

## PART VII

## CHAPTER XXVII

**Powers, Procedures, Offences and Penalties**

## Licences and written permissions

Signatures,  
conditions,  
duration,  
suspension,  
revocation,  
etc., of  
licences and  
written per-  
missions.

378. (1) Whenever it is provided in this Act or any rule or bye-law made thereunder that a licence or a written permission may be granted for any purpose, such licence or written permission shall be signed by the Commissioner or by the municipal employee empowered to grant the same under this Act or the rules or bye-laws made thereunder or by any authorised municipal employee and shall specify in addition to any other matter required to be specified under any other provision of this Act or any provision of any bye-law made thereunder—

- (a) the date of the grant thereof ;
- (b) the purpose and the period, for which it is granted ;
- (c) restrictions or conditions, if any, subject to which it is granted ;
- (d) the name and address of the person to whom it is granted ; and
- (e) the fee, if any, paid for the licence or written permission ; and
- (f) any other conditions that may be imposed from time to time.

(2) Except as otherwise provided in this Act or any rule or bye-law made thereunder, for every such licence or written permission a fee may be charged at such rate as may from time to time be fixed by the Corporation and such fee shall be payable by the person to whom the licence or written permission is granted.

(3) Save as otherwise provided in this Act or any rule or bye-law made thereunder, any licence or written permission granted under this Act or any rule or bye-law made thereunder may at any time be suspended or revoked by the Commissioner or by the employee by whom it was granted, if he is satisfied that it has been secured by the grantee through mis-representation or fraud or if any of its restrictions or conditions has been infringed or evaded by the grantee, or if the grantee has been convicted for the contravention of any of the provisions of this Act or any rule or bye-law made thereunder relating to any matter for which the licence or permission has been granted ;

Provided that—

- (a) before making any order of suspension or revocation reasonable opportunity shall be afforded to the grantee of the licence or the written permission, to show cause why it should not be suspended or revoked, and
  - (b) every such order shall contain a brief statement of the reasons for the suspension or revocation of the licence or the written permission.
- (4) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall, for all purposes of this Act or any rule or bye-law made thereunder, be deemed to be without a licence or written permission until such time as the order suspending or revoking the licence or written permission is rescinded or until the licence or written permission is renewed.
- (5) Every person to whom a licence or permission has been granted shall produce it at all reasonable hours for inspection, if so required by the Commissioner or any employee authorised by him in this behalf.

#### Entry and Inspection

**Power of entry and inspection.** 379. The Commissioner or any municipal employee authorised or empowered in this behalf by or under any provision of this Act, may at all reasonable hours enter into or upon any land or building with or without assistants and workmen for the purpose of—

- (a) ascertaining whether there is or has been on or in connection with the land or building any contravention of the provisions of the Act or any rule or bye-law made thereunder ;
- (b) ascertaining whether or not circumstances exist which would authorise or require the Commissioner or any municipal employee authorised or empowered in this behalf to take any action or execute any work under this Act or any rule or bye-law made thereunder ;
- (c) taking any action or executing any work authorised or required by this Act or any rule or bye-law made thereunder ;

- (d) any inquiry, inspection, examination, measurement, valuation or survey authorised or required by or under this Act or necessary for the proper administration of this Act; and
- (e) efficient discharge of the functions generally by any of the municipal authorities under this Act or any rule or bye-law made thereunder.

Power to enter adjoining land in relation to any work.

380.(1) The Commissioner or any person authorised in this behalf by him or empowered in this behalf by or under any provision of this Act, may enter on any land within fifty yards of any work authorised by or under this Act with or without assistants and workmen for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(2) The person so authorised shall, before entering on any such land, state the purpose thereof, and shall, if so required by the owner or occupier thereof, fence off so much of the land as may be required for such purposes.

(3) The person so authorised shall, in exercising any power conferred by this section, do as little damage as possible and compensation as assessed by the Commissioner shall be payable by the Corporation in accordance with rules and bye-laws made in this behalf to the owner or occupier of such land or to both for any such damage, whether permanent or temporary.

Breaking into.

381.(1) It shall be lawful for the Commissioner or any person authorised or empowered in this behalf by or under any provision of this Act, to make any entry into any place, and to open or cause to be opened any door, gate or other barrier, if:—

- (a) he considers the opening thereof necessary for the purpose of such entry; and
- (b) the owner or occupier is absent or being present refuses to open such door, gate or barrier.

(2) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier, the Commissioner or the person authorised or empowered in this behalf shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situated to witness the entry or opening and may issue an order in writing to them or any of them so to do.

(3) A report shall be made to the Standing Committee as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.

**Time of making entry, etc.** 382. (1) Save as otherwise provided in this Act or any rule or bye-law made thereunder, no land or building shall be entered without the consent of the occupier, or if there is no occupier, of the owner thereof and no such entry shall be made without giving the said owner or occupiers as the case may be not less than twenty-four hours written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a factory or workshop or trade premises, godown or a place used for any of the purposes specified in section 373 or a stable for horses or a shed for cattle or a latrine or urinal or a work under construction or for the purpose of ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Act or any rule or bye-law made thereunder.

(2) When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

**Prohibition of obstruction or molestation in execution of work.** 383. No person shall obstruct or molest any person authorised or empowered by or under this Act or any person with whom the Corporation or any of the municipal authorities specified in section 4 has lawfully contracted, in the execution of his duty or of anything which he is authorised or empowered or required to do by virtue or in consequence of any of the provisions of this Act or any bye-law or rule made thereunder or in fulfilment of his contract, as the case may be.

#### Public Notices and Advertisements

**Public Notice how to be made known.** 384. Every Public notice given under this Act or any rule or bye-law made thereunder shall be in writing under the signature of the Commissioner or any municipal employee authorised in this behalf and

shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality or by advertisement in local newspapers or by any two or more of these means and by any other means that the appropriate municipal authority may think fit.

**Notice, etc.**

**Notices, etc., to fix reasonable time.** 385. Where any notice, bill, order or requisition used or made under this Act or any rule, or bye-law made thereunder requires anything to be done for or the doing of which no time is fixed in this Act, rules or bye-laws, the notice, bill, order or requisition shall specify a reasonable time for doing the same.

**Signature on notices, etc., may be stamped.** 386. (1) Every licence, written permission, notice, bill, schedule, summons or other document required by this Act or by any rule or bye-law to bear the signature of the Commissioner or of any municipal employee shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or of such municipal employee, as the case may be, stamped thereon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the Municipal Fund under any of the provisions of this Act, or to any deed of contract.

**Notices etc., by whom to be served or issued.** 387. All notices, bills, summonses and other documents required by this Act or any rule or bye-law made thereunder to be served upon or issued to, any person, shall be served or issued by municipal employees authorised in this behalf.

**Services of notice, etc.** 388. (1) Every notice, bill, summons, order, requisition or other document required or authorised by this Act or any rule or bye-law made thereunder to be served or issued by or on behalf of the Corporation, or by any of the municipal authorities specified in section 4 or any municipal employee on any person, save as otherwise provided in this Act or such rule or bye-law, be deemed to be duly served—

- (a) where the person to be served is a company, if the document is addressed to the Managing Director or to the Secretary at the Company at its registered office or at its principal office or place of business and is either—
  - (i) sent by registered post, or
  - (ii) delivered at the registered office or at the principal office or place of business of the company ;

(b) where the person to be served is a partnership firm, if the document is addressed to the firm at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—

(i) sent by registered post, or

(ii) delivered at the said place of business ;

(c) where the person to be served is a public body, or a corporation, society or other body if the document is addressed to the Secretary, Treasurer, or other head officer of the body, corporation or society at its principal office, and is either—

(i) sent by registered post ; or

(ii) delivered at that office ; and

(d) in any other case, if the document is addressed to the person to be served and—

(i) is given or tendered to him, or

(ii) if such person cannot be found, is affixed on some conspicuous part of his last known place of residence or business, if within the State, or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building, if any, to which it relates, or

(iii) is sent by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed "the owner" or "the occupier", as the case may be, of that land or building (naming that land or building) without further name or description, and shall be deemed to be duly served—

(a) if the document so addressed is sent or delivered in accordance with clause (d) of subsection (1) ; or

(b) If the document so addressed or a copy thereof so addressed, is delivered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed to some conspicuous part of the land or building.

(3) Where a document is served on a partnership firm in accordance with this section, the document shall be deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises the Commissioner may by notice in writing require the occupier of the premises to state the name and address of the owner thereof.

(5) Where the person on whom a document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in Sections 386 and 387 and in this section shall apply to any summons issued under this Act by a Court.

(7) A servant is not a member of the family within the meaning of this section.

**Services of bills for tax or notice of demand by ordinary post.** 389. Notwithstanding anything contained in Sections 387 and 388 a bill for any tax or a notice of demand may be served by sending it by ordinary post with a pre-paid letter under a certificate of posting addressed to the appropriate person specified in Section 388 at his last known place of residence or business and in proving the service of every bill or notice so sent it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting.

**Powers in case of non-compliance with notice etc.** 390. In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act or any rule or bye-law made thereunder, requiring such person to execute any work or to do any act it shall be lawful for the authority or officer at whose instance the notice, order or requisition has been issued, whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or the work required to be done or executed by such person and all the expenses incurred on such account

shall be payable to the Commissioner on demand and if not paid within fourteen days after such demand, shall be recoverable as an arrear of tax under this Act.

### RECOVERY OF EXPENSES

**Liability of occupier to pay in default of owner.** 391. (1) If any notice, order or requisition has been issued to any person in respect of property of which he is the owner, the authority or municipal employee at whose instance such notice, order or requisition has been issued, may require the occupier of such property or of any part thereof to pay to him, instead of to the owner, any rent payable by him in respect of such property, as it falls due up to the amount recoverable from the owner under section 390 :

Provided that if the occupier refuses to disclose the correct amount of the rent payable by him or the name or address of the person to whom it is payable, the authority or municipal employee may recover from the occupier the whole amount recoverable under Section 390 as an arrear of tax under this Act.

(2) Any amount recovered from an occupier instead of from an owner under subsection (1) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

**Execution of work by occupier in default of owner and deduction of expenses from rent.** 392. Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or any rule or bye-law made thereunder the occupier, if any, of such land or building may, with the approval of the Commissioner, execute the said work and he shall subject to any contract between the owner and occupier to the contrary, be entitled to recover from the owner the reasonable expenses incurred by him in the execution of the work and may deduct the amount thereof from the rent payable by him to the owner.

**Relief to agents and trustees.** 393. (1) Where any person, by reason of his receiving rent of immovable property as a receiver, agent or trustee or of his being a receiver, agent or trustee of the person who would have received the rent if the property were let to a tenant, would under this Act or any rule or bye-law made thereunder, be bound to discharge any obligation imposed on the



owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, funds in his hands belonging to the owner sufficient for the purpose.

(2) The burden of proving any fact entitling a receiver, agent or trustee to relief under sub-section (1) shall lie upon him.

(3) Where any receiver, agent or trustee has claimed and established his right to relief under this section, the Commissioner may, by notice in writing, require him to apply to the discharge of his obligation as aforesaid the first moneys which may come to his hands on behalf, or for the use of the owner and on failure to comply with the notice he shall be deemed to be personally liable to discharge the obligation.

### Payment of Compensation

**General power to pay compensation.** 394. In any case not otherwise expressly provided for in this Act or in any rule or bye-law made thereunder, the Commissioner, with the previous approval of the Standing Committee, may pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or any rule or bye-law in the Commissioner or in any municipal employee.

**Compensation to be paid by offenders for damage caused by them.** 395. (1) Any person who has been convicted of an offence against this Act or any rule or bye-law made thereunder shall, notwithstanding any punishment to which he may have been sentenced for the said offence be liable to pay such compensation for any damage to the property of the Corporation resulting from the said offence as the Commissioner may consider reasonable.

(2) In the event of a dispute regarding the amount of compensation payable under sub-section (1) such amount shall, on application made to him, be determined by the Magistrate before whom the said person was convicted of the said offence; and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said Magistrate as if it were a fine imposed by him on the person liable therefor.

**Recovery of expenses or compensation in case of dispute.**

Reference to the court of the District Judge in certain cases. 396.(1) If, when the Commissioner demands payment of any expenses referred to in section 390, his right to demand the same or the amount of the demand is disputee within fourteen days after such demand, the Commissioner shall refer the case for determination to the Court of District Judge.

(2) The Commissioner, shall, pending the decision of any such reference, defer further proceedings for the recovery of the sum claimed by him and shall, after the decision, proceed to recover only such amount, if any, as is thereby declared to be due in manner referred to in section 390.

Application to the court of District Judge in other cases. 397.(1) Where, in any case not provided for by section 396, the Corporation or any municipal employee is required by this Act or any rule or bye-law made thereunder to pay any expenses or any compensation the amount to be so paid and if necessary, the apportionment of the same, shall, in case of dispute be determined by the court of District Judge on application having been made to it for this purpose at any time within three months from the date when such expenses or compensation first become claimable.

(2) If the amount of any expenses or compensation ascertained in accordance with sub-section (1) is not paid by the person liable therefore on demand it shall be recoverable as if the same were due under a decree passed by the court of the District Judge in an original suit tried by it.

Power to sue for expenses or compensation. 398 Instead of proceeding in the manner aforesaid for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due or the balance of the sum due, as the case may be, may be recovered by a suit, brought against the person liable for the same in any court of competent jurisdiction.

**Recovery of certain dues**

Mode of recovery of certain dues. 399. In any case not expressly provided for in this Act or any rule or bye-law made thereunder any sum due to the Corporation on account of any charge, costs, expenses, fees, rates of rent or on any other account under this Act or any such rule or bye-law may be recoverable from any person from whom such sum is due as an arrear of tax under this Act.

### Obstruction of owner by occupier

Right of owner to apply to the court of District Judge in case of obstruction by occupier. 400.(1) The owner of any land or building may, if he is prevented by the occupier thereof from complying with any provision of this Act or any rule or bye-law made thereunder or with any notice, order of requisition issued under such provision apply to the court of the District Judge, and where such application is made within any time that may be fixed for the compliance with such provisions or notice, order of requisition, the owner shall not be liable for his failure to comply with the provision or notice, order of requisition within the time as fixed.

(2) The Court, on receipt of such application may make a written order requiring the occupier of the land or building to afford all reasonable facilities to the owner for complying with the said provision or notice, order of requisition and may also, if it thinks fit, direct that the costs of such application and order be paid by the occupier.

(3) After eight days from the date of the order referred to in sub-section (2), the occupier shall afford all such reasonable facilities to the owner for the purpose aforesaid as may be specified in the order; and in the event of his continued refusal to do so, the owner shall be discharged during the continuance of such refusal from any liability which may have been otherwise incurred by reason of his failure to comply with said provision or notice, order of requisition.

### PROCEEDINGS BEFORE THE COURT OF THE DISTRICT JUDGE

General powers and procedure of the Court of the District Judge. 401. The procedure provided in the Code of Civil Procedure, 1908, in regard to suits shall be followed as far as it can be made applicable, in the disposal of applications, appeals or references that may be made to the Court of the District Judge under this Act or any rule or bye-law made thereunder.

Fees in proceedings before the Court of the District Judge. 402.(1) The Government may, by notification in the Official Gazette, prescribe what fees shall be paid:—

(a) on any application, appeal or reference under this Act or any rule or bye-law made thereunder to the Court of the District Judge ; and

(b) for the issue, in connection with any inquiry or proceedings before that court under this Act or such rule or bye-law of any summons or other process :

Provided that the fee, if any, prescribed under clause (a) shall not, in cases in which the value of the claim or subject matter is capable of being estimated in money, exceed the fees leviable for the time being under the provisions of the Court-Fees Act, 1870, in case in which the amount of the claim or subject matter is of like amount.

(2) The Government may, by like notification, determine the person by whom the fee, if any, prescribed under clause (a) of sub-section (i) shall be payable.

(3) No application, appeal or reference shall be received by the Court of the District Judge until the fee, if any, prescribed therefor under clause (a) of sub-section (1) has been paid :

Provided that the court may in any case in which it thinks fit so to do:—

(i) receive an application, appeal or reference made by or on behalf of a poor person ; and

(ii) issue process on behalf of any such person, without payment or on part payment of the fees prescribed under this section.

**Repayment of half fee on settlement before hearing.** 403. Whenever any application, appeal or reference made under this Act or any rule or bye-law made thereunder to the Court of the District Judge is settled by agreement between the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the court to the parties by whom the same have respectively been paid.

**Punishment for certain offences.** 404. 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 or direction lawfully given to him of any requisition lawfully

made upon him under any of the said sections, sub-sections, clauses, provision or other provisions shall be punishable—

- (i) with fine which may extend to the amount or with imprisonment for a term which may extend to the period, to be specified in that behalf ; and
- (ii) in the case of a continuing contravention or failure, with an additional fine which may extend to the amount specified in the third column of that table for every day during which such contravention or failure continues after conviction for the first such contravention or failure.

**General penalty.** 405. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to one hundred rupees, and in the case of continuing failure or contravention, with an additional fine which may extend to twenty rupees for every day during which he has persisted in the failure or contravention.

**Offences by companies.** 406. (1) Where an offence under this Act, has been committed by a company, every person who, at the time of 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 subsection 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 commission of such offence.

(2) Notwithstanding anything contained in subsection (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 purposes 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 and includes a partner in the firm.

**Prosecutions.** 407. Save as otherwise provided in this Act, no court shall proceed with the trial of any offence made punishable by or under this Act except on the complaint of, or upon information received from, the Commissioner or a person authorised by him by a general or special order in this behalf.

**Compounding of offences.** 408. (1) The Commissioner or any person authorised 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.

(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.

**Duties of police officer.** 409. It shall be the duty of every police officer—

(a) to communicate without delay to the proper municipal officer any information which he receives of the design to commit or of the commission of any offence under this Act or any rule, bye-law or regulation made under it ; and

(b) to assist the Commissioner or any municipal officer or staff or any person to whom the Commissioner has lawfully delegated powers, reasonably demands his aid for the lawful exercise of any power vesting in the Commissioner or in such municipal officer or staff or person under this Act or any such rule, bye-law or regulation, and for all such purpose he shall have the same powers which he has in the exercise of his ordinary police duties.

**Power of police officer to arrest person.** 410. (1) If any police officer sees any person committing an offence against any of the provisions of this Act or of any rule, bye-law or regulation made under it, he shall, if the name and address of such person are unknown to him and if the said person on demand declines to give his name and address or gives a name and address which such officer has reason to believe to be false, arrest such person.

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

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

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

**Exercise of powers of Police officer by municipal employees.** 411. The Government may empower any municipal officer or staff or any class of municipal officers or staff to exercise the powers of a police officer for the purpose of this Act.

**Power to institute, withdraw, etc., legal proceedings and obtain legal advice.**

412. The Commissioner may—

- (a) take, or withdraw from, proceedings against any person who is charged with,—
  - (i) any offence against this Act or any rule or bye-law made thereunder, or
  - (ii) any offence which affects or is likely to affect any property or interest of the Corporation or the due administration of this Act, or
  - (iii) committing any nuisance whatsoever;
- (b) contest or compromise any appeal against rateable value or assessment of any tax or rate;
- (c) take, or withdraw from or compromise proceedings under sections 395, 396 and 397 for the recovery of expenses or compensation claimed to be due to the Corporation;
- (d) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person;
- (e) defend any suit or other legal proceedings brought against the Corporation or against the Commissioner or a municipal employee in respect of anything done or committed to be done by any one of them in the official capacity;
- (f) with the approval of the Standing Committee, admit or compromise any claim, suit, or other legal proceedings brought against the Corporation or against the Commissioner or any municipal employee in respect of anything done or committed to be done as aforesaid;
- (g) withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the Commissioner on behalf of the Corporation;

- (h) institute and prosecute any suit or other legal proceedings, or with the approval of the Standing Committee withdraw from or compromise any suit or any claim for any sum not exceeding five hundred rupees which has been instituted or made in the name of the Corporation or of the Commissioner ; and
- (i) obtain such legal advice and assistance as he from time to time thinks necessary or expedient to obtain or as he may be required by the Corporation or the Standing Committee to obtain, for any of the purposes mentioned in the foregoing clauses or for securing lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal employee.

**Protection to action of the Corporation, etc.** 413. No suit or prosecution shall be entertained in any court against the Corporation or against any municipal authority or against any municipal employee or against any person acting under the order or direction of any municipal authority or any municipal employee for anything which is in good faith done or purported or intended to be done, under this Act or any rule or bye-law made thereunder.

**Notice to be given of suits.** 414. (1) No suit shall be instituted against the Corporation or against any municipal authority or against any municipal employee or against any person acting under the order or direction of any municipal authority or any municipal employee in respect of any act done, or purporting to have been done, in pursuance of this Act or any rule, or bye-law made thereunder, until the expiration of two months after notice in writing has been left at the municipal office and in the case of such employee or person, unless 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 is 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 six months from the date on which the cause of action arises.

(3) Nothing in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit.



## CHAPTER XXVIII

## Rules, Regulations and Bye-laws

Provisions  
relating  
regulations.

415. (1) Any regulation which may be made by the Corporation under this Act, may also be made by the State Government within one year of the establishment of the Corporation ; and any regulation so made may be altered or rescinded by the Corporation in the exercise of its powers under this Act.

(2) No regulation made by the Corporation under this Act shall have effect until it has been approved by the State Government and published in the Official Gazette.

Provisions  
relating  
bye-laws.

416. (1) Subject to the provisions of this Act the Corporation may, in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters, namely---

#### A. Bye-laws relating to taxation

(1) The maintenance of tax books and registers by the Commissioner and the particulars which such books and registers should contain ;

(2) the inspection of and the obtaining of copies and extracts from such books and registers, and fees, if any, to be charged for the same ;

(3) the publication of rates of taxes as determined by the Corporation from time to time ;

(4) the requisition by the Commissioner of information and returns from persons liable to pay taxes ;

(5) the notice to be given to the Commissioner by any person who becomes the owner or possessor of a vehicle or animal in respect of which any tax is payable under this Act ;

(6) the wearing of badge by the driver of any such vehicle and the display of number plate on such vehicle ;

(7) the submission of returns by person liable to pay any tax under this Act ;

(8) the collection by the Registrar or Sub-Registrar of Gauhati appointed under the Indian Registration Act, 1908, of the additional stamp duty payable to the Corporation under this Act, the periodical payment of such duty to the Corporation and the maintenance by such Registrar or Sub-Registrar of separate accounts in relation thereto ; and

(9) any other matter relating to the levy, assessment, collection, refund or remission of taxes under this Act.

**B. Bye-laws relating to water supply,  
drainage and sewage disposal**

(1) The power of the Commissioner to close water-works for the supply of water, whether for domestic purposes or not, or for gratuitous use and to prohibit the sale and use of water for the purpose of business ;

(2) the connection of supply pipes for conveying to any premises supply of water from a municipal water-works ;

(3) the making and renewing of connections with municipal water-works ;

(4) the power of the Commissioner to take charge of private connections ;

(5) the power of the Commissioner to alter the position of connections ;

(6) the equitable distribution of water supplied to occupiers ;

(7) the size, material, quality, description and position of the pipes and fittings to be used for the purpose of any connection or any communication from any municipal water-works and the stamping of pipes and fittings and fees for such stamping ;

(8) the size, material, quality and description of pipes, cisterns and fittings which are found on an examination under the provisions of this Act to be so defective that they cannot be effectively repaired ;

(9) the provision and maintenance of meters when water is supplied by measurement ;

(10) the prohibition of fraudulent and unauthorised use of water and the prohibition of fraud in connection with meters ;

(11) the maintenance of pipes, cisterns and other water-works ;

(12) the regulation or prohibition of the discharge or deposit of offensive or obstructive matters; polluted water or other polluted and obnoxious matters into sewers ;

(13) the regulation in any manner not specifically provided for in this Act for the construction, alteration, maintenance, preservation, cleaning and repairs of drains, ventilations, shafts, pipes, latrine, urinals, cesspools and other drainage works ;

(14) the cleansing of drains ;

(15) the prohibition of erection of buildings over drains without the permission of the Commissioner ;

(16) the connection of private drains with municipal drains ;

(17) the location and construction of cesspools ;

(18) the covering and ventilation of cesspools ;

(19) the period or periods of the day during which trade effluent may be discharged from any trade premises into municipal drains ;

(20) the exclusion from trade effluent of all condensing water ;

(21) the elimination from trade effluent before it enters a municipal drain, of any constituent which in the opinion of the Corporation would, either alone or in combination with any matter with which it is likely to come into contact while passing through municipal drains, injure or obstruct those drains or make specially difficult or expensive the treatment or disposal of the sewage from those drains ;

(22) the maximum quantity of trade effluent which may, without any consent or permission to discharge from any trade premises into municipal drains on any one day and the highest rate at which trade effluent may, without such consent or permission, be discharged from any trade premises into municipal drains ;

(23) the regulation of the temperature of trade effluent at the time of its discharge into municipal drains and the securing of the neutrality of trade effluent (that is to say, it is neither acid nor alkaline) at the time of such discharge ;

(24) the charges to be paid to the Corporation by occupiers of trade premises for the reception of trade effluent into municipal drains and disposal thereof ;

(25) the provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into municipal drains from trade premises ; and

(26) the provision and maintenance of such meters as may be required to measure the volume of any trade effluent being discharged from any trade premises into municipal drains, and the testing of such meters.

#### C. Bye-laws relating to streets

(1) the closure of streets when any work is in progress and alternative passage during the progress of such work ;

(2) the erections of a temporary nature during festivals ;

(3) the setting up of boards on buildings adjacent to streets during their construction or repair ;

(4) the precautions to be taken when permission is granted to any private individual for opening or breaking up any public street and the fees to be paid for the restoration of a street in its original condition ;

(5) the permission, regulation or prohibition of use or occupation of any street or place by itinerant vendors or hawkers or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall and the fees chargeable for such occupations; and

(6) any other matter in connection with the construction, repair, maintenance, naming, numbering and lighting of streets for which provision is necessary or should be made.

#### **D. Bye-laws relating to buildings**

(1) the regulation or restriction of the use of sites for buildings for different areas;

(2) the regulation or restriction of buildings in different areas;

(3) the form of notice of erection of any building or execution of any work and the fee in respect of the same;

(4) the plans and documents to be submitted together with such notice and the information and further information to be furnished;

(5) the level and width or foundation, level of lowest floor and stability of structure;

(6) the construction of building and the materials to be used in the construction of buildings;

(7) the height of buildings whether absolute or relative to the width of streets of different areas;

(8) the number and height of storeys composing a building and the height of rooms and the dimensions of rooms intended for human habitation;

(9) the provision of open spaces, external and internal, and adequate means of light and ventilation;

(10) the provision of means of egress in case of fire, fire-escapes and water lifting devices;

(11) the provision of secondary means of access for the removal of house refuse;

(12) the material and methods of construction of partition walls, roofs and floors;

(13) the position, materials and methods of construction of hearths, smoke-escapes, chimneys, staircases, latrines, drains and cesspools;

- (14) the provision of lifts ;
- (15) the paving of yards ;
- (16) the restriction on the use of inflammable materials in buildings ;
- (17) the restriction on construction of foundation on certain sites ;
- (18) the measures to be taken to protect buildings for damp arising from sub-soil ;
- (19) the wells, tanks and cisterns and pumps for the supply of water for human consumption in connection with buildings ;
- (20) in the case of wells, the dimension of the well, the manner of enclosing it and if the well is intended for drinking purposes the means which shall be used to prevent pollution of the water ;
- (21) the supervision of buildings ;
- (22) the setting back of garages and shops from the regular line of a street ; and
- (23) the construction of portable structures and permission for such construction.

**E. Bye-laws relating to sanitation or public health**

- (1) the position of latrines and urinals ;
- (2) the provision of air spaces between latrines and buildings or places used for various purposes ;
- (3) the white-washing of buildings ;
- (4) the provision of living accommodation for sweepers in buildings newly erected requiring ten or more latrines ;
- (5) the regulation or prohibition of the stabling or herding of animals or any class of animals so as to prevent danger to public health ;
- (6) the seizure of ownerless animals straying within the limits of the city of Gauhati and the regulation and control of pounds ;
- (7) the fixing and regulation of the use of public bathing and washing places ;
- (8) the prevention of the spread of dangerous diseases ;

(9) the segregation in or the removal or exclusion from any part of the city or the destruction of animals suffering or reasonably suspected to be suffering from any infectious or contagious disease ;

(10) the supervision, regulation, conservation and protection from injury, contamination or trespass, of sources and means of public water supply and of appliance for the distribution of water ;

(11) the enforcement of compulsory vaccination and inoculation ; and

(12) the proper disposal of corpses, the regulation and management of burning and burial places and other places for the disposal of corpses and fees chargeable for the use of such places where the same are provided or maintained at the expense of the Municipal Fund.

**F. Bye-laws relating to vital Statistics**

(1) the prescribing of qualifications of persons to be appointed as Registrars and Sub-Registrars under Chapter XXV ; and

(2) the registration of births, deaths and marriages and the taking of a census.

**G. Bye-laws relating to public safety and suppression of nuisances**

The regulation or prohibition for the purpose of sanitation or the prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance and for public safety or convenience, or for the regulation or prohibition of which no provision is made elsewhere in this Act.

**H. Bye-laws relating to markets, slaughter-houses, trades and occupations**

(1) the days on, and the hours during which any market or slaughter-house may be kept open for use;

(2) the regulation of the design, ventilation and drainage of markets and slaughter-houses and the materials to be used in the construction thereof;

(3) the keeping of markets and slaughter-houses and the lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth, rubbish and other polluted and obnoxious matters therefrom and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same;

(4) the manner in which animals shall be admitted in slaughter-house ;

(5) the manner in which animals may be slaughtered ;

(6) the provision of passages of sufficient width between the stalls in market buildings and market places for the convenient use of the public and the prevention of encroachment on such passages ;

(7) the setting apart of separate areas for different classes of articles in market buildings and market places ;

(8) the disposal or destruction of animals offered for slaughter which are, from disease or any other cause, unfit for human consumption ;

(9) the destruction of carcasses which from any disease or any other cause are found after slaughter to be unfit for human consumption ;

(10) the regulation of the entry of animals into slaughter-house and the bringing out of the carcasses of such animals after slaughter and the fee to be paid for use of slaughter-houses ;

(11) the proper custody and care of animals for the keeping of which licences are granted ;

(12) the regulation of the import of animals and flesh within the city ;

(13) the rendering of necessary licences for use of premises within the city of Gauhati as stables or cow-houses or as an accommodation for sheep, goat or buffalo, and the fees payable for such licences and the conditions subject to which such licences may be granted, refused, suspended or revoked ;

(14) the regulation of sarais, hotels, dak bungalows, lodging houses, boarding houses, buildings, let-in tenements, residential clubs, restaurants, eating houses, cafes, refreshment rooms and places of public recreation, entertainment or resort ;

(15) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise injurious, offensive or dangerous effects arising or likely to arise therefrom ;

(16) the regulation of the pasting of bills and advertisements and of the position, size, shade or style of the name boards, sign-boards and sign-posts ;

(17) the fixation of a method for the sale of article whether by measure, weight, piece or any other method ;

(18) the procedure regarding the grant of permit to establish a factory, workshop or trade premises ;

(19) the regulation of smoke in factories, workshops and trade premises ;

(20) the regulation of sanitary conditions in factories, workshops, and trade premises ;

(21) the regulation of the use in any factory, workshop or trade premises of whistle, trumpet, siren or horn worked by steam, compressed air, electricity or other mechanical means ; and

(22) the prevention of nuisance in any market building, market place, slaughter-house or any factory workshop or trade premises.

#### **I. Bye-laws relating to development**

(1) the form and content of a development scheme or a rehousing scheme ;

(2) the procedure to be followed in connection with the framing, submission, approval and sanction of such schemes ;

(3) the local inquiries and other hearings that may be held before a scheme is framed, approved or sanctioned ; and

(4) the alteration of a development scheme after approval and sanction.

#### **J. Bye-laws relating to miscellaneous matters**

(1) the prevention and extinction of fire ;

(2) the circumstances and the manner in which owners of land or building in the city temporarily absent therefrom or not resident therein may be required to appoint as their agents, for all or any of the purposes of this Act or of any bye-laws made thereunder, persons residing within or near the city;

(3) the maintenance of schools and the furtherance of education generally;

(4) the regulation and control of municipal hospitals and dispensaries ;

(5) the rendering of necessary licences—

(a) for the proprietors or drivers of hackney, carriages, cycle-rickshaws and thelas kept or plying for hire or used for hawking articles ; and

(b) for persons working as job-porters for the conveyance of goods ;

(6) any other matter which is to be or may be prescribed by bye-laws made under this Act or in respect of which this Act makes no provision or makes insufficient provision and provision is, in



the opinion of the Corporation, necessary for the efficient municipal government of the city.

(2) Any bye-law which may be made under sub-section (1) may be made by the State Government within one year of the establishment of the Corporation, and any bye-law so made may be altered or rescinded by the Corporation in the exercise of its powers under sub-section (1).

(3) No bye-law made by the Corporation under this Act shall have effect until it has been approved by the State Government and published in the Official Gazette.

Penalty or  
breach  
of bye-law

417 (1) In making a bye-law under this Act the Corporation may provide that a contravention there of shall be punishable-

- (a) with fine which may extend to five hundred rupees, or
- (b) with fine which may extend to five hundred rupees and in the case of a continuing contravention, with an additional fine which may extend to twenty rupees for every day during which such contravention continues after conviction for the first such contravention, or
- (c) with fine which may extend to twenty rupees for every day during which the contravention continues after the receipt of a notice, from the Commissioner or any municipal employee, contravening the bye-law requiring such person to discontinue such contravention.

(2) Any such bye-law 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.

Supplemen-  
tary provi-  
sions  
regarding  
bye-laws.

418 The power to make bye-laws under this Act is subject to the conditions of the bye-laws being made after previous publication.

Bye-laws to  
be available  
for inspec-  
tion and  
purchase.

419 (1) A copy of all bye-laws made under this Act shall be kept at the municipal office and shall during office hours, be open free of charge to inspection by any inhabitant of the city.

(2) Copies of all such bye-laws shall be kept at the municipal office and shall be available for sale to the public.