarily requires the approval, sanction, consent or concurrence of the Municipal Council or Town Council is necessary, the Chairperson may direct the execution of such work or the doing of such act without such approval, sanction, consent or concurrence and in such case, he may direct the expenses for such execution or doing of the act, shall be paid from the municipal fund of the Municipal Council or Town Council.

Provided that the Chairperson shall report to the Municipal Council or Town Council, as the case may be, at the next following meeting the action under this section and the reasons thereof for its ex-post facto approval or sanction.

64. Powers and functions of Deputy Chairperson of Municipal Council/Town Council :

- (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or removal or otherwise, the Deputy Chairperson shall act as the Chairperson until the date on which a new Chairperson assumes office.
- (2) When the Chairperson is unable to perform his functions owing to absence, illness or any other cause, the Deputy Chairperson shall perform the functions of Chairperson until the date on which the Chairperson resumes his office.
- (3) The Deputy Chairperson shall, while acting as or performing the functions of the Chairperson, have all the powers of the Chairperson under this Act.

65. Executive Officer :

There shall be Executive Officer in each Municipal Council and Town Council.

66. Appointment of Executive Officer :

The Government shall appoint Executive Officer in accordance with the procedure as maybe prescribed in this behalf.

67. Salary and allowances of Executive Officer :

The Executive Officer shall be paid out of the municipal fund of Municipal Council or Town Council, as the case may be, such monthly salary and allowance, as may be fixed by the Government from time to time and may be given such facilities like residential accommodation and conveyance, as may be prescribed by the Government.

68. Powers and functions of Executive Officer :

(1) The Executive Officer shall:

- (a) Carry out the day to day administration of the Municipal Council or Town Council.
- (b) Exercise the powers and perform the functions specifically conferred or imposed upon him by or under this Act and rules made thereunder.
- (c) Assign the duties and supervise and control the acts and proceeding of all Officers and employees of the Municipal Council or Town Council.

(2) All Officers and employees of the Municipal Council or Town Council, as the case may be, shall be subordinate to the Executive Officer.

69. Authentication of orders and instruments :

All orders and instruments made and executed in the name of a Municipal Council or Town Council, shall be authenticated in such manner, as may be prescribed and the validity of such orders or instruments, so authenticated shall not be called in question on the ground that it is not an order or instrument, made or executed by the Municipal Council or Town Council.

70. Doubts as to powers or functions of the

Municipal authorities:

- (1) If any doubt arises as to whether any particular or function appertains to any Municipal authority, the matter shall be referred to the Government for decision.
- (2) The Government shall convey its decision on the matter referred to in sub-section (1) to the Municipal Council or Town Council.
- (3) The decision of the Government conveyed under sub-section (2) shall be final and binding on the Municipal Council or Town Council.

71. Exercise of powers and performance of functions subject to conditions :

Save as otherwise provided in this Act, the exercise of any powers or the performance of any function conferred or imposed upon Municipal Council or Town Council, as the case may be, and its respective authority by or under this Act, which involve an expenditure shall be subject to the following conditions, namely:-

- (a) such expenditure in so far as it is incurred in the year in which such power is exercised or such functions is performed shall be provided for under the budget-grants for that year, and
- (b) if the exercise of such power or performance of such function in a year involves or likely to involve an expenditure for any period or at any time after the close of the said year, such expenditure shall not be incurred, unless provided for in the budget of the relevant year duly sanctioned by the Government.

72. Transfer of functions of Government:

- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the Government may, in consultation with Municipal Council or Town Council and subject to such conditions as the Government may think fit to impose, transfer, by an order published in the Official Gazette, to that Municipal Council or Town Council, any function or duty of the Government under any law, which the Legislative Assembly of the State is competent to enact or which is otherwise within the executive power of the State and which appears to be related to the matters arising within the area of such Municipal Council or Town Council.
- (2) Without prejudice to the generality of the provisions of sub section (1) the Government may transfer any Municipal functions and duties, as are performed or discharged by the departments of the Government in relation to any of the matters specified in the Twelfth Schedule in the Constitution.
- (3) The Government shall, on such transfer, allot to such Municipal Council or Town Council, such fund and personnel, as may be necessary to enable such Municipal Council or Town Council, as may be specific in this behalf.

CHAPTER – VII
MUNICIPAL OFFICERS
AND
OTHER MUNICIPAL EMPLOYEES

73. Appointment and pay of establishment:

- (1) The Municipal Council or Town Council, as the case may be, may, with the previous approval of the Government, create posts of different categories as may be necessary for exercising powers or performing functions of the Municipal council or Town council.
- (2) The Government may in consultation with municipalities, make rules for regulating the method of recruitment, qualifications required for recruitment, the conditions of service, discipline and control of employees, their duties and functions and their classification into different categories on the basis of their duties and responsibilities and scale of pay of such posts.

CHAPTER – VIII

DIRECTION AND CONTROL

74. Powers of Government to require production of documents and submission of reports:

(1) The Government may at any time require any municipal authority of a municipality, or the Chief Officer of the Municipality, -

- (a) To produce any record; correspondence, plan or other documents in its possession or under his control;
- (b) To furnish any report, return, plan, estimate, statement, accounts or other statistics relating to the proceedings, duties or works of the municipality or any municipal authority,

for the purpose of inspection and thereupon the municipal authority or the Chief Officer, as the case may be, shall comply with such requirement within such time, as may be specified by the Government for the purpose.

(3) Every Municipality shall, -

- (a) Forward to the Government, the proceedings of the meetings of the Municipality and of a Committee thereof within such time and in such manner as maybe prescribed; and
- (b) Submit to the Government such periodical reports relating to the affairs of the Municipality, as the Government may direct.

75. Power of Government to depute officers to make inspection or examination and report:

The Government may depute any of its officers to inspect or examine any department, office, service, work or property of the Municipality and to report thereon, and such officer may, for the purpose of such inspection or examination, exercise all the powers of the Government under section 74.

76. Power to annul or suspend any proceedings, resolution or order of Municipality or of municipal authority, -

(1) The Government may, by order in writing, stating the reasons therefore, annul any proceedings, or resolution or order of, -

- (a) The Municipality; or
- (b) Any other municipal authority; or
- (c) Any officer of the municipality,

If the Government considers that such proceedings or resolution or order, as the case maybe, -

- (i) Is in excess of the power conferred by this Act or the rules made thereunder, or against any direction of the Government; or
- (ii) Is likely to cause waste or damage of any property of the Municipality or loss of municipal fund; or
- (iii) Is likely to lead to a breach of peace or encourage lawlessness, by causing injury or annoyance to any class of persons.

(2) No such proceedings, resolution or order shall be annulled after the expiry of a period of forty five days, -

- (a) In the case of a proceedings or resolution or order of the Municipality or a Committee, from the date of receipt thereof from the Municipality or a Committee thereof, as the case may be;

- (b) In the case of a proceedings or resolution or order of any other municipal authority or any officer of the Municipality, within fifteen days from the date of receipt of a report under section 74 or from the date, the Government comes to know of such proceedings or resolution or order in any other manner, whichever is earlier.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2) no such order of annulment shall be passed by the Government unless a period of ten days has been given to the Municipality or the Municipal authority or the officer of the Municipality to show cause and the causes shown are considered by the Government.
- (4) The Government may also, by order in writing suspend the execution of any proceedings, resolution or order of the Municipality or the Standing Committee or other municipal authority or any officer or the Municipality,-
 - (a) in the case of the Municipality or a Committee, within fifteen days from the date of receipt thereof by the Government;
 - (b) in the case of any other municipal authority or any officer of the Municipality, within fifteen days from the date of receipt of a report under section 74 or from the date, the Government comes to know of such proceedings or resolution or order in any other manner, whichever is earlier;

Provided that the order of suspension shall cease to operate on the expiry of a period of thirty days from the date referred to in clause (a) or clause (b) of sub-section (2).

77. General powers of Government over officers,-

Notwithstanding anything contained in this Act, the Government,-

- (a) may reverse or modify any order of any officer of the Government, passed or purporting to, have been passed under this Act, if the Government considers such order to be,-
 - (i) not in accordance with the provisions of this Act or the rules made thereunder; or
 - (ii) for any reason, to be recorded in writing, inexpedient; and
- (b) shall for the purpose of carrying out the provisions of this Act, exercise over its officers all powers of superintendence, direction and control:

Provided that where such revision or modification affects or is likely to affect any person adversely, such revision or modification shall not be made without giving the person a reasonable opportunity of being heard.

78. Powers to issue directions and policy guidelines:

The Government may, from time to time, issue such directions or policy guidelines, not inconsistent with the provisions of this Act or the rules made thereunder, as it may consider necessary, to the Municipalities for the purpose of performing their functions under this Act and it shall be the duty of the Municipalities to perform their functions in accordance with such directions or policy guidelines.

79. Powers of Government in case of default,- If, at any time,-

- (a) it appears to the Government on the report referred to in section 74; or
- (b) the Government, is satisfied after inquiry,

that the Municipality or any municipal authority has made default in performing any function or discharging any duty imposed on it by or under this Act or the rules made thereunder or any law for the time being in force it may, by order, in writing fix a period for the due performance of such function or discharge of such duty and the Municipality shall be bound to perform such function or discharge such duty within the period so fixed.

80. Dissolution of Municipality,-

(1) If in the opinion of the Government, a Municipality,-

- (a) is not competent to perform, or has shown gross neglect in the performance of, the duties imposed upon it by or under this Act or any other law for the time being in force; or
- (b) persistently makes default in the performance of such duties or complying with lawful directions and orders issued by the Government or any authority under any law for the time being in force to issue such directions or orders; or
- (c) exceeds or abuses its power; or
- (d) the financial position and the credit of the Municipality is seriously threatened,

the Government may by an order published in the Official Gazette with reasons therefore, dissolve the Municipality:

Provided that Municipality shall be given reasonable opportunity of being heard within a period of not less than fifteen days in such manner, as may be prescribed before its dissolution.

(2) If any question arises as to whether any of the grounds mentioned in clauses (a), (b), (c) or (d) of sub-section (1), has been satisfied, the opinion of the Government as recorded in writing in the order of dissolution, shall be final and conclusive.

81. Consequences of dissolution,-

- (1) When a Municipality is dissolved under Section 80
 - (a) all members of the Municipality shall vacate their offices forthwith;
 - (b) all powers, functions and duties of the Municipality; and- the Chairperson or Deputy Chairperson of a Municipal Council or a Town Council, as the case may be shall during the dissolution, subject to such directions, as the Government may from time to time, give in this behalf, be exercised, performed, and discharged by a Government officer to be known as Administrator, as the government may, by notification, appoint in this behalf, and
 - (c) all properties vested in the Municipality shall, during the period of dissolution, vest in the Government.
- (2) The Government shall fix the remuneration of the Administrator appointed under clause (b) of sub-section (1) and may direct that such remuneration shall be paid out of the Municipal fund of the Municipal.
- (3) Upon the dissolution of a Municipality under sub-section (1), the Government shall reconstitute a Municipality in accordance with the provisions of this Act.

82. Appointment of an Administrator when election cannot be completed,-

- (1) Where on account of an order of any Court, election to constitute a Municipality cannot be completed,-

- (a) before the expiry of its duration specified under section 10
- (b) before the expiry of a period of six months from the date of its dissolution;

The Government may, by notification, direct that during the period of operation of the order of the Court, -

- (i) all powers and duties of the municipality, Chairperson and Deputy Chairperson, when elections to constitute a Municipal Council or a Town Council, as the case may be, cannot be completed and the committees thereof, shall, subject to such directions, as the Government may, from time to time, give in this behalf, be exercised and performed by a government officer to be known as Administrator, as the Government may appoint in this behalf; and
 - (ii) all properties vested in the Municipality, shall, during the period of the operation of the order of the Court, vest in the Government.
- (2) The Government shall fix the remuneration of the Administrator appointed under clause (i) of sub section (1), and may direct that such remuneration shall be paid out of the municipal Fund.
 - (3) After the expiry of the period of the order of the Court, the Government shall take further steps to constitute the Municipality in accordance with the provisions of this Act.

83. Appointment of Administrator in special or emergent circumstances, -

- (1) Notwithstanding anything contained in this Act, where due to certain special, emergent or unforeseen circumstances, election to a Municipality cannot be held or completed before the expiry of its duration specified in section 10 or before the expiry of a period of six month of its dissolution, the Government may, by notification, appoint a Government officer to be known as Administrator to exercise, perform and discharge the power, duties and functions of a Municipality subject to such directions, as may be given in this behalf by the Government.
- (2) All powers and duties of a Municipality, Chairperson or Deputy Chairperson, when election to constitute a municipal Council or a Town Council as the case may be, cannot be held or completed and the committees thereof, shall subject to such directions as the Government may from time to time, give in this behalf, be exercised and performed by such Administrator.
- (3) All properties vested in the municipality, shall during the period, when elections are not held or completed, vest in the Government.
- (4) The government shall fix the remuneration of Administrator appointed under sub-section (1), and may direct that such remuneration shall be paid out of the Municipal Fund.

CHAPTER – IX

URBAN STATION COMMITTEE

- 83. A.** (1) Where an area is specified as Urban Station Committee area under section 5, the Government shall, by notification, establish Urban Station Committee for such area.
- (2) The Urban Station Committee shall be composed of such members to be appointed or elected as the Government may, by notification, direct.
- (3) A Committee established under sub section (1) of this section shall be a body corporate by the name of “The Urban Station Committee” and shall have a perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose of properties and may by the said name sue and be sued.
- (4) The Government may appoint any person, whether a member of the Urban Station Committee or not, to be Chairperson or Deputy Chairperson or may authorize such committee to elect its Chairperson or Deputy Chairperson or both and fix the term of the office of Chairperson and Deputy Chairperson.

83. B. Functions and Powers of Urban Station Committee:

Subject to the financial resources at the disposal and organizational capacity of an Urban Station Committee, the Government may, by notification, assign any of the functions and powers of Municipal Council or Town Council to the Urban Station Committee, as may be specified.

83. C. Urban Station Committee Fund:

All moneys received by Urban Station Committee shall be kept and be applied in the manner as provided under the provisions of Chapter – I of part III of this Act.

PART - III FINANCE

CHAPTER - I MUNICIPAL FUND

84. Municipal Fund:

There shall be constituted for each municipality a Municipal Fund to be called:

- (a) In the case a municipal council, the municipal fund of the Municipal Council, and
- (b) In the case a Town Council, the municipal fund of the Town Council,

to be held in a Trust by the Municipal Council or the Town Council, as the case may be, for the purpose of this Act and all the moneys realized or realizable under this Act and all moneys otherwise received by the Municipal Council or the Town council, as the case may be, shall be credited thereto.

85. Custody of Municipal Fund:

All moneys received on account of the Municipal Fund of a Municipality, shall be deposited with the State Bank of India or any of its subsidiaries, or with any nationalized bank or with the Nagaland State Cooperative Bank in the municipal area of the Municipality and shall be credited to an account to be called:

- (a) in the case of Municipal Council, the account of the Municipal Council; or
- (b) In the case of a Town Council, the account of the Town Council, as the case may be, to which it belongs:

Provided that if in the Municipal area of the Municipality, there is no branch of the State Bank of India or anyone of its subsidiaries or any Nationalized Bank or with the Nagaland State Cooperative

Bank, the moneys on account of the Municipal Fund may, with the approval of the Government be deposited in any other bank in the Municipal area or in any branch of the State Bank of India or any of its subsidiaries or in any Nationalized Bank or the Nagaland State Cooperative Bank outside the municipal area:

Provided further that all moneys on account of the Municipal Fund of a municipality shall be deposited in one bank account only:

Provided further that the amount of the Municipal Fund of a Municipality may be transferred from one bank to another bank through a resolution passed in this behalf by a Municipality in the prescribed manner.

86. Application of Municipal Fund:

- (1) All moneys credited to the Municipal Fund, from time to time shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and regulations made thereunder or for which payment is duly directed, sanctioned or required by or under any of the provisions of this Act.
- (2) Such moneys shall likewise be applied in payment of all sums, payable out of the Municipal Fund under any other enactment for the time being in force.
- (3) Notwithstanding anything contained in this Act, such moneys may also be applied in payment of all sums, charges and costs on all acts and things which are likely to promote the safety, health, welfare, or convenience of the inhabitants of the municipal area, or the expenditure whereon may be declared by the Municipality, with the sanction of the Government, to be an appropriate charge on the Municipal Fund.
- (4) No expenditure out of the Municipal Fund shall be incurred by any Municipality beyond the municipal area of such Municipality:

Provided that the Municipality may, with the approval of the Government, incur expenditure beyond the Municipal area of the Municipality for the execution of projects or for creation of physical assets outside the limits of such municipal area as well as for the operation and maintenance thereof for carrying out the purposes of this Act.

87. Payment not to be made unless covered by budget-grant:

No payment of any sum shall be made out of the Municipal Fund unless such expenditure is covered by the current budget grant and a sufficient balance of such budget-grant is still available notwithstanding any reduction or transfer thereof, which may have been made under the provisions of this Act:

Provided that the provisions of this section shall not apply to the payments made in the following classes of cases, namely:-

- (a) Refund to taxes and other moneys, which are authorized under this Act;
- (b) Refund of securities and call deposits to contractors or other persons;
- (c) Sums payable in any of the following circumstances, namely, -
 - (d) under the orders of the Government on the failure of the Municipality to take any action as required by the Government; or
 - (i) under any other enactment for the time being in force; or
 - (ii) under a decree or order of a civil or criminal court passed against the Municipality; or
 - (iii) under a compromise of any claim, suit or other legal proceedings; or

- (iv) on account of costs incurred in taking immediate action under section 63 by the Chairperson in the case of a Municipal Council or Town council as the case may be;
- (e) temporary payment for works urgently required by the government in the public interests;
- (f) sums payable as compensation under this Act or the rules made thereunder;
- (g) expenses incurred by the Municipality on special measures, if any taken in the outbreak of dangerous diseases; and
- (h) amount payable to the government by way of audit fee, if any.

88. Power of Government to direct use of Municipal Fund for a particular purpose,-

Notwithstanding anything contained in this Act, the Government may required a Municipality to earmark a particular portion of the Municipal Fund of the Municipalty or a particular grant of a part thereof, or any item of receipt under any head or any percentage thereof, or any share of tax receivable by the Municipality under other law for the time being in force, or any part thereof to be utilized exclusively for any specified purpose and it shall be mandatory on the part of the municipality to do so.

89. Investment of surplus moneys, -

- (1) Surplus money standing at the credit of the Municipal Fund, which cannot immediately or at an early date be applied for the purposes specified in section 87, shall be invested in the prescribed manner :

Provided that adequate safeguards, as may be prescribed, shall be followed against the unproductive and speculative investments.

- (2) The loss, if any, arising from such investments, shall be debited to the Municipal Fund.

90. Constitution of Special Funds,-

- (1) Notwithstanding anything contained in Section 85, the Municipality may, with the prior approval of the Government, constitute such special fund or funds, as may be necessary for the purposes of this Act.
- (2) The constitution and disposal of such funds shall be made in such manner, as may be prescribed.

91. Operation of bank accounts,-

Save as otherwise provided in this Act, no payment shall be made from the bank account referred to in section 86 out of the Municipal Fund, except on cheque signed by,-

- (a) in the case of Municipal Council,-
- (i) the Chairperson or if so authorized by the Chairperson, the Deputy Chairperson or an elected member, as the case may; and
 - (ii) the Executive Officer; and
- (b) in the case of Town Council,-
- (i) Chairperson, or if so authorized by the Chairperson, the Deputy Chairperson or an elected member, as the case may be, and
 - (ii) the Executive Officer.

92. Duty of persons signing the cheque,-

Before a cheque is signed in accordance with the provisions of section 91 or a bill signed for payment of any amount from the bank account,-

- (a) In the case of the Municipal Fund of a Municipal Council,-
 - (i) the Chairperson or when so authorized under clause (a) of section 91, the Deputy Chairperson or an elected member, as the case may be; and
 - (ii) the Executive Officer; and
- (b) in the case of Municipal fund of a Town Council,-
 - (i) the Chairperson or when so authorized under clause (b) of section 91, the Deputy Chairperson or an elected member, as the case may be; and
 - (ii) the Executive Officer;

shall satisfy themselves that the sum for which the cheque is drawn or which is specified for payment in the bill, as the case may be, is either,-

- (i) required for the purpose or work specifically sanctioned by the appropriate authority; or
- (ii) required for payment referred to, or specified, in section 87 or section 88 as the case may be.

CHAPTER – II

BORROWING

93. Power to raise loan by issue of debentures,-

- (1) As may be authorized by notification, Municipal Council or Town Council may, by passing a resolution in this behalf, raise a loan, by the issue of debentures or otherwise on the security of any immovable property vested in it or proposed to be acquired by it or any of the taxes, rates, cesses, fees and charges levied under this Act, for any sum of money, which may be required,-
- (a) for acquiring any land, which it has power to acquire;
 - (b) for erecting any building, which it has power to erect;
 - (c) for the execution of any permanent work, the provision of any plant, or the doing of any other thing, which it has power to execute, provide or do, if the cost of carrying out the purpose in question is required to be spread over a term of years;
 - (d) for payment of debt due to the Government;
 - (e) for repaying any loan previously raised under this Act or any other Act previously in force; or
 - (f) for any other purpose for which the Municipal Council or the Town Council as the case may be, is by virtue of this Act or any other law for the time being in force, authorized to borrow Provided that,-
 - (i) no loan shall be raised without the prior approval of the Government; and

- (ii) the amount of loan, the rate of interest to be paid for such loan and the terms and conditions, including the date of floatation, the time and method or repayment, shall be subject to the approval of the Government.
- (2) When any sum of money has been borrowed under sub-section (1), no portion of any sum of money borrowed for the purposes referred to in clause (c) of sub-section (1), shall be applied to the payment of salary and allowances to any officers or the Municipal Council or the Town Council, as the case may be, other than those exclusively employed in connection with the carrying out of that purpose.
- (3) The loan raised under sub-section (1), shall not be spent on purchase of vehicles and contingent expenditure unless specially provided for in the concerned scheme or project.

94. Form and effect of debentures,-

All debentures issued under this Chapter shall,-

- (a) be in such form, as the Municipal Council or the Town Council, as the case may be, may, with the previous sanction of the Government, determine; and
- (b) be transferable in such manner, as shall be expressed therein.

95. Constitution and investment of sinking Funds,-

- (1) Municipal Council or a Town Council, as the case may be, authorized under sub-section (1) of section 93, shall constitute sinking Funds for the repayment of moneys borrowed on debentures issued and shall pay every year into such Sinking Funds such sum, as will be sufficient for the repayment within the period fixed for the loan of all moneys borrowed on the debentures issued.

- (2) All moneys paid into the Sinking Funds shall, be soon as possible, be invested by the Chief Officer, under the directions of the Municipality, in public securities in the prescribed manner.
- (3) All dividends and other sums received in respect of any such investment shall, as soon as possible after receipt be paid into the Sinking Funds and invested in the manner laid down in sub-section (2).

96. Application of Sinking Fund:-

A Sinking Fund on any part thereof, shall be applied in or towards the discharge of the loan or part of the loan for which such fund was created and until such loan or part is wholly discharged, such Fund shall not be applied for any other purpose.

97. Annual Statement,-

- (1) The Chief Officer of a Municipality shall; at the end of the every year, submit to the Municipality, a statement showing:-
 - (a) the amount, which has been invested in the Sinking Fund or Funds during the year under section 95;
 - (b) the date of the last investment made prior to the submission of the statement;
 - (c) the aggregate amount of the securities then in hand; and
 - (d) the aggregate amount, which has up to the date of the statement been applied under section 96, in or towards the discharge of loans.
- (2) A copy of every such statement shall be submitted to the Government.

98. Annual examination of Sinking Fund:-

- (1) All Sinking Funds constituted under this Act, shall be subject to annual examination of Audit Authority, who shall ascertain whether the cash and the value of securities belonging thereto, are equal to the amount, which should be at the credit of such Funds had the investment under section 95 been regularly made and had the interest accruing on account of such investment been regularly obtained.
- (2) The Municipal Council or the Town Council as the case may be shall forth with, pay into the Sinking Fund such amount, as the Audit Authority may certify to be a deficit in respect of such Fund, unless the Government specially sanctions a gradual re-adjustment of such deficit.
- (3) If the cash and the value of the securities at the credit of a Sinking Fund are in excess of the amount, which should be at its credit, the Audit Authority shall certify the amount of such excess sum and the Municipal Council or the Town Council, as the case may be shall thereupon, transfer the excess sum to the municipal Fund of the Municipality.
- (4) If any dispute arises as to accuracy of any deficit or excess referred to in the certificate under sub-section (2) or sub-section (3), the municipal Council or the Town Council, as the case may be, may after payment of such deficit or after transfer of such excess, as the case may be, refer the matter to the Government whose decision thereon shall be final.

99. Borrowing by Municipalities:

- (1) A Municipality may, with prior permission of the Government obtain loans from any financial institution or any nationalized bank or any other Municipality, and the Government may, if it considers so necessary, stand as the guarantor for payment.
- (2) The Government may require a Municipality to observe such financial discipline in the matter of debt servicing including the creation of Sinking Fund, as the Government may think fit and proper and in doing so, the Government may prescribe different sets of rules for observance by different groups of Municipalities depending upon the circumstances and nature of cases.

100. Power to direct a Municipality to advance loan to another Municipality.

The Government may, direct a Municipality, keeping in view its financial position to advance loan to another municipality at such rate of interest, as may be prescribed.

CHAPTER –III

BUDGET ESTIMATE

101. Preparation of budget estimate:

- (1) The Chief Officer of Municipality shall prepare in each year a budget estimate along with an Establishment Schedule of the Municipality for ensuing year, which shall be an estimate of the income and expenditure of the municipality.
- (2) The Chief Officer of the municipality shall place before Municipal Council or Town Council, as the case may be, not later than fifteenth day of January in each year, the budget estimate prepared under sub-section (1) along with a copy of the Establishment Schedule of the Municipality.
- (3) The Budget Estimate and the Establishment Schedule, shall be prepared in such form, in such manner and containing such particulars as may be prescribed.
- (4) The statement referred to in sub-section (2) of section 119 shall be with the budget estimate.

102. Sanction of the budget estimate,-

- (1) The Municipality shall consider the budget estimate, and adopt for the ensuing year the budget estimate with such changes, as it may consider necessary, not later than fifteenth day of February of that year and submit the budget estimate so adopted to the Government.

- (2) If the budget estimate is not adopted by the fifteenth day of February of that year, the Chief Officer of the Municipality shall submit the budget estimate to the Government.
- (3) The budget estimate received by the Government, under sub-section (1) or sub-section (2), shall be returned to the Municipality before the thirty-first day of March of that year after sanction with or without modifications.

103. Power to alter budget grant,

A Municipality may, from time to time, during the year, -

- (a) increase the amount of any budget-grant under any head;
- (b) make an additional budget-grant for the purpose of meeting any special or unforeseen requirement arising during the said year;
- (c) transfer the amount of any budget-grant or portion thereof under one head to the amount of budget grant under any other heads; or
- (d) reduce the amount of the budget-grant under any head:

Provided that no such increase in a budget grant or an additional budget grant or the transfer of an amount under budget grant or any portion thereof under any head to another head or reduction in the amount of budget-grant in any year, shall be made without the prior approval of the sanctioning authority referred to in section 102, and after such approval, it shall be deemed to be included in budget estimate finally adopted for the year.

CHAPTER – IV

ACCOUNTS AND AUDIT

104. Maintenance of Accounts, -

The Executive Officer, in the case of a Municipal Council or Town Council, as the case may be, shall prepare and maintain accounts of receipts and expenditures of a Municipal Council or a Town Council in such form and in such manner, as may be prescribed.

105. Preparation of Municipal Account Code, -

The Government shall prepare and maintain a code to be known as the Municipal Account Code containing all the financing matters, and the procedure relating thereto in respect of the Municipalities.

106. Financial statement, -

- (1) The Chief Officer of a Municipality shall, within three months of the close of a year, cause to be prepared a financial statement for the preceding year in respect of the accounts of the Municipality.
- (2) The form of the financial statement and the manner in which the financial statement shall be prepared, shall be such as may be prescribed.

107. Balance Sheet, -

- (1) The Chief Officer of a Municipality shall, within three months of the close of a year, cause to be prepared a balance sheet of the assets and liabilities of the Municipality for the preceding year.

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

108. Submission of financial statement and balance sheet to the Audit Authority,

The financial statement prepared under section 106 and the balance sheet of the assets and liabilities prepared under section 107 shall be placed by the Chief Officer of the Municipality before the Municipal Council or the Town Council.

Who after examination of the same, shall adopt and remit these within one month to the Audit Authority provided in section 109.

109. Audit Authority. –

- (1) The audit of the accounts of the Municipality, including the accounts of the special funds, if any, shall be conducted by the audit authority in such manner as the Government in the Finance Department, may prescribe in consultation with the department of Local Government.
- (2) The Audit Authority may, -
 - (a) require, by written notice, the production before it or before any officer subordinate to it of any document, which the Audit Authority considers necessary for the proper conduct of the audit.
 - (b) require, by written notice, any person accountable for and having custody and control of any document, cash or article to appear in person before such authority.
 - (c) require, any person so appearing before it or such officer to make or sign a declaration with respect to such documents, cash or article or to answer any question and to prepare and submit any statement, and

- (d) cause physical verification of cash and of any stock of articles in the course of examination of accounts.
- (3) The Chief Officer of the Municipality, shall comply with such requisitions of the Audit Authority, as may be made under sub-section (2)

110. Audit Report, -

- (1) As soon as practicable after the completion of audit of the accounts of the municipality, but no later than the thirtieth day of September each year, the Audit Authority shall prepare a report of the account audit and examined and shall send such report to the Chief Officer of the Municipality.
- (2) The Audit Authority shall include in such report a statement showing,
 - (a) every payment, which appears to the Audit Authority to be contrary to law;
 - (b) the account of any deficiency of loss, which appears to have been caused by gross negligence or misconduct of any person;
 - (c) the account of any sum received which ought to have been, but has not been brought into account by any person; and
 - (d) any other material impropriety or irregularity, which may be observed in the accounts.

111. Placing of audited accounts before the Municipality, -

- (1) The Chief Officer of a Municipality shall place the audited financial statement, the balance sheet and the report of the Audit Authority and comments thereon, before the Municipality before the thirty-first day December every year for its consideration and its adoption at a special meeting.
- (2) The Chief Officer shall remedy any defect that has been pointed out by the Audit Authority in its report.

112. Audited accounts to be submitted, -

- (1) The Chief Officer of the Municipality, shall, after adoption of the financial statement and the balance sheet and the report of the Audit Authority, forward the same to the Government together with a report of the action taken thereon by the Municipality and shall also send copies thereof to the Audit Authority.
- (2) If there is any difference of opinion between the Audit Authority and the Municipality or if the Municipality does not remedy the defects or irregularities pointed out in the report of the Audit Authority within a reasonable period, the Audit Authority shall refer the matter to the Government whose decision shall be final and binding.

113. Special Audit, -

In addition to the audit of accounts under section 109 the Government may, if it thinks fit, appoint a person having prescribed qualifications to conduct a special audit pertaining to any specified item or series of items requiring thorough examination and the provisions of this Chapter relating to audit shall, mutatis-mutandis, apply to such special audit.

CHAPTER – V

MUNICIPAL PROPERTY

114. Power to acquire and hold property, -

Every Municipality shall, for the purpose of this Act, have power to acquire, by gift, purchase or otherwise, and hold, movable and immovable property or any interest therein, whether within or outside limits of the municipal area.

115. Vesting of property, -

(1) Notwithstanding any thing contained in any other law for the time being in force, the movable and immovable properties of the following categories within the limit of the municipal area of a Municipality shall, unless the Government, by notification, otherwise directs, vest in the Municipality constituted for such area, namely :-

- (a) all public and common lands not belonging to any Government Department or statutory body or corporation;
- (b) all public tanks, streams, reservoirs and wells;
- (c) all public markets and slaughter-house;
- (d) all public sewers and drains, channels, tunnels, culverts and water courses in, alongside or under any street.
- (e) All public streets and pavements including street parking areas, stones and other materials thereof and also trees on public streets or pavement not belonging to any private individual;
- (f) All public parks and gardens, including squares and public open spaces;
- (g) All public ghats on rivers or streams or tanks;

- (h) All public lamps, lamp-posts and apparatus connected with or appertaining thereto;
 - (i) All public places for disposal of the dead excluding those governed by any specific law in this behalf;
 - (j) All lands or other properties transferred to the Municipality by the Government or acquired by gift, purchase or otherwise for public purposes;
 - (k) All solid and liquid wastes collected or lying on a public street or public place, including dead animals and birds; and
 - (l) All stray animals not belonging to any private individual.
- (2) Where any area is included in a municipal area all movable and immovable properties in such area, of the categories mentioned in sub-section (1) shall vest in the Municipality constituted for such Municipal area.
- (3) When any immovable property is transferred otherwise than by sale by the Government to a Municipality for public purposes, it shall be deemed to be a condition of such transfer, unless specially provided to the contrary, that should the property be at any time resumed by the Government, the compensation payable therefore shall notwithstanding anything to the contrary contained in the Nagaland Land (Requisition and Acquisition) Act, 1965 (3 of 1965), in no case exceed the amount, if any, paid to the Government for the transfer together with the cost or the present value whichever shall be less, of any buildings erected or other works executed on the land by the Municipality.
- (4) The management, control and administration of every public institution maintained out of the Municipal fund shall vest in the Municipality.

- (5) When any public institution has been placed under the direction, management and control of the Municipality, all properties, endowment and funds belonging thereto, shall be held by the Municipality in trust for the purpose to which such properties, endowments and funds were lawfully applicable at the time when the institution was so placed :

Provided that the extent of the independent authority of the Municipality in respect of such institution may be such, as may be prescribed.

116. Acquisition of immovable property by agreement, -

If a Municipality desires to acquire any immovable property for the purposes of the Act, such property may, if so directed by the Municipality, be acquired by agreement by the Chief Officer on behalf of the Municipality on such terms and at such price, as may be approved by the Municipality :

Provided that the negotiation for the purpose of such agreement shall be made jointly :-

By the Chairperson, the Chief Officer of a Municipal Council or a Town Council and the Officer of Local Government and prior approval of the Government shall be obtained before the making of such agreement.

117. Acquisition where immovable property cannot be acquired by agreement,-

Wherever the Municipality is unable to acquire any immovable property under section 116 by agreement, the Government may at the request of the Municipality, acquire the same under the provisions of the Nagaland Land (Requisition and Acquisition) Act. 1965 (Act 3 of 1965) and on payment by the Municipality of the compensation awarded under that act and of the charges incurred by the Government in connection with the procedure related thereto, the land shall vest in the Municipality.

118. Disposal of property,-

- (1) With respect to the disposal of property, movable and immovable belonging to the Municipality, the provisions of sub-section (2) and sub-section (3) shall have effect,
- (2) The Municipality may,-
 - (a) dispose of, by sale or otherwise, any movable property belonging to the Municipality and
 - (b) with the prior approval of the Government, sell, mortgage, gift or grant a lease of any immovable property belonging to the Municipality :

Provided that no such prior approval of the Government shall be necessary in the case of a lease by public auction of any immovable property for a period of five years.

- (3) The procedure for sale, mortgage or gift, the procedure for granting any lease and the terms and conditions of lease under this section, shall be such as maybe prescribed.

119. Registers of immovable and movable properties,-

- (1) The Chief Officer of a Municipality shall maintain in such manner and in such form, as may be prescribed,-
 - (a) a register and a map of all the immovable properties of which the Municipality is the proprietor or which vest in it, or which the Municipality holds in trust for the Government; and
 - (b) a register of all movable properties belonging to the Municipality.
- (2) The Chief Officer shall cause to be prepared every year a statement in respect of changes, if any, made in the register of immovable properties specified in sub-section (1) during the preceding year and enclose the statement with the budget estimate prepared under section 101.

PART – IV
MUNICIPAL TAXATION
CHAPTER – I
LEVY OF TAXES AND
FEES BY MUNICIPALITIES

120. Power to impose Taxes :

- (1) Subject to the provisions of this Act and the rules made thereunder, with the previous sanction of the government, a municipality may, in order to raise revenue for it's duties and performing its functions under this Act, levy within it's limits of municipality the following taxes, fees and tolls or any of them-
 - (a) a tax on lands and buildings,
 - (b) an octroi
 - (c) tolls and fees,
 - (d) a scavenging tax
 - (e) a tax on advertisement other than advertisement published in newspaper,
 - (f) a show tax,
 - (g) a fire tax,
 - (h) a tax on the vehicles and animal.
- (2) Subject to the prior sanction of the Government, a municipality may, for raising revenue for discharging its duties and performing its functions under this Act, levy another tax which the State Legislature has power to levy under the Constitution of India.

- (3) Save as otherwise provided in this Part, the taxes specified in sub-section (1) and the taxes which may be levied under sub-section (2), shall be levied at such rates as may, from time to time, be specified by the Government, by notification, and shall be assessed and collected in accordance with the provisions of this Act and the rules and regulations made thereunder.
- (4) The Government may, by general or special order, direct a Municipality to levy any tax referred in to sub-section (1) if not already levied, at such rate and within such period, as may be specified in the order and the Municipality shall thereupon act accordingly.
- (5) If the municipality fails to carry out any order referred to in sub-section (4), the Government may, by an order published in the Official Gazette, levy the tax at such rate as maybe specified in the order, and the order so passed, shall operate as if the tax has been levied by Municipality under sub-section (1) or sub-section (2), as the case may be.

121. Procedure to impose tax :

- (1) The Municipality may, at a special meeting pass resolution to propose the imposition of any tax under section 120.
- (2) When such resolution has been passed, the Municipality shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.
- (3) Any inhabitant objecting to the proposed tax may, within thirty days from the date of publication of the said notice, submit his objection in writing to the Municipality and the Municipality shall at a special meeting, take his objection into consideration.

- (4) If the Municipality decides to amend its proposals or any of them, it shall publish the amended proposals along with a notice indicating that they are modifications of those previously published for objection.
- (5) Any objection, which may within thirty days, be received to the amended proposals, shall be dealt with in the manner specified in sub-section (3).
- (6) When the Municipality has finally settled its proposals, it shall forward a copy of the proposals to the Government.
- (7) The Government may, on receiving the proposals under sub-section (6), sanction or refuse to sanction the same or return them to the Municipality for further consideration.
- (8) When a proposal has been sanctioned under sub-section (7), the Government shall notify the imposition of tax in accordance with such proposal and shall in the notification specify a date not being less than thirty days from the date of the notification on which the tax shall come into force.
- (9) A tax-leviable by the year, shall come into force on the first day of January, or on the first day of April, or on the first day of July, or on the first day of October, in any year, and if it comes into force on any day other than the first day of the year by which it is leviable, it shall be leviable by the quarter till the first day of such year, then next ensuing.
- (10) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of this Act.

122. Constitution of Finance commission :

- (1) The governor shall constitute a Finance Commission to review the financial position of the Municipalities and make recommendations to the Governor as to-
 - (a) the principles which should govern,-
 - (i) the distribution between the State and the municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them.
 - (ii) the determination of taxes, duties, tolls and fees which may be assigned to, or appropriate by the municipalities,
 - (iii) the grants-in-aid to the Municipalities from the consolidated fund of the State,
 - (b) the measures needed to improve the financial position of the Municipalities,
 - (c) any other matter referred to the Finance Commission by the Government in the interests of sound finance of the Municipalities.
- (2) The Finance commission shall be composed of one or more persons to be appointed by the Governor in accordance with the procedure that may be prescribed in this behalf.
- (3) The conditions of service and tenure of the Finance Commission shall be as such as the Governor may by rules prescribe.
- (4) The Finance commission shall determine their procedure and shall have such powers in the performance as provided in this Act and as may be further directed by the Government.
- (5) The Governor shall cause every recommendation made by the Finance Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the State Legislative Assembly

CHAPTER - II

TAX ON LANDS AND BUILDINGS

123. Rate of tax on lands and buildings :

- (1) The tax on lands and buildings shall be levied on the annual value thereof as determined under this Chapter.

Provided that with previous sanction of the State Government the rate of tax on lands and buildings may also be levied on an assessment other than the annual value with due regard to the location of the lands and buildings, floorage and other relevant factors.

- (2) The rate of tax on lands and buildings shall be determined by Government, by notification, and for different municipalities different rates may be determined for different categories of lands or buildings :

Provided that the rate of tax shall not exceed fifteen percent of the annual value of such lands or buildings:

- (3) In calculating the gross amount of the tax that may be levied on lands and buildings per annum, and the net amount payable per annum after allowing rebate under sub-section (2) of section 183, the fraction of a rupee shall be rounded off to the nearest rupee, fifty paise being treated as rupee one.
- (4) Where a portion of any land or building, is used for commercial, industrial or such other non-residential purposes, as the municipality may determine, or where a tax is levied on commercial establishments in a multistoried building, the amount of tax in respect of such portion shall, while fixing the amount for tax for the entire lands or building, be separately assessed.

124. Exemption from tax on lands and buildings. -

- (1) Notwithstanding anything contained in this Chapter, -
 - (a) lands and buildings belonging to diplomatic and consular missions of foreign states;
 - (b) lands and buildings actually used for cremation and burial; and
 - (c) public play grounds, parks and gardens, Shall be exempt from the tax on lands and buildings.
- (2) Notwithstanding anything contained in this Chapter, lands and buildings, which are the properties of the union, shall be exempt from the property tax:

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

Provided further that the Municipality may levy a service charge on such buildings on the basis of such annual value and at such rates, as may be determined by the Central Government.

125. Determination of annual valuation, -

- (1) For the purpose of assessment of tax on any lands and buildings, whether residential or non-residential, self-occupied or tenanted, the annual value of such lands and building shall be such percentage of the sum obtained by adding the present market value of land and the estimated cost of erecting the building, as the Government may, by notification, determine :

Provided that the annual value shall not exceed ten percent of the sum so obtained :

Provided further that for different municipalities different percentage may be determined for different categories of lands and buildings.

- (2) The annual value of the building so determined shall be subject to a deduction of ten per cent for the cost of repairs and other expenses necessary for the proper maintenance of the building.
- (3) In the case of any land which is being used by erecting tents, temporary structures or structures, partially temporary for the purpose of accommodating marriage parties, circus shows or for any entertainment purpose or such other purpose, as may be specified in this behalf by the Municipality with the previous sanction of the Government, the annual value shall be ten per cent of the market value of the land.
- (4) In the case of any land on which no buildings has been erected, but on which a building can be erected, and on any land on which a building is in the process of erection, the annual value shall be fixed at five per cent of the estimated market value of the land.
- (5) The basis for assessing the present market value of the land and the cost of erecting the machinery thereon.
- (6) In the calculation of the annual value of any premises, no account shall be taken of the machinery thereon.
- (7) The annual value as determined under this section, shall be rounded off to the nearest ten rupee.

126. Municipal assessment code:

- (1) The Government may, by rules, provide for the detailed procedure for the determination of the annual value of lands or buildings in the municipal areas and for other matters connected therewith, and such rules together with any regulation made under this Act, shall constitute the Municipal Assessment Code.

Under the rules as aforesaid:-

- (a) every building together with the site and the land appurtenant thereto shall be assessed as a single unit;

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

Provided that if such land or building is sub-divided into separate portions which are not entirely independent and capable of separate enjoyment, the Chief Officer of the Municipality may, on an application from the owners or co-owners, apportion the valuation and assessment among the co-owners according to the value of their respective portions treating the entire land or building as a single unit;

- (c) all lands and buildings within the same enclosure and owned by the same owner as undivided property, shall be treated as one unit for the purpose of assessment under this Act;
- (d) each residential unit with its percentage of the undivided interest in the common areas and facilities constructed or purchased and owned by or under the control of any housing co-operative society, registered under the law for the time being in force in the State, shall be assessed separately;

- (3) If the ownership of any land or building or a portion thereof is sub-divided into separate shares or if more than one land or building or portions thereof by amalgamation, come under one ownership, the Chief Officer, may, on an application from the owners or co-owners, separate or amalgamate, as the case may be, such lands or buildings or portions thereof so as to ensure conformity with the provisions of this section.

- (4) A newly constructed non-residential building shall become assessable from the year of the issue of the completion certificate under the provisions of this Act:

Provided that if such building is occupied before the issue of the completion certificate in contravention of the provisions of this Act, such building shall be liable for assessment from the year of its occupation.

127. Furnishing of returns and inspection of lands and buildings for purposes of assessment.-

- (1) The Chief Officer of a Municipality shall, for the purpose of preparing the draft valuation list of all lands or buildings in any ward or part thereof in the Municipality and ascertaining the person primarily liable for the payment of any tax on such land or building by a public notice, require the owner or the occupier on such lands or buildings or part thereof to furnish, within such period as may be specified in the public notice, a return in such form, containing such particulars and in accordance with such procedure, as may be prescribed.
- (2) Every owner or occupier of any land or building referred to in the public notice under sub-section (1), shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of his knowledge and belief.
- (3) The Chief Officer or any person subordinate to him and authorized by him in writing in this behalf may, after giving previous notice, in such manner, as may be prescribed, to the owner or the occupier of any land or building in the municipal area, enter upon, and make an inspection or survey and take measurement of such land or building and verify the statement made in any return in relation to such land or building submitted under this Chapter.

128. Draft Valuation List.-

- (1) After the expiry or the period specified in the public notice referred to in section 127, a draft valuation list of all lands and buildings in the municipal area on the basis of the returns furnished under that section and information, if any, collected by a Municipal, shall be prepared by the Chief Officer of the Municipality:

Provided that where a return in respect of any land or building is not furnished under section 127, the Chief Officer shall ascertain the annual value of such land or building.

- (2) The form of, and the particulars to be mentioned in the draft valuation list and the time within which the draft valuation list shall be prepared, shall be such, as may be prescribed.

129. Public notice & filling of objection.-

- (1) When the draft valuation list of all lands and buildings in the municipal area of any Municipality has been prepared by the Chief Officer of the Municipality under section 128, the Chief Officer shall,-

- (a) give public notice thereof in such manner, as may be prescribed and of the place where the list or a copy thereof may be inspected; and

- (b) specify a date not being less than thirty days from the date of the public notice, within which objection, if any, may be filled.

- (2) Every objection to annual valuation shall be made in writing in duplicate and shall be filled on or before the date specified therefor in the public notice referred to in clause (b) of sub-section (1).

- (3) Notwithstanding anything contained in sub-section (1), in all cases in which any land or building is for the first time assessed, or the annual valuation of any land or building is proposed to be increased, written notice stating the reasons therefor, shall be served on the owner or any lessee, sub-lessee, or occupier of such land or building and the notice shall specify the time, not being less than thirty days from the date of service of the notice, within which objections, if any, to the valuation may be filled.
- (4) The Chief Officer shall place the draft valuation list and the objections so received before the Municipal Property Tax Committee.

130. Valuation register.-

The Chief Officer of the Municipality shall enter the valuation of all lands and buildings and the objections received thereon in a valuation register to be maintained by him for the purpose, in such form and in such manner as may be prescribed.

131. Municipal Property Tax Committee.

- (1) There shall be constituted a Municipal Property Tax Committee in each Municipality consisting of the following members, namely:-
 - (i) three members to be elected by Municipal Council or Town Council.
 - (ii) The Executive Officer.
- (2) The term of the Municipal Property Tax Committee constituted under sub-section (1) shall be one year from the date of its constitution and the new Municipal Property Tax Committee shall be constituted before the expiry of the term of the existing Municipal Property Tax Committee:

 Provided that the existing Municipal Property Tax Committee shall continue to function till the constitution of the new Municipal Property Tax Committee:

Provided further that a member shall not be eligible for election as member of the Municipal Property Tax committee for more than two terms.

- (3) The Chairman of the Municipal Property Tax Committee shall elected by from amongst themselves and he shall be eligible for re-election for one more term only.
- (4) The Municipal Property Tax Committee shall scrutinize the draft valuation list, the objections filed thereon under clause (b) of sub-section (1), and sub-section (3), of section 129 and determine the valuation:

Provided that:-

- (a) before determining the valuation of any land or building in respect of which an objection has been filed, an opportunity of being heard either in person or through an authorized agent, shall be given to the person, who has filed objection.
 - (b) Where no objection has been filed under section 129 and the Municipal Property Tax Committee thinks it necessary to enhance the valuation, it may do so after giving a notice to the person concerned in such manner, as may be prescribed and after giving him an opportunity of being heard.
- (5) At the time of hearing under clause (a) or clause (b) of the provision to sub-section (4) an officer of the Municipality shall remain present before the Municipal Property Tax Committee.
 - (6) The procedure for hearing and disposal of objection shall be such, as may be prescribed:
 - (7) When the objections have been determined the order in this behalf shall be recorded with the date in valuation register referred to in section 130 and a copy of the order shall be served within thirty days thereof on the person filing the objection in such form and in such manner, as may be prescribed.

- (8) When the valuation list has been determined, by the Municipal Property Tax Committee, a notice to that effect shall be published in the prescribed manner and a copy of the final valuation list shall be displayed in the office of the petitioner and at such other place or places as the petitioner may determine.
- (9) The Chief Officer of the Municipality shall thereupon make necessary entries in the valuation register referred to in Section 130.

132. Final valuation:

Every valuation determined by the Municipal Property Tax Committee shall, subject to the provisions of Section 142, be final.

133. Period of valuation:

The annual valuation as finally determined by the Municipal Property Tax Committee:-

- (a) shall have effect from the beginning of the year after the expiry of a period of five years of the previous valuation or the beginning of the year in which it is made, whichever is later;
- (b) shall, subject to the other provisions of the Chapter, remain in force in respect of each ward for a period of five years irrespective of any alteration during such period in the number of boundaries of such ward; and
- (c) may be revised on the expiry of each such period and the work relating to such revision shall be undertaken at least a year before such expiration:

Provided that if for any reason to be recorded in writing the Municipality considers that it is not practicable to undertake the work relating to such revision before the expiry of one year, it shall seek prior approval of the Government stating reasons therefor, for its inability to undertake the revision.

134. Revision of valuation:

- (1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the Municipality may, by resolution direct general revaluation of lands and buildings in any ward of the Municipality or any part thereof during the currency of any period specified under this Chapter, and such general revaluation shall have effect from the beginning of the year in which such revaluation is made and shall remain in force in respect of each ward or the portion thereof, as the case may be, of the un-expired portion of the period during which, but for such revaluation, the annual valuation would have remained in force.
- (2) When a direction of general revaluation has been given under sub-section (1) of this section, the provisions of section 127, section 128 and section 129 shall apply.

135. Revision of valuation in specific cases:

- (1) If the Chief Officer of a Municipality, having regard to the return furnished under section 127 is of the opinion that a revision in the annual valuation of any land or building is necessary in the following cases, namely:-
 - (a) when its ownership changes; or
 - (b) when any tenancy or any rent changes; or
 - (c) when the nature of its use changes; or
 - (d) when a new building is erected or an existing building is redeveloped or substantially altered or improved during the period, the annual valuation remains in force; or

- (e) when, on an application made in writing by the owner or the person liable to pay tax on land and building, it is established that during period of the annual valuation remaining in force, its value has been reduced by reason of any substantial demolition or it has suffered depreciation from any accident or any calamity proved to the satisfaction of the Municipal Property Tax Committee to have been beyond the control of such owner or such person; or
 - (f) when any land or building or portion thereof is acquired by purchase or otherwise by the Government or the Municipality during the period of the annual valuation remaining in force, or
 - (g) when any land or building, or portion thereof, is sold or otherwise transferred by the Government or the Municipality: Provided that all lands used for streets and other public purposes shall be excluded from such revaluation; or
 - (h) when upon the acquisition or transfer of any land or building in part, residual portion remains,
- he shall serve written notice, in such manner as may be prescribed, stating reasons for the proposed revision, on the owner or the lessee, sub-lessee or occupier of such land or building and notice shall specify the time, not being less than thirty days from the date of service of the notice within which objection, if any, to the valuation, in duplicate, may be filed.

- (2) The Chief Officer shall place the proposed revision and the objections so received before the Municipal Property Tax Committee.

- (3) The provisions of sub-section (5), sub-section (6), sub-section (7), and sub-section (8) of section 131 shall, thereafter mutatis mutandis, apply.
- (4) Any revision in the annual valuation of any land or building or portion thereof under this section, shall come into force from the beginning of the year following that in which such revision becomes applicable and shall remain in force for the unexpired portion of the period during which, but for such revision such annual valuation would have remained in force.
- (5) Notwithstanding anything contained in sub-section (1) of section 134 or sub-section (1) or sub-section (4) of this section, any land or building,-
 - (i) which for any reason has no annual value, assigned to it under this Act, may be valued at any time during the currency of the period specified in respect of such land or building under section 133; and
 - (ii) the valuation of which has been cancelled on the ground of irregularity, may be valued at any time after such cancellation, and such valuation shall remain in force until a fresh valuation or revision is made and shall take effect from the beginning of the year from which the previous valuation, which has been cancelled would have taken effect:

Provided that the valuation made under clause (i) or clause (ii) shall remain in force for the unexpired portion of the period specified under this Chapter.

136. Furnishing of returns for purposes of revision in the annual value of lands and building,-

To enable the Municipal Property Tax Committee to revise the annual value of any land or building governed by any circumstances, specified in sub-section (1) of section 135, except

in respect of a case under clause (e) thereof, the owner or the person liable to pay the tax for such land or building, shall furnish to the Chief Officer of the Municipality, not later than the thirty-first day of march of the year immediately following, a return in such form, as may be prescribed.

137. Liability for failure to furnish a return or submission of incorrect return. Whenever any person liable to pay the tax for any land or building, -

- (a) fails to furnish a return as required under section 127 or section 136 or
- (b) gives information in such return, which, on verification, is found to be false or incorrect,

he shall be liable to pay a penalty of not less that two times, but no more that five times of the tax payable as may be imposed by the Chief Officer of the Municipality.

138. Notice of transfer,-

- (1) Whenever the title of any person to any land or building is transferred, such person, if primarily liable for the payment of tax on such land or building, and the person to whom the title is so transferred, shall within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer in writing to the Chief Officer of the Municipality.
- (2) In the event of the death of any person primarily liable as aforesaid the person on whom the title of such land or building devolves shall, within six months, from the date of the death of the person primarily liable, give notice of such devolution in writing to the Chief Officer.

- (3) The notice under this section shall be in such form, as may be prescribed, and the transferee or the person on whom the title devolves shall, if so required, be bound to produce before the Chief Officer documents evidencing the transfer or devolution.
- (4) If any person, who transfers his title to any land or building, fails to give any notice under this section to the Chief Officer, he shall, in addition to any penalty to which he may be subject under this Act or the rules made thereunder, continue to be liable for payment of the tax on such land or building until he gives such notice, but nothing in this section shall be deemed to effect the liability of the transferee for payment of tax on such land or building.
- (5) The Chief Officer shall, on receipt of a notice of transfer or devolution of title under this section, and upon payment of such fees, as may be determined by regulations, record such transfer or devolution in a register to be maintained for the purpose and also in the Municipal Assessment Book.
- (6) On a written request by the Chief Officer, the Registrar of the district comprising the municipal areas, appointed under the Registration Act, 1908, shall furnish such particulars regarding registration of instruments of transfer of immovable properties in the municipal areas, as the Chief Officer may, from time to time, require.
- (7) Notwithstanding anything contained in sub-section (6), the Registrar of the district, shall furnish to the Chief Officer such particulars soon after the registration of an instrument of transfer is effected, or if the Chief Officer so requests, such periodical returns at such intervals, as the Chief Officer may specify.

139. Municipal Assessment Book,-

- (1) the annual valuation of lands and buildings and the tax demand as determined under this Chapter shall be entered in the Municipal Assessment Book.
- (2) The Municipal Assessment Book shall be maintained in such form and in such manner, as may be prescribed.
- (3) The Chief Officer of a Municipality may, at any time, make such corrections in the Municipal Assessment Book, as may be necessary to incorporate changes required to be made in accordance with the provisions of this Act or for removal of patent errors or defects after recording the reasons therefor.
- (4) The Municipal Assessment Book duly authenticated in the manner prescribed, shall be kept in the office of the municipality and extract therefrom shall be made available on payment of such fees, as may be prescribed.

140. Amendment of Municipal Assessment Book,-

- (1) Notwithstanding anything contained in section 133, if the Chief Officer of a Municipality is of the opinion that amendment of the Municipal Assessment Book of the Municipality is necessary,-
 - (i) by inserting therein the name of any person whose name ought to be inserted; or
 - (ii) by inserting therein any land or building previously omitted together with valuation thereof; or
 - (iii) by inserting or altering an entry in respect of any building, erected, re-erected, altered or added to, after the preparation of the Municipal Assessment Book, in which case, such insertion or alteration shall take effect from the date, such erection, re-erection, alteration or addition was made.

He shall serve written notice, in such manner, as may be prescribed, stating reason for the proposed amendment on the owner or the lessee, sub-lessee or occupier of the land or building and the notice shall specify the time, not being less than thirty days from the date of the service of the notice, within which objections, if any, in duplicate, to the amendment, may be filed.

- (2) The Chief Officer shall place the proposed amendment and the objections so received before the Municipal Property Tax Committee.
- (3) The provisions of sub-section (5), sub-section (6), sub-section (7) and sub-section (8) of section 131 shall, thereafter, mutatis mutandis apply.
- (4) Any amendment in the Municipal Assessment Book under this section, shall come into force from the beginning of the year following that in which such amendment becomes applicable and shall remain in force or the unexpired portion of the period during which the Municipal Assessment Book would have remained in force.

141. Power of prescribed authority to amend valuation and assessment,-

- (1) Notwithstanding anything contained in this Chapter, where the prescribed authority is satisfied that any property has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the Municipality or any committee or officer or employee of the Municipality or the assessee, it may, after giving the assessee an opportunity of being heard and after making such inquiry, as it may deem fit, pass an order amending the valuation of assessment already made.
- (2) On the issue of an order under sub-section (1), the valuation and assessment then in force shall, subject to the order, if any, passed in appeal, be deemed to have been amended accordingly with effect from the beginning of the year in which an order is passed.

- (3) Any person aggrieved by the order of the prescribed authority may, within a period forty-five days from the date of communication to him of the order, file an appeal to the authority referred to in section 142 which shall decide the appeal, after giving the appellant an opportunity of being heard in the prescribed manner.

142. Appeal.-

- (1) Any person aggrieved by,-
- (a) the determination of valuation by the Municipal Property Tax Committee under section 131; or
 - (b) the revision of valuation by the Municipal Property Tax Committee under section 135; or
 - (c) an order of the Municipal Property Tax Committee under sub-section (3) of section 140 relating to the amendment of the Municipal Assessment Book; or
 - (d) an order of the prescribed authority under section 141; may prefer an appeal before an authority as may be prescribed in this behalf by government.

Provided that such appeal shall be preferred within a period of thirty days from the date of service of the order appealed against.

- (2) The appellate authority shall hear the appeal at the headquarter of the district in which the Municipal Council or the Town Council, to which the appeal pertains, as the case may be, is situated.
- (3) No appeal under this section shall be entertained, unless the total tax in respect of any land or building, which was being levied prior to the determination of annual value by the Municipal Property Tax Committee under section 131, or revised under section 135 or on the basis of the amended Assessment Book under section 140 or as

amended by the prescribed authority under section 141 or half of the tax on the annual value so determined or revised or amended, whichever is more, has been deposited in the office of the Municipality and the appeal shall abate unless such tax is continued to be deposited, till the appeal is finally disposed of.

- (4) The appeal shall disposed of within a period of six months from the date of its filling, failing which the tax deposited shall be refunded to the appellant.
- (5) The procedure for hearing and disposal of appeal as well as for realization of fees in connection with the appeals shall be such. As may be prescribed.
- (6) The valuation fixed after disposal of the appeal under this section, shall have effect from the year in which such valuation would have taken effect and shall continue to remain in force during the period such valuation would have remained in force, had not appeal been filed.
- (7) The decision of the appellate authority under this section shall be final.

143. Incidence of tax on lands and buildings.-

- (1) The tax on lands and buildings shall be primarily leviable,-
 - (a) if the land or building is let, upon the lessor;
 - (b) if the land or building is sublet, upon the superior lessor, who has sublet such a land or building, as the case may be; and
 - (c) if the land or building is unlit, upon the person in whom the right to let such land or building vests.
- (2) If any land has been let for a term exceeding one year to a tenant and such tenant has built upon the land, the tax on lands and buildings assessed in respect of the land and the building erected thereon; shall primarily be leviable upon the said tenant, whether the land and building are in the occupation of such tenant or a sub-tenant of such tenant.

Explanation,- The term "tenant" includes any person deriving title to the land or the building erected upon such land from the tenant whether by operation of law or by transfer inter vivos.

- (3) The tax on any land or building, which is the property of the Municipality and the possession of which has been delivered under any agreement or licensing arrangement, shall be livable upon the transferee or the licensee, as the case may be.
- (4) The liability of the several owners of any land or building constituting a single unit of assessment, which is or purports to be severally owned in parts or flats or rooms for payment of the tax or any installment thereof, payable during the period of such ownership, shall be joint and several.

Provided that the Chief Officer of the Municipality may, apportion the amount of the tax on such land or building among the co-owners.

144. Recovery of taxes on lands and buildings from occupiers.-

- (1) On the failure to recover any sum due on account of the taxes on any land or building from the person primarily liable therefor under section 143, the Chief Officer of a Municipality shall, notwithstanding anything contained or in any other law for the time being in force, recover, from every occupier of such land or building, by attachment of the rent payable by such occupier, a portion of the total sum due, which bears, as nearly as may be, the same proportion to that sum, as the rent annually payable by such occupier bears to the total amount of rent annually payable in respect of the whole of such land or building.
- (2) An occupier, from whom any sum is recovered under sub-section (1), shall be entitled to be reimbursed by the person primarily liable for the payment of such sum, and may, in addition to having recourse to other remedies that may be open to him deduct the amount, so recovered from the amount of any rent becoming due, from time to time, from him to such person.

145. Taxes on lands and buildings to be a first charge on premises.

The taxes due under this Act in respect of any land or building shall, subject to the provisions of section 181, be a first charge,-

- (a) in the case of any land or building held immediately from the Government, upon the interest in such land or building of the person liable for such taxes and upon the goods and other movable properties, if any, found within or upon such land or building and belonging to such person; and
- (b) in the case of any other land or building, upon such land or building and upon the goods and other movable properties, if any, found within or upon such land or building and belonging to the person liable for such taxes.

146. Notice of erection of building etc,-

When any new building is erected or any building is rebuilt or enlarged or when any building which has been vacant, is re-occupied, the person primarily liable for the taxes assessed on the building shall give notice thereof in writing to the Chief Officer of the Municipality within a period of fifteen days from the date of its completion or occupation, whichever is earlier, or as the case may, from date of enlargement or re-occupation and the tax shall be assessable on the building from such date.

147. Notice of demolition or removal of building,-

- (1) When any building or any portion thereof, which is liable to the payment of taxes, is demolished or removed otherwise than by an order of the Chief Officer of the Municipality, the persons primarily liable for payment of the taxes, shall give notice thereof in writing to the Chief Officer.
- (2) Until such notice is given, such person shall continue to be liable to the payment of such tax, as they would have been liable to pay in respect of such building if same or any portion thereof, had not been demolished or removed.

148. Payment of tax:

Save as otherwise provided in this Act, the tax on any land or building under this Chapter, shall be paid annually by the person liable for the payment thereof on such dates and in such manner as may be prescribed.

149. Payment of tax incase of objection or appeal :

- (1) When an objection to a valuation has been made under section 129, the tax on lands and buildings shall, pending the determination of the valuation under section 131, be payable on the previous valuation in the usual manner.
- (2) If, after the objection has been determined under section 131, the previous valuation is altered or after the appeal has been disposed of under section 142, the valuation decided under section 131 is altered, then,-
 - (a) any sum already paid under sub-section (1) of this section or deposited under section 142, in excess, shall be refunded or allowed to be set-off against any present or future demand of the Municipality under this Act; and
 - (b) any deficiency shall be deemed to be an arrears of the tax and shall be payable and recoverable as such

Provided that-

- (i) if any premises have, for the purpose of valuation under this Chapter, been for the first time valued or sub-divided or amalgamated with any other premises and an objection to valuation thereof has been made under section 129, then the tax on lands and buildings shall, pending the final determination of the objection, be paid on such valuation; and
- (ii) if, when such objection has been finally determined, such valuation is reduced, and if the tax on lands and buildings has already been paid thereon, then the sum paid in excess, shall be refunded or allowed to be set-off against any present or future demand of the Municipality under this Act.

CHAPTER - III

SCAVENGING TAX

150. Scavenging Tax,-

A Municipality may levy scavenging tax on all lands and buildings at such percentage of the annual value, as the Government may determine for the collection, removal and disposal of all filth and polluted and obnoxious matter therefrom:

Provided that scavenging tax may be levied at different percentages, of the annual value in different municipalities.

151. Responsibility for payment of scavenging tax,-

The scavenging tax shall be payable by the owners of lands and buildings who may realise it from the occupier.

CHAPTER - IV

OCTROI

152. Octroi,-

Except as hereinafter provided, a Municipality may levy on goods brought into the Municipal area for consumption, use or sale therein, an octroi at such rate, as the Government may, by notification, specify and different rates may be specified for different types of goods, in different municipalities.

153. Power to examine goods liable to octroi,-

Every person bringing or receiving within the octroi limits of the municipal area any goods on which octroi is payable, shall when required by an officer duly authorised by the Government or the Municipality in this behalf, and so far as may be necessary, for ascertaining the amount of tax chargeable,-

- (a) permit that officer to inspect, examine, weight and otherwise deal with the goods, and
- (b) communicate to the officer any information and exhibit any bill, invoice or document of a like nature, which he may possess relating to the goods.

154. Power to search premises and places,-

- (1) The Chief Officer of a Municipality, subject to the safeguards as may be provided in the rules in this behalf, may, search and inspect any premises or any place wherein he may have reason to believe that goods in respect of which octroi is payable under this Act, but has not been paid, have been kept.
- (2) The Chief Officer may, by written notice, require the attendance of any person whom he has reason to believe to be liable to payment of octroi.

- (3) The Chief Officer shall have the power to seal the premises or the place and seize any document found in the premises or the place or in the possession of such person.

155. Refusal to permit inspection etc.

No person, bringing or receiving any conveyance or package within the octroi limits of any municipal area on which octroi is believed to be leviable, shall refuse on the demand of an officer authorised by the Government or the Municipality in this behalf, to permit the officer to inspect, weigh or otherwise examine the contents of the conveyance or package for the purpose of ascertaining whether it contains any goods in respect of which octroi is payable or shall refuse to communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the goods or with the intention of defrauding the Municipality, communicate any such information, which is false or exhibits any such bill, invoice or document of a like nature, which is false or forged.

156. Evasion of octroi,-

If goods passing the octroi limits of a municipal area, are liable to the payment of octroi, then no person shall cause or abet the introduction of, or himself introduce or attempt to introduce within the said octroi limits any such goods upon which payment of the octroi, due on such introduction has neither been made or tendered.

157. Payment of octroi and receipts therefor,-

- (1) On payment of the octroi the person liable to pay the octroi shall be issued a receipt in such form, as may be prescribed and the receipt shall be maintained by such person for period of one year from the date of the issue and shall be produced on demand.
- (2) In the event of the failure to produce the receipt within the said period of one year from the date of import of the goods, presumption will arise that octroi has not been paid.

158. Extension of Octroi limit by agreement,-

For the purpose of levy of octroi and collection thereof, a Municipality may, enter into an agreement with another Municipality or Village Council and such agreement may provide for the following matters, namely;

- (a) extension of octroi limits;
- (b) inspection of any warehouse or storage place within the jurisdiction of the other Municipality or Village Council where goods intended to be brought within the municipal area are kept;
- (c) weighing or otherwise examining the contents of the conveyance or package for ascertaining whether it contains any goods in respect of which octroi is payable;
- (d) examining the documents relating to such goods;
- (e) apportionment of the proceeds and the costs incurred; and
- (f) such other matter, as may be prescribed.

Explanation :- In this section and in section 159 "Village Council" means Village constituted under section 3 of the Nagaland Village Council Act, 1978 (1 of 1979)

159. Determination of disputes,-

If a dispute arises between a Municipality and another Municipality or Village council relating to the agreement referred to in Section 158, it shall be referred to the Government, whose decision thereon shall be final.

160. Transit Pass,-

- (1) The provisions of the section shall apply to the municipal areas of such Municipalities and from such date or dates, as the Government may, by notification, direct.

- (2) Where any goods intended for consumption, use or sale within the municipal area of Municipality and liable to octroi under this Act, are required to be carried through one or more other municipal areas, the person liable to pay octroi shall, on payment of such transit fee, as may be prescribed, be issued a Transit Pass by the Municipality of the municipal area through which the goods are intended to be carried first.
- (3) The transit pass referred to in sub-section (2) shall specify,-
- (a) the name and particulars of the person liable to pay octroi;
 - (b) the nature and quality of the goods;
 - (c) the amount of the transit fee paid;
 - (d) the Municipality where the transit fee is paid;
 - (e) the municipal areas of the Municipality through which such goods be carried; and
 - (f) the municipal area of the Municipality where the goods are intended to consumed, used or sold.
- (4) The goods referred to in sub-section (2) shall be allowed to be carried through the municipal areas referred to in the clause (e) of sub-section (3) on production of the Transit Pass and without paying any octroi.
- (5) The Municipality, which is entitled to receive the amount due on account of transit fee shall realize the amount, in such manner, as may be prescribed, from the Municipality referred to in clause (d) of sub-section (3).
- (6) In case of any dispute between the Municipality referred to in clause (d) of sub-section (3) and the Municipality of the municipal area referred to in sub-section (5) relating to realization of the amount, the matter shall be referred to the Government for decision and the decision of the Government thereon shall be final.
- (7) Non-payment of the transit fee shall be an offence under this Act.

CHAPTER - V

TAX ON ADVERTISEMENTS OTHER THAN ADVERTISEMENTS IN NEWS PAPERS

161. Prohibition of advertisements without written permission of the Chief Officer.

- (1) No person shall erect, fix or retain upon or over any land, building, or wall any hoarding, frame, post, kiosk or structure for the purpose of any advertisement to public view in any manner whatsoever visible from a public street or public place within any municipal area without the written permission of the Chief Officer of the Municipality.
- (2) The Chief Officer shall not grant such permission if,-
 - (a) a licence for the use of the particular site for purpose of advertisement has not been taken out; or
 - (b) the advertisement contravenes any of the provisions of this Act or the rules or the regulations made thereunder; or
 - (c) the tax, if any, due in respect of the advertisement, has not been paid.

162. Licence for use of site for purpose of advertisement,-

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

- (2) For the purpose of advertisement, every person,-
- (a) using any site before the commencement of this Act, within ninety days from the date of such commencement; or
 - (b) intending to use any site; or
 - (c) whose licence for use of any site is about to expire

shall apply for licence or renewal of licence, as the case may be to the Chief Officer of the Municipality in such form and in such manner, as may be determined by the Municipality by regulations.

- (3) The Chief Officer shall, after making such inspection, as may be necessary and within thirty days of the receipt of the application, grant, refuse or renew a licence, as the case may be, on payment of such fees, as may be determined by the Municipality by regulations.
- (4) The Chief Officer may, if in his opinion, the proposed site or any advertisement is unsuitable from the consideration of public safety, traffic hazards or aesthetic design, refuse a licence or refuse to new any existing licence.
- (5) Every licence shall be for a period of one year except in case of sites used for temporary fairs, exhibitions, sports events or cultural or social programmes.
- (6) The Chief Officer shall cause to be maintained a register wherein the particulars of licences issued under this section shall separately recorded in respect of advertisement sites,-
- (a) on telephone, telegraph, electric or other posts or poles erected on or along public or private streets or public places;
 - (b) in lands or buildings;
 - (c) on public transport;
 - (d) in cinema halls, video parlours, theatres or other places of public resort; and
 - (e) through cable television.-

163. Tax on advertisements :

- (1) Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, boarding, frame, post, kiosk, or structure any advertisement or displays any advertisement to public view in any manner whatsoever visible from public streets or public place including any advertisement exhibited by means of cinematography, video or cables operated by cable operators, shall pay for every advertisement which is so erected, exhibited fixed or retained or so displayed to public view, a tax calculated at such rates, as the Government may determine;

Provided that different rates may be determined in different Municipalities and for different types of advertisements in the same Municipality :

Provided further that a surcharge not exceeding fifty percent of the applicable rate, as may be determined by the Government may be imposed on any advertisement on display in temporary fairs, exhibitions, sports events or cultural or social programmes.

- (2) Notwithstanding the provisions of sub-section (1), no tax shall be levied under this section on any advertisement which,-
- (a) relates to a public meeting or to an election to Parliament or the Legislative Assembly of the State or the Municipality or to candidature in respect of such election; or
 - (b) is exhibited within the window of any building, if the advertisement relates to the trade, profession or business carried on in the building; or
 - (c) relates to the trade, profession or business carried on within the land or building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or

- (d) relates to the name of the land or building upon or over which the advertisement is exhibited or to the name of the owner or to the name of the owner or occupier of such land or building; or
 - (e) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration; or
 - (f) is exhibited within the airport or upon any wall or other property of the airport authority and relates to the airport administration or is exhibited on any bus stand or transport terminal and relates to the bus or transport service; or
 - (g) relates to any activity of the Government of India or the State Government or the Municipality.
- (3) The tax on any advertisement leviable under this section, shall be payable in advance in such number of installments and in such manner, as the municipality may by regulations, determine.

164. Permission of Chief Officer to become void in certain assess,-

- (1) The permission granted under section 161, shall become void,-
 - (a) if the advertisement contravenes any regulation made under this Act; or
 - (b) if any material change is made in the advertisement or any part thereof without the previous permission of the Chief Officer of the Municipality; or
 - (c) if due to the work by the Government, Municipality or by any statutory authority the advertisement has to be displaced; or

- (d) if the buildings, wall, hoarding, frame, post or structure over which the advertisement is erected, exhibited, fixed or retained, is demolished or destroyed.
- (2) When any permission becomes void under clause (C) of Sub. Section (i) the advertisement tax shall be refunded in such proportion, as the period for which it becomes void, bears to the total period of the validity of the permission.

165. Licence for use of site for purpose of advertisement to become void in certain cases,

The licence granted under section 162 shall become void,-

- (a) if the licence contravenes any terms and conditions of the licence; or
- (b) if any addition or alteration is made to or in the building, wall, hoarding, frame, post, kiosk, or structure upon or over which the advertisement is erected, exhibited, fixed or retained,
- (c) If the building, wall, hoarding, frame, post, kiosk, or structure over which advertisement is erected, exhibited, fixed or retained is demolished or destroyed.

166. Presumption in case of contravention,-

Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post, kiosk or structure or displayed to public view from a public street, or public place including any advertisement exhibited by means of cinematography, video or cables operated by cable operators in contravention of the provisions of this Act or any regulation made there under, it shall be presumed, unless the contrary is proved, that the contravention has been committed, unless the contrary is proved, that the contravention has been

committed by the person or persons on whose behalf the advertisement purports to be or the agent of such person or persons.

167. Liability to pay additional amount, -

If any person erects, exhibits, fixes or retains any advertisement referred to in this Chapter without paying the tax due under section 163 within the time specified for the purpose, he shall be liable to pay an additional amount, which shall be not more than three times the amount payable as such tax, as the Municipality may determine :

Provided that such amount shall not be less than an amount equal to one-and-half times of such tax.

168. Power of Chief Officer in case of contravention,-

If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of this Act or any regulations made thereunder, the Chief Officer of the Municipality may, by notice require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk, or structure upon or over which the same is erected, exhibited, fixed or retained to take down or remove such advertisement within forty-eight hours of service of notice, failing which, he may enter any land, building or property and cause the advertisement to be dismantled, taken down, removed, spoiled, defaced or screened.

Explanation 1. The word "structure" in this Chapter includes any moveable board on wheels used as an advertisement or advertisement medium.

Explanation 2. The word "advertisement" in relation to a tax on advertisement under this Act, shall mean any word, letter model sign, sky, sign, placard, notice, device or representation, whether illuminated or not in the nature of and employed wholly or in part for the purpose of advertisement, announcement or direction.

CHAPTER - VI

DEVELOPMENT CHARGES

169. Levy of Development charges,-

The Municipality may levy development charges on the increase in the value of land or building within the municipal area or any part of it caused by the execution of any Town Improvement Scheme or Town Planning Scheme.

170. Basis of Development charges,-

The basis for determination of the amount of development charges and the procedure for such determination shall be such as may be prescribed.

171. Assessment of development charges and payment,-

The Chief Officer of a Municipality or an Officer of the Municipality authorized by the Municipality in this behalf, shall by order, assess, after giving the person concerned an opportunity of being heard in such manner, as may be prescribed, the amount of the Development charges on the basis prescribed under Section 170.

172. Person liable to pay development charges,-

Every owner of land or building referred to in section 169 or any person having an interest in the increase in the value of such land or building, shall pay to the Municipality such Development charges, as may be assessed by the Chief Officer of the Municipality, or the Officer authorized under section 171, as may be.

173. Mode of Recovery,-

The amount of development charges, due from an owner of land or building referred to in section 169, or any person having an interest in the increase in the value of such land or building, shall be recovered in such manner, as may be prescribed.

CHAPTER - VII

OTHER TAXES

174. Fire Tax

- (1) The Municipality may levy fire tax at such percentage of annual value on lands and buildings, as the Government may, by notification, specify for the expenses necessary for the conduct and management of the Fire Service and for the protection of Life and property in the case of fire.
Provided that different percentages may be specified for different municipalities and for different classes of buildings and for buildings in different areas in the same Municipality.
- (2) The fire tax shall be levied in respect of all lands and buildings in the municipal area in respect of which a tax on lands and buildings is levied or would have been levied, but for the exemption given by or under the provisions of this Act.

175. Toll

- (1) The Municipality may, with the prior sanction of the Government, levy tolls at such rates, as may be specified by the Government, on vehicles, carriages, carts or animals passing through public streets or bridges within the municipal area.
- (2) For the purpose of collection of tolls under sub-section (1), the Municipality may establish a toll-bar on any public street or on a bridge or at any place within the municipal area adjacent to the bridge at which such tolls may conveniently be collected.
- (3) The revenue accruing from the tolls shall be credited to the Municipal Fund of the Municipality.

176. Prohibition as to refusal to pay or avoidance of payment of toll,-

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

177. Exemption from toll-

(1) No toll shall be paid for the passage of-

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

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

178. Show Tax :

- (1) Save as otherwise provided in this Act, there shall be levied a tax in respect of every cinema, theatre, circus, carnival, video parlour and other place of entertainment to which persons are ordinarily admitted on payment and in respect of every cable net-work, for performance or shows, held or conducted thereat, at such rates as the Government may specify:

Provided that for different municipalities, different rates may be specified for different performances or shows;

Provided further that a show-tax may not be levied in respect of performance or show, if the Municipality is satisfied that-

- (a) the entire receipts from such performance or show, will be devoted to philanthropic, religious or charitable purposes, or
 - (b) the performance or show is of a wholly educational character.
- (2) Every proprietor, manager, or person in-charge of a theatre, cinema, circus, carnival, video parlour, cable net-work or other place or means of entertainment shall be liable to pay the show-tax, and shall pay the same in advance before the commencement of the performances or shows.

179. Tax on vehicles and animals,-

- (1) A tax shall be levied at such rates as may be specified, by the Government, from time to time, on-
- (a) the vehicles, other than mechanically propelled vehicles, and other conveyance plying for hire within the municipal area;

- (b) the animals used for riding, driving, draught or burden, when kept within the municipal area; and
 - (c) the dogs kept within the municipal area.
- (2) A vehicle or animal kept outside the municipal limits, but regularly used within such limits, shall be deemed to be kept for use in the municipal area.
- (3) The tax under sub-section (1), shall not be leviable in respect of-
 - (a) the vehicles and animals belonging to the Municipality, the Government or the Union of India.
 - (b) The vehicle intended exclusively for the conveyance free of charge of the injured, the sick or the dead;
 - (c) The children's perambulators or tricycles; and
 - (d) The vehicles and animals kept by bona fide dealers merely for sale and not for use.

180. Tax on whom leviable,-

- (1) The tax on vehicles or animals shall be leviable upon the owner of, or the person having possession or control of such vehicles or animals, in respect of which the tax is leviable:

Provided that in the case of an animal generally used or employed in drawing any vehicles, the tax in respect of such animal shall be leviable upon the owner, of, or the person having possession or control of such vehicle, whether or no such animal is owned by such owner or person.

- (2) The tax on vehicles or animals shall be payable in advance in such number of installments and in such manner as may be determined by regulations made in this behalf.

CHAPTER - VIII

RECOVERY OF TAXES

181. Taxes payable to be a first charge and recoverable as arrears of land revenue:

- (1) Any tax payable, or any sum due to any Municipality, under this Act or the rules made thereunder besides being recoverable in any other manner provided therefore in this Act, shall, subject to any claim on behalf of the Government, be a first charge on the property in respect of which it is payable.
- (2) Such taxes and dues shall be recoverable on the application made in this behalf by the Municipality to the Deputy Commissioner having jurisdiction and if the property were an estate assessed to land revenue and such taxes or dues were an arrear of such land revenues.

Explanation - The term 'tax' or the term 'dues' shall be deemed to include the cost of recovery thereof and the penalty, if any, payable under this Act or the rules made thereunder.

182. Manner of recovery of taxes under this Act.-

Save as otherwise provided in this Act, any tax levied under this Act, may be recovered in accordance with the following procedure and in such manner, as may be prescribed namely:-

- (a) by presenting a bill, or
- (b) by serving a notice of demand; or
- (c) by distraint and sale of a defaulter's movable property; or
- (d) by the attachment and sale of a defaulter's immovable property; or
- (e) in the case of a tax on lands and buildings, by attachment of rent due in respect of the land or the building; or

- (f) in the case of octroi and toll, by seizure and sale of goods, animals and vehicles liable thereto.

Explanation- A person shall be defaulter from whom any sum is due on account of tax, free or charges leviable under this Act.

183. Time and manner of payment of Taxes.

- (1) Save as otherwise provided in this Act, any tax levied under this Act, shall be payable on such dates, in such number of installments and in such manner, as may be prescribed.
- (2) If any amount due is paid on or before the date determined under sub-section (1), a rebate of ten percent of such amount shall be allowed.

184. Presentation of bill.-

- (1) When any tax has become due, the Chief Officer of the Municipality shall cause to be presented to the person liable for the payment thereof, a bill for the amount due:

Provided that no such bill shall be necessary in the case, of-

- (a) a tax on advertisements;
- (b) an octroi; and
- (c) a toll.

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

- (2) Every such bill shall specify the particulars of the tax and the period for which the charge is made.

185. Notice of demand, notice fee and interest,-

- (1) Save as otherwise provided in this Act, if the amount of the tax for which a bill has been presented under section 184, is not paid within thirty days from the presentation thereof or if the tax on advertisements is not paid after it has become due, the chief Officer of the Municipality may cause to be served upon the person liable for the payment of the same, a notice of demand in such form, as may be specified by the Municipality by regulation.
- (2) for every notice of demand which the Chief Officer causes to be levied on any person under this section, a fee of such amount not exceeding twenty five rupees, as the Municipal may determined by regulations, shall be payable by the said person and shall be included in the cost of recovery.
- (3) On the amount of the bill remaining unpaid after thirty days of presentation of the bill under section 184 simple interest at the rate of twelve percent for delay up to one month and at the rate of eighteen percent for delay in excess of one month following that in which the bill is presented and ending with month preceding the month, in which payment is made.

Explanation,- In calculating the interest payable under this sub-section a fraction of a rupee in the amount of the bill on which the interest is to be calculated shall be rounded off to the nearest rupee, fifty paise being treated as rupee one.

- (4) The amount due as interest under this section, shall be recoverable as an arrear of tax under Act.

186. Recovery of tax,-

- (1) If any person liable for payment of tax, does not within thirty days of the service of notice of demand under section 185 pay the amount due, such sum together with all costs and interest due may be recovered under a warrant, issued in such form, as may be prescribed, by distress and sale of the movable property or by attachment and sale of immovable property.
- (2) Every warrant issued under this section, shall be signed by the Chief Officer of the Municipality or any other authorized by the Municipality in this behalf.

187. Distress

- (1) It shall be lawful for any officer or other employee of the Municipality to whom a warrant issued under this Chapter, is addressed, to distrain, wherever it may be found in any place within the territorial jurisdiction of the Municipality, any movable property belonging to the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely:-
 - (a) the following property shall not be distrained, namely:-
 - (i) the necessary wearing apparel and bedding of the defaulter, his or her spouse and children and their cooking and eating utensils;
 - (ii) tools of artisans; and
 - (iii) books of account;
 - (b) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under warrant, and if any property has been distrained which, in the opinion of the Chief Officer of the Municipality should not have been distrained, it shall forthwith be released.

- (2) The person charged with the execution of a warrant, shall in the presence of two witnesses, forthwith make an inventory of the property, which he seizes under such warrant, and shall, at the same time give a written notice, in such form, as may be specified by the Municipality by regulations to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.
- (3) If there is reason to believe that any property seized under a warrant under sub section (2) of section 186, if left in the place where it is found, is likely to be removed by force, the officer executing the warrant, may take it to the office of the Municipality or to any place appointed by the Chief Officer.
- (4) An Officer or other employee of the Municipality charged with the execution of a warrant, if he has reason to believe that a building contains property liable to be distrained, may exercise then power of entry into the building.

188. Disposal of distrained property.

- (1) When the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is, when added to the amount to be recovered likely to exceed its value, the Chief Officer of the Municipality, shall give notice to the person in whose possession the property was at the time seizure, that it will be sold at once, and he shall sell it accordingly by public auction, unless the amount mentioned in the warrant is forthwith paid.
- (2) If the warrant is not in the mean time suspended by the Chief Officer or discharged, the property seized shall, after the expiry of the period named in the notice served under sub-section (2) of section 196, be sold by public auction by order of the Chief Officer.

189. Attachment and sale of immovable property,-

- (1) After a defaulter has been proceeded against under the foregoing provisions of this Chapter unsuccessfully or with partial success, or if the Chief Officer of Municipality considers it expedient so to do, any sum due or balance of any sum due, may be recovered under a warrant issued by the Chief Officer in such form as may be specified by the Municipality by regulations for attachment and sale of immovable property of the person liable.
- (2) When a warrant is issued under sub-section (1), the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in anyway, and all persons from taking any benefit from such transfer of charge and declaring that such property will be sold unless the amount of tax due with all cost of recovery is paid into the officer of the Municipality within fifteen days from the date of attachment.
- (3) A copy of the order, under sub-section (2), shall be affixed on a conspicuous part of the property and upon a conspicuous part of the office of the Municipality.
- (4) Any transfer of or charge on the property attached or any interest herein, made without the permission of the Chief Officer, shall be void as against all claims of the Municipality enforceable under the attachment.
- (5) The surplus of the sale proceeds, if any, shall immediately after the sale of the property, be credited to the Municipal Fund of the Municipality, and notice of such credit shall be given at the same time to the person whose property has been sold or his legal representative, and if the same is claimed by written application to the Chief Officer within one year from the date of the notice, a refund thereof shall be made to such person or representative.

190. Sale of property distrained or attached,-

- (1) All sales of property under this Chapter, shall be regulated as far as practicable, by such procedure of the Civil Court, as may be applicable in regard to sale of movable or immovable property after attachment.
- (2) No Officer or other employee of the Municipality shall directly or indirectly purchase any property at any such sale.
- (3) Any surplus not claimed within one year referred to in sub-section (5) of section 189, shall be the property of the Municipality.
- (4) For every distraint under section 187 and attachment under section 189, a fee of such amount not exceeding two-and-half percent of the amount of tax due, as may in such case be fixed by the Chief Officer, shall be charged and included in the cost of recovery.

191. Recovery from a person about to leave the Municipal area,-

- (1) If the Chief Officer of the Municipality has reason to believe that any person from whom any sum is due or is about to become due on account of any tax, is about to move from the municipal area of the Municipality, he may direct the immediate payment by such person of the sum so due or about to become due and to cause a notice of demand for the same to be served on such person.
- (2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be recoverable by distress or attachment and sale in the manner herein-before provided, and the warrant of distress or attachment and sale may be issued and executed without any delay.

192. Distraint not unlawful of want of form,-

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

- (a) any defect or want of form in the notice summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto; or
- (b) any irregularity committed by such person : provided that any person aggrieved by such defect or irregularity may be order of a court of competent jurisdiction, recover the full satisfaction of any special damage sustained by him.

193. Occupiers may be required to pay rent towards satisfaction of the tax,-

- (1) For the purposes of recovery of any tax on lands and buildings from any occupier under section 144, the Chief Officer of the Municipality, notwithstanding anything contained in any other law for the time being in force, shall cause to be served on such occupier a notice requiring him to pay to the Municipality any rent due or falling due from him in respect of the land or building to the extent necessary to satisfy the portion of the sum due for which he is liable under the said section.
- (2) Such notice shall operate as an attachment of such rent, unless the portion of the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom such rent is due for any sum paid by him to the Municipality in pursuance of such notice:

Provided that if the person to whom such rent is due, is not the person primarily liable for payment of such tax, he shall be entitled to recover from the person primarily liable for the payment of such tax any amount for which credit is claimed as aforesaid.

- (3) If any occupier fails to pay to the Municipality any rent due or falling due, which he has been required to pay in pursuance of a notice served upon him as aforesaid, the amount of such rent may be recovered from him by the Municipality as an arrear of tax under this Act.

194. Recovery of tax on lands and buildings or any other tax or charges when owner of land or premises is unknown or ownership is disputed.-

- (1) If any money is due under this Act from the owner of any land or building on account of the tax on lands and building or any other tax, expenses or charges recoverable under this Act, and if the owner of such land or building is unknown or the ownership thereof is disputed, the Chief Officer of the Municipality may, publish twice, at an interval of not less than thirty days, a notification of such dues and of sale of such land or building for realization thereof and after the expiry of not less than fifteen days from the date of last publication of such notification, unless the amount recoverable is paid, may sell such land or building by public auction to the highest bidder, who shall deposit, at the time of sale, the entire purchase money. Such notification shall be published in the Official Gazette and in local newspapers and by displaying on the land or the building concerned.
- (2) After deducting the amount due to the Municipality as aforesaid, the surplus sale proceeds, if any, shall be credited to the Municipal Fund of the Municipality and may be paid, on demand, to any person who establishes his right thereto, to the satisfaction of the court of competent jurisdiction.
- (3) Any person may, pay the amount due at any time before the completion of the sale, whereupon the sale shall be abandoned and such person may recover such amount by a suit in a court of competent jurisdiction from any person beneficially interested in such land or building.

195. Taxes not invalid for defect of form.-

- (1) No assessment and no charge or demand of the tax on lands and buildings or of any other tax made under this Act, shall be called in question or shall in any way be affected by reason of:-
- (a) any clerical or arithmetical error,-
 - (i) in the name, residence, place of business or occupation of any person liable to pay such tax; or
 - (ii) in the description of any property or thing liable to such tax; or
 - (iii) in the amount of assessment of such tax; or
 - (b) any defect of form, not being of a substantial nature:
- Provided that the Chief Officer of the Municipality may either on his own motion or on the application of any aggrieved person, correct any clerical or arithmetical error or defect of form as aforesaid.
- (2) It shall suffice for the purpose of levying any tax under this Act or of any assessment of value of any property under this Act, if the property taxed or assessed is so described as to be generally known, and it shall not be necessary to name the owner or the occupier thereof.

196. Power of the Chief Officer to prosecute or serve notice of demand,-

- (1) When any sum is due from any person on account of,-
- (a) tax on advertisements other than the advertisements published in newspapers; or
 - (b) any other tax, fee or charges leviable under this Act;

The chief Officer of the Municipality may either prosecute such person, if prosecution lies under the provisions of this Act, or cause to be served on him a notice of demand in such form, as may be prescribed or in any other form to the like effect.

- (2) The provisions of section 185 and clause (a) of section 192 shall, with all necessary modifications, apply to every such notice of demand.

197. Cancellation of irrecoverable dues,-

The Municipality may, by order, strike off from the books of the Municipality, any sum due on account of the tax on lands and buildings or any other tax, fee or charges leviable under this Act, which becomes irrecoverable after all process of recovery have been exhausted.

198. Recovery of octroi and toll,-

- (1) In case of non-payment of any octroi or any toll on demand, the officer empowered to collect the same, may seize any goods on which the octroi is chargeable, together with the vehicle on which such goods have been imported or any vehicle or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.
- (2) Where there is reasonable suspicion that goods brought within the octroi limit have been under valued, such goods may be seized after paying fifteen percent on the value of the goods as shown in the document.
- (3) The Chief Officer of the Municipality may after the expiry of a period of five days from the seizure, and after the issue of a proclamation, fixing the time and place of sale, cause any property other than the vehicle on which the seized goods were imported, or so much thereof as may

be necessary to be sold by auction to satisfy the demand with the expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid :

Provided that by the order of the Chief Officer, goods of a perishable nature, which could not be kept for five days without serious risk of damage, may be sold after the expiry of such shorter time, as he may, having regard to the nature of the goods, think proper.

199. Power to lease Collection of octroi or tolls,-

The collection of any octroi or toll may, with the previous sanction of the Government, be leased by the Municipality for any period not exceeding one year and the leasee and all persons employed by him in the management and collection of the octroi or toll, shall in respect thereof,-

- (a) be bound by the terms of the lease agreement.
- (b) be bound by any orders made by the Municipality for their guidance; and
- (c) be while discharging their functions responsible as if they were employed by the Municipality for the management and collection of the octroi or toll.

200. Power of Government or exempt from tax,-

The Government may, for reasons to be recorded, by notification exempt in whole or in part from the payment of any tax levied under this Act,

- (a) any person or class of persons; or
- (b) any property or class of properties.

PART - V

CIVIC SERVICES

CHAPTER - I

GENERAL

201. Duty of Municipality:

- (1) It shall be the duty of a Municipality to provide civic services and in particular on the matters in relation to the functions assigned to a Municipality under this Act.
- (2) A Municipality shall exercise such powers conferred upon a Municipality under this Act or Rules made there under to discharge its duties or perform its functions.

CHAPTER - II

FUNCTIONS IN RELATION TO WATER SUPPLY.

202. Duty of Municipality to Supply water:

- (1) on a notification issued by the Government, as provided under this Act, in relation to water supply, it shall be duty of the Municipality to take steps from time to time,-
 - (a) for ascertaining the sufficiency and wholesomeness of water supplied within the municipal area;
 - (b) for providing a supply of wholesome water in pipes to every part of the municipal area of the Municipality in which there are houses, for domestic purposes of the occupants thereof, and for taking the pipes affording that supply to such point or points as will enable the houses to be connected thereto at a reasonable cost, so,

however, that this clause shall not require the Municipality to do anything, which is not practicable at a reasonable cost or to provide such supply to any part of the municipal area where such supply is already available at such point or points aforesaid;

- (c) for providing, as far as possible, a supply of wholesome water otherwise than in pipes to every part of the municipal area in which there are houses, for domestic purposes of the occupants thereof and to which it is not practicable to provide supplying pipes at a reasonable cost, and in which danger to health arises from the insufficiency or unwholesomeness of the existing supply and a public supply is required and can be provided at a reasonable cost, and for securing that such supply is available within a reasonable distance of every house in that part.

- (2) If any question arises under clause (b) of sub-section (1) as to whether anything is or is not practicable at a reasonable cost or as to the point or points, to which pipes must be taken in order to enable houses to be connected to them at a reasonable cost, or, under clause (c) thereof, as to whether a public supply can be provided at a reasonable cost, the Municipality shall decide the question.

203. Supply of water to connected premises.-

- (1) The Chief Officer of the Municipality may, on application by owner, leasee or occupier of any building, arrange for supplying of water from the nearest main to such building for domestic purposes in such quantities, as deemed reasonable, and may, at any time, limit the amount of water to be supplied whenever considered necessary.

- (2) For all water supplied under sub-section (1), payment shall be made at such rate, as may be fixed by the Government from time to time:

Provided that in fixing pro rata unit rate, the Government shall endeavour to cover the cost for operation, maintenance, depreciation, interest payment and other charges related to the water-works and the distribution costs, including distribution losses, if any.

- (3) A supply of water for domestic purposes shall not be deemed to include a supply:-

- (a) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire;
- (b) for any trade, manufacture of business;
- (c) for fountains, swimming baths, or for any ornamental or mechanical purpose;
- (d) for gardens or for purposes of irrigation;
- (e) for watering roads and paths;
- (f) for building purposes; and
- (g) to any institutional building, assembly building, business building, mercantile building, industrial building, storage building or hazardous building, referred to in clause (2) of section 340 or any part of such building, other than that used as residential building or educational building within the meaning of sub-clause (a) and sub-clause (b) of clause (2) of Section 340.

Provided that, subject to such limits, as may be specified in the regulations made in this behalf, a supply of water:-

- (i) for fountains, swimming baths, or any ornamental or mechanical purposes; or

- (ii) for gardens; or
- (iii) for watering paths;

within any residential premises, shall be deemed to be a supply of water for domestic purposes.

204. Supply of water for other than domestic purposes.-

- (1) The Chief Officer of the Municipality, may, supply water for any purposes, other than a domestic purpose, on such terms and conditions, consistent with this Act and the regulations made thereunder including the condition of withdrawal of water, as may be laid down in this behalf by the Municipality, on receiving a written application specifying the purposes for which the supply is required and the quantity likely to be consumed.

- (2) For all water supplied under sub-section (1), payment shall be made at such rate, as may be fixed by the Government from time to time:

Provided that in fixing pro rata unit rate, the Government shall endeavour to cover the cost for operation, maintenance, depreciation, interest payments and other charges related to the water-works and the distribution costs, including distribution losses, if any.

- (3) The Municipality may withdraw such supply at any time, if it thinks it necessary so to do in order to maintain a sufficient supply water for domestic purpose.

205. Making connection with municipal water works.-

- (1) When an application under Section 203 or Section 204 has been received, all necessary communication pipes and fittings, shall be supplied by the Municipality and the work of laying and applying such communication pipes and fittings, shall be executed under the orders of the Chief Officer of the Municipality.

- (2) The cost of making such connection and of all communication pipes and fittings so supplied and of all works so executed shall be paid by the owner or the person making such application.
- (3) Notwithstanding anything contained in sub-section (1), the Chief Officer may require any owner or the person applying for a supply of water to provide, to the satisfaction of the Chief Officer, all communication pipes and fittings and to carry out at his own cost, under his supervision and inspection, all the work of laying and applying such communication pipes and fittings.
- (4) Where it is practicable to supply water at a reasonable cost within the meaning of sub-section (2) of Section 202, the work relating to making of connection and fitting of communication pipes and fittings shall be executed within a period of one month from the date of the receipt of application under sub-section (1).
- (5) The cost recovered under this section for making connection and supplying and communication pipes and fittings shall be spent only on works relating to water supply.

206. Water supply through hydrants, stand-posts and other conveniences.-

- (1) The Municipality may, in exceptional circumstances provide gratuitous supply of wholesome water to the public within the municipal area and may, for that purpose, erect public hydrants or stand-posts or other conveniences.
- (2) The Municipality may close a public hydrant, stand-posts or other conveniences for reasons to be recorded in writing.
- (3) The Municipality may, by regulations, provide for safety, maintenance and use of such public hydrants or stand-posts, subject to such conditions, as may be specified in the regulations.

207. Provision for fire hydrants.-

- (1) The Chief Officer of a Municipality shall fix hydrants on water mains (other than trunk mains) at such places, as may be most convenient for affording supply of water for extinguishing any fire, which may break-out and shall keep in good order such hydrants, and may, from time to time renew such hydrants.
- (2) To denote the situation of every hydrants placed under this section, letters marks or figures shall be displayed prominently on some wall, building or other structure near such hydrant.
- (3) As soon as the work relating to any such hydrant is completed, the Chief Officer shall deposit a key thereof at each place where a public fire engine is kept and in such other place as he may deem necessary.
- (4) The Chief Officer may, at the request and expenses of the owner or occupier of any factory, workshop, trade premises or place of business situated in or near a street in which a pipe is laid (not being a trunk main and being of sufficient dimensions to carry a hydrant), fix on the pipe and keep in good order and, from time to time, renew one or more fire hydrants, to be used only for extinguishing fire as near as conveniently may be to that factory, workshop, trade premises or place of business.
- (5) The Chief Officer shall allow all persons to take water for extinguishing fire from any pipe on which a hydrant is fixed, without any payment.

208. Supply of water outside Municipal area.-

- (1) The Municipality may, with the sanction of, and on such terms, as may be approved by the Government, supply water to a local authority or any person outside the municipal area.

- (2) The supply of water under sub-section (1) shall be at such rate, not being less than the cost of production and delivery, including the costs of debt servicing, depreciation of plant and machinery, loss and other charges if any, as the Municipality may, from time to time, determine.

209. Public tanks, sub-soil water etc. to vest in the Municipality:

- (1) All public tanks, reservoirs, cisterns, well, tube-wells, aqueducts, conduits, tunnels, pipes, taps and other water works, whether made, laid or erected at the cost, met from the Municipal Fund of the Municipality or otherwise, and all bridges, buildings, engines works materials and things, connected therewith or appertaining thereto and any adjacent land (not being private property) appertaining to any public tank, which is situated within the municipal area, shall vest in the Municipality constituted for that municipal area.
- (2) All rights over the sub-soil water resources within a municipal area, shall vest in the Municipality constituted for that area.

210. Power to require Municipality to carry out survey and formulate proposals.-

A Municipality may,-

- (a) carry out a survey of the existing consumption of and demand for water supply in the municipal area and of the water resources in or available for the municipal area and quality thereof;
- (b) prepare an estimate of the future water supply requirements of the municipal area;
- (c) formulate proposals as to the existing or future water supply requirements of the municipal area; and
- (d) formulate proposals for maintaining the quality of water resources.

211. Works to be undertaken for supply of water.-

For the purpose of providing the municipal area with the proper and sufficient supply of water for public and private uses, the Municipality:-

- (a) shall cause such tanks, reservoirs, engines, pipes, taps, and other water-works, as may be necessary to be constructed or maintained, within or outside the municipal area;
- (b) may purchase or take on lease any water-works or any right to store or to take and convey water either within or outside the municipal area; and
- (c) may enter into an agreement with any person or authority for the supply of water;

Provided that the Municipality may, with the approval of the Government, make over to, or take over from, a statutory body the water-works so as to do anything, which may be necessary or expedient for the purpose of carrying out its functions under this Act or under any other law for the time being in force.

212. Chief Officer to manage water works.-

Subject to the other provisions of the this Act, the Chief Officer of a Municipality shall manage all water-works and allied facilities belonging to the Municipality and shall maintain the same in good repair and efficient conditions and shall cause to be done, from time to time, all such things, as shall be necessary or expedient for improving the said water-works and facilities.

213. Power of access to water-works.-

- (a) The Chief Officer of a Municipality, or any person appointed by the Government in this behalf, may, for the purpose of inspecting or repairing or executing any work, in, upon or in connection with any water-works at all reasonable times:-

- i. enter upon and pass through any land without or outside the municipal area, adjacent to, or in the vicinity of, such water-works, in whomsoever such land may vest; and
 - ii. convey into and through any such land all necessary materials, tools and implements.
- (b) In the exercise of any power conferred by this section, as little damage, as possible may be done, and compensation for any damage, which may be done in the exercise of any such power, shall be paid by the Chief Officer, or, if the person so appointed by the Government has caused the damage, by the Government.

214. Purity of water for domestic purpose.-

- (1) The Chief Officer of a Municipality shall, at all times, ensure that the water in any water-works belonging to the Municipality, from which water is supplied for domestic purposes is wholesome.
- (2) The Municipality shall, when so required by any competent authority under any law for the time being in force, arrange for the examination of water, supplied for human consumption for the purpose of determining whether the water is wholesome.

215. Prohibition regarding sinking of tubewells.-

- (1) No person shall, except with prior permission in writing of the Municipality, sink any tubewell in any premises within the area of the Municipality subject to the provisions of the State Water Policy.
- (2) The municipality may, grant such permission and issue a tubewell license on such conditions and on payment of such annual fee, as the Municipality may, from time to time, specify.

- (3) If any such work of sinking of tubewell is begun or completed without such permission, the Chief Officer of the Municipality, with the prior approval of the Municipality, may,-
- (a) by written notice, require the owner or the other person, who has done such work to fill up or dismantle such work within such time, as may be specified in the notice, and if the work of filling up or dismantling is not done within the time so specified, the Chief Officer may, cause the work to be done and realize the expenses therefore from the owner or the person to whom such notice was given; or
 - (b) grant permission to retain such work on such terms and conditions, as the Municipality may consider fit to impose.

216. Power to direct sinking of tubewell in some cases.-

- (a) Notwithstanding the provisions of Section 215, the Municipality may, by a written notice, require the owner of a premises to sink a tubewell, if the premises are to be used as a place of public resort, or as a market, or as a place of employment of more than fifty persons, or, in other cases, for reason to be recorded in writing.
- (b) Every such owner shall be bound to take out a tubewell license on such conditions and on payment of such annual fee, as the Municipality may, from time to time, determine.

217. Registration of tubewells.-

The Chief Officer of a Municipality shall, cause to be maintained a register, in such form and in such manner, as may be determined by regulations, which shall provide an inventory of the tubewells, public or private, sunk in the municipal area of the Municipality and such register shall be updated from time to time.

218. Power to fill up wells.-

Whenever a supply of water has been provided in any municipal area, the Municipality constituted for the municipal area may, by a written notice, require the owner, lessee or the occupier, as the case may be, of a well, tubewell, tank or other water area, forming a part of any premises in the said area, to fill up such well, tank, or other water area.

219. Digging of Wells.-

- (1) No new well, tank, pond, cistern or fountain shall be dug or constructed in any municipal area without the previous permission in writing, of the Municipality constituted for that area subject to the provisions of State Water Policy.
- (2) If any such work is begun or completed without such permission, the Chief Officer of the Municipality, with prior approval of the Municipality, may,-
 - (a) by written notice, require the owner or the other person, who has done such work to fill up or demolish such work within such time, as may be specified in the notice, and if the work of filling up or demolition is not done within the time so specified the Chief Officer may, cause the work to be done and realize the expenses therefore from the owner or the person to whom notice was given; or
 - (b) grant permission to retain such work or portion thereof on such terms and conditions, as the Municipality may consider fit to impose.

220. Power to set apart wells, tanks, for digging etc.-

The Municipality may, by order published at such places, as it thinks fit, set apart any tank, well, spring or water-course or any part thereof, vested in it or, by an agreement with the owner thereof,

any private tank, Well, spring or water course or apart thereof, subject to any rights, which the owner may retain with the consent of the Municipality, for any of the following purposes, namely:

- (a) for the supply of water exclusively for drinking or for culinary purposes or for both; or
- (b) for the purpose of bathing; or
- (c) for washing animals or cloths; or
- (d) for any other purpose connected with the health, cleanliness or comfort of the inhabitants, and may, by like order, prohibit the bathing or the washing of animals or clothes or other things at any public place, not set apart for such purposes, or prohibit any other act by which water in any public place may be rendered foul or unfit for use, or provide for alternative facilities and conveniences to regulate the use of any tank, well, spring or water-course to promote public safety, health and welfare.

221. Power to lay mains:

- (1) The Chief Officer of a Municipality may, lay main, whether within or outside the local limits of the Municipality,-
 - (a) in any street; and
 - (b) with the consent of every owner or occupier of any land not forming part of a street in, over or on that land,

and may, from time to time, in respect, repair, alter, or renew or may, at any time, remove any, main so laid, whether under this section or otherwise:

Provided that where a consent required for the purpose of this sub-section is withheld, the Chief Officer may, after giving the owner or the occupier of the land a written notice of his intention so to do, lay the main in, over or on that land even without such consent.

- (2) Whenever the Chief Officer, in exercise of the powers under this section, lays a main in, over or any land not forming part of a street, or inspect, repairs, alters, renews or removes a main so laid in, over or on any such land, he shall pay compensation to every person interested in that land for any damage done thereto, or injury to that land by reason of the laying, inspection, repair, alteration, renewal or removal of the main.

222. Power to lay pipes,-

- (1) The Chief Officer of a Municipality may, in any street whether within or outside the local limits of the municipal area of the Municipality, lay such service pipes with such stopcocks and other water fittings, as he may deem necessary for supplying water to premises and may, from time to time, inspect, repair, alter or renew and may, at any time, remove any service pipe laid in a street whether under this section or otherwise.
- (2) Where a service pipe has been lawfully laid in, over, or, on the land not forming part of a street, the Chief Officer may, from time to time, enter upon that land and inspect, repair, alter, renew or remove the pipe or lay a new pipe in substitution thereof, but shall pay compensation for any damage done in the course of such action.

223. Power to require supply pipes:

- (1) The Chief Officer of a Municipality may, require the provision of a separate supply pipe for each of the premises supplied or to be supplied by the Municipality with water:

Provided that in case of any multi-storeyed building, the Chief Officer may require the provision of a separate supply pipe for each storey of such multi-storeyed building or each independently occupied unit therein.

- (2) If, in the case of any premises already supplied with water, but not having a separate supply pipe, the Chief Officer gives notice to the owner of the Premises requiring the provision of such a pipe, the owner shall, within three months, lay so much of the required pipe as is not required to be laid in a street, and the Chief Officer shall lay so much of the required pipe as to be laid in a street and make all necessary communications.
- (3) If an owner, upon whom a notice has been served under sub-section (2), fails to comply therewith, the Chief Officer may cause the work, which the owner was required to execute, to be executed and recover the expenses reasonably incurred by him in executing the work as an arrears of tax under this Act.

224. Power to require water supply to be undertaken.-

If it appears to the Chief Officer of a Municipality that any premises in the municipal area, are without supply of wholesome water for domestic purposes or that the existing supply of water for domestic purposes, available for the persons usually occupying or employed in such premises, is inadequate or on any sanitary grounds objectionable, the Chief Officer may, by notice in writing require the owner of the premises or the persons primarily liable for the payment of the tax on lands and buildings in respect of the same,-

- (a) to take a connection from the mains of the Municipality adequate for the requirements of the persons occupying or employed in the premises or to take such additional or enlarged connection or connections from the mains; and
- (b) to provide supply pipes and water-fittings, and do all such works and take all such measures, as may, in the opinion of the Chief Officer, be necessary for the above purposes.

225. Power to require owners of premises to set up pumps.-

- (1) The owner of every premises connected with municipal water-works shall, when so required by the Chief Officer of a Municipality, set up electric pumps or other contrivances whereby water may be caused to reach the top of the topmost storey of such premises.
- (2) No such electric pump shall be fixed directly on the main of the supply line, but shall be fixed on the under ground storage tank to be provided for the purpose by the owner.
- (3) No booster pump shall be set up without a written permission of the Chief Officer.

226. Obligation of owner or occupier to give notice of waste of water.-

Any owner or occupier of any building or land in a municipal area in which water supplied under this Act is misused from negligence or other circumstances under his control, or used without permission in excess of the quantity fixed under section 203 or section 204, or in which pipes, mains, or other works are out of repair to such extent, as to cause waste of water, shall, if he has knowledge thereof, be bound to give notice of the same to the Chief Officer of the Municipality.

227. Power to enter premises to detect waste or misuse of water.-

The Chief Officer of a Municipality or any officer of the Municipality authorized by the Chief Officer in writing in this behalf may, between sunrise and sunset, enter any premises supplied with water by the Municipality in order to examine, if there is any waste or misuse of such water and the Chief Officer or such officer, shall not be refused entry into the premises nor shall be obstructed by any person in making his examination.

228. Power to test water fittings.-

The Chief Officer of a Municipality may cause to be tested any water fitting used in connection with water supplied by the Municipality.

229. Power of Chief Officer to cut off or turn off supply of water.-

- (1) Notwithstanding anything contained in this Act, the Chief Officer of a Municipality may, cut off the connection between any water works of the Municipality and any premises to which water is supplied from such works, or may turn off such supply, in any of the following cases, namely:-
- (a) If the person whose premises are supplied with water, neglects to pay any sum payable under Section 203 or Section 204 when due, or fails to give notice as provided in Section 225.
 - (b) If the premises are unoccupied;
 - (c) If, after receipt of a written notice from the Chief Officer requiring him to refrain from so doing, the owner or occupier of the premises continues to use the water or to permit the same to be used, in contravention of this Act or of any regulations made thereunder;
 - (d) if the occupier of the premises contravenes the provisions of sub-section (3) of Section 203;
 - (e) if the occupier refuses to admit any officer or employee of the Municipality, duly authorized in that behalf into the premises for the purpose of making any inspection under this Act or under any regulations relating to water supply made under this Act, or prevents such officer or employee from making such inspection;
 - (f) if the owner or the occupier of the premises willfully or negligently damages; his meter or any pipe or tap conveying water from any works of the Municipality;

- (g) if any pipes, taps, works or fittings, connected with the supply of water to the premises be found, on examination by the Chief Officer, to be out of repair to such an extent, as to cause so serious a waste of water that, in the opinion of the Chief officer, immediate prevention is necessary;
- (h) if the use of the premises for human habitation has been prohibited under this Act from the date from which the premises are to be vacated in pursuance of an order under this Act;
- (i) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached;
- (j) if by reason of a leak in the service-pipe or fitting, damage is caused to the public street and immediate prevention is necessary;
- (k) if the occupier of the premises fails to pay in full any amount due from him for supply of water under this Act;

Provided that:

- (i) Water shall not be cut off or turned off in any case referred to in clause (h) or clause (k), unless written notice of not less than seventy-two hours has been given to the occupier of the premises;
 - (ii) in any case referred to in clause (g) or clause (j), the Chief Officer may carry out necessary repair to pipes, taps, works, or fitting, and recover the expenses thereof from the owner or the occupier of the premises.
- (2) The expenses of cutting off water supply, shall be paid by the owner or the occupier of premises and shall be recoverable from the owner or the occupier as an arrears of tax under this Act.

230. Water Pipes etc., not to be placed where water will be polluted:

- (1) No water pipe shall be laid in a drain or on the surface of an open channel or house gully or within six meters of a cesspool or in any position where the pipe is likely to be injured or the water therein polluted and no well or tank, and except with the consent of the Chief Officer of the Municipality, no cistern shall be constructed within six meters of a latrine or cesspool.
- (2) No latrine or cesspool shall be constructed or made within six meters of any well, tank, water pipe or cistern or in any position where pipe, well, tank or cistern is likely to be injured or the water therein polluted.

231. Power to close or restrict use of water from polluted source of supply,-

- (1) If the Chief Officer of a Municipality is of the opinion that the water in, or obtained from, any well, tube well, tank or other sources of supply, not vested in the Municipality, being water, which is or is likely to be used for domestic purposes or for the preparation of food or drink for human consumption, is or is likely to become so polluted as to be prejudicial to health, the Chief Officer may, after giving the owner or the occupier of the premises in which the source of supply is situated, a reasonable opportunity of being heard, in such manner, as may be prescribed, by order, direct that the source of supply be permanently or temporarily closed cut off or the water therefrom, be used for certain purposes only or make such order, as appears to him necessary to prevent injury or danger to the health of the person using the water or consuming food or drink prepared therewith or therefrom.
- (2) Before making any order under this section, the Chief Officer may cause the water to be analysed at the cost of the Municipality.

- (3) If the person to whom an order is made this section, fails to comply therewith, the Chief Officer may do whatever maybe necessary for giving effect to the order, and any expenses reasonably incurred by him in so doing, may be recovered by him from the person in default as an arrears of tax under this Act.

232. Supply pipes to be maintained -

It shall be incumbent on the owner or the occupier of any premises to which water is supplied from any waterworks belong to the Municipality to keep in a thoroughly clean condition, and to maintain and keep in efficient repair every supply pipe connecting the premises to the supply mains of the Municipality and any other water fittings in the premises:

Provided that upon an inspection, the Chief Officer of the Municipality may, by written notice, require the owner or the occupier of the premises to remedy any defect, which he may find:

Provided further that when an occupier of any premises is served with a notice under this Section, he may, after giving three day's notice in writing to the owner or to the person to whom he is responsible for the payment of his rent, himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to such person.

233. Power to provide meters:

- (1) The Chief Officer of a Municipality may, provide a water-meter and attach the same to the supply pipe in the premises connected with the service mains of the Municipality.
- (2) The expenses of providing and attaching a meter under sub-section (1) shall be paid out of the Municipal Fund of the Municipality and the consumer shall be charged rent for the same.

234. Installation of meter by the owner:

- (1) Notwithstanding anything contained in section 233, the owner may, with the previous permission of the Municipality, install at his own cost a water-meter of such size, material and description, as the Municipality may approved and it shall be sealed by the Municipality.
- (2) In case of the water-meter being out of order, shall be repaired by the owner at his own cost within fifteen days failing which the owner shall be liable to pay for the supply of water a fee which shall be two times the average of the two preceding bills.

235. Presumption as to correctness of meters:

When water is supplied under this Act through a meter, it shall be presumed that the quantity indicated by the meter, has been consumed, until the contrary is proved.

236. Prohibition of fraud in respect of meters:

- (1) No person shall fraudulently:
 - (a) alter the index to any meter or prevent any meter from duly registering the quantity of the water supplied; and
 - (b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.
- (2) The existence of artificial means under the control of the consumer for causing any such alteration, prevention, obstruction or use shall be an evidence that the consumer has fraudulently affected the same.

237. Payment for supply of water:

In a premises where a meter has been attached on a supply pipe, the occupier shall be liable to pay for the water, shown to have been consumed on the basis of the readings recorded by the meter;

Provided that where a water-meter attached to the supply pipe in any premises or building connected with the service mains of the Municipality, goes out of order, or where there is a dispute about the proper operation of such water-meter, or where such water-meter is fraudulently altered or tampered with, the fee for the supply of water to such premises or buildings, shall be two times the average of two preceding bills.

238. Entrustment of operation and maintenance of water supply system, billing and collection of charges:

A Municipality may, with the prior approval of the Government, entrust the work of operation and maintenance of the water supply system within the municipal area and the work of billing and collection of water charges to any Government, statutory or private agency, subject to such condition, as the Municipality may, determine.

239. Joint and several liability of owner and occupiers for offence in relation to water supply:

If any offence relating to water supply is committed under this Act on any premises connected with the municipal water-works the owner, the person primarily liable for payment of tax on lands and buildings, and the occupier of the said premises, shall be jointly and severally liable for such offence.

CHAPTER - III

DRAINAGE AND SEWERAGE

240. Municipality to provide drainage, sewerage and out-fall:-

From a date appointed by the Government by a notification issued in this behalf, the municipality shall construct and maintain drains and sewers and provide a safe and sufficient out-fall, in or outside the municipal area for effectual drainage and proper discharge of storm water and sewerage of the municipal area in such manner as not to cause any nuisance whether by flooding part of the municipal area or any surrounding area.

241. Provision of means for disposal of sewage:-

For the purpose of receiving, treating, storing, disinfecting distributing or otherwise disposing of sewage, the Municipality may construct, operate, maintain, develop and manage any work within or outside the municipal area.

242. Public drains and sewage disposal works to vest in the municipality:-

- (1) All public drains, all drains in, alongside or under any public street, and all sewage disposal works, constructed or acquired out of the Municipal Fund of a Municipality or otherwise, and all works, materials and things appertaining thereto, which are situated within or outside the municipal area, shall vest in the Municipality.
- (2) All public and other drains, which are vested in the Municipality are hereafter in this Act referred to as municipal drains.

- (3) For the purposes of laying, constructing, enlarging, deepening or otherwise repairing or maintaining any such drain or sewage disposal, so much of the sub-soil appertaining thereto, as may be necessary for the said purposes, shall be deemed also to vest in the Municipality.
- (4) All drains and ventilation shafts, pipes and all appliance and fittings connected with the drainage works constructed or set up out of the Municipal Fund of a Municipality in or upon the premises, not belonging to the Municipality, whether:-
 - (a) before or after the commencement of this Act; and
 - (b) for the use of the owner or occupier of such premises or not, shall, unless the Municipality has otherwise determined, or does at any time otherwise determine, vest and be deemed always to have vested in the Municipality.

243. Power of Municipality to make over to or to take over from, a statutory body the drainage and sewerage services :-

A Municipality may, with the prior approval of the Government, subject to such conditions, as the Municipality may determine, make over to, or take Over from a statutory body and drain or sewer or sewage disposal works for administration and management thereof.

244. Control of drains and sewage disposal works :-

All municipal drains and sewers, all sewage disposal works and all works, materials and things appertaining thereto, shall be under the control of the Municipality.

245. Power of drains:-

- (1) The Chief Officer of a Municipality may carry any municipal drain through, across or under any street or any place laid out as or intended for a street or under any cellar or vault, which maybe under any street and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal area or for the purpose of out-fall or distribution of sewage outside the municipal area of the municipality.
- (2) The Chief Officer may enter upon the construct any new drain in the place of an existing drain in any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

246. Alteration and discontinuance of drains:-

The Municipality may enlarge, alter the course of, lessen arch over or otherwise improve any municipal drain within the municipal area of the Municipality and may discontinue, close up or destroy any such drain which has, in its opinion, become useless or unnecessary, or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage:

Provided that if, by reason of anything done under this section, any person is deprived of the lawful use of any drain, the Municipality shall, as soon as may be, provide for his use, some other drain, as effectual, as the one, which has been discontinued, closed up or destroyed or the use of which has been prohibited.

247. Cleaning drains:-

- (1) The Municipal drains shall be so constructed, maintained and kept by the Municipality as to create the least practicable nuisance and shall, from time to time, be properly flushed, cleansed and emptied.

- (2) For the purpose of flushing, cleansing and emptying the said drains the Municipality may, construct or set up such reservoirs, sluices. Machines and other works, as it may, from time to time, determine.

248. Certain matters not to be passed into municipal drain:-

- (1) No person shall throw, empty or turn into any municipal drain or into drain communicating with a municipal drain,-
 - (a) Any matter likely to damage the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or
 - (b) Any chemical, refuse or waste steam, or any liquid of a temperature higher than forty-five degrees centigrade being refuse or steam which, or a liquid which when so heated, is either alone or in combination with the contents of the drain, dangerous or the cause of a nuisance, or prejudicial to health; or
 - (c) Any petroleum Class 'A', petroleum Class 'B', or petroleum Class 'C',
- (2) In this section, expression petroleum Class 'A' petroleum Class 'B' or petroleum Class 'C' has the same meaning as it has in the Petroleum Act, 1934 (Act 30 of 1934).

249. Application by owners and occupiers to drain into municipal drains:-

- (1) Subject to such conditions, as maybe laid down in the regulations made in this behalf, the owner or occupier of any premises having a private drain or the owner of any private drain within the municipal area may apply to the Chief Officer of a Municipality to have his drain made to communicate with the municipal drains and thereby to discharge foul water and surface from those premises:

Provided that nothing in this sub-section shall entitle any person:-

- (a) To discharge directly or indirectly into any municipal drain any trade effluent from any trade premises except in accordance with the provision of this Act or any liquid or other matter, the discharge of which into municipal drains, is prohibited by or under this Act or any other law for the time being in force; or
 - (b) Where separate municipal drains are provided for foul water and for surface water, to discharge directly or indirectly:-
 - (i) Foul water into a drain provided for surface water; or
 - (ii) Except with the permission of the Chief Officer, surface water into drain provided for foul water; or
 - (c) To have his drain made to communicate directly with a storm water overflow main.
- (2) Any person desirous of availing himself of the provisions of sub-section (1), shall give to the Chief Officer notice of his proposals, and at any time within one month after receipt thereof, the Chief Officer shall grant , permission or by notice to him, refuse to permit the communication to be made, if it appears to him that the mode of construction or condition of the drain is such that the making of the communication would be prejudicial to the drainage system, and for the purpose of examining the mode of construction and conditions of the drain he may, if necessary, require it to be laid open for inspection.

- (3) The Chief Officer may, if he thinks fit, construct such part of the work necessary for having a private drain made to communicate with a municipal drain as is in or under a public street and in such a case the expenses incurred by the Chief Officer, shall be paid by the owner or occupier of the premises, or, as the case maybe, by the owner of the private drain, and shall be recoverable from the owner or occupier as an arrear of tax under this Act.
- (4) The cost recovered by the Municipality from the owner or occupier of any premises for constructing the work, necessary for making a private drain to communicate with a municipal drain shall be spent only for the works relating to the municipal drains.

250. Drainage of undrained premises:-

- (1) Where any premises are, in the opinion of the Chief Officer of a Municipality, without sufficient means of effectual drainage and a municipal drain, or some place approved by him for the discharge of sewage and other polluted and obnoxious matter, is situated at a distance, not exceeding thirty meters from any part of the said premises, he may, by a written notice, require the owner of the said premises:-
 - (a) to construct a drain emptying into such municipal drain or place;
 - (b) to provide and set up all such appliances and fittings, as may appear to the Chief Officer to be necessary for the purpose of gathering and receiving the filth and other polluted and obnoxious matter from, and conveying the same off, the same premises and of effectually flushing such drain and every fixture connected therewith;
 - (c) to remove any existing drain or other appliances or thing used to intended to be used for drainage which is injurious to health;

- (d) to provide a closed drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution of any existing appliance or thing or to provide both a closed drain and such other appliance or thing in substitution of the existing open drain and other appliance or thing, which is or is likely to be injurious to health;
 - (e) to provide and set up all such appliances and fittings, as may appear to the Chief Officer to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed and conveying the same through spouts by down-take pipe, so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises; and
 - (f) to carry out any work to improve or re-model an existing drain which is inadequate, insufficient or faulty.
- (2) Where in any case, not provided for in sub-section (1), any premises are, in the opinion of the Chief Officer, without sufficient means of effectual drainage, he may, by written notice, require the owner of the premises, -
- (a) to construct a drain up to a point to be specified in such notice, but not at a distance of more than thirty meters from any part of the premises; or
 - (b) to construct a closed cesspool or soakage pit and drain under sub-section (2), may contain any of the details specified in sub-section (1).
- (3) Any requisition for the construction of any drain under sub-section (2), may contain any of the details specified in sub-section (1).

251. Premises not to be erected without drains:-

- (1) It shall not be lawful to erect or re-erect any premises in the municipal area or to occupy any such premises unless:-
 - (a) a drain is constructed of such size, materials and descriptions at such level and with such fall, as may appear to the Chief Officer of the Municipality to be necessary for the effectual drainage of such premises;
 - (b) there have been provided and set upon such premises such appliances and fittings, as may appear to the Chief Officer to be necessary for the purposes of gathering or receiving the filth and other polluted and obnoxious matter from the conveying the same of, the said premises and of effectually flushing the drain of the said premises and every fixture connected therewith.
- (2) The drain so constructed shall empty into a municipal drain situated at a distance of not exceeding thirty metres from the premises but if no municipal drain is situated within that distance then such drain shall empty into a cesspool situated within the distance to be specified by the Chief Officer for the purpose.

252. Power to drain group or block of premises by combined operation:- -

- (1) Where the Chief Officer of a Municipality is of the opinion that any group or block of premises may be drained more economically or advantageously in combination than separately, and a municipal drain of sufficient size already exists or is about to be constructed within thirty metres of any part of that group or block of premises, the Chief Officer may, cause that group or block of premises to be drained by a combined operation.

- (2) The expenses incurred in carrying out any work under sub-section (1), in respect of any group or block of premises, shall be paid by the owners of such premises in such proportions, as the Chief Officer may determine and shall be recoverable from them as an arrear of tax under this Act.
- (3) Not less than fifteen days before any such work is commenced, the Chief Officer shall give to each such owner :-
- (a) a written notice of the proposed work; and
 - (b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.
- (4) The owners for the time being of the several premises constituting a group or block, drained under sub-section (1), shall be the joint owners of every drain constructed, erected or fixed, or continued for the special use and benefit only of such premises, and shall in proportions in which it is determined that the owners of such premises are to contribute to the expenses incurred under sub-section (1), be responsible for the expenses of maintaining every such drain in good repair and efficient condition:

Provided that every such drain shall from time to time be flushed, cleansed and emptied by the Chief Officer and the cost of such work may be recovered from the owners concerned.

253. Power to close or limit the use of drain in certain cases:-

Where a drain connecting any premises with a municipal drain is sufficient for the effectual drainage of such premises and is otherwise unobjectionable, but is not, in the opinion of the Chief Officer of a Municipality adopted to the general system of drainage in the municipal area, he may, by written notice addressed to the owner of the premises, direct, -

- (a) that such drain be closed, discontinued or destroyed and that any work necessary for that purpose be done; or
- (b) that such drain shall, from such date, as maybe specified in the notice in this behalf, be used for sewage offensive matter and polluted water only or for rain water and unpolluted sub soil water only:

Provided that, -

- (i) no drain maybe closed discontinued or destroyed by the Chief Officer under clause (a), except on condition of his providing another drain equally effectual for the drainage of the premises and communicating with any municipal drain, which he thinks fit; and
- (ii) the expenses of construction of any drain so provided by the Municipality, and of any work done under clause (a), maybe paid out of Municipality Fund of the Municipality.

254. Use of drain by a person other than owner:-

- (1) Any person desiring to drain his premises into a municipal drain through a drain of which he is not an owner may, with the prior approval of the Chief Officer of the Municipality, make a private arrangement with the owner for permitting his use of the drain or may apply to the Chief Officer for authority to use such drain or to be declared joint owner thereof.
- (2) Where the Chief Officer either on receipt of an application under sub-section (1), or otherwise is of opinion that the only or the most convenient means of effectual drainage of the premises into a municipal drain is through a drain belonging to another person, the Chief Officer may, by notice in writing, require the owner of such drain to show cause within a period specified in the notice as to why an order under this section should not be made.

- (3) Where no cause is shown within the specified period or the cause shown appears to the Chief Officer invalid or insufficient, the Chief Officer, may, by an order in writing, either authorise the owner of the premises to use the drain or declare him to be the joint owner of the premises to use the drain or declare him to be the joint owner thereof.
- (4) An order made under sub-section (2), may contain directions as to, -
- (a) the payment of rent or compensation by the owner of the premises
 - (b) the construction of a drain for the premises for the purpose of connecting with the aforesaid drain:
 - (c) the entry upon the land in which the aforesaid drain is situated with assistants and workmen at all reasonable hours; and
 - (d) the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the aforesaid drain.

255. Obligation of owners of drains to allow use or joint ownership to others, -

Every owner of a drain connected with a municipal drain or other place legally set apart for the discharge of drainage, shall be bound to allow the use of it to others or to admit other persons as joint owners thereof, as referred to in sub-section (3) of Section 254.

256. Sewage and rain water drains to be distinct:-

Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent for the Chief Officer of a Municipality to require that there shall be one drain for sewage, offensive matter and polluted water and an entirely distinct drain for rain water or unpolluted sub-soil water or both rain water and unpolluted sub-soil water, each emptying into separate municipal drains or other suitable places.

257. Power to require owner to carry out certain works:-

For the purpose of efficient drainage of any premises the Chief Officer of a Municipality may be notice in writing, -

- (a) require any courtyard, alley or passage between two or more buildings to be paved by the owner or owners of such buildings with such materials and in such manner, as may be approved by the Municipality; or
- (b) require the level of such courtyard, alley or passage to be raised; or
- (c) require such paving to be kept in proper repair.

258. Special provision relating to trade effluent:-

Subject to the provisions of this Act and the regulations made thereunder and of any other law for the time being in force, the occupier of any trade premises may, with the approval of the Municipality or, in so far as may be permitted by this Act or the regulations made thereunder or any other law for the time being in force, without such approval, discharge into the municipal drains any trade effluent proceeding from those premises.

259. Special provisions regarding drainage of trade effluent:-

Notwithstanding anything contained in this Act or the regulations made thereunder or any usage, custom or agreement, where in the opinion of the Chief Officer of a Municipality, any trade premises are without sufficient means of effectual drainage and treatment of trade effluent or the drains thereof, though otherwise unobjectionable, are not adopted to the general drainage system of the municipal area, or the effluent is not of specified purity, the Chief Officer may be written notice require the owner or occupier of such premises:-

- (a) to discharge the treated trade effluent in such manner, at such times, through such drain and subject to such conditions, as may be specified in the notice and to cease to discharge the trade effluent otherwise than in accordance with the notice.
- (b) To purify the trade effluent before its discharge into a municipal drain and to set up for purifying the trade effluent such appliances, apparatus, fittings and plant, as may be specified in the notice.
- (c) To construct a drain of such material, size and description and laid at such level and according to such alignment and with such fall and outlet, as may be specified in the notice.
- (d) To alter, amend, repair or renovate any purification plant, existing drains, apparatus, plant fitting or article used in connection with any municipal or house-drain.

260. Position of cesspool:-

- (1) No person shall construct a cesspool:
 - (a) beneath any part of any building or within fifteen meters of any tank, reservoir, water-course or well;
 - (b) upon any site or in any position in the municipal area of a municipality, which has not been approved by the Chief Officer of the Municipality; or
 - (c) upon any site in any position outside the municipal area, which has not been so approved and is situated within ninety meters of any reservoir used for the storage of wholesome water to be supplied to the municipal area.
- (2) The Chief Officer may, at any time by written notice, require any person within whose premises any cesspool is constructed in contravention of sub-section (1), to remove such cesspool or to fill it up with such material, as may be approved by him.

261. Filth :-

- (1) No person shall within the area of a Municipality construct any house-drain, urinal or other receptacle, not being a cesspool, for sewage or offensive matter within fifteen metres of any tank, well or water-course or any reservoir for the storage of water, unless he first satisfies the Chief Officer of the Municipality that he will take such action, as will prevent any risk of sewerage or offensive matter passing by percolation or otherwise into such tank, well, water course or reservoir.
- (2) The Chief Officer may, at any time by a written notice, require any person within whose premises is situated, within fifteen meters of any tank, well, water course or reservoir for the storage of water, any receptacle mentioned or referred to in sub-section (1), to remove such receptacle.
- (3) The provisions of this section shall also apply to any such receptacle outside the municipal area, which is constructed or situated within fifteen meters of any reservoir used for the storage of wholesome water to be supplied to the municipal area.

262. Construction of septic tank and sanitary privies and urinals in unscrewed areas :-

Subject to the provisions of section 263 and such regulations, as may be made by the Municipality in this behalf, the Chief Officer of the Municipality may, permit in any unsewered area, the construction of septic tanks and sanitary privies and urinals connected with such septic tanks;

Provided that no such permission shall be granted unless in the opinion of the Chief Officer, there is sufficient open space available for the site of such septic tank;

Provided further that the disposal from septic tank shall be such as not to pollute ground water;

Provided further that the Chief Officer shall require that there is adequate supply of water in overhead reservoir constructed for the purpose to flush the proposed privies and urinals.

263. Connection with water-works mains and drains not to be made without permission :-

Without the written permission of the Chief Officer of a Municipality, no person shall for any purpose whatsoever, at anytime, make or cause to be made any connection or communication with any drain referred to in section 244 or any water-works or mains constructed or maintained by, or vested in, the Municipality.

264. Buildings etc. not to be erected or constructed without permission:-

- (1) Without the permission of the Municipality, no railway or private street shall be constructed and no building, wall, fence or other structure shall be erected on any municipal drain or on any water-works constructed or maintained by, or vested in, the Municipality.
- (2) If any railway or private street is constructed or any building, wall fence or structure erected on any drain or water-works as aforesaid, without such permission of the Municipality, the Chief Officer may remove or otherwise deal with the same as he may think fit.
- (3) The expenses incurred by the Chief Officer in so doing shall be paid by the owner of the private street or of the building, fence, wall or other structure or, as the case may be, by the railway administration or the person offending, and shall be recoverable as an arrears of tax under this Act.

265. Rights of user of property for aqueducts, lines etc :-

- (1) The Chief Officer of a Municipality may, place and maintain aqueducts, conduits and lines of mains of pipes or drains over, under, along or across any immovable property whether within or outside the local limits of the municipal area of a Municipality without acquiring the same, and may at any time for the purpose of examining, repairing, altering or removing any aqueducts, conduits or lines of mains or pipes or drains, after giving a reasonable notice of his intention so to do, enter on any property over, under, along or across which the aqueducts, conduits or lines of mains or pipes or drains have been placed:

Provided that the Municipality shall not acquire any right other than a right of user in the property over, under, along or across which any aqueduct, conduit or line of mains or pipes, or drain is placed.

- (2) The powers conferred by sub-section (1), shall not be exercisable in respect of any property vested in the State Government or under the control or management of the Government of India or railway administration vested in any local authority, save with the permission of the State Government, or Government of India or railway administration or the local authority, as the case may be, and in accordance with any regulations made in this behalf:

Provided that the Chief Officer may, without such permission, repair, renew or amend any existing works of which the character or position is not to be altered, if such repair, renewal or amendment is urgently necessary in order to maintain without interruption, the supply of water, drainage or disposal of sewage or is such that any delay would be dangerous to health, human, life or property.

- (3) In exercise of the powers conferred upon him by this section the Chief Officer shall cause as little damage and inconvenience, as may be possible and shall make full compensation for any damage or inconvenience caused by him.

266. Power to authorize owner :-

- (1) If it appears to the Chief Officer of a Municipality that the only or most convenient means of water supply to, and drainage of, any premises is by placing or carrying any pipe or drain over, under, along or across the immovable property of another person, the Chief Officer may, by order in writing, authorise the owner of the premises to place or carry such pipe or drain over, under, along or across such immovable property:

Provided that before making any such order, the Chief Officer shall, give to the owner of the immovable property, a reasonable opportunity of showing cause within such time, as may be specified by regulations made in this behalf as to why the order should not be made:

Provided further that the owner of the premises, shall not acquire any right other than a right of user in the property over, under, along or across which any such pipe or drain is placed or carried.

- (2) Upon the making of an order under sub-section (1), the owner of the premises may, after reasonable notice of his intention so to do, enter upon the immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of placing a pipe or drain over, under, along or across such immovable property or for the purpose of repairing the same.
- (3) In placing or carrying a pipe or drain under this section, as little damage as possible shall be done to the immovable property and the owner of the premises shall, -
- (a) cause the pipe or drain to be placed or carried with the least practicable delay;
 - (b) fill in, reinstate and make good at his own cost and with the least practicable delay, any land opened, broken up or removed for the purpose of placing or carrying such pipe or drain; and

- (c) pay compensation to the owner of the immovable property and to any other person, who sustains damage by reason of the placing or carrying of such pipe or drain.
- (4) If the owner of the immovable property, over, under, along or across which a pipe or drain has been placed or carried under this section, whilst such immovable property, was not built upon, desire to erect any building on such property, the Chief Officer shall, by notice in writing, require the owner of the premises to lose, remove or divert the pipe or drain in such manner, as shall be approved by him and to fill in, reinstate and make good the immovable property as if the pipe or drain had not been placed or carried over, under, along or across the same:

Provided that no such requisition shall be made unless in the opinion of the Chief Officer it is necessary or expedient for the construction of the proposed building or the safe enjoyment thereof that the pipe or drain should be closed, removed or diverted.

267. Requirement to inform certain cases :-

If the Municipality desires to place or carry any pipe or drain or do any other work connected with the water supply for drainage across any railway line, it shall inform the railway administration, who may execute the same at the cost of the Municipality.

268. Power to execute work, -

- (1) When under the provisions of this Act, any person may be required or is liable to execute any work in relation to water supply, drainage and sewerage within the municipal area of a Municipality, the Chief Officer of the Municipality may in accordance with the provisions of this Act and of the regulations made in this behalf cause such work to be executed after giving such person an opportunity of executing the same within such time, as may be specified by him for this purpose.

- (2) The expenses incurred or likely to be incurred by the Chief Officer in the execution of any such work, shall be payable by the said person and the expenses incurred by the Chief Officer in connection with the maintenance of such work or the enjoyment of amenities and conveniences rendered possible by such work, shall be payable by the person or person enjoying such amenities and conveniences.
- (3) The expenses referred to in sub-section (2), shall be recoverable from the person or persons liable therefor as an arrears of tax under this Act.

269. Power to affix shafts etc. for ventilation :-

For the purpose of ventilating any drain or cesspool whether vested in the Municipality or not, the Chief Officer of the Municipality may, in accordance with the regulations made in this behalf, erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe, as may appear to him to be necessary.

270. Power to examine and test drains :-

- (1) Where it appears to Chief Officer of a Municipality that there are reasonable grounds for believing that within Municipal area of a private drain or cesspool is in such condition, as to be prejudicial to health or a nuisance or that a private drain, communicating directly or indirectly with a municipal drain, is so defective as to, admit sub-soil water, he may examine condition, and for that purpose may apply any test other than a test by water under pressure, and if he deems it necessary may open the ground.
- (2) If on examination, the drain or cesspool is found to be in proper condition, the Chief Officer shall, as soon as possible, reinstate any ground, which has been opened by him and make good any damage done by him.

271. Employment of Government agencies for repairs, etc. :-

The Government may, for reasons to be recorded direct that any specified work, repair, renewal or replacement, which is to be undertaken by or for the Municipality, shall be carried out on behalf of the Municipality by the Government, and Municipality shall pay to the Government the charges therefor at the rates and subject to the terms for the time being applicable in case of works, constructed by the Government on behalf of a local authority.

272. Work to be done by licensed plumber :-

- (1) The Municipality may grant license to any person possessing such technical qualifications, as may be prescribed to act as a licensed plumber.
- (2) No person other than a licensed plumber, shall execute any work described in Chapter II and Chapter III of this Part and no person shall permit any such work to be executed except by a licensed plumber:

Provided that if, in the opinion of the Chief Officer of the Municipality, the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

- (3) Every person who employs a licensed plumber to execute any work shall, when so required, furnish to the Chief Officer, the name of such plumber.
- (4) When any work is executed, except in accordance with the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Chief Officer without prejudice to the right of the Municipality to prosecute under this Act the person at whose instance such work has been executed.
- (5) The Municipality may, make regulations for the guidance of licensed plumbers and a copy of all such regulations shall be attached to every license granted to a plumber by the municipality.

- (6) The Municipality may, from time to time, determine the charges to be paid to licensed plumbers for any work done by them under or for any of the purpose of the Act.
- (7) No licensed plumber shall, for any work referred to in sub-section (6), demand or receive more than the charges determined therefor, under that sub-section.
- (8) The Municipality shall make regulations providing for, -
 - (a) the exercise of adequate control on all licensed plumbers;
 - (b) the inspection of all works carried out by them; and
 - (c) the hearing and disposal of complaints made by the owners or occupiers of premises with regard to the quality of work done, material used, delay in execution of work and the charges made, by a licensed plumber.
- (9) No licensed plumber shall contravene any of the regulations made under this Act or execute carelessly or negligently any work under this Act or make use of bad or inferior quality materials, appliances or fittings.
- (10) If any licensed plumber contravenes sub-section (9), his license may be suspended or cancelled whether he is prosecuted under this Act, or not.

273. Prohibition of certain acts, -

- (1) No person shall, -
 - (a) willfully obstruct any person acting under the authority of the Municipality or the Chief officer of the Municipality, in setting out the lines of any works or pull up or remove any pillar, post or stake fixed in the ground for the purpose of setting out lines of such work, or deface or destroy any works made of or the same purpose; or

- (b) willfully or negligently break, damage, turn on, open, close, shut off or otherwise interfere with any lock, cock valve, pipe, meter or other works or apparatus belonging to the Municipality; or
- (c) unlawfully obstruct the flow of , or flush, draw off, or divert or take water from any water works belonging to the Municipality or any water course by which any such water-works is supplied; or
- (d) unlawfully obstruct the flow of, or flush, draw off, divert or take sewage work belonging to the Municipality or break or damage any electrical transmission line maintained by the Municipality : or
- (e) throw any material including plastic bags and containers or waste of dairies, piggeries and poultry farms into any municipal drain or sewer; or
- (f) obstruct any officer or other employee of the Municipality in the discharge of this duties under Chapter II, Chapter III of this Part or refuse or willfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry there under in relation to any water or sewage work; or
- (g) bathe in, at or upon any water-works or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water works so wash or clean therein any cloth, wool or leather or the skin or any animal, or cause the water of any sink or drain or any steam-engine or boiler or any polluted water to turn or be brought into any water-works, or do any other act, whereby the water in any water-works, is fouled or likely to be fouled.

- (2) Nothing in clause (b) of sub-section (1), shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

274. Sewerage charge and sewerage cess, -

- (1) The Municipality shall levy sewerage charges on the owners of premises for connection of premises to sewerage mains at such rate, as the Government may, from time to time, fix.
- (2) Where the owner of any premises in a locality where sewer is laid by the municipality has not taken connection from the sewerage mains, he shall be liable to pay the sewerage cess at such rate, as the Government may, from time to time, fix:

Provided that where the owner fails to pay the sewerage cess, the sewerage cess shall be realized from the occupier and the occupier shall be entitled to recover the amount from the owner.

- (3) The connection of premises to sewerage mains shall be provided within a period of one month from the date of the receipt of the application from the owner of the premises.
- (4) The charges received by the Municipality from the owner of the occupier, for connecting the premises to sewerage mains shall be spent only for the works relating to the sewerage system.

275. Entrustment and maintenance of sewerage works and billing and collection of sewerage works and billing and collection of sewerage charges.

The Municipality may, with the prior approval of the Government, entrust the work of operation and maintenance of sewerage works in the municipal area and the work of billing and collection of sewerage charges to any Government, statutory or private agency.

276. Municipal supply, sewerage and Drainage Code :-

- (1) All private connections of premises to the service mains of the Municipality for the supply of water thereto and all pipes, taps and other water-fittings, used for such supply, and all drains, pipes and appurtenances thereto, shall be made, maintained and regulated in accordance with and subject to such rules, as may be made in this behalf, and such rules shall form a part of a Municipal water Supply, Sewerage and Drainage Code:

Provided that in making such rules, due regards shall be given to the relevant codes relating to water supply, sewerage and drainage and other matters related thereto, published by the Bureau of Indian Standards, from time to time.

- (2) The rules shall specify the requirements with which an owner, or a lessee or an occupier of any premises who desires to have a supply of water from the municipal water works or to connect to municipal drain shall comply.
- (3) The rules shall provide for inspection of premises by the Chief Officer of a municipality to ascertain compliance with the provisions of sub-section (1) and for testing any water fittings, used in connection with water supplied by the Municipality.

- (4) Notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), the Municipal Water Supply, Sewerage and Drainage Code shall include such rules, as may be made from time to time relating to the construction, maintenance, repair and alteration of drains, privies and urinals, cesspools and of appurtenance thereof and any other matter covered by Chapter II or Chapter III of this Part.

277. Collection, removal disposal of solid wastes :-

For the purpose of securing the efficient scavenging and cleaning of all streets, public places and premises in the municipal area of a Municipality, the Municipality shall undertake the functions of collection, removal and disposal of solid wastes.

278. Cleaning of streets and removal of solid wastes :-

- (1) The Chief Officer of a Municipality shall take measures for securing,
- (a) the surface-cleaning of all streets in the Municipal area and removal of sweeping therefrom;
 - (b) the removal of the contents of all receptacles and depots and of the accumulations at all places provided or appointed by him under the provisions of this Act for the temporary deposit of rubbish, trade refuse, carcasses of dead animals, filth and excrementitious and polluted matter;
 - (c) the removal of special wastes and hazardous wastes and other solid wastes from hospitals and other premises;
 - (d) removal of wastes generated by bulk producer and from multistoried buildings.
- (2) The Chief Officer may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (1), may be removed along a street or may be deposited or other-wise disposed off.

279. Provisions for appointment of receptacles, depots and places for rubbish, etc, -

- (1) The Chief Officer of a Municipality shall :-
 - (a) provide or appoint in proper and convenient situations within the municipal area of the Municipality, public receptacles, depots or places for the temporary deposit of -
 - (i) rubbish
 - (ii) offensive matter
 - (iii) filth
 - (iv) trade refuse
 - (v) carcasses of dead animals
 - (vi) excrementitious matter
 - (vii) plastics and plastic material
 - (viii) bio-medical waste
 - (ix) other polluted and obnoxious matters

And for the final disposal of such rubbish, offensive matter, filth, trade refuse, car-casses of dead animals, excrementitious matter, plastics and plastic material, bio-medical waste and other polluted and obnoxious matters;

- (a) provide in the municipal area dustbins or the temporary deposit of rubbish;
- (b) provide vehicles or other suitable means for the removal of rubbish and offensive matter; and
- (c) provide covered vehicles or vessels for the removal of rubbish, offensive matter, filth, trade refuse, carcasses of dead animals, excrementitious matter, plastics and plastic material, bio-medical waste, and other polluted matters.

- (2) Different receptacles, depots or places may be provided or appointed for the temporary deposit or final disposal of any of the matters specified in sub-section (1).
- (3) The Chief Officer shall make adequate provisions for preventing receptacles, depots, dustbins, vehicles and vessels referred to in sub-section (1) from becoming source of nuisance.
- (4) The Municipality may construct, acquire, operate, maintain, develop or manage any garage or work, for proper maintenance of vehicle or vessels or means for removal of solid wastes under sub-section (1).

280. Rubbish, etc., to be property of Municipality. -

All matters deposited in public receptacles, depots and places, provided or appointed under section 279 and all matters collected by the municipal employees or contractors in pursuance of section 278 and section 286, shall be the property of the Municipality.

281. Appointment of places for disposal and final disposal of solid wastes :-

The Municipality may cause the solid wastes to be disposed of at such place or places within or outside the municipal area and in such manner, as it considers suitable:

Provided that no place, which has not been before the commencement of this Act, used for the purpose specified in this section, shall be used, except in conformity with the provisions of the Nagaland Town and Country Planning Act, 1966 (Act No. 4 of 1966), and any other law relating thereto for the time being in force:

Provided further that the solid wastes shall not be finally disposed of in any manner in which the same have not hereto before been so disposed of or in any manner which the Government may think fit to disallow.

282. Provision of means for processing of solid wastes :-

The Municipality may, for the purpose of receiving, storing, treating, processing and disposing solid wastes or converting such solid wastes into compost, re-cycling or generation of energy, construct, acquire, operate, maintain, develop, and manage any work within or outside the municipal area.

283. Solid waste management :-

Subject to the other provisions of this Chapter the Chief Officer of a Municipality shall perform all the functions and manage all the places or works related to collection, removal and disposal of solid wastes accumulating in the municipal area.

284. Duty of owners and occupiers :-

- (1) It shall be the duty of the owners and occupiers of all premises in the municipal area, -
 - (a) to have the premises swept and cleaned;
 - (b) to cause all rubbish, offensive matter, filth, trade refuse, if any, carcasses of dead animals, excrementitious matter, plastics and plastic material, bio-medical waste and other polluted and obnoxious matters to be collected from their respective premises and to be deposited at such times, as the Chief Officer of the Municipality, by public notice specifies, in public receptacles, depots or places provided or appointed under section 279 for temporary deposit or final disposal thereof;
 - (c) to provide receptacles of the type and in the manner directed by the Chief Officer for the collection therein of all rubbish offensive matter, filth, trade refuse, of any, carcasses of dead animals, excrementitious matter, plastics and plastic material, bio-medical waste and other polluted and obnoxious matters from such premises and to keep such receptacles in good conditions and repair.

- (2) The Municipality may for the purpose of collection and deposit of rubbish, supply bags to the owners and occupiers.

285. Collection and removal of filth and polluted matter etc :-

It shall be the duty of the owners and occupier of every premises situated in any portion of the municipal area in which latrine or urinals are not connected by a drain with a municipal sewer or drain, to cause all filth and polluted and obnoxious matter accumulating upon such premises to be collected and removed to the nearest receptacle or depot provided for this purpose under section 279 at such times, in such vehicles or vessel, by such route and with such precautions, as the Chief Officer of a Municipality may, by public notice; direct:

Provided that nothing in this section shall prevent the Chief Officer from taking any action in respect of such premises under section 289.

286. Collection and removal of filth etc., by Municipality, -

- (1) Where the Chief Officer of a Municipality has given public notice in respect of any portion of the municipal area of the Municipality that the collection, removal and disposal of all filth and polluted and obnoxious matter from latrines, urinals and cesspools will be undertaken by an agency of the Municipality, it shall be lawful for the Chief Officer to take measures for the daily collection, removal and disposal of such filth and polluted and obnoxious matter from all premises situated in that portion of the municipal area:

Provided that in areas where the municipal drains and sewers have been laid, the Chief Officer may, in accordance with such scheme, as may be prepared for such purpose or otherwise, by order, require the owner or the occupier, as the case may be, of any premises to convert the service privies or latrines to sanitary latrines and such owner or occupier shall, comply with the order of the Chief Officer.

- (2) In such portion of the municipal area and in any premises wherever situated, in which there is a latrine or urinal connected with a municipal sewer or drain, it shall not be lawful, except with the written permission of the Chief Officer, to discharge any of the duties of scavengers.

287. Removal of solid wastes accumulated on non-residential premises:-

The Chief Officer of a Municipality may, if he thinks fit, -

- (a) by written notice, require the owner or the occupier of any premises used :-
- (i) as factory, workshop or for carrying on any manufacture; or
 - (ii) as a trade premises or shops or as a market or slaughter house; or
 - (iii) as a hotel, eating house, or restaurant; or
 - (iv) as a hospital or nursing home; or
 - (v) as a warehouse or godown; or
 - (vi) as a piggery, dairy or poultry farm; or
 - (vii) as a place to which large number of persons resort; or
 - (viii) in any other way as may be specified in the notice.

Where rubbish, offensive mater, filth, trade refuse, special wastes, hazardous wastes or excrementitious matter, plastics and plastic material, bio-medical waste and polluted matters, are accumulated or are likely to accumulate in large quantities, to collect such matters accumulating thereon and to remove the same at such time and in such trailers or receptacles and by such routes, as may be specified in the notice, to a depot or place provided or appointed by the Municipality for the purpose; or

- (b) after giving such owner or occupier notice of his intention, cause all rubbish including building, rubbish, offensive matter, trade refuse, special wastes, hazardous wastes of excrementitious matter, plastics and plastics materials, bio-medical waste and polluted matter accumulated in such premises to be removed and charge the same owner or occupier for such removal such fee as may, subject to the rates determined by the Municipality, be specified in the notice issued under clause (a) :

Provided that no rate shall be less than such unit cost of removal of solid wastes (including the cost for debt servicing, depreciation and other charges, if any, of vehicle or vessels or means for removal) as the Municipality may determine from time to time; or

- (c) by written notice, require the owner or the occupier of any premises referred to in clause (a) to provide receptacles or trailers or other means on such premises constructed from such materials and of the type and in the manner specified by the Chief Officer for the collection therein of all rubbish including building rubbish, offensive matter, filth, trade refuse, special waste, hazardous wastes or excrementitious matter, plastics and plastic materials, bio-medical waste and polluted matters, accumulating in the premises; or
- (d) by public notice require any person carrying on any trade or business in a manner that accumulates rubbish, offensive matter, filth, trade refuse special waste, hazardous wastes or excrementitious matter, plastics and plastics material, bio-medical waste and polluted matters, to pay such costs for removal of the same, as the Municipality may incur in this regard.

288. Prohibition against accumulation of rubbish, etc. :-

- (1) No owner or occupier of any premises shall keep or allow to be kept for more than twenty-four hours or otherwise than in a receptacle approved by the Chief Officer of a Municipality, any rubbish, filth and other polluted and obnoxious matter on such premises or any place belonging thereto or neglect to employ proper means to remove such rubbish, filth and other polluted and obnoxious matter from, or to cleanse, such receptacle and to dispose of such rubbish, filth and other polluted and obnoxious matter in the manner directed by the Chief Officer, or fail to comply with any requisition of the Chief Officer as to the construction, repair, pavement or cleansing of any latrine, or urinal or belonging to the premises.
- (2) No owner or occupier shall allow the water of any sink, drain, latrine, or urinal or any rubbish, filth and other polluted and obnoxious matter to run down on or to, or be thrown or put upon, any street or into any drain in or along the side of any street except in such manner, as shall prevent any avoidable nuisance from any such water, rubbish filth or other polluted and obnoxious matter.
- (3) No person shall, after due provision has been made in this respect under the foregoing provisions of this Chapter for the deposit and removal of the same, -
 - (a) deposit any rubbish, filth and other polluted and obnoxious matter in any street or on the verandah of any building or on any unoccupied ground along the side of any street or on the banks of a water course; or

- (b) deposit any filth or other polluted and obnoxious matter in any dustbin or in any vehicle not intended for the removal of the same; or
- (c) deposit rubbish in any vehicle or vessel not intended for the removal of filth and other polluted and obnoxious matter.

289. Power to get places cleansed :-

If any street or public place under the control of the Government or any statutory body, or any premises to which large number of persons resort to, is not properly or regularly scavenged or is, in the opinion of the Chief Officer of a Municipality, in a filthy and unwholesome condition, the Chief Officer may, by written notice, require the owner or the occupier to do the scavenging or cleansing or may cause scavenging or cleansing to be done and the cost of such scavenging or cleaning shall be recovered from the owner or the occupier thereof.

290. Not to sanction building in certain cases :-

- (1) The Municipality may, by regulations, determine any class or classes of buildings in the cases of which, any building plan shall not be sanctioned, except in conformity with the regulations made by the Municipality for construction on the premises of receptacle for temporary deposit of solid wastes.
- (2) The Municipality may, by regulations, determine the types, materials of construction or designs on the basis of which such receptacles, trailers or other means for removal of solid wastes may be constructed and where these may be located in any premises, and the person applying for sanction of building plan, shall be bound to construct the same accordingly.

- (3) Without prejudice to the generality of the foregoing provisions, the Municipality shall by regulations specify the requirements for receptacles, trailers or other means for removal or for temporary deposit of solid wastes in premises used as, -
- (a) markets; or
 - (b) hotels or restaurants or
 - (c) hospitals or nursing homes or pathological laboratories; or
 - (d) factories registered under the Factories Act, 1984 (Central Act 63 of 1948); or
 - (e) building with a height of eighteen metres or more.

291. Deposit of any solid in contravention of the provisions of this Act, :-

No person shall :-

- (a) deposit or throw or cause or permit to be deposited or thrown any solid waste on or in any place in contravention of the provisions of this Act, and the regulations made thereunder;
- (b) cause or knowingly or negligently allow the contents of any sink, sewer or cesspool or any other offensive matter to flow, drain or be put upon any street or public place, or into any irrigation channel or sewer or drain not set apart for the purpose;
- (c) make or cause to be made, or alter or cause to be altered, any drain leading into any of the sewers or drain vested in the Municipality.

PART - VI

LAND USE AND DEVELOPMENT CONTROLS OF PUBLIC PLACES AND STREETS.

CHAPTER - I

292. Vesting of public street in Municipality : -

- (1) All public streets and parking areas in the municipal area of a municipality including the soil, sub-soil, stones, others materials, side-drains, footpaths, pavements, sub-ways and over bridges and all erection, implements and trees and other things provided therein, shall vest in the Municipality constituted for that municipal area:

Provided that no public street in a municipal area, which immediately before the commencement of this act, vested in the Government or in any statutory body shall, unless so directed by the authority competent to take a decision in this behalf, vest in the municipality constituted for municipal area by virtue of this sub-session.

- (2) The Government may, subject to such terms and conditions, as it may determine, by notification, -
- (a) transfer to any Municipality any public street, parking area park or garden belonging to the Government; or
 - (b) take over from any municipality any public street, parking area, park or garden; or
 - (c) transfer such public street, parking area, park or garden so taken over to any statutory authority or any agency public or private;

for a limited period for the purpose of proper maintenance and development of such public street, parking area, park or garden by such Municipality, the Government or such statutory body or agency, as the case may be.

- (3) The Municipality shall maintain a register in such form and in such manner, as may be prescribed and such register shall separately include a list of all public streets vested in the Municipality or in such other statutory bodies.

293. Functions of Municipality in respect of public streets etc. :-

- (1) The Municipality shall cause all public streets, parking area, squares, sub-ways, over bridges, parks and gardens vested in it to be developed, maintained, controlled, and regulated in accordance with this act and regulations made in this behalf.
- (2) The Municipality shall from time to time cause all public streets vested in it to be leveled, metalled, paved, channeled, altered or repaired and may widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered or may place and repair, fences and posts for the safety of pedestrians.
- (3) The Municipality shall, from time to time, cause various items of streets furniture including guard rails, traffic lights, traffic signs, street markings, median strips and such other items to be installed or done and shall cause the same to be maintained so as to ensure public safety, convenience and expeditious movement of traffic, including pedestrian traffic.

294. Municipal streets Technical Committee: -

- (1) Municipal Council or a Town Council, as the case may be, shall constitute a Municipal streets Technical Committee with not less than 3 members.

(2) In condition to the members elected in sub-section (1), the Municipal Streets Technical Committee shall have five other members, namely: -

- (a) the chief Officer of the Municipality who shall be the Convenor member of the Committee;
- (b) a Police Officer, not below the rank of a Deputy Superintendent of Police, to be nominated by the senior Superintendent of Police of the district concerned;
- (c) the Municipal Fire Officer of the Municipality or Fire Officer of the State Government having jurisdiction in the municipal area;
- (d) the Municipal Engineer of the Municipality; and
- (e) the Municipal Town Planner, and where there is no such Municipal Town Planner or Regional Town Planner having jurisdiction in that municipal area.

(3) The term of the Municipal Streets Technical Committee shall be one year from the date of its constitution and the new Municipal Streets Technical Committee shall be constituted before the expiry of the term of the existing Municipal Streets Technical Committee;

Provided that an elected member shall not eligible for election of member of the Municipal Streets Technical Committee for more than two terms;

Provided further that the existing Municipality Streets Technical Committee shall continue to function till the new Municipal Streets Technical Committee is constituted.

(4) The Municipal Streets Technical Committee shall meet at least once in a month.

(5) The Municipal Streets Technical Committee shall, in order to secure the expeditious, convenient and safe movement of traffic, including pedestrian traffic, and suitable and adequate parking facilities on and off the public streets, and with due regard to,-

- (a) the desirability of securing and maintaining reasonable access to premises;
- (b) the effect on the amenities of any locality affected; and
- (c) any other relevant matter referred to it by the Municipality. and, advise and assist, the Municipality in the following manners namely :-
 - (i) classification of public streets and specification of width thereof;
 - (ii) prescription of regular line of street;
 - (iii) regulation of abutting land uses;
 - (iv) regulation of traffic;
 - (v) designation of on-street parking areas;
 - (vi) allocation of rights of way for underground utilities;
 - (vii) placement of street furniture;
 - (viii) placement of authorized fixtures on streets, such as electric and telegraph poles, post boxes, telephone junction boxes. Sheds for buses, milk booths and the like;
 - (ix) opening of new public streets;
 - (x) permanent or temporary closure of existing public streets;
 - (xi) declaring private streets as public streets, and
 - (xii) any other matter that may be referred to it by the Municipality.

- (6) The Municipal streets Technical Committee shall, while making any recommendation to the Municipality on any matter conform to the master plan or any scheme specified in section 371 or any other development and improvement scheme prepared by any competent authority under any law in force for the time being and shall take into account such plans, proposals, surveys, studies and supporting technical data on such matter, as might be in the possession of the Municipality or any planning or development authority or any Department of the Government or any such competent authority.
- (7) The Municipal Streets Technical Committee may call for any paper, document, map or data from any Municipality or any planning and development authority or any Department of the Government or any competent authority and thereupon it shall be the duty of such authority or Department to comply with such requisition.
- (8) The Municipality shall consider the recommendations of the Municipal Streets Technical Committee and take such decisions thereon as it thinks fit after taking into account plans, proposals, surveys, studies, schemes and programmes, if any, referred to in sub-section (6)
- (9) If any doubt, arises as to whether the decision taken under sub-section (8), is in conflict with any plan, scheme or programme of any competent authority under any other law in force for the time being, the matter shall be referred to the Government, whose decision thereon shall be final.

295. Rights or way for underground utilities :-

Subject to the provisions of the Indian Telegraph Act, 1885 (Act 13 of 1885), the Indian Electricity Act, 1910 (Act 9 of 1910), and such other Act, as may be notified by the Government for the purpose of this section, the Government may by rules provide for the following, namely :-

- (a) The sanction by the Municipality of specific rights of way in the sub-soil of public and private streets in any municipal area for different public utilities including electric supply, telephone or other telecommunication facilities, gas pipes, water supply, sewerage and drainage, and underground rail system, pedestrian subways, shopping plazas, Warehousing facilities and the apparatus and appurtenances related thereto provided by Government, any statutory body or any licensee under any of the above mentioned Acts;
- (b) the levy of any fee or charges permissible under any of the above mentioned Act;
- (c) the furnishing to the Municipality of maps, drawings and statements, which shall enable it to compile and maintain the precise records of the placement of the underground utilities in the municipal area;
- (d) the fixing of time limit for execution for of work and imposing such conditions in this respect, as the Municipality may consider appropriate; and
- (e) the imposing of penalty in case of delay in the completion of work.

296. Maps of underground utilities. -

The Chief Officer of the Municipality shall, cause to be maintained complete survey maps, drawings and descriptions of all the underground utilities in the municipal area of the Municipality, and of maps of fire hydrants and sewerage man-holes in such form and in such manner, as may be prescribed and shall, ensure the secrecy of the same in conformity with the provisions of the Official Secrets Act, 1923 (Act 19 of 1923).

297. Power to make new public streets :-

The Municipality may, at any time,-

- (a) lay out and make new public streets; and
- (b) construct bridges and sub-ways; or
- (c) turn or divert any existing public street; or
- (d) lay down and determine the position and direction of a street or streets in any part of the municipal area notwithstanding that no proposal for the erection of any building in its vicinity has been received; or
- (e) declare any street, made and duly executed either under any scheme specified in section 371 or any development or improvement scheme in pursuance of the provisions of any law for the time being in force or by any other statutory body, to be a public street; or
- (f) declare any private street to be a public street; or
- (g) define the regular line of a street or streets.

298. Minimum width of new public streets.-

No new public street made or declared under this Chapter, shall be less than ten meters in width, including the footpath:

Provided that such width may be reduced by the Municipality for reasons to be recorded in writing, but the width shall in no case be less than six meters.

299. Power to acquire lands and buildings for public streets and for public parking places :-

The Municipality may, subject to the other provisions of this Act,-

- (a) acquire any land required for the purpose of opening, widening, extending or otherwise improving any public street, or of making a new one, together with any building standing upon such land;

- (b) acquire, in relation to any land or building as aforesaid, such and with building, if any, thereon outside the regular line or the projected regular line of such public street; and
- (c) acquire any land for the purpose of laying out or making a public parking place.

300. Permanent closure of public street :-

The Municipality may permanently close the whole or any part of a public street in the public interest or for the purpose of carrying out the provisions of this Act:

Provided that before closing of such public street, the Municipality shall, by notice publish in the manner specified by regulations, give reasonable opportunity to the residents likely to be affected by such closure to make suggestions and objections with respect to such closure and shall consider all such suggestions or objections which may be made within one month from the date of publication of the said notice.

301. Disposal of land forming site of public street permanently closed:-

Whenever any public street or a part thereof is permanently closed under section 300, the site of such street or any portion thereof, may be disposed of as land vested in the Municipality.

302. Temporary closure of public street :-

The Chief Officer of a Municipality may, temporarily close the whole or any part of a public street to permit development and maintenance work, and may authorise such closure for other purposes for any period not exceeding fifteen days.

303. Closure of public street for parking purposes and levy of parking fee :

- (1) The Municipality may, close any portion of a public street and declare it as a parking area.

- (2) Parking fees at different rates for different types of vehicles, for different areas, for different time of the day, and for different duration, may be levied at such rates, as may be determined by the Municipality by regulations.

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

- (1) The Municipality may, -
- (a) prohibit or regulate, either temporarily or permanently, vehicular traffic in any public street or any portion thereof so as to prevent danger, obstruction or inconvenience to public or to ensure quietness in any locality;
 - (b) prohibit, in respect of a public street or a portion thereof, the transit of any vehicle of such type, form, construction, weight, emission or size, or of any vehicle laden with such heavy or unwieldy object, as is likely to cause injury to the roadways or any construction thereon, or of any vehicle on the ground of public convenience, except under such conditions as to time, mode of traction or locomotion, use of appliances for the protection of roadways, number of lights and assistant, and other general precautions and upon the payment of such charges as may be specified by the Municipality generally or specifically in each case;
 - (c) prohibit, at all times or during any particular hours, entry from or exit to premises of vehicular traffic from any particular public street carrying such traffic.
- (2) Any notice of prohibition under sub-section (1), shall, if such prohibition applies to any particular public street, be pasted in conspicuous places at or near the both ends of such public street or any portion thereof to which such prohibition applies or, if such prohibition applies generally to all public streets, be advertised.

- (3) Notwithstanding anything contained in sub-section (1), the Municipality may declare, by public notice, that any pedestrian pathway or a portion thereof shall be used as bicycle and pedestrian track.
- (4) The notice referred to in sub-section (3), shall be pasted in conspicuous places or near both ends of such public street of any portion thereof to which the provisions of sub-section (3) apply.

305. Regular line of a street. -

- (1) The Municipality may, with due regard to the minimum widths specified for various categories to streets including the footpaths abutting the same, define the regular line on one or both sides of any public street or portions thereof in accordance with regulations made in this behalf and may, redefine at any time any such regular line:

Provided that, before defining or re-defining, as the case may be, the Municipality shall, by public notice, afford a reasonable opportunity to the residents of premises abutting on such public street to make suggestions or objections with respect to the proposed defined or redefined line to the street and shall consider all such suggestions or objections, which may be made within one month from the date of publication of such notice:

Provided further that the street alignment of any public street operative under any law in any part of the municipal area immediately before the commencement of this Act, shall be deemed to be a regular line, defined by the Municipality under this sub-section.

- (2) The line for the time being defined or redefined, shall be called the regular line of the street.
- (3) No person shall construct or reconstruct any building or a portion thereof or any boundary wall or other structure whatsoever within the regular line of a street.

- (4) The Chief Officer of a Municipality shall, maintain a register containing such particulars, as may be specified by the Municipality in this behalf with plans attached thereto showing all public streets in respect of which the regular line, of the street has been defined or redefined and containing any other particulars which the Chief Officer may deem necessary.
- (5) All such registers shall be open to inspection by any person on payment of such fee, and any extract therefrom may be supplied on payment of such charges, as may be determined by the Municipality by regulations.

306. Setting back building to regular line of street. -

- (1) If any part of a building abutting on a public street is within the regular line of the street, the Municipality may, whenever it is proposed, -
 - (a) to repair, rebuild or construct such building or to pull down such building to an extent., measured in cubic metre exceeding one-half thereof above the ground level; or
 - (b) to repair, remove, construct or reconstruct or make any additions to, or structural alterations of any portion of such building, which is within the regular line of the street,

by an order as respects the additions to or rebuilding, construction, repair or alterations of such building, require such building to be set back to the regular line of such street.
- (2) When any building or any part thereof within the regular line of a public street falls down or is burnt down or is, whether by reason of any order of the Municipality or otherwise, pulled down, the Chief Officer of the Municipality may forthwith take possession, on behalf of the Municipality, of the portion of the land within the regular line of the street hereto fore occupied by such building and, if necessary, clear the same.

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

307. Compulsory setting back of building of regular line of street :-

- (1) Where any building or any part thereof is within the regular line of a public street and in the opinion of the Municipality, it is necessary to set back building or a part thereof to the regular line of such street, the Chief Officer of the Municipality shall, by a notice served on the owner of such building in accordance with the provisions of this Act, require him to show cause within such period, as may be specified in the notice as to why such building or part thereof, which is within the regular line acquired by the Municipality.
- (2) If the owner fails to show cause as required under sub-section (1), the Chief Officer may, with the approval of the Municipality, require, the owner by another notice to be served on him in such manner, as may be prescribed, to pull down the building or part thereof, which is within the regular line of the street within such period, as may be specified in the notice.
- (3) If within such period the owner of the building fails to pull down the building or part thereof as required under sub-section (2), the Chief Officer may, pull down the same and all the expenses incurred in so doing, shall be paid by the owner and be recoverable from him as an arrears of tax under this Act.

308. Setting forward of building to regular line of street :-

The Municipality may, upon such terms as it thinks fit, allow any building to be set forward for the purpose of improving the regular line of a public street and may require any building to be set forward in the case of reconstruction thereof or of a new construction.

Explanation, -

For the purposes of this section, a wall separating any premises from a public street, shall be deemed to be building; and it shall be deemed to be a sufficient compliance with permission or the requirement to set forward a building to the regular line of a street, if a wall of such materials and dimensions, as are approved by the Municipality, is erected along such line.

309. Acquisition of open land and land occupied by platforms, etc. within the regular line of street :-

If any land, whether open or enclosed, not vested in the Municipality and not occupied by any building is within the regular line of a public street or if any platform, verandah, step, compound wall, hedge or fence or some other structure, authorized or not, external to a building abutting on a public street or a portion of such platform, verandah step, compound wall, hedge, fence or other structure is within the regular line of such street, the Chief Officer of the Municipality, with the prior approval of the Municipality may, after giving the owner of such land or building, not less than seven clear days notice of his intention so to do, take possession on behalf of the Municipality, of such land with its enclosing wall, hedge or fence, if any, or of such platform, verandah, step, compound wall, hedge, fence or other structure or of any portion thereof within the regular line of the public street, and if necessary, clear the same and the land so acquired shall thereupon be deemed to be a part of the public street and shall vest in the Municipality:

Provided that where the land or the building is vested in the State Government or the Central Government or any agency thereof, the Chief Officer shall not take possession thereof without the previous sanction of the State Government or the Central Government, as the case may be.

310. Acquisition of remaining part of building and land :-

- (1) Where a land or building is partly within the regular line of a public street and the Municipality is satisfied that the land remaining after the excision of the portion within such line, will not be suitable or fit for any beneficial use, it may, at the request of the owner, acquire such land in addition to the land within such line and such surplus land shall be deemed to be a part of the public street and shall be vest in the Municipality.
- (2) Such surplus land may, thereafter, be utilized for the purpose of setting forward a building under section 308 or any other purpose, which the Municipality may deem fit.

311. Compensations in certain cases :-

- (1) Compensation shall be paid by the Municipality to the owner of any buildings or land acquired for a public street under the provision of sections 306, 308, and 309 for any loss, which such owner any, sustain in consequence of his building or land being so acquired and for any expense incurred by such owner in consequence of any order made by the Municipality.
- (2) If in consequence of any order to set forward a building the owner of such building sustains may loss or damage, compensation shall be paid to him by the Municipality for such loss or damage.
- (3) If the additional land, which will be included in the premises of any person required or permitted under sub-section (2), to set forward the building belongs to the Municipality, the order or permission of the Municipality to set forward the building, shall be a sufficient conveyance to the said owner of the said land, and the price to be paid to the Municipality by the owner for such additional land and the other terms and conditions of the conveyance shall be set forth in the order or permission.

- (4) If, when the Municipality requires any building to be set for award, the owner of the building is dissatisfied with the price, fixed to be paid to municipality or with any of the terms or conditions of conveyance, the Chief Officer of the Municipality shall, upon the application of the owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination for the court of the Principal Judge of the district having jurisdiction, whose decision thereon shall be final.

312. Leveling and draining of private streets :-

- (1) If any private street or part thereof is not leveled, paved, metalled, flagged, channeled, seaward, drained, conserved or lighted to the satisfaction of the Municipality, it may, by a written notice, require, the owners of the such street or part thereof and the owners of the lands and the buildings fronting or abutting on such street or part thereof, to carry out any work which, in the opinion to the Municipality, may be necessary and within such times, as may be specified in such notice.
- (2) If the work is not carried out within the time specified in the notice the Municipality may, if it thinks fit, get the work executed and the expenses incurred for the purpose, shall be paid by the owners referred to in sub-section
- (1) In such proportion, as may be determined by the Municipality by the Municipality and shall be recoverable for them as an arrears of tax under this Act.

313. Right of owners to require streets to be declared public :-

- (1) If any street has been levelled, paved, metalled, flagged, channelled, sewered, drained, conserved and lighted under section 321 to the satisfaction of the Municipality, the Municipality may, and, on the requisition of a majority of the owners referred to in sub-section (1) of that section shall declare such street to be a public street and thereupon the street shall vest in the Municipality.

- (2) The Municipality may at any time, by notice fixed up in any street or part thereof, not maintainable by the Municipality but which has already been levelled, paved, metalled, flagged, channelled, drained, sewerred, conserved and lighted to the satisfaction of the Municipality, give intimation of its intention to declare the same a public street, and unless within one month, next after such notice has been so put up, the owner or any one of the several owners of such street or such part of a street, lodge objection thereof at the office of the Municipality, the Municipality may, by notice in writing, put up in such street or such part, declare the same to be a public street vested in Municipality.

314. Prohibition of projections :-

- (1) Except as provided in section 315, no person shall erect, set up, add to, or place against or in front of any premises any structure or fixture which will -
- (a) Overhang, just or project into or obstruct in any way the safe or convenient passage of the public along, any street; or
 - (b) Put or project into any drain or open channel in any street so as to interfere within any way the use or proper working of such drain or channel or to impede the inspection or cleaning thereof.
- (2) The Chief Officer of the Municipality may, by a written notice require the owner or the occupier of any premises to remove, or to take such other action, as he may direct in relation to any structure or fixture, which has been erected, set-up, added to or placed against or in front of such premises in contravention of this section.
- (3) If the occupier of such premises removes or alters, any structure or fixture in accordance with such notice, he

shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit into account with the owner of such premises for all reasonable expenses incurred by him in complying with the notice.

315. Permission of projection in certain cases: -

The Municipality may give permission, on such terms and on payment of such fee, as it thinks fit, to the owner or occupier of the building in a street, -

- (a) to erect an arcade, over such street or any portion thereof; or
- (b) to put up a verandah, balcony, arch, connecting passage, sun shade; weather frame, canopy, lawning or other such structure of things projecting from any storey over or across any street or portion thereof :

provided that the Municipality may at any time by a written notice require the owner or occupier of any building to remove a verandah, balcony, sun shade, weather frame or the like put up in accordance with the provisions of any law for the time being in force and such owner or occupier shall be bound to take action accordingly and he shall also be entitled to reasonable compensation for the loss caused to him by such removal and the cost incurred therein.

316. Ground floor doors, etc not to open outwards on street :-

The Municipality may, at any time, by a written notice, require the owner of any premises on the ground floor of which any door, gate, bar or window opens outwards upon a street or upon any land required for the improvement of a street in such manner, as is likely to obstruct the safe or convenient passage of the public along such street, to have such door, gate, bar or window altered so as not to open outwards.

317. Prohibition of structures or fixtures :-

- (1) No person shall, except with the permission of the Chief Officer of the Municipality granted in this behalf, erect or set up any wall, fence, rail, post, step, booths or other structure, whether fixed or movable or whether of a permanent or temporary nature, or any fixture in or upon any street or upon or over any open channel, drain, well or tank in any street so as to form an obstruction to, or a projection over or to occupy, any portion of such street, channel, drain, well or tank.
- (2) No person shall, except with the permission of the Chief Officer and on payment of such fee, as the Chief Officer in each case thinks fit, place or deposit upon any street, or upon any open channel, drain or well in any street or upon any public place, any stall, chain, bench, box, ladder, bale or other thing whatsoever so as to form an obstruction thereto.
- (3) Nothing in this section shall apply to any erection or thing to which clause (c) of sub-section (1) of section 322 applies.

318. Special provision regarding streets belong to Government: -

- (1) Notwithstanding anything contained in section 308, 314, or 315 or any regulations relating to streets and subject to any general or special order that the Government may make in this behalf, if any street is vested in the Government -
 - (a) the Municipality shall not in respect of such street grant permission to do any act, the doing of which without its written permission would contravene the provisions of section 314 or section 315 or allow any building to be set forward under the provisions of section 308, except with the sanction of the Government, which may be given in respect of a class of cases generally or in respect of a particular case; and

(b) the Municipality shall, if so required by the Government exercise the power conferred upon it by section 308, 315 or 316 or any regulations relating to streets in respect of any encroachment or changing structure on or over such street or by materials, goods or articles of merchandise deposited on such street.

(2) In the case of road vested in the State Government and passing through the municipal area, the Municipality shall have control over such roads in so far as permitting of temporary occupation thereof and removal of encroachments therefrom, are concerned, but the maintenance of such roads will remain with the State Government.

319. Power to remove anything erected etc :-

The Chief Officer of a Municipality may, without notice, cause to be removed, -

- (a) any shall, chair, bench, box ladder, bale, board or shelf, or any other thing whatsoever placed, deposited, projected, attached, or suspended in, upon from or to any place in contravention of the provisions of this Act; and.
- (b) Any article whatsoever hawked or exposed for sale on any public place or in any public street or footpath in contravention of the provisions of this Act, and any vehicle, package, box, board, stall or any other thing in or on which such article is placed or kept for purpose of sale, display or otherwise.

320. Prohibition of tethering of animals etc :-

- (1) No person shall tether any animal or cause or permit any animal to be tethered in any; public street.
- (2) No person shall milk or cause or permit to be milked any cow or buffalo or other animal in any street.

- (3) Any animal tethered or any cow or buffalo or other animal found being milked as aforesaid in any street, may be removed by the Chief Officer of the Municipality or any officer or employee of the Municipality authorized by it in this behalf and be impounded and dealt with under the provisions of the Nagaland Cattle-trespass Act, 1985.

321. Precautions during repair of streets: -

- (1) The Municipality shall, so far as is practicable during the construction or repair of any public street or any municipal drain or any premises vested in the Municipality, -
- (a) cause the same to be fenced and guarded;
 - (b) take proper precautions against accident by shoring up and protecting the adjoining buildings; and
 - (c) cause such bars, chains, or posts to be fixed across or in any street in which any such work of construction or repair is under execution, as are necessary in order to prevent the passage of vehicle or animals and avert danger.
- (2) The Municipality shall cause such street, drain or premises to be sufficiently lighted or guarded during night while under construction or repair.
- (3) The Municipality shall, with all reasonable speed, cause such work to be completed, such ground to be filled in, such street, drain or premises to be repaired and the rubbish occasioned thereby to be removed.
- (4) No person shall, without the permission of the Chief Officer of the Municipality or to the lawful authority remove any bar, chain, post, or shoring timber, or remove or extinguish any light set up under this section.

322. Streets not to be opened or broken up without permission: -

- (1) No person other than the Chief Officer of a Municipality or an officer or other employee of the Municipality shall, without the written permission of the Chief Officer or without other lawful authority, -
 - (a) open, break up, displace, take up or make any alteration in, or cause any injury to, the soil or pavement or any wall, fence, post, chain or other material or thing forming part of any street; or
 - (b) deposit any building material in any street; or
 - (c) set up in any street any scaffold or any temporary erection for the purpose of any work whatsoever, or any posts, bars, rails, roads or other things, by way of an enclosure for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.
- (2) Any permission granted under clause (b) or clause (c) of sub-section (1), shall be terminable at the discretion of the Chief Officer on his giving not less than twenty four hours written notice of such termination to the person to whom such permission was granted.
- (3) The Chief Officer may, without notice, cause to be removed any of the things referred to in clause (b) or clause (c) of sub-section (1), which has been deposited or set up in any street without any permission specified in that sub-section or which having been deposited or set up with such permission, has not been removed before the expiry of the period of notice issued under sub-section (2):
- (4) Provided that nothing in this sub-section apply to any case under clause (b) or clause (c) or sub-section (1), if, in such case, an application of permission has been made with such fee, as specified by the Municipality in this behalf but no reply has been sent to the applicant within seven days from the date of the application.

323. Precaution for public safety to be taken by persons to whom permission is granted: -

- (1) The Chief Officer of a Municipality may grant permission for any work referred to in section 322, on such conditions and on deposit of such sum of money in advance, as may be determined by regulations for carrying out the work and restoring the street or pavement on which the work is carried out to its original condition.
- (2) Every person to whom any permission is granted under section 322, shall, at his own expense, cause the place where any soil or pavement has been open or broken up or where he was deposited building materials or set up any scaffold, erection or other thing to be properly fenced and guarded, and in all cases in which it is necessary so to do to prevent accidents, shall cause such place to be well lighted during the night.

324. Reinstatement of street: -

- (1) Every person to whom permission is granted under section 323 to open or break up the soil or pavement of any street or who, under other lawful authority, opens or breaks up the soil or pavement of any street shall, with all convenient speed, complete the work of which the soil or pavement is opened up, fill up the ground, and reinstate and make good the street so opened or broken up without delay and to the satisfaction of the Chief Officer of the Municipality.
- (2) If such person fails to reinstate and make good the street as aforesaid, the Chief Officer may restore such street and the expenses incurred by the Chief Officer in so doing, shall be paid by such person.

325. Permission to close street: -

- (1) The Chief Officer of a Municipality may, when any such works as referred to in section 324 or any work, which may lawfully be executed in any street is in progress, direct that such street shall be wholly or partially closed to traffic or to traffic of such description, as he may think fit, and shall set up in a conspicuous position or an order prohibiting traffic to the extent so directed, and fix such bars, chains or post across or in the street, as he may think proper for preventing or restricting the traffic therein.
- (2) No person shall, without the permission of the Chief Officer or without any other lawful authority remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up.

326. Provision for passage or diversion of traffic. -

When the execution of any work is in progress in any street, the Chief Officer of Municipality shall, so far as may be reasonably practicable, make adequate provisions for the passage or diversion of traffic, for securing access to premises approached from such street and for such drainage, water supply or means of lighting, as may be interrupted by reason of the execution of such work.

327. Power to require the person to whom permission is granted make provision for passage or diversion of traffic etc :-

The Chief Officer of a Municipality may, by a written notice, require any person to whom permission is granted under section 323 to open or break up the soil or pavement of any street or who, under any other lawful authority, opens or breaks up the soil or pavement of any street for the purpose of executing any work, to make provisions to his satisfaction for the passage or diversion of traffic, for securing access to the premises approached from such street and for such drainage, water supply or means of lighting as may be interrupted by reason of the execution of such work and if such person fails to do it, the Chief Officer may cause the same to be done and recover the expenses thereof from such person.

328. Disposal of things removed. -

- (1) Any of the things caused to be removed by the Chief Officer of a Municipality under this Chapter shall, unless the owner thereof turns up to take back such things and pays to the Chief Officer the charges for the removal and storage of such thing within such periods, as the Chief Officer may specify, be disposed of by the Chief Officer within seven days of the expiry of such period by public auction or in such other manner, as he thinks fit.
- (2) The charges for removal and storage of the things sold under sub-section (1), shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefore within a period of one year from the date of sale, and if no such claim is made within the said period, the money shall be credited to the Municipal Fund of the Municipality.

329. Requirement to take steps for repairing or enclosing dangerous places: -

- (1) If any place is, in the opinion of the Chief Officer of a Municipality for want of sufficient repair or protection or enclosure, or owing to some work being carried out thereupon, dangerous or causing inconvenience to passengers along a street or to other persons including the owner or the occupier of such place, who have legal access thereto or to the neighborhood thereof, the Chief Officer may, by a notice in writing, require the owner or the occupier of such place to repair, protect or enclose the same or to take such other steps as to repair, protect or enclose the same or to take such other steps as may appear to the Chief Officer to be necessary in order to prevent the danger or inconvenience arising therefrom within such period, as may be specified in the notice.

- (2) The Chief Officer may, before giving such owner or occupier any such notice or before the expiry of the period specified in any such notice, take such temporary measures, as he thinks fit to prevent the danger or inconvenience arising therefrom and any expenses incurred by the Chief Officer in taking such temporary measures, shall be recoverable from such owner or occupier as an arrears of tax under this Act.

330. Naming and Numbering of streets and Premises: -

- (1) The Municipality may, -
- (a) determine the name or number by which any street or public place vested in the Municipality, shall be known;
 - (b) cause to be put up or painted at a conspicuous part of any building, wall or place at or, near each end, corner or entrance of such street, the name or number by which it shall be known;
 - (c) cause to be put up or painted on boards of suitable size the name of any public place vested in the Municipality; and
 - (d) determine the number or sub-number by which any premises or part thereof, shall be known and cause such number or sub-number to be fixed to the side or outer door of such premises or to some place at the entrance of the enclosure thereof.
- (2) No person shall destroy, remove, deface or in any way injure or alter any such name or number or sub-number put up or paint any name or number or sub-number different from, that put up or painted by order of the Municipality.

331. Measures for lighting: -

- (1) The Municipality shall, -
 - (a) take measures for lighting, in a suitable manner, such public streets, public places, squares, parks, gardens, municipal markets and properties of the Municipality, as may be specified by it;
 - (b) procure, erect and maintain such number of lamps, lamp posts and other appurtenance, as may be necessary for the purpose as aforesaid; and
 - (c) cause such lamps to be lighted by appropriate means.
- (2) The Municipality may, attach to the outside of any building brackets for lamps in such manner, as not to occasion any injury thereto or inconvenience.

332. Prohibition of removal of lamps: -

- (1) No person shall, without lawful authority, take away willfully or negligently, break or throw down or damage, -
 - (a) any lamp or any appurtenance or any lamp or lamp post or lamp iron set up in any public street or any public place;
 - (b) any electric wire for lighting such lamp; and
 - (c) any post, pole, standard, stay strut, bracket or other contrivance for carrying, suspending or supporting any electric wire or lamp.
- (2) No person shall willfully or negligently extinguish the light of any lamp, set up in any public street or any public place.
- (3) If any person willfully or through negligence or accident breaks or causes any damage to, any of the things, described in sub-section (1), he shall in addition to any penalty to which he may be subjected under this Act, pay the expenses of repairing the damage so done by him.

333. Prohibition against encroachment on land, public places: -

- (1) No person shall make any encroachment on any land, Premises, street or public place, not being private property, whether such land, premises, street or public place belongs to or vests in the Municipality or not, by raising a temporary or permanent structure on such land, premises street or public place nor shall abet such encroachment or illegal occupation of such land, premises, street or public place:

Provided that, subject to such regulations, as may be made in this behalf, parking or setting up steps for providing passage to the houses and shops in a street or a drain, channel, well or tank passing through or by the side of land, premises or public place, shall not be construed as an encroachment.

- (2) No person shall, without authority in that behalf, remove earth, sand or other material form or deposit any matter in, any land vested in the Municipality.
- (3) The Chief Officer of a Municipality or any other officer authorized by the Municipality in this behalf shall have power to remove any such encroachment or illegal occupation and the expenses of such removal shall be paid by the person, who has caused the said encroachment or illegal occupation.

334. Seizure or attachment of offender : -

- (1) Notwithstanding anything contained in section 333, the Chief Officer of a Municipality or any officer authorized by the Municipality in this behalf, shall, in addition to any other action, which may be taken under section 333, also have power to seize or attach any property found on the land, premises, street or public place referred to in that section or, as the case may, be attached to or permanently fastened to anything attached to such land, premises, street or public place.

- (2) Where any property is seized or attached under sub-section (1) by an officer, authorized by the Municipality, he shall immediately make a report of such seizure or attachment to the Chief Officer.

335. Custody, sale or disposal of property seized or attached: -

- (1) The chief Officer of a Municipality may make such orders, as he may think fit for the proper custody of the property seized or attached under section 334, pending the conclusion of confiscation proceedings and if, the property is subject to speedy and natural decay, or it is otherwise expedient so to do, the Chief Officer may cause such property to be sold or otherwise disposed of.
- (2) Where any property is sold as aforesaid, the sale proceeds thereof after deduction of the expenses incurred in connection with such sale or other incidental expenses relating thereto, shall, -
- (a) Where no order of confiscation is passed by the Municipality under section 336; or
- (b) Where an order passed in appeal, under section 337, so requires; be paid to the owner thereof or the person from whom it is seized.

336. Confiscation of property seized or attached: -

- (1) Where any property is seized or attached under section 334, the Municipality may subject to the provisions of sub-section (2), order confiscation of such property.
- (2) No order for confiscation of a property under sub-section (1) shall be made unless the owner of such property or the person from whom it is seized or attached is given, -

- (a) a notice in writing, informing him of the grounds on which it is proposed to confiscate the property;
 - (b) an opportunity of making a representation in writing, within such reasonable time, as may be specified in the notice against the grounds of confiscation; and
 - (c) a reasonable opportunity of being heard in the matter.
- (3) The order of any confiscation made under sub-section (1), shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act.

337. Appeal :-

- (1) Any person aggrieved by such confiscation order, made under section 336 may, within one month from the date of communication to him of such order, appeal against it to the Principal Judge of the District in which such property is seized or attached.
- (2) On such appeal, the Principal Judge may, after giving an opportunity to the appellant and the respondent to be heard, direct the order to be stayed pending disposal of the appeal, or may modify, alter or annul the order and make any further order that he may think proper in the matter.

338. Court or Tribunal not to make order in respect of property seized or attached: -

Subject to the provisions of sub-section (3) of section 336, whenever any property is seized or attached pending confiscation

under sub-section (1) of the said section, the Municipality or the Principal Judge shall have, and notwithstanding anything to the contrary contained in any other law for the time being in force, any court, tribunal or other authority shall not have, jurisdiction to make order with regard to the possession, delivery, disposal, release or distribution of such property.

339. Other provisions in respect of encroachments: -

- (1) Where any person is prosecuted of an offence for the contravention of the provisions of sub-section (1) of section 333, the burden of proving that he has not committed the said offence shall be on such person.
- (2) No officer or employee of the Municipality shall, permit any person to encroach upon or abet in encroachment upon any property specified in sub-section (1) of section 333.

Provided that no court shall take cognisance against such employees of the offence under this sub-section, except with the previous sanction of the Municipality.

No investigation of an offence for contravention of the provisions of the sub-section (1) of section 333 or of sub-section (2) of this section, as the case may be, shall be made by an officer below the rank of a Deputy Superintendent of Police.

CHAPTER - II

BUILDINGS - PROCEDURE

340. General Definitions, -

In this Chapter, unless the context otherwise requires the expression, -

- (1) "to erect a building" means, -
- (a) to erect a new building on any site, whether previously built upon or not;
 - (b) to re-erect, -
 - (i) any building of which more than one half of the cubical 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 level of plinth, has been pulled down; or
 - (iii) any frame-building of which more than half of the number of posts or beams in the external walls have been pulled down;
 - (c) to convert into a dwelling house any building or any part of a building not originally so constructed for human habitation or, of originally so constructed for human habitation, subsequently appropriated for any other purpose;
 - (d) to convert to into more than one dwelling house a building originally constructed as one dwelling house only;
 - (e) to convert into a place of religious worship or into a sacred building any place or buildings, 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 go-down, 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 go-downs, workshops, factories or garages;
 - (i) to convert a building which when originally constructed was legally exempt from the operation of any building regulations, or under any rules made under this Act, or contained in any 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; and
 - (l) to remove or reconstruct the principal staircase or to alter its position;
- (2) "occupancy" or "use group" means the principal occupancy for which a building or a part of a building is used or intended to be used, and the occupancy classification shall unless otherwise spelt out in any development plan or Town Development or town Improvement Scheme or Town Planning Scheme under any law in force for the time being, include, -

- (a) residential buildings, that is to say, any building in which sleeping accommodation is provided for normal residential purposes with or without cooking facility or dining facility or both and such building shall include one or two or multi-family dwelling, lodging or rooming, houses, hostels, dormitories, apartments, houses and flats and private garages;
- (b) educational buildings, that is to say, any, buildings used for school, college or daycare purposes involving assembly for instruction education or recreation incidental to educational buildings;
- (c) institutional buildings, that is to say, any building or part thereof ordinarily providing sleeping accommodation for occupants and used for the purposes of medical or other treatment or care of persons suffering from physical or mental illness, disease or infirmity, care of infants convalescents or aged persons and for penal or correctional detention in which the liberty of the inmates is restricted and such buildings shall, include hospitals, clinic, dispensaries, Sanatoria, custodial institutions and penal institutions like jails, 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 and 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, places of worship, dance halls, club rooms, gymkhanas, passenger stations and terminals of air, surface and other public transportation services, recreation piers, and stadia;

- (e) business buildings, that is to say, any buildings or part thereof used for transaction of business or for the keeping of accounts and records or for similar purposes and such buildings shall, include, offices, banks, professional establishments, court houses, and libraries for the principal function of transaction of public business and keeping of books and records and shall also include office buildings (premises) solely or principally used as an office or for office purpose;
- (f) mercantile buildings, that is to say, any 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 and such building shall include establishments wholly or partly engaged in wholesale trade, manufactures 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 building of structure or part thereof in which products or materials of all kinds and properties are fabricated, assembled or processed as in assembly plants, and such building shall include laboratories power plants, smoke houses, refineries, gas plants, milks dairies, factories, workshops, automobile repair garages and printing presses;
- (h) storage buildings, that is to say, any buildings, or part thereof used primarily for the storage or sheltering of goods, wares or merchandise as in warehouse and such buildings, shall, include cold storages, freight depots, transit sheds, store houses, public garages, hangers, truck terminals, grain elevators, barns and stables; and

- (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 or which involve highly corrosive, toxic or noxious alkalis, acids, or other liquids or chemicals producing flames, fumes, explosives or mixtures of dust or which result in the division of matter into fine particles subject to spontaneous ignition;
- (3) "alteration" means the change from one occupancy to another, or the structural change, such as the addition to any area or height, or the removal of a part of buildings 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; and
- (4) "Plan" means a plan prepared by a Surveyor, or a Draftsman, or an Engineer holding a degree of Bachelor of Engineering, or an Architect registered under the Architects Act, 1972 (Act 20 of 1972)

Explanation:- For the purpose of classification of a building according to occupancy under clause (2), -

- (a) an occupancy shall be deemed to include subsidiary occupancies, which are contingent upon it; and
- (b) buildings with mixed occupancies shall mean those buildings in which more than one occupancy are present in different portions thereof.

341. Municipal Building Committee, -

- (1) For each municipal area, there shall be constituted by the Municipality, a Municipal Building Committee.

- (2) The Municipal Building Committee shall consist of three members of Municipal Council or Town Council.
- (3) In addition to the members elected under sub-clause (2), the Municipal Building Committee shall consist of the following members namely :-
- (i) the Chief Officer of the Municipality, who shall be the Member Secretary;
 - (ii) the Municipal Engineer;
 - (iii) the Municipal Town Planner;
 - (iv) the Municipal Architect; and
 - (v) the Municipal Fire Officer.

Provided that where in a Municipality there is no Municipal Engineer or Municipal Town Planner or Municipal Architect or Municipal Fire Officer, any other officer, discharging the duties of Municipal Engineer or Municipal Town Planner or Municipal Architect or Municipal Fire Officer, as the case may be, shall be the member of the Municipal Building Committee:

- (4) The term of the Municipal Building Committee shall be one year from the date of its constitution and the new Municipal Building Committee shall be constituted before the expiry of the term of the existing Municipal Building Committee:

Provided that an elected member shall not be eligible for election of member of the Municipal Building Committee for more than two terms:

Provided further that the existing Municipal Building Committee shall continue to function till the new Municipal Building Committee is constituted.

- (5) The Chairman of the Municipal Building committee shall be elected by its elected members from amongst themselves and he shall be eligible for re-election for one more term

- (6) The Municipal building Committee may, while dealing with any case regarding any educational building, or institutional building, or assembly building, or industrial building, or hazardous building, co-opt one person having specialized knowledge and experience in the matter.
- (7) The Municipal Building Committee shall meet at least once in a month.
- (8) The Municipal Building Committee shall scrutinize every application for erection or re-erection of a building for which notice has been received under section 343, other than a residential building up to three storeys or with a height of twelve metres, whichever is higher, on a plot of five hundred square metres or less and make its recommendations:

Provided that in respect of any building or execution of any work, as the case may be affects or is likely to affect,-

- (a) the functioning of the microwave system for telecommunication purpose, and
 - (b) any functions for the purpose of civil aviation, the Municipal Building Committee shall, if so considered necessary, refer such case to the concerned Department of the Government or authority for their opinion before finalizing the recommendations.
- (9) The Chief Officer of the Municipality shall, act in accordance with recommendations of the Municipal Building Committee.
 - (10) The manner of conducting the business of the Municipal Building Committee and the procedure to be followed by it shall be such, as may be prescribed.

342. Prohibition of erection without sanction, -

No person shall erect or commence to erect any building or execute any of the works specified in sub-clause (b) of clause (1) of Section 340 in any municipal area, except with the previous sanction of the Chief Officer of the Municipality and in accordance with the provisions of this Act and the regulations made thereunder in relation to such erection of building or execution of work, as the case may be.

343. Notice for erection of building or addition to repairs of buildings,

- (1) Every person who intends to, -
 - (a) erect a building; or
 - (b) execute any of the works specified in sub-clause (b) of clause (1) of section 340, in any municipal area shall, apply for sanction by giving notice in writing of his intention to the Chief Officer of the municipality in such form and containing such information, as may be prescribed.
- (2) Every such notice referred to in sub-section (1), shall be accompanied by such documents and plans and a receipt showing payment, where necessary, of such fee, as may be prescribed.
- (3) Notwithstanding anything contained in sub-section (1), no such sanction shall be necessary for, -
 - (a) erection, re-erection, addition to, or alteration of, any internal partition wall, or a parapet wall or a cornice or chajja within the boundaries of the site and not over-hanging a street, so, however, that the total height of the parapet wall, shall not be more than one hundred twenty centimeters and the width of a cornice or chajja, shall not be more than fifty centimeters :

Provided that the use of the building is not changed by such erection, addition to, or alteration of, such internal partition wall;

- (b) repairing of a staircase or lift-shaft;
- (c) white-washing or painting;
- (d) re-flooring of the surface of an existing floor;
- (e) re-tyling of a terrace or re-surfacing if a roof including water-proofing;
- (f) erection of a false ceiling in any floor for air-conditioning, lighting or decorative purposes;
- (g) plastering and patch work;
- (h) providing or closing an internal door or window, or a ventilator, not opening directly opposite to a door or a window of another building;
- (i) re-placing of fallen bricks, stones, or repairing of damaged pillars or beams;
- (j) repairing or renewing existing plumbing services, and
- (k) carrying out such other work, as is necessary in the opinion of the Chief Officer, for reasons to be recorded in writing, to maintain the building in a condition of good repair or to secure it to prevent danger to human life.

344. Preparation of plans, -

- (1) Subject to the provisions of sub-section (2) and to such rules, as may be made in this behalf, a plan for any building in any municipal area, irrespective of the size of the plot or the number of storeys, may be prepared by an Architect.
- (2) Notwithstanding anything contained in sub-section (1), -

- (a) a plan for any building having not more than three storeys, irrespective of the size of the plot in any municipal area, may also be prepared by an Engineer;
- (b) a plan for, -
- (i) a residential building on a plot of two hundred fifty square meters or less and having only one storey in the municipal area may also be prepared by a Surveyor or a Draughtsman.

345. Purpose for which building to be used :-

- (1) Every person giving any notice of his intention to erect a building under section 343 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 of the use group within the meaning of clause (2) of section 340, shall be considered, except in respect of the case 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 343 of his intention to execute any of the works specified in sub-section (b) of clause (1) of section 340, 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 rules made in this behalf, have been furnished to the satisfaction of the Chief Officer of the Municipality along with the notice.

346. Sanction or Provisional sanction : -

- (1) The Chief Officer of a municipality shall, sanction or provisionally sanction the erection of a building or the execution of a work within the municipal area, unless such building or work would contravene any of the provision of sub-section (2) or sub-section (3) of this section or the provisions of section 362 or section 363.

Provided that no such sanction shall be accorded without the recommendation of Municipal Building Committee where necessary, made under sub-section (8) of section 341.

- (2) The sanction for erection of a building or execution of a work, may be refused on the following grounds, namely:
- (a) that the building or the work or the use of the site for the building or the work or any of the particulars comprised in the site plan, ground plan, elevation, section or specification, would contravene the provisions of this Act or the rules and the regulations made there under or of any other law in force for the time being or any scheme sanctioned under such law;
 - (b) that the notice for sanction does not contain the particulars or is not prepared in the manner required under the rules and the regulations made in this behalf.
 - (c) That any information or document required by the Chief Officer under this Act or the rules or the regulations made thereunder, has not been duly furnished.
 - (d) That in cases requiring layout plan under any other law for the time being in force, such layout plan has not been sanctioned in accordance with the provisions of this Act;

(e) That the building or the work would be an encroachment or land vested in the Government, or the central or any other state Government, or the Municipality's and

(f) That the site of the building or the work does not abut, on a street or projected street and that there is no access to such building or work from any such by any passage or pathway appertaining to such site.

- (3) If, for the use of building, a licence or permission is required from any Department of the Government, or the Central or any other State Government, or any statutory body under any law in force for the time being, and if such licence or permission is not immediately available, a provisional sanction shall be given for the erection of such building and upon the production of such licence or permission and submission of duly authenticated copies, thereof, sanction under sub-section (1), shall be given :

Provided that the provisions sanction shall be subject to all the other provisions of this Chapter:

Provided further that the erection or re-erection of a building shall not commence on the basis of a provisional sanction.

- (4) The Chief Officer shall communicate the sanction or the provisional sanction to the person, who has given the notice under section 343 and where sanction or provisional sanction either on any of the ground specified in sub-section (2) of this section, or under section 357 or section 362 is refused, he shall record a brief statement of his reasons for such refusal and shall, communicate the refusal along with the reasons therefor to the person, who has given the notice:

Provided that all the grounds for refusal, shall be communicated at one time.

- (5) The sanction or the provisional sanction or the refusal of sanction to the erection of a building or the execution of a work, shall be communicated in such manner, as may be prescribed and, in the case of sanction or provisional sanction to the erection of a building the occupancy or use groups, shall be specifically stated in such sanction.
- (6) In case of refusal of sanction to the erection of a building or execution of a work under this section, the person, who has given notice, may apply for a fresh sanction after complying with the provisions of this Chapter.

347. Sanction or provisional sanction accorded under misrepresentation :-

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 Chief Officer of a Municipality is satisfied that such sanction or provisional sanction was accorded, -

- (a) in consequence of any material misrepresentation or any fraudulent statement in the notice given or information furnished under section 343 or section 346 or
- (b) any mistake, whether on the part of the Municipality or the applicant,

the Chief Officer 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 provisions of this Chapter:

Provided that before making any such order, the Chief Officer shall give a reasonable opportunity to the person affected as to why such order shall not be made.

348. When building or work may be proceeded with :-

- (1) Where within a period of forty-five days of the receipt, of any notice under section 343 or of any information under section 346, the Chief Officer of the Municipality 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 to the Chief Officer, in the case of a Municipal Council or a Town Council in such manner, as may be prescribed, within a period of thirty five days after the expiry of forty-five days:

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

- (2) The decision of the Chairperson, as the case may be, shall be communicated to the person making the presentation within a period of forty five days from the date of receipt of the representation.
- (3) Where the decision of the Chairperson, as the case may be, is not communicated to the person making the representation within the period specified in sub-section (2), the erection of the building or the execution of the work, shall be deemed to have been sanctioned.

- (4) Where the erection of a building or the execution of a work is sanctioned or is deemed to have sanctioned, the person who has given notice under sub-section (1) of section 343, shall erect the building or execute the work in accordance with such sanction or in accordance with such notice and shall not contravene any of the provisions of this Act or the rules or regulations made thereunder or of any other law in force for the time being.
- (5) If the person as aforesaid or anyone lawfully claiming under him, does not commence the erection of the building or the execution of any work within a period of one year from the date on which the erection of the building or the execution of the work is sanctioned or is deemed to have been sanctioned, he shall give a fresh notice under sub-section (1) of section 343 for fresh sanction.

349. Order of stoppage of buildings or works in certain cases, -

- (1) Where in the municipal area of a Municipality, the erection of any buildings or the execution of any work has been commenced or is being carried on :-
 - (a) without or contrary to the sanction referred to in section 346; or
 - (b) in contravention of any condition subject to which such sanction has been accorded; or
 - (c) in contravention of any provisions of this Act or the rules or the regulations made thereunder,

the Chief Officer of the Municipality may, in addition to any other action that may be taken under this Act, by order, required the person at whose instances the building or the work has been commenced or is being carried on to stop the same forthwith.
- (2) No Court shall entertain any suit, application or other proceeding for injunction or other relief against the Chief

Officer to restrain him from taking any action or making any order in pursuance of this section.

- (3) If an order made by the Chief Officer under subsection (1) of this section or under section 352, directing any person to stop the erection of any building or the execution of any work, is not complied with, the Chief Officer may take such measures, as he deems fit or may require a Police Officer to remove such person and all his assistants and workman from the premises within such time, as may be specified by the Chief Officer and such Police Officer shall comply with such requirements.
- (4) After the requirement under sub section (3) has been complied with the Chief Officer, may, if he thinks fit, depute, by a written order, a Police Officer or an Officer or other employees of the Municipality to watch the premises in order to ensure that the erection of the building or the execution of the work is not continued.
- (5) Where a Police Officer or an Officer or employee of the Municipality has been deputed under sub section (4) to watch the premises, the cost of such deputation, to be determined by the Municipality by regulations, shall be paid by the person at whose instance such erection or execution is being carried or who was ordered to stop erection of the building or the execution of work under sub section (1), and shall be recoverable from such person as arrears of Tax under this Act.

350. Order of demolition of buildings or works in certain cases :-

- (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 -
 - (a) without or contrary to the sanction referred to in section 404; or

- (b) in contravention of any condition subject to which such sanction has been accorded; or
- (c) in contravention of any provisions of this Act or the rules or the regulations made thereunder,

the Chief Officer of the Municipality may, in addition to any other action that may be taken under this Act, make an order directing that such erection or work shall be demolished by the person at whose instances 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, as may be specified in the order from the date on which a copy of the order or demolition with a brief statement of the reasons therefore, has been delivered to such person:

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 may be prescribed, 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 Chief Officer, may, by the same order or by a separate order whether may at that 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 section 351.

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

351. Appeal :-

- (1) Any person aggrieved by an order of the Chief Officer of the Municipality made under sub-section (1) of section 350, may prefer an appeal against the order of demolition to the Court of the Principal Judge of the District having jurisdiction within the period specified in the order of demolition of the erection or work to which it relates.
- (2) Where an appeal is preferred under sub-section (1) against the order of demolition, the court of the Principal Judge 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 making of the order of demolition, no order staying the enforcement of the order of demolition, shall be made by the Court of the Principal Judge unless a surety, sufficient in the opinion of the Court, has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

- (3) Save as provided in this section, no court shall entertain any suit, application or other proceeding for injunction or other relief against the Chief Officer to restrain him from taking any action or making any order in pursuance of the provisions of this section.
- (4) Every order made by the court of the Principal Judge on appeal and, subject to such order, the order of demolition made by the Chief Officer under sub-section (1) of section 350 shall be final and conclusive.

- (5) Where no appeal has been preferred against an order made by the Chief Officer under sub-section (1), of Section 350 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 Court of the Principal judge on appeal, and on the failure of such person to comply with the order within such period, the Chief Officer may himself cause the building or the work to which the order relates to be demolished and the expenses to such demolition shall be recoverable from such person as an arrears to tax under this Act.

352. Power to require alteration of work :-

- (1) The Chief Officer of the Municipality may, at any time during the erection of any building or the execution of any work or at any time within six 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 346, 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 may, by order, require the person who gave the notice under section 343 or the owner of such building or work either,-
- (a) to make such alterations, as may be specified by the Chief Officer in the written 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 rules or the regulations made thereunder, or
 - (b) to show cause, within such period, as may be specified in the order, 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 that the cause as aforesaid the Chief Officer shall, by an order, either cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he think fit.

353. Completion Certificates, -

- (1) Every person giving notice under section 343 for the erection of any building in a municipal area or for the execution of any work relating to such building or every owner of such building 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 Chief Officer of the Municipality a notice, in writing of such completion accompanied by a certificate, in such form, as may be prescribed and shall give to the Chief Officer all necessary facilities for inspection for such building or work.
- (2) No person shall occupy or permit to be occupied any such building use or permit to be used any building or part thereof affected by any such work, until permission has been granted by the Chief Officer in this behalf, in accordance with the rules and the regulations made under this Act.

354. Building at corners of streets :-

- (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 Chief Officer of a Municipality may, in the case of any building, which is intended to be erected at the corner of two streets in the municipal area of the Municipality, -

- (a) refuse sanction for reasons to be recorded in writing; or
- (b) impose restrictions on its use; or
- (c) place special conditions concerning exits 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.

- (2) The Chief Officer 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.

355. Provisions as to building and works on either new street or near fly-overs or transportation terminals:-

- (1) The sanction to be erection, re-erection of any building or execution of any work on either side of a new street in the municipal area of a Municipality, may be refused by the Chief Officer of the Municipality unless and until such new street has been leveled, and in the opinion of the Chief Officer, wherever practicable, metalled or paved, drained, lighted and laid with a water main to his satisfaction.
- (2) The sanction to the erection, re-erection of any such building or the execution of any such work, may be refused by the Chief Officer if such building or any portion thereof such work, comes within the regular line of any street, the

position and direction of which, has been laid down by the Chief Officer, but which has not been actually erected or executed, or if such building or any portion thereof 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 Chief Officer may refuse permission for the erection or re-erection of any building, which when completed, will be within such distance from a fly-over or overbridge or transportation terminal or other construction, as may be prescribed in this behalf.

356. Power to regulate future construction of building :-

- (1) The Chief Officer of a Municipality may subject to the prior approval of the Municipality give public notice of his intention to declare, -
- (a) that in any street or portion thereof specified in such notice, the elevation and construction 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 Municipality may consider suitable to the locality; or
 - (b) that in any locality specified in such notice, there shall be allowed the erection of only detached or semi-detached building or both and that the land appurtenant to each such building, shall be of an area not less than that specified in such notice; or
 - (c) that the minimum size 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 building 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 Municipality.
- (2) The Municipality shall consider all suggestions or objections, received within a period of three months of the publication of such notice, may confirm the declaration or may, modify if so, however, that its effect is not extended.
- (3) The Chief Officer shall publish, in such manner, as may be prescribed, 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, erection or re-erection any building in contravention of such declaration.

357. Power to stop excavation :-

If during excavation or any other operation for the purpose of construction of any building in the municipal area of a Municipality or execution of any work referred to in sub-clause (b) of clause (I) of section 340, any of the underground utilities, such as electric or telephone cables, water supply, sewage and drainage mains, and gas pipes, is touched or is likely to be touched, or if the Chief Officer of the Municipality is of the opinion that such excavation may cause danger to the public, or danger or damage to any other building within the locality, the Chief Officer may, by a written order stop forthwith any such excavation or other work, till the matter is investigated and decided to his satisfaction.

358. Removal of congested buildings :-

- (1) where it appears to the Chief Officer of a Municipality that any block of buildings in the municipal area, is in an unhealthy condition by reason of the manner in which the buildings are crowded together, or of the narrowness, closeness or faulty arrangement of streets, or of the want of proper drainage and ventilation, or of the impracticability of cleansing the buildings or other similar cause, he shall cause the block to be inspected by the Municipal Health Officer and the Municipal Engineer, who shall make a report in writing to the Chief Officer regarding the sanitary condition of the block.
- (2) If upon receipt of such report, the Chief Officer considers that the sanitary condition of the block is likely to cause risk of disease to the inhabitants of the buildings or of the neighborhood or otherwise to endanger the public health, he shall, with the prior approval of the Municipality select the buildings, which in his opinion should wholly or in part be removed in order to abate the unhealthy condition of the block and may thereupon by notice in writing require the owners of such buildings to remove them within such period as may be specified in the notice.

Provided that before issuing the notice, reasonable opportunity shall be given to the owners to show cause why the building should not be removed:

Provided further that the Chief Officer shall pay, compensation to the owners for any buildings so removed, which may have been erected under proper authority.

- (3) If a notice under sub-section (2) requiring any owner of a building to remove it is not complied with, then, after the expiration of the time specified in the notice, the Chief Officer may, cause the building to be removed and recover from the owner of the building the expenses of such removal as an arrears of tax under this Act.

359. Power to require improvement of buildings unfit for human habitation :-

- (1) Where the Chief Officer of a Municipality upon information in his possession, is satisfied that any building is in any respect unfit for human habitation, he may unless in his opinion the building is not capable at a reasonable expenses of being rendered fit, serve upon the owner of the building a notice requiring him within such time not being less than thirty days, as may be specified in the notice to execute the works of improvement specified therein and stating that in his opinion, those works will render the building, fit for human habitation.
- (2) In addition to serving a notice under this section on the owner, the Chief Officer may, serve a copy of the notice on any other person, having an interest in the building, whether as a lessee; mortgagee or otherwise.
- (3) In determining whether a building can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the work, necessary to render it so fit and the estimated value, which the building will have, when the works are completed.

360. Enforcement of notice requiring improvement :-

If a notice under section 359 requiring the owner of the building to execute works of improvement, is not complied with then after the expiration of the time specified in the notice, the Chief Officer may cause the works executed, which is required to be done by the notice, and recover the expenses incurred in connection therewith as an arrears of tax under this Act.

361. Demolition of buildings unfit for human habitation :-

- (1) Where the Chief officer of a Municipality upon any information in his possession is satisfied that any building is unfit for human habitation and is not capable at a reasonable expose of being rendered so fit, he shall serve upon the owner of the building and upon any other person

having an interest in the building, whether as a lessee, mortgagee, or otherwise a notice to show cause within such time as may be specified in the notice so to why an order of demolition of the building should not be made.

- (2) If any of the persons upon whom a notice has been served under sub-section (1), appears in pursuance thereof before the Chief Officer and gives an undertaking to him that such person, shall, within a period specified by the Chief Officer, execute such works of improvement in relation to the building, as will, in the opinion of the Chief Officer render the building fit for human habitation until the Chief Officer on being satisfied that it has been rendered fit for that purpose, cancels the undertaking, the Chief Officer shall not make an order of demolition of the building.
- (3) If no such undertaking as is mentioned in sub-section (2), is given, or if in a case where any such undertaking has been given any work of improvement to which the undertaking relates, is not carried out within the specified period, or the buildings is at anytime used in contravention of the terms of the undertaking, the Chief Officer shall, forthwith make an order of demolition of the building requiring that the building shall be vacated within a period to be specified in the order not being less than thirty days from the date of the order, and that it shall be demolished within six weeks of the expiration of that period.
- (4) Where an order of demolition of a building under this section has been made, the owner of the building or any other person, having an interest therein, shall demolish that building within the time specified in that behalf by the order, and if the building is not demolished within that time, the Chief Officer shall cause the building to be demolished and sell the materials thereof.
- (5) Any expenses incurred by the Chief Officer under sub-section (4) if not satisfied out of the proceeds of the sale of materials of the building, shall be recovered from the

owner of the building or any other person, having an interest therein as an arrear of tax under this Act.

- (6) In determining for the purposes of section 359, and this section whether a building is unfit for human habitation regard shall be had to its condition in respect of the following matters, that is to say, -

- (a) repair;
- (b) stability;
- (c) freedom from damp;
- (d) natural light and air;
- (e) water supply;
- (f) drainage and sanitary conveniences; and
- (g) facilities for storage, preparation and cooking of food and for the disposal of filth and other polluted matter ; and the building shall be deemed to be unfit as aforesaid, if and only if, it is so far defective in one or more of the said matters that it is not reasonably suitable for occupation in the condition.

- (7) For the purposes of section 359, section 360 and this section "work improvement" in relation to a building includes any one or more of the following works namely:

- (a) necessary repairs;
- (b) structural alterations;
- (c) provision of light points and water taps;
- (d) construction of drains, open or covered;
- (e) provision of latrines and urinals;
- (f) provision of additional or improved fixtures and fittings;

- (g) opening up or paving or courtyard;
 - (h) removal of rubbish, filth and other polluted and obnoxious matter; and
 - (i) any other work including the demolition of any building or any part thereof, which, in the opinion of the Chief Officer, is necessary for executing any of the works specified above.
- (8) The provisions of Section 358, Section 359, Section 360 and this section shall not apply in relation to any building in any area, as may be specified to be a slum area.

362. Power to removal of dangerous buildings :-

- (1) If in municipal area of a Municipality any wall or building or anything affixed thereto, be deemed by the Chief Officer of the Municipality or the Municipal Architect or the Municipal Engineer of a Municipality to be in 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 chief Officer may, if it appears to him necessary so to do cause a proper hoarding or fencing or other means of protection to be, put up at the expenses of the owner of such wall or building for the safety of the public or inmates thereof and may after giving them such notice as the Chief Officer may think necessary, require the inmates of the building to vacate it.
- (3) The provisions of this Act and of any rules or regulations made thereunder relating to the buildings, shall apply to any work done in pursuance, or in consequence of a notice issued under sub-section (1).

- (4) Notwithstanding anything contained in the foregoing sub-section, -
- (a) the Chairperson of a Municipal Council or a Town Council and in the absence of the Chairperson, as the case may be, the Chief Officer may, forthwith or with such notice, as he thinks fit, demolish, repair or secure or cause to be demolished, repaired or secured, any such wall or building or thing affixed thereto, on the report of the Municipal Architect or where there is no Municipal Architect, on the report of the Municipal Engineer, or in his absence, the Municipal Town Planner, certifying that such demolition, repair or securing of the building, wall or thing, is necessary for the safety of the public or the inmates of the building;
 - (b) in any such case the Chief Officer may, cause the inmates of the building to be summarily removed from the same or such portion thereof, as he may consider necessary; and.
 - (c) All expenses incurred by the Municipality 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 Chairperson or the Chief Officer 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.

363. Inspection of building : -

- (1) The Chief Officer of a Municipality or any Officer duly authorized by him in this behalf may, at any time during the erection or re-erection of a building or the execution of any work in the municipal area under this Chapter make an inspection thereof without giving any prior notice of his intention so to do.

- (2) The Chief Officer or the Officer duly authorized, may inspect any existing building at any time by giving forty-eight hours notice in the prescribed manner in advance.

364. Municipal Building Code :-

- (1) The Government may make rules, -
- (a) for the regulation or restriction of the use of sites for buildings; and
 - (b) for the regulation or restriction of buildings.
- (2) Without prejudice to the generality of the power conferred by sub-section (1), the rules made there under may provide for all or any of the following matters, namely: -
- (a) information and plans to be submitted together with application under any of the provisions of this Chapter;
 - (b) requirements sites;
 - (c) means of access;
 - (d) development of land into and 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, boundary wall and leach pit;

- (i) provisions of lifts;
- (j) exit requirements including doorway, corridor, passageways staircase ramps and lobbies;
- (k) fire protection requirements including doorway, corridor, passageways staircase ramps and lobbies;
- (l) special requirements of occupancies of 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;
- (p) building services including electric supply, gas supply, air conditioning or heating and telephones and telex;
- (q) plumbing services;
- (r) signs and outdoor display structures;
- (s) licence of Building Architects, Engineer, Building, Surveyors and Draughtsmen for purpose of preparing building plan;
- (t) recovery of fee in respect of multi-storeyed building; and
- (u) any features to be included in building plans under various provisions of this Act.

365. Provision on change of use of building : -

- (1) No person, in the municipal area of a Municipality, shall, without any written permission of the Chief Officer of the Municipality 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 authorised 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 346 or in the notice given under sub-section (2) of section 343.
 - (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 the 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 Chief Officer 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 Chief Officer 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 unauthorized used throughout the period, during which such contravention continues.
- (4) The Chief Officer may, if he deems fit, order that the unauthorised use be stopped forthwith:
- Provided that before making any such order, the Chief Officer 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 Chief Officer under sub-section (5), may within thirty days from the date of the order, prefer an appeal against the order to the Court of the Principal Judge of the District having jurisdiction.
- (6) Where an appeal is preferred under sub-section (6), the court of Principal Judge, 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 (4), 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 the Court Officer 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 Court of Principal Judge on appeal and, subject to such order, the order of the Chief Officer under sub-section (5), shall be final and conclusive.

- (9) Where no appeal has been preferred against an order made under sub-section (5) or where an order under that sub-section has been confirmed on appeal, whether with or without modification, the person against whom such order 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 the Court of the Principal Judge on appeal, and on the failure of such person to comply with such order within such period, the Chief Officer may, require any Police Officer or any employee of the Municipality to seal such building after evicting all persons therefrom to prevent its further unauthorised use.

366. Power to Prevent use of premise in particular case :-

- (1) The Chief Officer of a Municipality may, subject to the prior approval of the Municipality, give public notice of his intention to declare that in any area within the municipal area of the Municipality specified in the notice no person shall use any premises for any purpose specified in such notice and for reasons stated therein.
- (2) Objection to any such notice, shall be received within a period of thirty days from the publication of the notice.
- (3) The Chief Officer shall consider all objections received within the period as aforesaid, after giving any person affected by the notice an opportunity of being heard during such consideration, and may thereupon make a declaration in accordance with the notice published under sub-section (1), with such modifications, if any, as the Municipality may, think fit so, however, that its application is not extended.
- (4) Every such declaration shall be published in Official Gazette and in such other manner, as the Municipality may determine, and shall take effect from the date of its publication in the Official Gazette.

- (5) No person shall, in any area specified in the declaration published under sub-section (4), use any premises for any purpose specified in the declaration and the Chief Officer shall have the power to stop the use of any such premises by such means, as he considers necessary.

367. Theatres, circuses etc. not to be established without permission :-

- (1) No person shall, without the written permission of the Chief Officer of a Municipality or otherwise than in conformity with the conditions, if any, of such permission, which shall be granted subject to the provisions under section 370, uses, or permit to be used, or materially alter, enlarge or extend the use of any premises in the municipality area of the Municipality for the purpose of establishing or keeping open any theatre, cinema house, drive-in theatre or cinema house, circus, fair, fete, exhibition or dancing hall, or any other place of similar public resort, recreation or amusement for any such purpose:

Provided that nothing in this section shall apply to private performance in any place.

- (2) The Chief Officer may, specify any conditions for providing, within the premises, space for the vendors catering to the public needs in connection with such purposes.

368. Permission in case of markets, shops etc :-

- (1) The Chief Officer of a Municipality may, from time to time and with prior approval of the Municipality, notify that in the municipal area of the Municipality, no new market or shop or trading premises shall be established or kept open to, about on a public street or portion thereof, without his prior permission, which shall be subject to the provisions of the section 369.
- (2) The Chief Officer may refuse to give such permission with due regard to the traffic constraints in the vicinity.

- (3) Notwithstanding the existence of any markets or shops on any such street, such refusal of the Chief Officer shall be final.

369. Permission in case of other non-residential uses or premises :-

- (1) The Chief Officer of a Municipality may, from time to time and with the prior approval of the Municipal, notify such other non-residential uses of premises (including the one for an educational building or an institutional building or any assembly building or a business building or a mercantile building or an industrial building or a storage building or a hazardous building), as are not provided for in this Chapter and in the case of which, prior permission of the Chief Officer shall be necessary, subject to the provisions of section 370, for establishing, or materially altering, or enlarging, or extending the use of any premises.
- (2) The Chief Officer may, refuse to give such permission in any case on the ground that such case :-
- (a) would be objectionable by reason of the density of population in the neighbourhood; or
 - (b) would add to the traffic constraints in the vicinity including parking spaces for vehicles; or
 - (c) would not conform to other predominant uses in the neighbourhood; or
 - (d) would constitute a fire hazard; or
 - (e) would be a nuisance to the inhabitants of the neighbourhood; or
 - (f) in the case of a hospital or a clinic, would be harmful to the patients due to noise or an environment, which poses a health hazard; or
 - (g) in the case of an educational building, would deprive the students of playgrounds facilities, or any other similar ground.

- (3) Subject to any land use control under this Act or any other law for time being in force, the decision of the Chief Officer in refusing permission under this section, shall be final.

370. Conditions for granting permission :-

- (1) In the case of any premises for the use of which a license or permission is required from the Government, or the Central or any other State Government, or any statutory body under any law for the time being in force, the Chief Officer of a Municipality, shall not grant any permission under this Act to any person until such person produces before the Chief Officer, the license or the permission from such Government or statutory body, as the case may be, and submits duly authenticated copies thereof to him:

Provided that in the case production of a municipal permission is a pre-condition for the grant of a license or permission under any other law for the time being in force, the Chief Officer may, grant a provisional permission, which shall become final only upon the production of a license or permission under the said law:

Provided further that such provisional permission shall have validity only for the purpose of fulfilling any precondition for the license or the permission under any other law as aforesaid.

- (2) Notwithstanding anything contained in this Act, the Chief Officer may, while granting permission under this Chapter, specify such special conditions, relevant to each case, regarding disposal of solid, liquid or gaseous wastes or for parking of vehicles or for loading or unloading of goods or for abatement or nuisance of any kind whatsoever, as he deems fit.

CHAPTER - III

PLANNING AND DEVELOPMENT

371. Preparation of schemes.-

- (1) Subject to the provisions of section 372, the Municipality may, prepare one or more Town Improvement Schemes, or Town Planning Schemes.
- (2) A Town Improvement Scheme or a Town Planning Scheme, may be prepared for an area within the territorial jurisdiction of the Municipality for which no Town Development Scheme under Nagaland Town and Country Planning Act, 1968 (4 of 1966) has been prepared or implemented.

372. Scheme to be in conformity with Master Plan :-

Notwithstanding anything contained in section 371, when in respect of any area, a Master Plan has been prepared under the provisions of the Nagaland Town and Country Planning Act, 1968 (4 of 1966) no Town Improvement Scheme or Town Planning Scheme prepared under this Act for such area or any part thereof, shall be valid, unless such scheme is in conformity with the provisions of the Master Plan.

373. Town Improvement Scheme :-

Subject to the provisions of sub-section (2) of section 371, where as respect any built-up area within a municipal area, the Municipality upon information in its possession is satisfied,-

- (a) that the buildings in that area are by reason of disrepair or sanitary defects, unfit for human habitation or are by reason of their bad arrangement, or narrowness or bad arrangement, of the streets or want of light, air, ventilation or proper conveniences, dangerous or injurious to the health of the inhabitants of that area; or

- (b) that because of bad layout or absolute or undesirable dwellings, renewal of such area is necessary; or
- (c) that there is need to create new or improvement means of communication and facilities for traffic, and that the most satisfactory method of remedying these defects is to frame a Town Improvement Scheme in respect of such area, the Municipality may pass a resolution of its intention so to do so.

Explanation.- For the purposes of this section, the expression "built-up area" means that portion of a municipal area of which the greater part has been developed as a business or residential area.

374. Matters to be provided in Town Improvement Scheme.-

A Town Improvement Scheme may be provided for all or any of the following matters, namely:-

- (a) the laying out or re-laying out land, either vacant or already built upon;
- (b) the filling up or reclamation or low lying swampy or unhealthy areas or leveling up of land;
- (c) the re-distribution of sites belonging to owners of property comprises in the scheme;
- (d) the re-constitution of plots;
- (e) the closure or demolition of buildings or portions of building unfit for human habitation;
- (f) the demolition of obstructive buildings or portions thereof;
- (g) laying out of new streets or roads, construction, diversion, extension, alteration, improvement and closing up of streets, roads and communications;
- (h) the alignment of streets and prohibition of buildings within the regular line of streets;
- (i) the construction, alteration and removal of bridges and other structures;

- (j) the provisions for traffic infrastructure and management for traffic;
- (k) the provision for water supply, sewerage, surface or subsoil drainage and sewerage disposal, street lighting and other conveniences;
- (l) provisions for open spaces;
- (m) the construction and reconstruction of buildings;
- (n) the restriction on the erection or re-erection of buildings or any class of buildings;
- (o) the imposition of conditions and restrictions in regard to the open space to be maintained around the building, the percentage of building area for a plot, the number, height and character of buildings allowed in specified areas, the sub-division of plots, the discontinuance of objectionable uses of land or buildings in any area for specified periods, parking spaces and loading and unloading spaces for any building and advertisement signs;
- (p) the preservation and protection of objects of historical importance or of national interest or natural beauty and of buildings actually used for religious purpose; and
- (q) any other matter not inconsistent with the objects of this Act and for which, in the opinion of the Municipality, it is expedient to make provisions with a view to the improvement of the area to which the scheme relates.

375. Town Planning Scheme.-

If all the landowners in a locality, within a municipal area, agree to abide by the provisions made in a Town Planning Scheme, and such terms and conditions, as may be prescribed, the Municipality may, for the purpose of planning and development of that locality, prepare a Town Planning Scheme:

Provided that in any Town Planning scheme prepared under this section the area earmarked for roads, parks, open spaces and other public amenities shall not be less than 35 percent of the area of the land each of individual landowner covered under the Scheme.

376. Matters to be provided in Town Planning Scheme.-

Subject to the provisions of section 375, a Town Planning Scheme may, provide for all or any of the matters, which may be provided in a Town Improvement Scheme and also for all or any of the following matters, namely:-

- (a) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, industrial and commercial complexes, green belts, dairies, transport facilities and public purposes of all kinds;
- (b) undertaking housing schemes for different groups, development of commercial areas and industrial estates, provisions for community facilities like schools, hospitals and similar types of development; and
- (c) such other matters, not inconsistent with the objects of this Act, as may be prescribed.

377. Combination of schemes and matters which may be provided in the scheme:-

- (1) A scheme under this act may combine one or more types of schemes or any special features thereof.
- (2) A scheme under this act may provide for all or any of the following matters, namely:-
 - (a) the acquisition under the Nagaland Land (Requisition and Acquisition) Act, 1965, as modified by this Act, of any land or any interest in the land necessary for or affected by the execution of the scheme, or adjoining any street thoroughfare, open space to be improved or formed under this scheme;
 - (b) the acquisition by purchase, lease, exchange or otherwise, of such land or interest in land;
 - (c) the retention, letting on hire, lease, sale exchange or disposal otherwise, of any land vested in or acquired by the Municipality;

- (d) the advance to the owners of land comprises within the scheme upon such terms and conditions as to be the interest and Sinking Fund and otherwise, as may be specified in the scheme of the whole or part of the capital required for the erection of buildings in accordance with the scheme; and
- (e) the suspensions, so far as may be necessary for the proper carrying out of the scheme, of any rules, bye-laws, regulations, notifications or orders made or issued under any Act of the State Legislature or any of the Acts that the State Legislature is competent to amend.

378. Procedure for preparation of Scheme.-

- (1) If the Municipality considers it necessary to prepare a Town Improvement Scheme or a Town Planning Scheme it shall pass a resolution to that effect and direct the Chief Officer of the Municipality to prepare a draft scheme.
- (2) Each draft scheme shall, as soon as may-be, after it is prepared, be submitted by the Chief Officer to the Municipality for its approval.
- (3) The Municipality may, either approve the draft scheme prepared by the Chief Officer without notification or with such modifications, as the Municipality may consider necessary or reject the draft scheme with directions to the Chief Officer to prepare a fresh draft scheme in accordance with such directions.
- (4) After a draft scheme has been approved by the Municipality, the Chief Officer shall publish a notice in the official Gazette stating,-
 - (a) the fact that the scheme has been framed;
 - (b) the boundaries of the area comprised in the scheme; and
 - (c) a place at which details of the scheme including a statement of the land proposed to be acquired

and map of the area comprised in the scheme, may be inspected at reasonable hours, and inviting objections, or suggestions, if any, to the draft scheme, which may be submitted within such period, not being less than thirty days from the date of publication of the notice, as may be specified in the notice.

- (5) A copy of the notice shall be published in at least two leading newspaper of which one shall be in the regional language and a copy of notice shall be affixed in conspicuous place at the office of the Deputy Commissioner and at such other places as the Government may direct.
- (6) The Chief Officer shall consider every objection or suggestion to the draft scheme, which may be received by the date specified in the notice under sub-section (4), and shall record his opinion thereon and place the draft scheme together with his opinion before the Municipality.
- (7) The Municipality may, if it thinks it necessary to do so, modify the draft scheme in consequence of such objections or suggestions and shall submit the draft scheme as originally prepared or as so modified to the Government for sanction.

379. Sanction of scheme by Government. -

- (1) The Government may sanction either with or without modifications, or may refuse to sanction, or may return for reconsideration, any scheme submitted to it by the Municipality under sub-section (7) of Section 378.
- (2) If a scheme returned for reconsideration under sub-section (1), is modified by the Municipality, it shall be republished in accordance with the provisions of section 378.
 - (a) in every case in which the modification affects the boundaries of the area comprised in the scheme or involves the acquisition of any land not previously proposed to be acquired; and

- (b) in every other case, unless the modification is, in the opinion of the Government, not of sufficient importance to require republication.

380. Notification of sanction of scheme : -

- (1) The Government shall notify the sanction of every scheme under this Act, and the Municipality shall forthwith proceed to execute such scheme.
- (2) A notification under sub-section (1) in respect of the scheme, shall be conclusive evidence that the scheme has been duly framed and sanctioned:

Provided that no such notification in respect of any scheme shall be issued after the expiry of a period of three years from the date of the first publication of notice relating to that scheme under sub-section (4) of section 377.

381. Alteration of scheme after sanction :-

A scheme under this Chapter may be altered by the Municipality at any time, with the prior approval of the Government, between the period of its sanction by the Government and its execution.

382. Acquisition of land for scheme : -

- (1) Upon the sanction of any scheme under this Chapter, a Municipality may acquire any immovable property for the purposes of the scheme, by agreement, and failing that by acquisition under the provisions of the Nagaland Land (Requisition and Acquisition) Act, 1965 as modified by this Act shall apply.
- (2) All acquisition of land and interest in land for any scheme sanctioned under this Chapter, shall be completed at least upto the stage of making of awards within a period of two years from the date of the notification of the scheme under section 380 and if in respect of any land, the acquisition is not so completed the owner and occupier thereof, shall cease to be subject to any liability under this Chapter.

383. Power to make surveys :-

The Chief Officer of a Municipality may, cause a survey of any land to be made whenever he considers that a survey is necessary for carrying out any of the purposes of this Chapter.

384. General Power to make surveys :-

The Chief Officer of a Municipality may, with or without assistants or workmen, enter into or upon any land in order, -

- (a) to make any inspection, survey, measurement, valuation or enquiry;
- (b) to take levels;
- (c) to dig or bore into the sub-soil;
- (d) to set out boundaries and the intended line of work;
- (e) to mark such levels, boundaries and lines by makings and cutting trenches; or
- (f) do any other thing ; whenever it is necessary to do so far any of the purposes of this Chapter, any rules

or regulations made thereunder or any scheme sanctioned under this Chapter.

385. Abandonment of scheme :-

The Municipality may, at any time, with prior approval of the Government, and in accordance with such conditions, as may be imposed by the Government, abandon any scheme notified under sub-section (1) of section 380, and upon such abandonment, any land in respect of which, the acquisition is not complete upto the stage of making of award, and the owner or the occupier of such land, shall cease to be subject to any liability under this Chapter.

386. Power to dispose of land :-

Subject to such rules, as may be made under this Act, a Municipality may retain, lease, sell, exchange or otherwise dispose of, any land vested in, or acquired by it under this Chapter which is no longer required for a scheme framed under this Chapter.

CHAPTER - IV

MARKETS AND SLAUGHTER HOUSES

387. Provisions of municipal markets and slaughter houses :-

- (1) The Chief Officer of a Municipality, when so authorized by the Municipality in this behalf, may provide and maintain in the Municipal area of the Municipality, municipal markets, slaughter houses or stockyards in such number, as he thinks fit together with stalls, shops, sheds, pens and other buildings conveniences for the use of persons carrying on trade or business in, or frequenting such markets or slaughter houses and may provide and maintain in any such markets, buildings and places, machines, weights, scales and measures for the weighing or measurement of goods sold therein.
- (2) Municipal markets or slaughter-houses or stockyards shall be under the control of the Chief Officer.
- (3) Subject to such directions; as the Municipality may give in this behalf, the Chief Officer, may after giving general notice, close any municipal market or slaughter house or stockyard or any portion thereof on and from the date specified in the notice, and the premises occupied for any municipal for any municipal market, slaughter house or stockyard or any portion thereof so closed, may be disposed of as the property of the Municipality.

388. Use of Municipal markets :-

- (1) No person shall, without the general or special permission in writing of the Chief Officer of a Municipality, sell or expose for sale any animal or article in any municipal market within the municipal area of the Municipality.

- (2) Any person contravening the provisions of sub-section (1) and any animal or articles exposed for sale by such person, may be summarily removed from the market by or under the orders of the Chief Officer by a Police Officer or any officer or employee of the Municipality authorized by the Chief Officer in this behalf.

389. Private markets and slaughter houses :-

- (1) No place other than a Municipal market shall be used as a market unless such place has been licensed as market by the Chief Officer of the Municipality under section 399.
- (2) No place other than municipal slaughter house, shall be used as a slaughter house:

Provided that nothing in this sub-section shall be deemed,

- (a) to restrict the slaughter of any animal in any place on the occasion of any religious festival or ceremony, subject to such conditions where non-compliance with which, shall be punishable under this Act, as the Chief Officer may, by public or special notice, impose in this behalf; or
- (b) to prevent the Chief Officer from setting apart with the sanction of the Municipality any place for the slaughter of animals in accordance with religious custom.
- (3) The Chief Officer may in accordance with such regulations as may be made by the Municipality in this behalf, require the owner or the occupier of any licensed private market to provide approach roads or passage or pavement, drain or light the same or provide such conveniences for the use of persons resorting to such markets, as he may deem fit.

390. Prohibition of business and trade near a market :-

- (1) No animal or article shall be sold or exposed for sale by a hawker or squatter within a distance of fifty metres from the outward confines of any municipal market or licensed private market without the permission of the Chief Officer of the Municipality.
- (2) Any person contravening the provisions of sub-section (1) and any animal or article exposed for sale by such person may be summarily removed by or under the orders of the Chief Officer by a Police Officer or any officer or employee of the Municipality authorized by the Chief Officer in this behalf.

391. Levy of stallage, rent and fee :-

The Chief Officer of a Municipality may, -

- (a) within the municipal area of the Municipality, charge such stallage, rent or fee, as may, from time to time, be fixed by the Municipality in this behalf, -
 - (i) for the occupation or use of any stall, shop, stand, shed or pen in a municipal market or municipal slaughter-house;
 - (ii) for the right to expose articles for sale in a municipal market;
 - (iii) for the use of machines, weights, scales and measures provided for in any municipal market; and
 - (iv) for the right to slaughter animals in any municipal slaughter-house, and for the feed of such animals before they are ready for slaughter; or
- (b) from the stallage, rent or fee chargeable as aforesaid or any portion thereof for such period, as he may think fit; or

- (c) put up to public auction, or dispose of by private sale, the privilege or occupying or using any stall, shop, stand, shed or pen in a municipal market or municipal slaughter-house for such period and on such conditions, as he may think fit.

392. Stallage, rent etc. to be published :-

A copy of the table of stallage, rent and Fee, if any, chargeable in any municipal market or municipal slaughter-house, and of the regulations made under this Act for the purpose of controlling the use of such market or slaughter house, printed in such language or languages, as the Chief Officer of a Municipality may direct, shall be affixed in some conspicuous place in the market or the slaughter-house.

393. Power to expel person contravening regulations :-

- (1) The Chief Officer of Municipality may, after giving the parties concerned an opportunity of being heard and in accordance with such regulations, as may be made by the Municipality, -
 - (a) expel from any municipal market, municipal slaughter-house or municipal stockyard, for such period, as he may think fit, any person, who or whose employee has been found contravening any regulations made under this Act and in force in such market, slaughter-house or stockyard;
 - (b) prevent such persons, by himself or by his employees, from further carrying on any trade or business in such market, slaughter-house, or stockyard or occupying any stall, shop, standing, shed, pen or other place thereon;
 - (c) close the stall or shop of the person found to be in default in payment of the stallages or rents or any other dues to the Municipality, till payment is made or recovered under the provisions of this Act; and

- (d) determine any lease or tenure, which such person may have in any such stall, shop standing, shed pen or place.
- (2) If the tenant or the agent of the tenant or the owner or the lessee of any private market or slaughter-house, has been convicted for contravening any regulation made under this Act, the Chief Officer may, require such tenant or agent to remove himself from such market or slaughter-house within such time, as may be mentioned in the requisition, and if such tenant or agent fails to comply with such requisition, he may, in addition to any penalty, which may be imposed on him under this Act, be summarily removed from such premises by the owner or the lessee thereof or by the servant of such owner or lessee.
- (3) If it appears to the Chief Officer that in any such case the owner or the lessee is acting in collusion with a tenant or an agent, convicted as aforesaid who fails to comply with any requisition under sub-section (2), the Chief Officer may, if he thinks fit cancel the license of such owner or lessee in respect of such premises.

394. Power to expel person suffering from dangerous disease :-

The person in charge of market shall prevent the entry therein of, and shall expel therefrom, any person, suffering from any dangerous disease, who sells or exposes for sale therein any article or who, not having purchased the same, handles any article exposed for sale therein, and the Chief Officer may expel therefrom any person, who is creating a disturbance therein.

395. Power to inspect places where unlawful slaughter of animals etc. is suspected :-

- (1) If the Chief Officer of a Municipality or any person authorized by him in this behalf, has reason to believe that in the municipal area of the Municipality, any animal intended for human consumption is being slaughtered or that the flesh or any such animal is being sold or exposed for sale in any place or manner, not duly authorized under this Act, he may, ⁷ at any time by day or night without notice, inspect such place for the purpose of satisfying himself as to whether any provision of this Act or any rule or regulation made thereunder, is being contravened thereat, and may seize any such animal or the carcass of such animal or such flesh found therein.
- (2) The Chief Officer may, remove and sell by auction or otherwise dispose of any animal or carcass of any animal or any flesh, seized under sub-section (1).
- (3) If, within one month of such seizure, the owner of the animal, carcass or flesh fails to appear and prove his claim to the satisfaction of the Chief Officer or if the owner is convicted of an offence under this Act in respect of such animal, carcass or flesh, the proceeds of any sale under sub-section (2), shall vest in the Municipality.
- (4) Any person slaughtering any animal or selling or exposing for sale the flesh of any such animal in any place or manner not duly authorized under this Act, may be arrested by any Police Officer without a warrant.
- (5) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

CHAPTER - V

MUNICIPAL LICENSES

396. Premises not to be used for certain non-residential purposes without municipal license :-

- (1) No municipal license shall be given in respect of any non-residential use of any premises within the municipal area of the Municipality which is otherwise than in conformity with the provisions of this Act or any other law for the time being in force or the rules or the regulations made thereunder.
- (2) Subject to the provisions of sub-section (1), no person shall use or permit to be used any premises for any of the purposes without or otherwise than in conformity with the terms of a license granted by the Chief Officer of the Municipality in this behalf, which, in the opinion of the Chief Officer, is dangerous to life, health or property or is likely to create a nuisance.
- (3) In prescribing the terms of a license granted under this section for the use of premises as mills or iron yard or for similar purposes, the Chief Officer may, when he thinks fit, require the licensee to provide a space or passage within the premises for carts for loading and unloading purposes.
- (4) The Municipality shall by regulation's determine the fees to be paid in respect of a municipal license to be granted under this section, and may specify different fees for different categories of non-residential uses in different areas of a Municipality.

- (5) In the case of a non-residential use of any premises for a purpose for which a license or permission is required from the Government, or the Central or any other State Government, or any statutory body under any law for the time being in force, no person shall use or permit to be used such premises, unless permission is granted under sub-section (1) of section 370.
- (6) IN specifying the terms of a license granted under this section, the Chief Officer may, require the licensee to take all or any or such measures, as the Chief Officer may deem fit to guard against danger to life, health or property or for the abatement of nuisance of any kind.
- (7) The Municipality may by regulations determine :-
 - (a) when the initial license is to be taken out and the procedure of annual renewal thereof;
 - (b) the matters connected with the display of license, inspection of premises, power of inspector, and other matters relating thereto.

397. Registers to be maintained :-

The Chief Officer shall maintain two separate registers in such form and in such manner, as may be prescribed, containing the following information, namely: -

- (a) one register shall contain 'premises wise' information of the non-residential uses; and
- (b) one register shall contain such information, on the basis of different 'non-residential user groups,' for factories, warehouses, medical institutions, educational institutions and others, as may be prescribed.

398. Premises not to be used for keeping animals, birds etc. without license :

No person shall, within the municipal area, use or permit to be used any land or premises for keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for the sale of the produce thereof without or otherwise than in conformity with the terms of a license granted by the Chief Officer of the Municipality on payment of such fee, as may be determined by rules or regulations.

399. Municipal license for private markets :

- (1) The Chief Officer of a Municipality may, with the prior approval of the Municipality, grant to any person a municipal license to establish or keep open a private market on payment of such fees, as may be determined by the Municipality by regulations and may specify such consistent with this Act, as he may deem fit.
- (2) When the Chief Officer refuses to grant any license, he shall record a brief statement of the reasons for such refusal.
- (3) The Chief Officer may, with the previous approval of the Municipality and for reasons to be recorded in writing, by order, suspend a license in respect of a private market for such period, as he thinks fit or cancel such license.
- (4) A private market of which the license has been suspended or cancelled as aforesaid, shall be closed with effect from such date, as may be specified in the order of suspension or cancellation.

400. Prohibition of keeping market open without license, etc. :

- (1) No person shall keep open for public use any market in the municipal area of the Municipality in respect of which a license is required by or under this Act without obtaining a license therefore or while the license therefore is suspended or after the same has been cancelled.

- (2) When a license to open a private market in the municipal area of a Municipality is granted or refused or is suspended or cancelled, the Chief Officer of the Municipality shall cause a notice of such grant or refusal or suspension or cancellation to be pasted in such language, or languages as he thinks necessary in some conspicuous place by or near the entrance to the place to which the notice relates.

401. Prohibition or use of unlicensed markets :

No person, who knows that any market has been opened to the public without a license having been obtained therefore, when such license is required by or under this Act, or that the license granted therefore is for the time being suspended or that it has been cancelled shall sell or expose for sale any animal or article in such market.

402. License for hawking articles :

No person shall, without or otherwise than in conformity with the terms of a license, granted by the Chief Officer of the Municipality in this behalf, -

- (a) hawk or expose for sale in any place within the municipal area of the Municipality any article whatsoever whether it be for human consumption or not; or
- (b) use in any place his skill in any handicraft or render services to the public for their convenience for the purposes of gain or making a living.

403. License for sale of flesh, fish or poultry etc. :

- (1) No person shall, without or otherwise than in conformity with a license from the Chief Officer of Municipality, carry on within the municipal area of the Municipality the trade of a butcher, fish monger, poulterer or importer of flesh intended for human food, or use any place for the sale of flesh, fish or poultry intended for human food: -

Provided that no person shall sell or expose for sale any flesh obtained from an Animal, unless the skinned carcass of the animal is stamped in such manner, as the Chief Officer may, by general orders made in this behalf, require in token of the fact that the animal has been slaughtered in a municipal or licensed slaughter-house.

Provided further that no license shall be required for any place used for sale or Storage for sale or preserved flesh or fish contained in air-tight or hermetically sealed receptacles.

- (2) The Chief Officer may, by order and subject to such conditions, as to supervision and inspection, as he thinks fit to impose, grant a municipal license, or may, by order and for reasons to be recorded in writing, refuse to grant the same.
- (3) The Municipality shall by regulations determine the procedure for the issue of license and its renewal.
- (4) If any place is used for the sale of flesh, fish or poultry in contravention of the provisions of this section, the Chief Officer may stop the use thereof by such means, as he may consider necessary.

404. Seizure of certain animals :

- (1) If any horses, cattle or other quadruped animals or birds, are kept on any premises in contravention of the provisions of section 398, or are found abandoned any roaming or tethered on any street or public place or on any land belonging to the Municipality, the Chief Officer of the Municipality or any officer empowered by him, may seize them and may cause them to be impounded or removed to such place, as may be appointed by the Government or the Municipality for this purpose, and the cost of seizure of these animals or birds and of impounding or removing them and of feeding and watering them shall be recoverable by sale by auction of these animals or birds.

Provided that anyone claiming such animal or bird may, within seven days of the seizure, get them released on his paying all expenses incurred by the Chief Officer in seizing, impounding or removing and in feeding and watering such animal or bird, and on his producing a license for keeping these animals and birds issued under the provisions of section 398.

- (2) Whenever the Chief Officer is of opinion that the user of any premises for any of the purposes referred to in sub-section (2) of section 396 is causing a nuisance and such nuisance should be immediately stopped, the Chief Officer may, order the owner or the occupier of the premises, to stop such nuisance within such time as may be specified in the order and in the event of the failure of the owner or occupier to comply with such order, the Chief Officer may himself or by an officer subordinate to him, cause such user to be stopped.
- (3) Without prejudice to the foregoing provisions of this section, any person by whom or at whose instance any horses, cattle or other quadruped animals or birds, are so kept, abandoned or tethered, shall also be punishable under this Act.

405. Power of Chief Officer to prevent use of premises in particular area for purposes referred to in section 396 :

- (1) The Chief Officer of a Municipality may, give public notice of his intention to declare that in any area specified in the notice, no person shall use any premises for any of the purposes referred to in sub-section (2) of section 396 which may be specified in such notice.
- (2) No objections to any such declarations shall be received after a period of one month from the publication of the notice.

- (3) The Chief Officer shall consider all objections received within the said period, giving any person, affected by the notice, an opportunity of being heard during such consideration, and may thereupon make a declaration in accordance with the notice published under sub-section (1), with such modifications, if any, as he may think fit, but not so as to extend its application.
- (4) Every such declaration shall be published in the official Gazette and in such other manner as the Chief Officer may determine, and shall take effect from the date of its publication in the official Gazette.
- (5) No person shall, in any area specified in any declaration published under sub-section (4) of this section, use any premises for any of the purposes referred to in section 396 specified in the declaration and the Chief Officer shall have the power to stop the use of any such premises by such means, as he considers necessary.
- (6) No person shall, in any area specified in any declaration published under sub-section (4) of this section, use any premises for any of the purposes referred to in section 396 specified in the declaration and the Chief Officer shall have the power to stop the use of any such premises by such means, as he considers necessary.

406. Power to stop use of premises used in contravention of license :-

- (1) If the Chief Officer of a Municipality is of the opinion that any premises within the municipal area of the Municipality is being used for a non-residential purpose without a municipal license or otherwise than in conformity with the terms of municipal license granted in respect thereof, he may stop the use of any such premises for any such purpose for a specified period by such means, as he may consider necessary.

- (2) If a person continues to use any premises in contravention of the provisions of sub-section (1), the Chief Officer may, notwithstanding any other action that may be taken against such person under this Act, levy a continuing fine in accordance with the provisions of sub-section (4) of section 365.

407. Power to seize food or drug, etc. :-

- (1) The Chief Officer of a Municipality, or any officer or employee of the Municipality authorized by him in this behalf may, at any time by day or night without notice inspect and examine any food or drug of any utensil or vessel used for preparing manufacturing or storing such food or drug.
- (2) If upon such inspection or examination any such food or drug is in the opinion of the Chief Officer or the Officer or employee authorized by him in this behalf, unwholesome or unfit for human consumption, or is not what it represented to be or if any such utensil or vessel is of such kind or in such state, as to render any food or drug prepared, manufactured or stored therein, unwholesome or unfit for human consumption, he may seize, seal or carry away such food or drug or utensil or vessel.
- (3) If any food or drug seized under sub-section (2), is, in the opinion of the Chief Officer, unfit for human consumption, he shall cause the If any same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption and the expenses thereof, shall be paid by the person in whose possession such food or drug was at the time of its seizure.

CHAPTER - VI

DISTRICT PLANNING COMMITTEE

407. A. Constitution of District Planning Committee:

- (1) There shall be constituted at the District level a District Planning Committee to consolidate the plans prepared by the village councils and the municipalities in the district and to prepare a draft plan for the district as a whole.
- (2) The District Planning Committee shall compose of the members of the existing institution of the District Planning and Development Board of the District.

Provided that wherever the municipalities are established under the provisions of this Act, the words 'chairman of Town Committee' appearing in the constitution of the said District Planning and Development Board shall be read as to include the Chairperson of a Municipal Council or Town Council as the case may be.

- (3) Notwithstanding the provision of the said sub-section (2), the State Government may further prescribe, by notification, the composition of the District Planning Committee in this behalf.
- (4) The Deputy Commissioner, in his absence the Additional Deputy Commissioner, shall discharge the functions of the Chairman of the District Planning Committee.

407. B Function and duties :-

- (1) The functions of the District Planning Committee shall include such matters in relation to District Planning as may be further assigned by the State Government.
- (2) Every District Planning Committee shall, in preparing the draft development plan, -
 - (a) have regard to -
 - (i) matters of common interest between the Village Councils and the Municipalities including special planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation,
 - (ii) the extent and type of available resources whether financial or otherwise,
 - (b) Consult such institutions and organizations as the Governor may, by order, specify.
- (3) The Chairman of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

PART - VII
COMMUNITY HEALTH

CHAPTER - I
DISPOSAL OF THE DEAD

408. Power to call for information regarding burning and burial ground :-

The Chief Officer of a Municipality may, by notice in writing, require the owner or the person in charge of any burning or burial ground to supply such information as may be specified in the notice relating to the condition management or position of such burning or burial ground.

409. Provisions for new places for disposal of the dead, -

- (1) If any existing place for the disposal of the dead within the municipal area at any time appears to be insufficient, the Municipality shall, subject to the provisions of the Nagaland Town and Country Planning Act, 1966, provide other proper and convenient place for the said purpose either within or outside the municipal area of the Municipality.
- (2) All the provisions of this Act or the rules or the regulations made there under, shall apply to any place provided under sub-section (1) outside the municipal area and vesting in the Municipality as if such place were situated within the municipal area of the Municipality.

410. Permission for opening new place for disposal of the dead or reopening of place, -

- (1) No place which has not previously been lawfully used as a place for the disposal of the dead shall be opened by

any person for the said purpose except in conformity with the provisions of the Nagaland Town and Country Planning Act, 1966, and without the written permission of the Chief Officer of the Municipality who, with the approval of the Municipality, may grant or withhold such permission.

- (2) Such permission may be subject to such conditions as the Municipality may think fit to impose for the purpose of preventing any annoyance to, or danger to the health of, any person residing in the neighborhood.
- (3) No place for the disposal of the dead, which has fallen into disuse, shall be used again as such.

411. Power to require closing of burning and burial grounds :-

- (1) The Municipality, may, by public notice, order and if so directed by the Government, shall within one month of the notification of such direction, be deemed to have ordered, any burning or burial ground situated within the Municipality or within one mile thereof, which is certified by the Municipality Health Officer to be dangerous to the health of persons living in the neighbourhood to be closed, from a date to be specified in the public notice, and shall in such case, if not suitable place for burning or burial exists within a reasonable distance, provided a fitting place for the purpose.
- (2) No corpse shall be burnt or buried or otherwise disposed of at the burning or burial ground or place in respect of which notice has been issued under this section.
- (3) Private burial places in such burial grounds may be excepted from the notice, subject to such conditions, as the Municipality may impose in this behalf. Provided that the limits of such burial places are sufficiently defined and they shall only be used for the burial of the members of the family of the owners thereof.

412. Removal of corpse :-

The Municipality may, by public notice, specify the routes for the removal of corpse to burning or burial ground.

413. Power to direct reopening of any place closed for the disposal of the dead :-

- (1) If, at any time after personal inspection, the Chief Officer of a Municipality is of the opinion that any place formerly used for the disposal of the dead, which has been closed under the provisions of the Chapter or under any other law for the time being in force, has by lapse of time become no longer injurious to health and may without inconvenience or risk or danger, be again used for the said purpose, he may submit his opinion as aforesaid with the reason therefore to the Municipality.
- (2) Upon the receipt of such opinion, the Municipality after such further enquiry if any, as it may deem fit to cause to be made, may direct that such place be reopened for the disposal of the dead.

414. Prohibitions regarding burial within places of worship and exhumation, -

- (1) No person shall, without written permission of the Chief Officer of a Municipality under sub-section (2), -
 - (a) made any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, or any place of worship;
 - (b) make any interment or otherwise dispose of any corpse in any place which is closed under section 411.
 - (c) Build, or cause to be built or dug any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place, which is not permitted under this Chapter.

- (d) Exhume any body from any place for the disposal of the dead, except under the provisions of the Code of Criminal Procedure, 1973 (Act 2 of 1947), or any other law for the time being in force.
- (2) The Chief Officer may, in special cases, grant permission for any of the purposes as aforesaid, subject to such general or special orders, as the Government may, from time to time, make in this behalf.
- (3) Any contravention of the provisions of sub-section (1) shall be deemed to be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

415. Acts prohibited in connection with disposal of dead, -

No person shall, -

- (a) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;
- (b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk or infection or injury to the community health, as the Chief Officer of the Municipality may by public notice from time to time, think fit to require;
- (c) except when no other route is available, carry a corpse or a part of a corpse along any street along which carrying of corpses is prohibited by a public notice issued by the Chief Officer in this behalf;
- (d) remove a corpse or part of a corpse, which has been kept or used of purpose of dissection, otherwise, than in a closed respectable or vehicle;
- (e) while conveying a corpse or part of a corpse, place or leave the same on or near any street without urgent necessity;

- (f) bury or cause to be buried any corpse in the grave or vault or otherwise in such manner, as may cause the surface of the coffin or, when no coffin is used of the corpse or part of the corpse to be at a depth of less than two meters from the surface of the ground;
- (g) build or dig, or cause to be built or dug, any grave or vault in any burial ground at a distance of less than one half of meter from the margin of any other grave or vault;
- (h) build or dig, or cause to be built or dug, a grave or vault in any burial ground in any line not marked out for this purpose by or under the order of the Chief Officer, and
- (i) without the written permission of the Chief Officer, reopen for the interment of a corpse or of any part of a corpse, a grave or vault already occupied.

416. Disposal of dead animals :-

- (1) Whenever any animal in charge of any person dies, the person in charge thereof shall, within twenty-four hours, either, -
 - (a) convey the carcass to a place provided or appointed for this purpose under section 279 for the final disposal of carcasses of dead animals, or
 - (b) give notice of the death to the Chief Officer of the Municipality, whereupon he shall cause the carcass to be disposed of.
- (2) In respect of the disposal of the carcass of a dead animal under clause
 - (b) of sub-section (1) the Chief Officer may charge such fee, as may be determined by the Municipality by regulations.
- (3) Whenever any dead animal does not belong to any person, the Chief Officer shall act immediately for causing the carcass to be disposed of.

CHAPTER - II

RESTRAINT OF INFECTION

417. Disposal of mad and stray dogs and other animals, -

- (1) The Municipality may, -
 - (a) authorised any person, -
 - (i) to destroy, or cause to be destroyed, or confine, or cause to be confined for such period, as the Municipality may direct, any dog or other animal suffering, or reasonably suspected to be suffering from rabies, or bitten by dog or other animal suffering or suspected as aforesaid;
 - (ii) to confine, or cause to be confined any dog found wandering about streets or public places without collars or other marks distinguishing them as private property, and charge a fee for such detention and destroy or otherwise dispose of any such dog if it is not claimed within one week, and the fee is not paid; or
 - (b) issue a temporary or standing order that any dog without collars or other marks distinguishing them as private property, found straying on the streets or beyond the enclosures of the houses of the owners of such dogs, may be destroyed or caused them to be destroyed accordingly.
- (2) Public notice shall be given by the Municipality of any such order referred to in clause (b) of sub-section (1).
- (3) No damages shall be payable by the Municipality in respect of any dogs or other animals destroyed or otherwise disposed of under this section.

418. Municipality to take measures for prevention and checking of dangerous diseases :-

The Municipality may take such measures, as are necessary for preventing or checking the spread of any dangerous disease in the municipal area or of any epidemic disease among any animals therein.

419. Power of Chief Officer to inspect a place and take measures to prevent spread of dangerous disease :-

The Chief Officer of a Municipality may, at any time, by day or by night, and without notice, or after giving such notice of his intention, as shall, in the circumstances, appear to him to be reasonable inspect any place in which any dangerous disease is reported or suspected to exist and take such measures, as he may think fit to prevent the spread of such disease beyond such places and shall forthwith send information thereof to the Government, the Deputy Commissioner and the senior most functionary of the Health Department of the Government in the District.

420. Removal to hospitals of patients suffering from dangerous disease:-

When any person suffering from dangerous disease is found to be, -

- (a) without proper lodging or accommodation; or
- (b) living in a room or house which he neither owns or pays rent of, nor occupies as a guest or relative of the person, who owns, or pays rent for it; or
- (c) living in a sarai, hotel, boarding house or other public hostel; or
- (d) lodged in the premises occupied by members of two or more families, the Chief Officer of the Municipality or any person authorized by him in this behalf, may, on the advice of any Medical Officer, remove the patient to any hospital or place at which person suffering from such disease are received for medical treatment and may do anything necessary for such removal.

421. Power of Chief Officer to disinfect building, tank, pool or well, -

- (1) If the Officer of a Municipality is of the opinion that the clearing or disaffection of any building or any part thereof in the municipal area or of any article in such building or part thereof, which are likely to retain infection, or the renewal of plastering of the walls thereof or the disaffection of any tank, pool or well, adjacent to a building would tend to prevent or check the spread of any dangerous disease, he may by notice require the owner or occupier to cleanse and disinfect such building or part thereof or article or tank, pool or well or to renew such flooring and, if necessary such plating also with such time, as may be specified in the notice.
- (2) The Chief Officer may, if he thinks fit, cause such cleansing or disinfection to be done by employees of the Municipality and may require the occupier of such building or part thereof to vacate the same for such time, as he may specify in a written notice.
- (3) The cost of cleansing or disinfecting under sub-section (2), shall be paid,-
 - (a) in the case of any building or any part thereof or any article contained therein, by the occupier of such building or part thereof; and
 - (b) in the case of any tank, pool or well, adjacent to a building by the person in actual possession of such tank, pool or well or, if there is no such person by the owner of such tank, pool or well. Provided that if, in the opinion the Chief Officer such occupier or person or owner is, owing to poverty unable to pay the cost, the Chief Officer may direct the payment, thereof to be made from the Municipal Fund to the Municipality.

422. Power to close lodging and eating houses :-

The Municipality may, on being satisfied that it is in the public interest to do so, by written order, direct that any lodging house or any place in the municipal area where articles of food and drink are sold or prepared, stored or exposed for sale being a lodging house or place in which a case of dangerous disease exists or has recently occurred, shall be closed for such period, as may be specified in the order:

Provided that such lodging house or place may be declared to be open, if the Municipal Health Officer certifies that it has been disinfected or is free from infection.

423. Power to inspect places for sale of food or drink etc., and seize unwholesome articles exposed for sale :-

- (1) The Chief Officer of the Municipality or any person authorized by the Municipality may, at all reasonable times, enter into and inspect any market, building, shop stall or place used for the sale of food or drink, or as a slaughter house, or for the sale of drugs, and inspect and examine any food or drink, animal or drug, which may be therein, and if any article of food or drink, or any animals therein, intended for the consumption of persons appears to be unfit there for, may seize and remove the same or may cause it to be destroyed or to be disposed of as to prevent its being exposed for sale or used for such consumption.
- (2) In case it is reasonably suspected that any drug is adulterated in such manner, as to lessen its efficacy or to change its operation or to render it noxious, the Chief Officer may cause to remove the same, giving a receipt there for, and to cause the owner thereof to be brought before a magistrate for enquiry whether any offence has been committed in respect thereof, and for orders as to the disposal of the said drug.

424. Special measures in case of outbreak of dangerous or epidemic diseases. -

(1) In the event of any municipal area or any part thereof being visited or threatened by an outbreak of any dangerous disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Chief Officer of the Municipality, if he thinks that the other provisions of this Act and the provisions of any other law for the time being in force are insufficient for the purpose, may, with the previous approval of the Municipality,-

- (a) take such special measures; and
- (b) by public notice, give such directions to be observed by the public or by any class or section of the public, as he thinks necessary to prevent the outbreak of this disease;

Provided that, where, in the opinion of the Chief Officer, immediate measures are necessary, he may take action without such approval and, if he does so, he shall forthwith report such action to the Municipality.

(2) No person shall commit a breach of any direction given under sub-section (1) and if he does so, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code, 1860 (Act 45 of 1860)

425. Disposal of infectious corpses :-

Where any person has died from any dangerous disease in any municipal area, the Chief Officer of the Municipality may, by notice in writing, -

- (a) require any person having charge of the corpse to convey the same to mortuary and thereafter to be disposed of in accordance with law; or

- (b) prohibit the removal of corpses from the place where death occurred except for the purpose of being burnt or buried or being conveyed to a mortuary.

426. The Municipality may, as and when the Government so directs, shall, -

- (a) provide proper places within the municipal area with necessary attendants and apparatus for the disinfections of conveyances, clothing, bedding and other articles, which have been exposed to infection; and
 - (b) cause conveyances, clothing and other articles brought for disinfections to be disinfected either free of charge or on payment of such charge, as it may fix.
- (2) The Chief Officer may notify places at which articles of clothing, bedding and conveyances or other articles, which have been exposed to infection, shall be washed and, if he does so, no person shall wash any such thing at any place not so notified without having previously disinfected such thing.
- (3) The Chief Officer may direct the destruction of any clothing, bedding or other articles likely to retain infection, and may give such compensation, as he thinks fit for any articles so destroyed.

427. Contamination and disinfections of public conveyance. -

- (1) Whoever, -
 - (a) uses a public conveyance while suffering from a dangerous disease; or
 - (b) uses a public conveyance for carriage of a person, who is suffering from any disease; or

- (c) uses a public conveyance for the carriage of the corpse of a person, who has died of any such disease, shall be bound to take proper precautions against the communication of the disease to other persons using or who may thereafter use the conveyance and to intimate such use to the owner, driver or person in charge of the conveyance and report without delay to the Chief Officer of the Municipality the registration number of the conveyance and the name of the person so intimated.
- (2) Where any person suffering from or the corpse of any person, who has died of, a dangerous disease has been carried in public conveyance which ordinarily plies in the municipal area or any part thereof, the driver thereof shall, forthwith report the fact to the Chief Officer, who shall forthwith cause the conveyance to be disinfected, if that has not already been done.
- (3) No such conveyance shall be again brought in use until the Municipal Health Officer has granted a certificate stating that it can be used without causing risk or infection.
- (4) Whoever fails to make to the Chief Officer any report, which he is required to make under this section shall be guilty of an offence punishable under this Act.

428. Driver of a conveyance not bound to carry person suffering from dangerous disease :-

Notwithstanding anything contained in any law for the time being in force, no owner, driver or person in-charge of a public conveyance shall be bound to convey or to allow to be conveyed in such conveyance in or in the vicinity of any municipal area any person suffering from a dangerous disease or the corpse of any person, who died from such disease, unless such person pays or tenders a sum sufficient to cover any loss and expense, which would ordinarily be incurred in disinfecting the conveyance.

429. Infected building not to be let without being first disinfected. -

- (1) Where in any municipal area any building or part of a building is intended to be let an in which any person has, within six weeks immediately preceding, been suffering from a dangerous disease, the person letting the building or part thereof shall, before doing so, disinfect the same together with all articles therein liable to retain infection in such a manner, as the Chief Officer of the Municipality may by general or special notice direct.
- (2) For the purposes of this section, the keeper of a hotel, lodging house or sarai shall be deemed to let to any person, who is admitted as a guest therein, that part of the building in which such person is permitted to reside.

430. Disposal of infected articles without disinfection :-

- (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of to another person any article or thing which he knows or has reasons to believe, has been exposed to contamination by any dangerous disease.
- (2) Nothing in sub-section (1) shall apply to a person who transmits, with proper precautions, any such articles for the purpose of having the same disinfected or medically examined.

431. Infected clothes not to be sent to washerman or laundry :-

- (1) No person shall send or take to any washerman or to any laundry or to any place set apart for the exercise for washerman of their calling for the purpose of being washed or to any place for the purpose of being cleansed any cloth or other article, which he knows to have been exposed to infection from a dangerous disease, unless such cloth or article has been disinfected by or to the satisfaction of the Chief Officer of the Municipality.

- (2) The occupier of any building in a municipal area in which a person is suffering from a dangerous disease shall, if required by the Chief Officer furnish to him in the address of any washerman to whom or any laundry or other place to which clothes and other articles from the building has been, or will be sent during the continuance of the disease, for the purpose of being washed or cleaned.

432. Prohibition of making or selling of food, etc., or washing or clothes by infected person :-

No person while suffering from or in circumstances, in which he is likely to spread, any dangerous disease, shall, -

- (a) make, carry or offer for sale, or take any part in the business of making, carrying or offering for sale, any article of food or drink or any medicine or drug for human consumption or any article of clothing, bedding for personal use or wear; or
- (b) willfully touch any such article, medicine or drug, when exposed for sale by others; or
- (c) take any part in the business of washing or carrying of clothes.

433. Obligation to give information of dangerous disease and duty of persons suffering from dangerous disease :-

- (1) Any person being in charge of or in attendance whether as a medical practitioner or otherwise, upon any person whom he knows or has reason to believe to be suffering from a dangerous disease, or being the owner, lessee, or occupier of any building in which he knows that any such person is so suffering, shall forthwith give information in respect of the existence of such disease to the Chief Officer of the Municipality.

(2) No person shall, -

- (a) knowing that he is suffering from a dangerous disease expose other persons to the risk of infection by his presence or conduct in any public street or public place;
- (b) having the care of a person whom he knows to be suffering from a dangerous disease, cause or permit such person to expose other persons to the risk of infection by his presence or conduct in any street or place as aforesaid;
- (c) place or cause to be placed in a dustbin or other receptacle for the deposit of rubbish, any matter, which he knows to have been exposed to infection from dangerous disease and which has not been disinfected properly; and
- (d) throw or cause to be thrown into any latrine or urinal any matter which he knows to have been exposed to infection from a dangerous disease and which has not been disinfected properly.

CHAPTER - III

SANITATION AND PUBLIC SAFETY DUTIES AND GENERAL POWER

434. Duties of Municipality in relation to sanitation and public safety. -

Save as otherwise provided in this Act, the Municipality shall take adequate measures for each of the following matters, namely: -

- (a) inspection, supervision, regulation and control of premises to ensure proper environmental sanitation;
- (b) regulation of public bathing and washing;
- (c) provision of and maintenance of public conveniences;
- (d) licensing of animals and control of stray animals;
- (e) licensing of butchers and slaughter-houses; and
- (f) Control of nuisances.

435. Power to inspect premises for sanitary purpose :-

Subject to such regulations, as may be made in this behalf, the Chief Officer of a Municipality may cause any building or other premises to be inspected for the purpose of ascertaining the sanitary condition thereof.

436. Power to require cleansing and lime washing of filthy building or land. -

The Chief Officer of the Municipality may, by notice, require the owner or occupier of any building or land or any part thereof within the municipal area, which is in a filthy or unwholesome state, to cleanse the same or otherwise put it in a proper state within twenty four hours and thereafter to keep it in a clean and proper state and if it appears necessary for sanitary purpose to do so, may at any time, by notice, direct the occupier of any building to lime-wash or otherwise cleanse the said building inside and outside in the manner and within a period to be specified in the notice.

437. Power to require removal or improvement of huts and sheds. -

If the Chief Officer of the Municipality is of the opinion that any hut or shed used either as a dwelling or as a stable or for any other purpose is likely by reason of its being built without a plinth or upon a plinth of insufficient height or without proper means of drainage or ventilation or on account of the impracticability of scavenging, or owing to the manner in which it and other huts or sheds or crowded together to cause risk of disease to the inmates thereof or to the inhabitants of the neighborhood or is for any reason likely to endanger the community health of safety, he may by written notice, which shall be affixed to some conspicuous part of such hut or shed, require the owner or occupier thereof or the owner of the land on which such hut or shed stands, to remove or alter such hut or shed or to take such order for the improvement thereof as the Chief Officer deems necessary.

438. Power to stop improper use of land or building. -

If within any municipal area any land or building by reason of its being abandoned or unoccupied, -

- (a) is in a filthy or unwholesome state; or
 - (b) has become a resort of, -
 - (i) idle and disorderly person; or
 - (ii) persons who have no ostensible means of subsistence or cannot give satisfactory account of themselves; or
 - (c) is used for gambling or immoral purposes; or
 - (d) otherwise occasions or is likely to occasion a nuisance,
- the Chief Officer of the Municipality may, after due enquiry, by notice in writing, require the owner or part-owner or any person claiming to be the owner or part-owner of such land or building, or the lessee or any person claiming to be the lessee thereof to, -

- (i) secure, enclose, cleanse or clear such land or building; or
 - (ii) stop using such land or building for gambling or immoral purposes; or
 - (iii) abate the nuisance,
- within such time, as may be specified in the notice and shall *affix* a copy of such notice on the door of the building or on some other conspicuous part of the land, as the case may be.

439. Power to prohibit use for human habitation of buildings unfit for such use :-

Notwithstanding anything contained in section 359, if any building or any part of any building within the municipal area appears to the Municipality to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation, or for any sufficient reason, the Municipality may, by notice, prohibit the owner or occupier thereof from using the same for human habitation, or suffering it to be so used until it has been rendered fit for such use to the satisfaction of the Municipality, and no such owner or occupier shall inhabit such building or suffer it to be inhabited until the Municipality shall have informed in writing, the owner or occupier that the prohibition has been withdrawn.

440. Prohibition of cinematographs and dramatic performances except in licensed premises :-

- (1) No exhibition of pictures or other optical effects by means of a cinematograph or other similar apparatus for the performance of which inflammable films are used, and no public dramatic or circus performance or pantomime, shall be given in any municipal area elsewhere than in premises for which a license has been granted by the Municipality.

- (2) No owner of a cinematograph or other apparatus shall use the apparatus or allow it to be used, and no person shall take part in any public dramatic or circus performance or pantomime and no occupier of any premises shall allow the premises to be used in contravention of the provisions of this section or of any condition of a license granted under this section

441. Restriction on spitting :-

No person shall in a public place within the limits of any municipal area spit in a place other than a drain or a receptacle provided by the Municipality.

442. Bill-sticking without permission :-

- (1) No person shall, without the consent of the owner or occupier or other persons for the time being in charge, affix any pasting bill, notice, placard or other paper or means of advertisement against or upon any building, wall, tree, board, fence, or pole or write upon, soil, deface or mark any such building, wall, tree, board, fence or pole with chalk or paint or in any other way whatsoever.
- (2) Notwithstanding anything contained in Section 474, a court may take cognizance of an offence under sub-section (1) upon the complaint of the owner or occupier or other person in charge of the property in respect of which such offence is alleged to have been committed.

443. Roofs and external walls not to be made of inflammable material:-

The Municipality may direct that within certain limits of the municipal area, to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials without the permission of the Municipality in writing and the Municipality may, by written notice, require any person who has disobeyed any such direction to remove or later the roofs or walls so made or renewed as it may think fit.

444. Regulation of use of places for public bathing etc :-

- (1) The Chief Officer of a Municipality, may from time to time;
 - (a) set apart any suitable place vesting in the Municipality for use by the public for bathing or for washing animals or for washing or drying clothes;
 - (b) Specify the times at which and the sex of persons by whom any such place may be used.
 - (c) Prohibit, by public notice, the use by the public, for any of the purposes as aforesaid of any place not so set apart;
 - (d) Prohibit, by public notice, the use by the public of any place not vesting in the Municipality for such purpose;
 - (e) Regulate by public notice the use by public of any place vesting in the Municipality and set apart by him for any such purpose; and
 - (f) Regulate by public notice the use by public of any place not vested in the Municipality for such purpose or of any work assigned and set apart under this Act for any particular purpose.
- (2) The Chief Officer may charge such fee as the municipality may by regulations determine for the use of any place set apart under clause (a) of sub-section (1) by any specified class or classes of persons or by the public generally.

445. Prohibition of bathing etc. contrary to order :-

Except as otherwise permitted by any order under this Act :-

- (1) no person shall, -
 - (a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, stand pipe, stream or well or any river or other place in the Municipality;

- (b) wash or cause to be washed in or near any such place any animal, clothes or other article;
 - (c) throw, put or cause to enter into the water in any such place any animal or other things;
 - (d) cause or suffer to drain into or upon any such place or to be brought therein to or thereupon anything or do anything whereby the water shall be in any degree fouled or polluted; and
 - (e) dry clothes in or upon any such place.
- (2) No person shall, -
- (a) in contravention of any prohibition made by the Chief Officer of the Municipality under section 444 use any portion of any river or any place not vesting in the Municipality for any purpose mentioned in that section; and
 - (b) contravene provisions of any notice given by the Chief Officer under clause (c) of sub-section of section 444 for the use of any such portion of any river or any place for any such purpose.

446. Prohibition of pollution of water by steeping therein animal or other matter etc :-

No person shall, -

- (a) steep in any tank, reservoir, stream, well or ditch any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health; and
- (b) while suffering from any contagious, infectious or loathsome disease, bath on, in or near any bathing platform, lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well.

447. Prohibition of pollution of water by other means, -

No person engaged in any trade or manufacture in the municipal area shall :-

- (a) cause or suffer to be brought or to flow into any lake, stream, tank, reservoir, cistern, well, duct or other place for water whether belonging to the Municipality or not, any drain or pipe communicating therewith any washing or other substance produced in the course of any such trade or manufacture as aforesaid; and
- (b) do an act connected with any such trade or manufacture as aforesaid whereby the water in any such lake, stream, tank, reservoir, cistern, well duct or other place for water is fouled or polluted.

448. Prohibition against washing by washerman :-

- (1) The Chief Officer of a Municipality may, by public notice, prohibit the washing of clothes by washermen in the exercise of their callings, except at such places, as he may appoint for the purpose.
- (2) When any such prohibition has been made, no person who is by calling a washerman, shall in contravention of such prohibition wash clothes except for himself or for personal and family service or for hire on or within the premises of the hirer at any place other than a place appointed under sub-section (1)

PUBLIC CONVENIENCES AND LATRINES AND URINALS

449. Public Latrines, Urinals :-

- (1) The Municipality shall provide and maintain in proper and convenient places a sufficient number of public latrines and urinals.
- (2) Such public latrines and urinals shall be so constructed as to provide separate compartments for each sex and not to be a nuisance and shall be provided with all necessary conservancy, lighting and establishments, and shall regularly be cleansed and kept in proper order and for this purpose, the Chief Officer of the Municipality may, with the approval of the Municipality, make an agreement with an agency or non-governmental organization or person having experience and manning public latrines and urinals etc.

450. Restriction on construction of latrines and urinals. -

- (1) It shall not be lawful to construct any latrine or urinals for any premises in a municipal area, except with the written permission of the Chief Officer of the Municipality and in accordance with such terms not inconsistent with the provisions of this Act any rules or regulations made thereunder, as he may specify.
- (2) In the specifying any such term, the Chief Officer may determine in each case, -
 - (a) whether the premises shall be served by the service system or by the flush system or partly by the one and partly by the other; and
 - (b) what shall be the site or position of each latrine or urinal.

- (3) If any latrine or urinal is constructed on any premises in contravention of the foregoing provisions, the Chief Officer may, after giving not less than ten days notice to the owner or occupier of such premises, alter, reconstruct, close or demolish such latrine or urinal and the expenditure incurred by the Chief Officer in so doing, shall be recoverable from the owner or occupier as an arrears of tax under this Act.

451. Latrines and urinals for workmen. -

Every person employing workmen, labourers or other person exceeding twenty in number, shall provided and maintain for the separate use of persons of each sex so employed, latrines and urinals of such description and number, as the Chief Officer of the Municipality may, by notice, require and within such time, as may be fixed in the notice and shall keep the same in clean and proper order.

452. Provision of latrines and urinals for markets etc :-

The Chief Officer of the Municipality may, by notice, require any owner or manager of a market, cart stand, cattle shed, theatre, railway station and other places of public resort within the municipal area of the Municipality to provide within such time, as may be specified in the notice and maintain for the separate use of persons of each sex, latrines and urinals of such description and number and in such position as may be specified and to keep the same in clean and proper order.

453. Inspection of animals for sale :-

- (1) The Chief Officer of a Municipality shall make provision for inspection of all animals which are intended for human consumption and are in the course of transit or are exposed or hawked about or deposited in or brought to any place within the municipal area for sale or preparation for sale, as the case may be.

- (2) If, as a result of any inspection under sub-section (1), any prosecution is instituted under this Chapter, the burden of proving that any such animal was not exposed or hawked about or deposited in or brought to any place for sale or preparation for sale or was not intended for human consumption, shall rest with the person prosecuted.

454. Suffering dogs not to be at large :-

No person, being the owner or person in charge of any dog, shall neglect to restrain it so that it shall be at large in any street without a muzzle,-

- (c) if such dog is likely to annoy or intimidate public; or
(d) if the Municipality has by the public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles.

455. Taking elephants along public roads :-

No person shall, contrary to any orders of the Municipality, taken an elephant along a street.

456. Cattle pond :-

Subject to such rules that may be made in this behalf, the Municipality may set up cattle ponds for the confinement of stray animals and charge fees therefore.

457. Nuisance :-

No person shall permit any person under his control to whom the provisions of Section 82, Section 83 and Section 84 of the Indian Penal Code, 1860 (Act 45 of 1860), are applicable, to commit within the municipal area, a nuisance upon any street or into any public sewer or drain or any drain communicating therewith.

458. Stacking or collecting inflammable materials :-

The Chief Officer of Municipality may, by public notice, prohibit in any case where such prohibition appears to him to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials or the placing of mats or thatched huts or the lighting of fires in any place which may be specified in the notice.

459. Care of uncovered lights :-

No person shall set an uncovered light on or near any building in any public street or other public place in such manner, as may cause danger, fire:

Provided that nothing in this section shall be deemed to prohibit the use of light for the purposes of illumination on the occasion of any festival or public or private entertainment.

460. Prohibition of certain acts :-

- (1) No person shall, -
 - (a) in any public street or public place, -
 - (i) ease himself; or
 - (ii) carry meat exposed to public view; or
 - (iii) picket animals or collect carts; or
 - (iv) being engaged in the removal of rubbish, filth or other polluted and obnoxious matter wilfully or negligently permit any portion thereof to spill or fall or neglect to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place; or
 - (v) without proper authority, affix upon any building, monument, post, wall, fence, tree or other thing any bill, notice or other document; or
 - (vi) without proper authority, deface or write upon or otherwise any building, monument, post, wall, fence, tree or other things; or

- (vii) without proper authority remove destroy deface or otherwise obliterate any notice or other document put up or exhibited under this Act or the rules or the regulation made there under or
- (viii) without proper authority, displace, damage, or make any alteration in or otherwise interfere with, the pavement, gutter, storm water-drain, flags or other materials of any such street or any lamp bracket, direction-post, hydrant or water-pipe maintained by the Municipality in any such street or place or extinguish a public light; or
- (ix) carry rubbish, filth or other polluted and obnoxious matter at any hour prohibited by the Chief Officer of the Municipality by public notice or in any pattern of cart or receptacle which has not been approved for the purpose by the Chief Officer or fail to close such cart or receptacle when in use; or
- (b) carry rubbish, filth or other polluted and obnoxious matter along, any route in contravention of any prohibition made in this behalf by the Chief Officer by public notice; or
- (c) deposit or cause or permit to be deposited earth or materials of any description or any rubbish or polluted and obnoxious matter in any place not intended for the purpose in any public street or public place or waste or unoccupied land under the management of the Municipality; or
- (d) make any grave or burn any corpse at any place not set apart for such purpose; or
- (e) let loose any animal so as to cause or negligently allow any animal to cause, injury, danger, alarm or annoyance to any person; or
- (f) save with the written permission of the Chief Officer and in such manner as the Chief Officer may authorize, store or use night-soil, cow dung manure, rubbish or any other substance emitting an offensive smell; or

- (g) use or permit to be used as a latrine any place not intended for such purpose; or
 - (h) burn rice husk.
- (2) The owner or keeper of any animal shall not allow it straying in a public street or public without a keeper.
 - (3) Any animal found straying as aforesaid, may be removed by an officer or employee of the Municipality or by any Police Officer to a pond.

461. Power to require removal or abatement of nuisance. -

Where the Chief Officer of a Municipality is of the opinion that there is nuisance on any land or building, he may, by notice in writing require the person by whose act, default or sufferance the nuisance arises or continues, or the owner, lessee or occupier of the land or building or any one or more of these persons, to remove or abate the nuisance by taking such measures in such manner and within such period, as may be specified in the notice.

462. Power to require wells, tanks etc to be rendered safe. -

Where in any municipal area any well, tank, reservoir, poll depression, or excavation, or any bank or tree, is in the opinion of the Chief Officer of the Municipality, in a ruinous state for want of sufficient repairs, protection or enclosure and is a nuisance or is dangerous to the persons passing by, the Chief Officer may, by notice in writing, require the owner or part-owner or any person claiming to be the owner or part-owner thereof or failing any of them, the occupier thereof to repair, protect or enclose the same in such manner as he thinks necessary, and if the danger is, in the opinion of the Chief Officer, imminent, he shall forthwith take such steps, as he thinks necessary to avert the same.

463. Power to direct the filling up of unwholesome well, tanks etc. -

- (1) When in the municipal area, -

- (a) any well, pool, ditch, tank, pond, pit or undrained ground; or
 - (b) any cistern, reservoir or water-butt or any other receptacle or place where water is stored or accumulates; or
 - (c) any waste or stagnant water, whether within any private enclosure or not, appears to Chief Officer of the Municipality to be or likely to become injurious to health or offensive to the neighborhood or in any other respect a nuisance, he may, by written notice, require the owner or occupier of the land on building to which such well, pool ditch, tank., pond, pit, ground, cistern, reservoir, water butt, receptacle, place or water pertains, to cleanse or to fill up the same or drain off or remove water therefrom or to take such other action, as the Chief Officer may deem necessary.
- (2) No person shall keep or permit to be kept or maintain within any premises or land any collection of stagnant or flowing water, which in the opinion of the Chief Officer is, or is likely to become, a breeding place for mosquitoes, unless such collection of water is treated in such manner, as may effectively prevent the breeding of mosquitoes.

464. Power to regulate excavations. -

- (1) The Chief Officer of a Municipality may, by a general order or by an order to effect such portion of the Municipal area, as may be specified therein, prohibit,-
 - (a) the making of excavation for the purpose of taking earth there from or storing rubbish or offensive matter therein; and

- (b) the digging or cesspool, tanks, ponds, wells or pits without his special permission.
- (2) No person shall make any excavation referred to in clause (a), or dig any cesspool, tank, pond, well or pit referred to in clause (b), of sub-section (1), in contravention of any such order.
- (3) If any such excavation, cesspool, tank, pond well or pit is made or dug after the publication of any such order and without the permission required thereby, the Chief Officer may, by written notice, require the owner or occupier of the land on which the same is made or dug to fill it up with earth or other material approved by him.

465. Restriction on quarrying, blasting etc. -

No person shall quarry, blast, cut timber or carry on building operations in such manner, as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood.

466. Power to require trees, hedges to be maintained. -

- (1) The Chief Officer of a Municipality may, if he thinks fit, by written notice, require the owner or occupier of any land in the municipal area on which trees, shrubs or hedges are growing to keep the same in a trim condition, and remove any such tree, shrub or hedges, if it poses a danger to public safety or overhangs or obstructs any street causing inconvenience or danger to the passers-by.
- (2) If it appears to the Chief Officer that immediate action is necessary for public safety, he may, without notice cause such tree, shrub or hedge to be removed from the land as aforesaid and the expenses thereof shall be paid by the owner or occupier of such land.

PART - VIII

GENERAL POWERS, OFFENCES AND PENALTIES

CHAPTER - I

GENERAL POWERS

467. Power to institute etc legal proceedings -

- (a) The Chief Officer of a Municipality may take, or withdraw from, proceedings against any person, who is charged with,
 - (i) any offence which affects or likely to affect any interest of the Municipality or the due administration of this Act; or
 - (ii) committing any nuisance whatsoever;
- (b) contest or compromise any appeal against assessment of any tax or rate,
- (c) take, or withdraw from or compromise, proceedings for the recovery of expenses or compensation claimed to be due to the Municipality;
- (d) withdraw or compromise any claim for a sum not exceeding one thousand rupees against any person,
- (e) defend any suit or other legal proceeding brought against the Municipality or against any Municipal authority or any officer or employee of the Municipality in respect or anything done or omitted to be done by the Municipality or such authority or officer or employee under this Act or the regulations made thereunder in the official capacity;
- (f) with the approval of the Municipality compromise any claim, suit or other legal proceedings brought against the Municipality or any municipal authority or any officer or employee of the Municipality in respect of anything done or omitted to be done as aforesaid;

- (g) withdraw from or compromise any against any person in respect of a penalty-payable under any contract entered into with such person by the Chief Officer on behalf of the Municipality;
- (h) institute or prosecute any suit or other legal proceedings or with the approval of the Municipality, withdraw from or compromise any suit or claim, other than a claim referred to in clause (d), instituted or made, as the case may be, in the name of the Municipality or the Chief Officer, and
- (i) obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing lawful exercise of discharge of any power or duty vesting in or imposed upon any municipal authority or any officer or employee of the Municipality or standing committee, to obtain

468. Bar of jurisdiction of civil courts :-

- (1) Save as otherwise provided in this Act, no civil Court shall have any jurisdiction to entertain or decide any question relating to matters arising under this Act or the rules made thereunder.
- (2) Every order ;
 - (a) passed by any authority, which is subject to appeal or revision under this Act;
 - (b) passed on such appeal or revision; and
 - (c) passed by the Government on appeal or revision, shall be final and shall not be questioned in any Court.
- (3) No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by any authority empowered in this behalf by the Act or the rules made thereunder'

469. Members and Officers of the Municipality to be public servants:

Every member, the Chief Officer of the Municipality and every other officer of the Municipality shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Act No. 45 of 1860).

CHAPTER - II

OFFENCES AND PENALTY

470. Punishment for certain offences, - Whoever, -

- (a) contravenes any provision of any of the sections, sub-sections, clauses, provisions or other provisions of this Act, or
- (b) fails to comply with any order lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisions or other provisions shall be punishable,
 - (i) with fine, which may extend to the amount or with the imprisonment for a term which may extend to the period, specified in that behalf or with both, and
 - (ii) in the case of continuing contravention or failure, with an additional fine which may extend to the amount specified in this for every day during which such contravention or failure continues after conviction for the first such contravention or failure.

471. General :-

Whoever, in any case, in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisitions, issued under any provision thereof, or otherwise contravenes any of the provision of this Act, shall be punishable with,

- (a) fine which may extend to Rs. 2,000/-
- (b) an additional fine in the case of continuing failure or contravention up to one-tenth of the maximum fine, specified in clause (a) for every day after the first failure or contravention, as the case may be for the period, during which such failure or contravention to be made.

472. Punishment of imprisonment in default of payment of fine :-

In every case where, under this Act, an offence is punishable with fine, or with imprisonment or fine, or with both and a person is sentenced by any Court having jurisdiction to pay a fine, it shall be competent for such Court to direct that in exceeding six months.

473. Offences by Companies :-

- (1) Where an offence under this Act has been committed by a company, every person who, at the time, the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer, shall also be deemed to be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

Explanation :- For the purpose of this section,

- (a) "Company" means a body corporate, and includes a firm or other association of individuals, and
- (b) Director in relation to a firm means a partner in the firm

474. Prosecution :-

Save as otherwise provided in this Act, no Court shall try any offence punishable by or under Act or any regulation made thereunder except on the complaint of or upon information received from the Chief Officer of the Municipality or any other officer of the Municipality authorized by it in this behalf.

475. Composition of offences:

- (1) The Chief Officer of any person authorized by him by general or special order in this behalf, may either before or after the institution of the proceedings compound any offence made punishable by or under this Act:

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Municipality or any of the Municipal authorities unless and until the same has been complied with so far as the compliance is possible.

- (2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

476. Protection of action of the Municipality etc. :-

No suit or prosecution shall be entertained in any court against the Municipality or against the Chief Officer of the Municipality or against any other officer or employee of the Municipality or against any person acting under the order or direction of the Municipality or the Chief Officer or any other officer or employee of the Municipality for anything which is in good faith done or intended to be done, under this Act or any rule or regulation made thereunder.

477. Notices to be given of suits :-

- (1) No suit shall be instituted against the Municipality or against the Chief Officer of the Municipality or against any other officer or employee of the Municipality or against any person acting under the direction or order of the Municipality or the Chief Officer or any other officer or employee of the Municipality in respect of any Act done or purporting to have been done, in pursuance of this Act, or any rule or regulation made thereunder until the expiration of a period of two months after the notice in writing has been left at the office of the Municipality or such person, unless the notice in writing has also been delivered to him or left at his office or place of residence, and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of residence of the intending plaintiff, and unless the plaint contains a statement that such notice has been so left or delivered.
- (2) No suit, such as described in sub-section (1), shall unless it is a suit for the recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of a period of six months from the date on which the cause of action arises.

- (3) Nothing in sub-section (1) shall be deemed to a suit in which the only relief claimed, is an injunction on which the object will be defeated by giving of the notice of the postponement of the institution of the suit.

478. Power to make rules :-

The Government may by notification, make rules for carrying out the provisions of this Act.

479. Power to make regulations :-

A Municipality may, from time to time, make regulations, not inconsistent with the provisions of this Act, and the rules made thereunder for the purposes of giving effect to the provisions of this Act.

480. Regulations to be subject to approval of Government :-

- (1) No regulations made by the Municipality under this Act shall have any effect until it has been approved by the Government and published in the official gazette.
- (2) Before approving such regulations, the Government may make any change therein which appears it to be necessary

481. Power of Government to cancel, or modify regulations :-

- (1) If the Government is at any time, of opinion that any regulation made by the Municipality under this Act, should be cancelled or modified either wholly or in part, it shall cause the reasons for such opinion to be communicated to the Municipality, and shall specify a reasonable period within which the Municipality may make such representation with regard thereto, as it may think fit.
- (2) After receipt and consideration of any such representation or, if in the meantime no such representation is received, after the expiry of the period aforesaid, the Government may, at any time by notification, cancel or modify such regulations either wholly or in part.

- (3) The cancellation or modification of any regulation under sub-section (2) shall take effect from such date, as the Government may specify in the notification under that sub-section or if no such date is specified, from the date of publication of such notification :

Provided that such cancellation or modification shall not affect anything done or suffered or omitted to be done under such regulation before such date.

- (4) Any notification under sub-section (2) shall be published in local newspapers.

482. Penalty for breach of regulations :-

- (1) Any regulation made under this Act may provide that a contravention thereof shall be punishable: -

- (a) with fine, which may extend to two thousand; or
- (b) with fine, which may extend to two thousand and in the case of a continuing contravention, with an additional fine, which may extend to two hundred and fifty rupees for every day during which such contravention continues after conviction for the first of such contravention, or
- (c) with fine, which may extend to two hundred and fifty rupees for every day during which the contravention continues, after the receipt notice from the Chief Officer of the Municipality or any other officer of the Municipality, duly authorised in that behalf, by the person contravening the regulation, requiring such person to discontinue such contravention.

- (2) Any such regulation may also provide that a person contravening the same, shall be required to remedy, so far as lies in his power, the mischief, if any, caused by such contravention.

483. Removal of difficulties:

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the official gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it, to be necessary or expedient for removing the difficulty.
- (2) Provided that no such order shall be made after the expiry of a period of two years from the date of coming into force of this Act.
- (3) Every order made under sub-section (1) shall, as soon as may be, after it is made, be laid before the Legislative Assembly of the State.

484. Repeal and saving :

With effect from the date of commencement of this Act, the Assam Tribal Areas (Administration of Town Committees) regulation, 1950 (regulation VI of 1950) shall stand repealed.

- (1) Provided that until Municipalities are constituted in any Municipal Council Area or Town Council Area in accordance with the provisions of this Act, the local authority created under the provisions of the said Assam Tribal Area (Administration of Town Committee) Regulation, 1950 shall continue to exercise powers or perform duties as if the provisions of the said Assam Tribal Areas (Administration of Town Committees) Regulation, 1950 and the Rules made thereunder are still in force.
- (2) Notwithstanding the provisions of sub-section (1) of this section -

- (a) Any appointment, notification, order, scheme, rule, form, notice or bylaw made or issued and any license or established permission granted by a Town Committee established under the Assam Tribal Areas (Administration of Town Committee) Regulation, 1950 and in force immediately before the establishment of the municipalities, shall in so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued or granted under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, scheme, rule notice or byelaw made or issued or any license or permission granted under the provisions of this Act.
- (b) All debts, obligation and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for a Town Committee established immediately before the establishment of a municipality shall be deemed to have been incurred, entered into or engaged to be done by, with or for such municipality.
- (c) All budget estimates, assessments, valuations, measurements or divisions made by a Town Committee shall in so far as they are not inconsistent with the provisions of this Act, continue in force and deemed to have been made under the provisions of this Act unless and until they are superseded by any budget estimate, assessment, valuation, measurement or division made by a municipality under this Act.

- (d) All properties, movable and immovable and all interests of whatsoever nature and kind therein, vested in a Town Committee immediately before the establishment of a municipality under this Act shall, with all the right of whatsoever description, used, enjoyed or possessed by a Town Committee, vest in the municipality.
- (e) All rates, taxes, fees, rents and other sums of money due to a Town Committee immediately before the establishment of a municipality shall be deemed to be due to the municipality.
- (f) All rates, taxes, rents, fares and other charges shall, until and unless they are varied by a municipality, continue to be levied at the same rate at which they were being levied by a Town Committee immediately before the establishment of a municipality.
- (g) All suits proceedings and other legal proceedings instituted or which might have been instituted by or against a Town Committee may be continued or instituted by a municipality.

THE NAGALAND MUNICIPAL (FIRST AMENDMENT) ACT, 2006

(Act No. 4 of 2006)

Received the assent of the Governor on 30.08.06 and published in the Nagaland Gazette extra-ordinary dated 13.09. 2006

An
Act

to amend the Nagaland Municipal Act, 2001

Be it enacted by the Nagaland Legislative Assembly in the fifty seventh year of the Republic of India as follows :

Short title and commencement

1. (1) This Act may be called the Nagaland Municipal (First Amendment) Act, 2006.
- (2) It shall extend to whole of Nagaland.
- (3) It shall come into force at once.

Amendment of definitions

2. In section 2 of the Nagaland Municipal Act, 2001, hereinafter referred to as the principal Act, the following will be inserted:

“(12)A. **“Ex officio member”** means a member of the Nagaland Legislative Assembly represented in the Municipality under sections 9 and 21.

(25)A. **“Municipality”** means Municipal Council or Town Council.

(27)A. **“Nominated member”** means a person having special knowledge or experience in Municipal administration represented in the Municipality under sections 9 and 21.”

Amendment of section 9

3. For the existing section 9 of the principal Act, the following shall be substituted, namely:

“9. Composition of Municipal Council

Every Municipal Council shall have the following members:

- (1) members directly elected from territorial constituencies known as wards;
- (2) persons having special knowledge or experience in Municipal administration in terms of article 243-R (2) (a) (i) of the Constitution, nominated by the Government, whose number shall not exceed one third of the total number of directly elected members;
- (3) members of the Nagaland Legislative Assembly represented in the Municipal Council in accordance with article 243-R (2) (a) (ii) of the Constitution; and,
- (4) Chairpersons of Committees constituted under clause (5) of article 243-S of the Constitution.

Provided that under clause (2) above, the Government shall not nominate any person who has lost the latest election to the Municipal Council.”

Insertion of a new section 9A

4. After the section 9 in the principal Act, the following shall be inserted, namely:

“9A. Voting rights of members

Notwithstanding anything contained in this Act, all members, except the members who have been nominated under article 243-R (2) (a) (i) of the Constitution, shall have the right to vote in the meetings of the Municipal Council.”

Amendment of section 12

5. In section 12 of the principal Act, for the existing clauses (1) and (2), the the following shall be substituted, namely:

- (1) “The elected and the ex officio members of the Municipal Council shall elect one of the elected members to be the Chairperson in the manner as may be prescribed in this behalf.
- (2) The elected and the ex officio members of the Municipal Council shall also elect one of the elected members to be the Deputy Chairperson in the manner as may be prescribed in this behalf.”

Amendment of section 15

6. In section 15 of the principal Act, in the existing clause (4), the words “excepting the ex officio members and nominated members”, and in clause (6), the words “ex officio members and”, shall be deleted.

Amendment of section 21

7. For the existing section 21 of the principal Act, the following shall be substituted, namely:

“21. Composition of Town Council

Every Town Council shall have the following members:

- (1) members directly elected from territorial constituencies known as wards;
- (2) persons having special knowledge or experience in Municipal administration in terms of article 243-R (2) (a) (i) of the Constitution, nominated by the Government, whose number shall not exceed one third of the total number of directly elected members;
- (3) members of the Nagaland Legislative Assembly represented in the Municipal Council in accordance with article 243-R (2) (a) (ii) of the Constitution; and,
- (4) Chairpersons of Committees constituted under clause (5) of article 243-S of the Constitution.

Provided that under clause (2) above, the Government shall not nominate any person who has lost the latest election to the Town Council.”

Insertion of a new section 21A

8. After the section 21 in the principal Act, the following shall be inserted, namely:

“21A. Voting rights of members

Notwithstanding anything contained in this Act, all members, except the members who have been nominated under article 243-R (2) (a) (i) of the Constitution, shall have the right to vote in the meetings of the Town Council.”

Amendment to the title for Chapter IV

9. In the caption for Chapter IV of Part-II of the principal Act, for the words "Election, Resignation, Removal and Casual Vacancy", the words "Election, Reservation, Resignation, Removal and Casual Vacancy" shall be substituted.

Insertion of new sections 23A and 23B

10. After the existing section 23 in the principal Act, the following shall be inserted, namely:

"23A. Reservation of seats in Municipalities

- (1) Seats in every Municipality shall be reserved for the Scheduled Castes, the Scheduled Tribes and women, including women from the Scheduled Castes and the Scheduled Tribes, in accordance with the provisions contained in clauses (1) to (3) of article 243-T of the Constitution.
- (2) Within 90 days from the commencement of this Amendment Act, the Government shall notify in the official gazette the number of seats in every Municipality that ought to have been reserved for the categories of persons included in clause (1) in the first elections to the Municipalities held in the State in December, 2004.
- (3) Within 180 days from the commencement of this Amendment Act, the Government shall notify in the official gazette the allotment of seats to be reserved for the categories of persons included in clause (1) by rotation to different wards in a Municipality.

- (4) All members not belonging to the Scheduled Castes and the Scheduled Tribes who were directly elected from those wards in the Municipalities which have become reserved for the Scheduled Castes and the Scheduled Tribes, and all male members who were directly elected from those wards in the Municipalities which have become reserved for women, including women belonging to the Scheduled Castes and the Scheduled Tribes, under clauses (1) to (3) of article 243-T of the Constitution, shall be deemed to have vacated their seats upon notification of the reservation of seats under clause (3)
- (5) Upon vacation of seats under clause (4), the Government shall constitute, under article 243-S (5) of the Constitution, by notification, as many number of single member Committees as are equal to the number of such members who have vacated their seats, and designate them as Chairman of such Committees with specific functions. The Chairman so designated shall thereupon be deemed to have become members of the respective Municipality under article 243-R (2) (a) (iv) of the Constitution.
- (6) The provisions contained in clauses (4) and (5) shall cease to have effect with the dissolution of the Municipalities constituted out of the first elections to the Municipalities held in December, 2004.

23B. Reservation of offices of Chairpersons in Municipalities for SCs, STs, and women

The offices of the Chairpersons shall be reserved for the Scheduled Castes, the Scheduled Tribes and women, as nearly as may be, in proportion to the number of seats reserved for them in the Municipalities and the allotment of such offices shall be made by rotation."

Amendment of section 57H

11. In the existing section 57H in the principal Act, the words "majority of vote of the members present and voting" shall be substituted by "majority of vote of the members, excluding the nominated members, present and voting"

Review of the Act

12. After the existing section 484 in the principal Act, the following shall be inserted, namely:

"Within a year of commencement of this Amendment Act, the Government shall review the Act so as to bring its provisions in complete harmony with Part IX-A of the Constitution."

