

- (e) place or leave, during its conveyance, a corpse or part of a corpse, on or near any street without urgent necessity,
- (f) bury, or cause to be buried, any corpse or part of a 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 metres from the surface of the ground,
- (g) build, 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 a metre 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 such purpose by or under the order of the Commissioner,
- (i) reopen for the interment of a corpse or of any part of a corpse a grave or vault already occupied, without the written permission of the Commissioner,
- (j) make, without the permission of the Commissioner, any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, of any place of worship,
- (k) make, without the permission of the Commissioner, any interment or otherwise dispose of any corpse in any place which is closed under section 240 of the Act,
- (l) build, dig, 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, without the permission of the Commissioner, and

(m) exhume, without the permission of the Commissioner, anybody from any place for the disposal of the dead except under the provisions of the Code of Criminal Procedure, 1973, or any other law for the time being in force.

Central Act 2 of 1974.

(2) The Commissioner may, in special cases, grant permission for any of the purposes referred to in clauses (j) to (m) of sub-section (1) above, subject to such general or special order as the State Government may, from time to time, make in this behalf.

(3) Any contravention of the provisions of clauses (j) to (m) of sub-section (1) above shall be deemed to be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973.

Central Act 2 of 1974.

Registration of places for disposal of the dead.

237.

(1) Subject to such regulations as may be made in this behalf, every owner or person having the control of any place already used for disposal of the dead, but which is not vested in, or owned by, the Corporation or any Board appointed by the State Government for administration of such place, shall submit to the Commissioner an application for registration of such place, containing such particulars as may be specified by the Corporation, within a period of three months from the date of commencement of this Act.

(2) If the Commissioner is satisfied with the application and the particulars under sub-section (1) above, he may register such place on such terms and conditions as may be provided by regulations.

(3) The Commissioner may, with the approval of the Empowered Standing Committee, provide

suitable and convenient place for the disposal of the dead within the Municipal Corporation area, subject to the provisions of any State law regulating such land use or, in the absence of any provisions of any State law in this behalf in the Municipal Corporation area, with the approval of the State Government.

- (4) No place which has not previously been lawfully used or registered for the disposal of the dead shall be opened for such disposal except in conformity with the provisions of any state law regulating such land use or, in the absence of any provisions of any State law in this behalf in the Municipal Corporation area, with the approval of State Government.

Power to require closing of burning and burial grounds etc.

238. Where the Commissioner is of the opinion that any burning place or burial ground or place for the disposal of the dead has become offensive or dangerous to the health of persons residing in the neighbourhood, or for any other reasons to be recorded in writing, he may, with the previous approval of the Empowered Standing Committee, and by notice, in writing, require the owner or the person in charge of such burning place or burial ground or place for the disposal of the dead, to close such burning place or burial ground or place for the disposal of the dead, from such date as may be specified in the notice.

Disposal of dead animals.

239. (1) Whenever any animal, which is under the charge of any person, dies, such person shall, within twenty-four hours of such death, either,-
- (a) convey the carcass to a place provided or appointed under this Act for the final disposal of carcasses of dead animals, or
- (b) give notice of the death to the Commissioner 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) above, the Commissioner may charge such fee as may be determined by the Corporation by regulations.
- (3) Where any dead animal does not belong to any person, the Commissioner shall act immediately for causing the carcass to be disposed of.

Chapter XXXI

Urban Forestry, Parks, Gardens, Trees and Playgrounds

Corporation to implement schemes.

240. (1) The Corporation shall take necessary steps for—
- (a) promotion of urban forestry,
 - (b) creation of public parks and gardens, and planting of trees,
 - (c) provision of parks and playgrounds for children and youth,
 - (d) provision of street-side gardens,
 - (e) encouragement of nurseries, and
 - (f) organization of flower shows.
- (2) The Corporation may, from time to time, take steps to promote awareness about the national heritage of flora and fauna among the school children and the youth.

Chapter XXXII Improvement

Removal of congested buildings.

241. (1) If it appears to the Commissioner that any block of buildings is in an unhealthy condition by reason of the manner in which the buildings are crowded together or the narrowness, closeness, or faulty arrangement of streets or the want of proper drainage and ventilation or the impracticability of cleansing

the buildings or by reason of any other cause to be specified in writing, he shall cause such block of buildings to be inspected by the Medical and Health Officer and the Chief Engineer, who shall consult the owners and the occupiers of such block of buildings and the owners and the occupiers of other buildings affected by the unhealthy condition and shall, thereafter, make a report, in writing, to him regarding the sanitary condition of such block of buildings.

- (2) If, upon receipt of the report under sub-section (1) above, the Commissioner considers that the sanitary condition of such block of building is likely to cause risk of disease to the inhabitants of the buildings or the neighbourhood or otherwise to endanger the community health, he shall, with the approval of the Empowered Standing Committee, select the buildings which, in his opinion, should wholly or in part be removed in order to abate the unhealthy condition of such block of buildings, 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, a reasonable opportunity shall be given to the owners to show cause, either in writing or in person, why the buildings should not be removed:

Provided further that the Commissioner shall, for the removal of any such building, which may have been erected lawfully, pay compensation to the owner for any such building.

- (3) If the notice under sub-section (2) above, requiring any owner of a building to remove such building is not complied with, then, after the expiration of the period specified in the

notice, the Commissioner may himself remove the building and recover from the owner of the building the expenses of such removal as an arrear of tax under this Act.

Power to require improvement of building unfit for human habitation.

242. (1) If, upon information in his possession, the Commissioner is satisfied that any building is in any respect unfit for human habitation, he may, unless, in his opinion, the building is not capable of being rendered fit at a reasonable expense, serve on the owner of the building a notice requiring him, within such period, 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 such works will render the building fit for human habitation.
- (2) In addition to the notice served on the owner of the building under sub-section (1) above, the Commissioner may also serve a copy of the notice on any other person having an interest in the building, whether as a lessee or as a 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 works necessary to render the building so fit and the estimated value which the building shall have on completion of the works.
- (4) If the notice under sub-section (1) above, requiring the owner of the building to execute the works of improvement is not complied with, then, on the expiration of the period specified in the notice, the Commissioner may himself do the works required to be done by the notice and recover the expenses incurred in connection therewith as an arrear of tax under this Act.

Power to order demolition of building unfit for human habitation.

243. (1) Where, upon information in his possession, the Commissioner is satisfied that any building is unfit for human habitation and is

not capable at a reasonable expense of being rendered 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 or as a mortgagee or otherwise, a notice to show cause within such time as may be specified in the notice as to why an order of demolition of the building should not be made.

- (2) If the owner of the building, or other person, upon whom a notice has been served under sub-section (1) above, appears in pursuance thereof before the Commissioner and gives an undertaking that he shall, within a period specified by the Commissioner, execute such works of improvement in relation to the building as will, in the opinion of the Commissioner, render the building fit for human habitation or that the building shall not be used for human habitation until the Commissioner, on being satisfied that it has been rendered fit for such habitation, cancels the undertaking, the Commissioner shall not make an order of demolition of the building.
- (3) If no such undertaking as is referred to in sub-section (2) above is given, or if, in a case where any such undertaking has been given, the works of improvement to which the undertaking relates are not carried out within the specified period or the building is used in contravention of the undertaking, the Commissioner 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 fifteen days from the date of the order, and demolished within six weeks on 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 such building within the period specified in the order, and if such building is not demolished within that period, the Commissioner shall demolish the building and shall sell the materials thereof.

Chapter XXXIII

Public Streets

A. General Powers

Naming and numbering of street.

244. (1) The Corporation shall -
- (a) determine the name or number by which any street or public place vested in it 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 or some convenient part of such street, the name or number by which it shall be known, and
 - (c) cause to be put up or painted on boards of suitable size the name of any public place vested in the Corporation.
- (2) The Corporation may, having regard to the hierarchy of the street system, by regulations, specify the norms according to which the streets may be named or numbered.
- (3) 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 Corporation.

Unique premises number.

245. (1) The Corporation shall, when so required by the State Government, assign a unique premises number to every premises or part thereof in the Municipal Corporation area and

shall cause to be maintained a register wherein such unique premises number shall be recorded in respect of each such premises.

Explanation. – In this section, the expression “unique premises number” may mean a number assigned to the premises or part thereof by the Corporation in the following manner, namely:-

- (a) the first three digits indicating the ward number,
 - (b) the next three digits indicating the street number,
 - (c) the next four digits indicating the premises number,
 - (d) the next three digits indicating the sub-premises number,
 - (e) the next one digit indicating the code of the building use, such as residential, commercial, industrial or other use, and
 - (f) the last one digit indicating the code of type of construction.
- (2) When the unique premises numbers in respect of premises in any ward of the Corporation have been determined, the Commissioner shall notify such unique premises numbers in such manner as may be prescribed.
 - (3) When, after the unique premises numbers in respect of premises in any ward have been notified under sub-section (2) above, any person is required under this Act or any other state law to make any application to the Corporation for any permission or licence or for payment of any tax, or for payment of any dues for any service, or for such other purposes as may be prescribed, the person making the application shall mention in the application the unique premises number assigned under sub-section (1) above.

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

246. (1) The Corporation may, by notice, in writing, -
- (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 the 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 assistants, and other general precautions, and on payment of such charges, as may be specified by the Corporation generally or specifically in each case,
 - (c) prohibit, at all times or during any particular hours, entry of any vehicular traffic from, or exit of such vehicular traffic into, any premises from any particular public street carrying such traffic.
- (2) Any notice under sub-section (1) above shall, if such notice applies to any particular public street, be pasted in conspicuous places at or near both ends of such public street or any portion thereof to which such notice applies or, if such notice applies generally to all public streets, be advertised.
- (3) Notwithstanding anything contained in sub-section (1) above, the Corporation may declare, by notice, in writing, 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) above shall be pasted in conspicuous places at or near both ends of such public street or any portion thereof to which the provisions of sub-section (3) apply.

B. Regular Line of Street

Defining regular line of street.

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

Provided that before such defining or redefining, as the case may be, the Corporation shall, by 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 of 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 for the time being in force in any part of the Municipal Corporation area immediately before the commencement of this Act, shall be deemed to be the regular line of such public street defined by the Corporation under this sub-section.

- (2) The line 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 Commissioner shall maintain a register containing such particulars as may be specified by the Corporation 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 he 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 charge, as may be determined by the Corporation by regulations.

Setting back
buildings to
regular line of
street.

248. (1) If any part of a building abutting on a public street is within the regular line of that street, the Corporation 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 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) Any land acquired under this section shall be deemed to be a part of the public street and shall vest in the Corporation.

Compulsory
setting back of
building to regular
line of street.

249. (1) Where any building or any part thereof is within the regular line of a public street and, in the opinion of the Corporation, it is necessary to set back such building or part thereof to the regular line of such street, the Commissioner 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 of such street, should not be pulled down and the land within the regular line acquired by the Corporation.
- (2) If the owner fails to show cause as required under sub-section (1) above, the Commissioner may, with the approval of the Corporation, require the owner, by another notice to be served on him in such manner as may be specified by regulations, 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) above, the Commissioner 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 arrear of tax under this Act.

Setting forward of
building to regular
line of street.

250. The Corporation 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 a building, and it shall be deemed to be a sufficient compliance

with the 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 Corporation, is erected along such line.

Acquisition of open land and land occupied by platforms etc.

251.

If any land, whether open or enclosed, not vested in the Corporation 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 Commissioner may, with the prior approval of the Corporation and 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 Corporation, 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 Corporation:

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

Acquisition of remaining part of building and land after their portions within regular line of street have been acquired.

252.

(1) Where a land or building is partly within regular line of a public street and the Corporation 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 part of the public street and shall vest in the Corporation.

- (2) Such surplus land may, thereafter, be utilized for the purpose of setting forward a building under section 250 of the Act or for such other purpose as the Corporation may deem fit.

Compensation to be paid in certain cases of setting back or setting forward of building etc.

253. (1) A compensation shall be paid by the Corporation to the owner of any building or land acquired for a public street under the provisions of section 248, section 249, section 251, or section 252 of the Act, for any loss which such owner may 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 Corporation.
- (2) If, in consequence of any order under section 250 of the Act to set forward a building, the owner of such building sustains any loss or damage, compensation shall be paid to him by the Corporation 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) above, to set forward such building, belongs to the Corporation, the order or permission of the Corporation 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 Corporation by the said owner of 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 Corporation requires any building to be set forward, the owner of the building is

dissatisfied with the price fixed to be paid to the Corporation or with any of the terms or conditions of conveyance, the Commissioner 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 to the court of the District Judge having jurisdiction for determination, and the decision of the said court thereon shall be final.

C. Obstruction on Streets

Special provision regarding streets belonging to Central or State Government.

254. (1) If any national highway, state highway, or a street is vested in the Central Government or the State Government, as the case may be,-
- (a) the Corporation shall not, in respect of such national highway, state highway, or street, grant permission to do any act, the doing of which without its permission, in writing, would contravene the provisions of this Act, except with the sanction of the Central Government or the State Government, as the case may be, and
 - (b) if so required by the Central Government or the State Government, the Corporation shall exercise the powers conferred upon it by this Act or any regulations relating to such street.
- (2) In the case of roads vested in the State Government, and passing through the Municipal Corporation area, the Corporation shall have control over such roads in so far as permission for temporary occupation thereof and removal of encroachments therefrom are concerned, but the maintenance of such roads shall remain with the State Government.

Temporary
erection on streets
during festivals.

255. (1) The Commissioner may grant a permission, in writing, for temporary erection of a booth, *pandal*, or any other structure on any public place on occasions of ceremonies and festivals, on payment of such fee, and on such conditions, as may be determined by the Corporation by regulations, and for such period as may be mentioned in the letter of permission:

Provided that no permission shall be given under this section without consultation with the Superintendent of Police of the district or any police officer of equivalent rank having jurisdiction over the Municipal Corporation area.

- (2) The person to whom such permission is granted shall fill in the ground and reinstate the same to the satisfaction of the Commissioner within such period as may be mentioned in the letter of permission.

Precautions during
construction or
repair of street,
drain or premises.

256. Subject to the terms and conditions as may be specified by regulations, the Commissioner, during construction or repair of any public street or any municipal drain or any premises vested in the Corporation, shall –

- (a) cause the same to be fenced and guarded,
- (b) take proper precaution against accident affecting public street or adjoining buildings,
- (c) prohibit, without his written permission, the deposit of any building material or the setting up of any scaffolding or any temporary erection on any public street,
- (d) close any street wholly or partly to traffic,
- (e) provide for necessary diversion of traffic, wherever necessary,

- (f) ensure the reinstatement of the public street or restoration of any drain or premises to its original condition, and
- (g) take steps for repairing or enclosing of any place which, in his opinion, is dangerous or causing inconvenience to traffic along a street or to persons who have legal access thereto or to the neighbourhood thereof, and recover the costs of such repair works from the owner or the occupier of any such place or premises.

Power of Corporation in relation to regulation of street.

257.

Subject to such terms and conditions as may, from time to time, be specified by regulations, the Corporation may –

- (a) prohibit or regulate vehicular traffic in any public street or any portion thereof so as to prevent danger, obstruction or inconvenience to the public or injury to the roadways,
- (b) prohibit, at all times or during any particular hours, entry of any vehicular traffic from, or exit of such vehicular traffic into, any premises from any particular public street carrying such traffic,
- (c) prohibit tethering of any animal for any purpose in any public street,
- (d) prohibit in any street installation of structures or fixtures which may cause obstruction,
- (e) prohibit the opening of the ground floor door, gate, bar or window outwards on any street,
- (f) prohibit projections upon any street, or drain, or open channel in any street, and
- (g) remove anything erected, deposited or hawked on any public place or public street in contravention of the provisions of this Act.

Chapter XXXIV**Buildings****A. Procedure**

- Definitions. 258. 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 extent 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, if originally so constructed for human habitation, subsequently appropriated for any other purpose,
 - (d) to convert into more than one dwelling-house a building originally constructed as one dwelling-house only,
 - (e) to convert into a place of religious worship or into a sacred building any place or building, not originally constructed for such purpose,
 - (f) to roof or cover an open space between walls or buildings to the extent of the structure formed by the roofing or covering of such space,

- (g) to convert two or more tenements in a building into a greater or lesser number of such tenements,
 - (h) to convert into a stall, shop, office, warehouse or *godown*, workshop, factory or garage any building not originally constructed for use as such, or to convert any building constructed for such use, by sub-division or addition, into greater or lesser number of such stalls, shops, offices, warehouses or *godowns*, workshops, factories or garages,
 - (i) to convert a building, which, when originally constructed, was legally exempt from the operation of any building regulations or any rules made under this Act or in any other law for the time being in force, 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 of a building 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 any other improvement scheme under any law for the time being in force, 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, apartment houses and flats, and private garages,
 - (b) educational buildings, that is to say, any building used for school, college or day-care purposes involving assembly for instruction, education or recreation incidental to educational use,
 - (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, clinics, dispensaries, sanatoria, custodial institutions, and penal institutions like jails, prisons, mental hospitals and reformatories,
 - (d) assembly buildings, that is to say, any building or part thereof where groups of people congregate or gather for amusement or recreation or for social, religious, patriotic, civic, 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, gymnasia,

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 building 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 building 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, manufacturer's whole-sale 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 or 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 buildings shall include laboratories,

power plants, smoke houses, refineries, gas plants, mills, dairies, factories, workshops, automobile repair garages and printing presses,

(h) storage buildings, that is to say, any building 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, hangars, truck terminals, grain elevators, barns and stables,

(i) hazardous buildings, that is to say, any building or part thereof used for the storage, handling, manufacture or processing of highly combustible or explosive materials or products, which are liable to burn with extreme rapidity or which may produce poisonous fumes or explosions during storage, handling, manufacture or processing or which involve highly corrosive, toxic or noxious alkalis, acids or other liquids or chemicals producing flames, fumes, explosions or mixtures of dust or which result in the division of matter into fine particles subject to spontaneous ignition;

(3) "plan" means a plan prepared by a surveyor, or a draughtsman, or an engineer holding a degree of Bachelor of Engineering, or an Architect registered under the Architects Act, 1972.

Central Act 20
of 1972.

Prohibition of
erection without
sanction.

259.

No person shall erect, or commence to erect, any building or execute any of the works specified in section 258 of the Act in any Municipal Corporation area, 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:

Provided that the erection of a residential building upto Ground +2 storied or a height of 9.60 metre, whichever is lower, on a plot of land of six hundred and seventy square metre or less, may be commenced and may be proceeded with if the building plan has been prepared by an architect registered under the Architects Act, 1972, and authenticated by him certifying that the building plan for such erection conforms to the provisions of this Act and the rules and the regulations made thereunder:

Central Act 20 of
1972.

Provided further that any such plan shall be submitted to the Commissioner before the commencement of the work referred to in the first proviso for sanction thereof in due course:

Provided also that if any deviation from the provisions of this Act, or the rules, or the regulations made thereunder or any material deviation from such plan is detected in erection of any such building, the Commissioner may take necessary action against such person in accordance with the provisions of this Act, or the rules, or the regulations made thereunder and, in the case of any deviation from the provisions of this Act, or the rules, or the regulations made thereunder, send a report to the Institution of Architects against the architect who prepared the building plan and authenticated it by certifying that the building plan conforms to the provisions of this Act, or the rules or the regulations made thereunder for such action as the Institution of Architects may deem fit:

Provided also that the Commissioner shall, by order, direct that no certification by such architect in respect of any building plan shall be accepted by the Corporation till a decision on the aforesaid report is received from the Institution of Architects by the Commissioner.

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|---|------|---|
| Erection of building. | 260. | <p>(1) Every person who intends to erect a building shall apply for sanction by giving a notice, in writing, of his intention to the Commissioner in such Form, and containing such information, as may be prescribed.</p> <p>(2) Every such notice shall be accompanied by such documents and plans as may be prescribed.</p> |
| Application for addition to, or repair of, building. | 261. | <p>(1) Subject to the provisions of this Act, every person who intends to execute any of the works shall apply to the Commissioner for sanction by giving a notice, in writing, of his intention in such Form, and containing such information, as may be prescribed.</p> <p>(2) Every such notice shall be accompanied by such documents and plans as may be prescribed.</p> |
| Purpose for which building to be used and conditions of validity of notice. | 262. | <p>(1) Every person giving any notice of his intention to erect a building under section 262 of the Act shall specify the purpose for which such building is intended to be used.</p> <p>(2) Every person giving any notice of his intention to execute any of the works shall specify whether the original purpose for which such work was intended to be executed, is proposed, or is likely, to be changed by such execution of work:</p> <p style="padding-left: 40px;">Provided that if such change would result in mixed occupancies, which are contrary to the provisions of this Act or of any other law for the time being in force, such change shall not be allowed.</p> <p>(3) No notice shall be valid until the information required under sub-section (1) or sub-section (2) above and any other information and plans, which may be required by regulations made under this Act, have been furnished to the satisfaction of the Commissioner along with the notice.</p> |

Sanction or
provisional
sanction or refusal
of building or
work.

263. (1) Subject to the provisions of section 259 of the Act, the Commissioner shall sanction, or provisionally sanction, the erection of a building or the execution of a work within the Municipal Corporation area, unless such building or work would contravene any of the provisions of this Act or any rules made under this Act.
- (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 or the regulations made thereunder or of any other law for the time being in force or any scheme sanctioned thereunder,
 - (b) that the notice for sanction does not contain the particulars, or is not prepared in the manner, required under the rules or the regulations made in this behalf under this Act,
 - (c) that any information or document, required by the Commissioner under this Act or the rules or the regulations made thereunder, has not been duly furnished,
 - (d) that the building or the work would be an encroachment on the State Government land or land vested in the Corporation, and
 - (e) 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 street by any passage or pathway appertaining to such site.

- (3) Notwithstanding anything contained in this Act, the Commissioner 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 of nuisance of any kind whatsoever as he deems fit.
- (4) The Commissioner shall communicate the sanction or the provisional sanction to the person who has given the notice under section 259 or section 260 of the Act, and where he refuses sanction or provisional sanction, either on any of the grounds specified in sub-section (2) above, he shall record a brief statement of his reasons for such refusal and shall communicate the refusal along with the reason therefor to the person who has given the notice.
- (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 group shall be specifically stated in such sanction.

Sanction or provisional sanction accorded under misrepresentation.

264.

If, at any time, after the communication of sanction or provisional sanction to the erection of any building or the execution of any work, the Commissioner is satisfied that such sanction or provisional sanction was accorded in consequence of any material misrepresentation or any fraudulent statement in the notice given or information furnished, he may, by order in writing, cancel, for reasons to be recorded in writing, such sanction or provisional sanction, as the case may be, 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 accordingly under the provisions of this chapter:

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

When building or work may be proceeded with.

265. (1) Where within a period of forty-five days, or in cases falling under clause (b) to clause (l) of sub-section (1) of section 258 of the Act, within a period of thirty days, of the receipt of any notice under section 260 or section 261 or of any information under section 262 of the Act the Commissioner does not refuse the sanction to the erection of any building or the execution of any work or, upon refusal, does not communicate the refusal to the person who has given the notice, such person may make a representation in writing to the Mayor.
- (2) Where the erection of a building or the execution of a work is sanctioned, the person who has given the notice shall erect the building or execute the work in accordance with such sanction and shall not contravene any of the provisions of this Act or the rules or the regulations made thereunder or of any other law for the time being in force.
- (3) If the person as aforesaid or any one lawfully claiming under him does not commence the erection of the building or the execution of the work within two years of the date on which the erection of the building or the execution of the work, as the case may be, is sanctioned, he shall give notice under section 260 or, as the case may, under section 261 of the Act for fresh sanction and the provisions

of this section shall apply in relation to such notice as they apply in relation to the original notice.

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

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

Period for
completion of
building or work.

266.

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

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

267.

- (1) Where the erection of any building or the execution of any work has been commenced, or is being carried on in contravention of any of the provisions of this Act or the rules or the regulations made thereunder, then Commissioner 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 instance the erection or the work has been commenced or is being carried on or has been completed, within such period, not being less than five days and more than fifteen days

from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to such person, as may be specified in the order:

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

Provided further that where the erection of any building or the execution of any work has not been completed, the Commissioner may, by the same order or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct such person to stop the erection of such building or the execution of such work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under sub-section (5) of this section.

- (2) Power to seal unauthorised erection:- It shall be lawful for the Commissioner, at any time, before or after making an order of demolition under this section or the stoppage of erection of any building or execution of any work under this section, to make an order directing the sealing of such erection or work which is being carried on or has been completed in the manner provided in the Act, for the purpose of carrying out the provisions of this Act or for preventing any dispute as to the nature and extent of such erection of work.
- (3) Where any erection or work has been sealed, the Commissioner may, for the purpose of demolishing or discontinuing such erection or work, order the seal to be removed.

- (4) The Commissioner may make an order under sub-section (1) above, notwithstanding the fact that the assessment of such building has been made for the levy of the property tax on lands and buildings.
- (5) Any person aggrieved by an order of the Commissioner under sub-section (1) above may, within thirty days from the date of the order, prefer an appeal against the order to the Appellate Authority.
- (6) Where an appeal is preferred under sub-section (5) against an order under sub-section (1) above, the Appellate Authority may stay the enforcement of the order on such terms, if any, and for a maximum period not more than sixty days.
- (7) Save as provided in this section, no Court shall entertain any suit, application or other proceeding for injunction or other relief against the Commissioner to restrain him from taking any action, or making any order, in pursuance of the provisions of this section.
- (8) Every order made by the Appellate Authority on appeal and, subject to such order, every order made by the Commissioner under sub-section (1) above, shall be final and conclusive.
- (9) Where no appeal has been preferred against an order made by the Commissioner under sub-section (1) above 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 Appellate Authority on appeal, and, on the failure of such person to comply with the order within such period, the Commissioner

may himself cause the building or the work to which the order relates to be demolished, and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act.

- (10) Notwithstanding anything contained in this chapter, if the Empowered Standing Committee is of the opinion that immediate action is called for in relation to a building or a work being carried on in contravention of the provisions of this Act, it may, for reasons to be recorded in writing, cause such building or work to be demolished forthwith.

Order of stoppage of building or work in certain cases.

268. (1) Where the demolition of any building or the erection of any building or the execution of any work has been commenced or is being carried on without, or contrary to, the sanction or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provisions of this Act or the rules or the regulations made thereunder, the Commissioner may, in addition to any other action that may be taken under this Act, by order, require the person at whose instance the building or the work has been commenced or is being carried on to stop the same forthwith.
- (2) (a) Notwithstanding anything contained elsewhere in this Act or in any rules or regulations made thereunder, no owner of any building, and no person engaged in the construction of any building on behalf of the owner thereof, shall allow storage or stagnation of water in the site for the construction of such building and every such owner or every such person, as the case may be, shall completely empty all collections of such water at least once in a week.

- (b) Where the construction of a building is carried on in contravention of the provisions of clause (a), the Commissioner may, in addition to any other action that may be taken under this Act, by order, in writing, require the person at whose instance such storage or stagnation of water in the site for the construction of the building is made, to stop forthwith any further construction of the building, and such order shall remain in force till the person as aforesaid complies with the requirements of the order as aforesaid, to the satisfaction of the Commissioner.
- (3) If an order by the Commissioner under clause (b) of sub-section (2) above directing any person to stop the construction of any building is not complied with, the Commissioner may take such measures as he deems fit or may require any police officer to remove such person and all his assistants and workmen from the premises within such time as may be specified by the Commissioner, and such police officer shall comply with such requirement.
- (4) If an order by the Commissioner under section 267 of the Act or under sub-section (1) of this section, directing any person to stop the erection of any building or the execution of any work, is not complied with, the Commissioner may take such measures as he deems fit or may require any police officer to remove such person and all his assistants and workmen from the premises within such time as may be specified by the Commissioner, and such police officer shall comply with such requirements.
- (5) No Court shall entertain any suit, application or other proceeding for injunction or other relief against the Commissioner to restrain

him from taking any action or making any order in pursuance of the provisions of this section.

- (6) On the compliance with the requirement under sub-section (2) above, the Commissioner may, if he thinks fit, depute, by an order, in writing, a police officer or an officer or other employee of the Corporation to watch the premises in order to ensure that the erection of the building or the execution of the work is not continued.

Construction of building in contravention of the provisions of the Act or the rules made thereunder.

269. (1) Notwithstanding anything contained in this Act or the rules made thereunder or in any other law for the time being in force, any person, who, being responsible, by himself or by any other person on his behalf, so constructs, or attempts, or conspires, to so construct, any new building or additional floor or floors of any building, in contravention of the provisions of this Act or the rules made thereunder, as endangers, or is likely to endanger, human life, or any property of the Corporation, whereupon the water-supply, drainage or sewerage or the road traffic is disrupted or is likely to be disrupted or is likely to cause a fire hazard, shall be punishable with imprisonment of either description for a term which may extend to five years and also with fine which may extend to a sum as may be prescribed.

- (2) The offence under sub-section (1) above shall be cognizable and non-bailable within the meaning of the Code of Criminal Procedure, 1973.

Central Act 2 of 1974.

Power of Commissioner to require alteration of work.

270. (1) The Commissioner may, at any time during the erection of any building or the execution of any work or at any time within three months after the completion thereof, by notice, in writing, specify any matter in respect of which such erection or execution is

without, or contrary to, the sanction referred to in section 263 of the Act or is in contravention of any condition of such sanction or of any of the provisions of this Act or the rules or the regulations made thereunder and require the person who gave the notice under section 260 or section 261 of the Act or the owner of such building or work either -

(a) to make such alterations as may be specified by the Commissioner in the notice with the object of bringing the building or the work in conformity with such sanction or such condition of such sanction or the provisions of this Act or the rules or the regulations made thereunder, or

(b) to show cause, within such period as may be stated in the notice, why such alterations should not be made.

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

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

Completion
certificate.

271. (1) Every person giving a notice under section 260 or section 261 of the Act or every owner of a building or work to which such notice relates shall, within one month after the completion of erection of such building or execution of such work, deliver or send or cause to be delivered or sent to the Commissioner a notice, in writing, of such completion accompanied by a certificate in the Form specified in the rules made in this behalf and shall give to the Commissioner all

necessary facilities for inspection of such building or work.

Occupancy.

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

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

B. General Powers

Building at corners of streets.

272. (1) Notwithstanding anything contained in this Act or the rules and the regulations made thereunder or of any other law for the time being in force, the Commissioner may, in the case of any building which is intended to be erected at the corner of two streets, -
- (a) refuse sanction for such reasons as may be recorded in writing, or
 - (b) impose restrictions on its use, or
 - (c) place special conditions concerning exit to, or entry from, any street, or
 - (d) require it to be rounded off or splayed or cut off to such height and to such extent as he may determine, or
 - (e) acquire such portion of the site at the corner as he may consider necessary for public convenience or amenity.

- (2) The Commissioner may, by order, in writing, require any alteration, corresponding to any of the provisions in clauses (b) to (e) of subsection (1) above, to be made to any building completed before the commencement of this Act.
- Provision as to building and work on either side of new street or near fly-over or transportation terminal.
273. (1) The sanction to the erection of any work on either side of a new street may be refused by the Commissioner unless and until such new street has been levelled, and, in the opinion of the Commissioner, wherever practicable, metalled or paved, drained, lighted and laid with a water main, to his satisfaction.
- (2) The sanction to the erection of any such building or the execution of any such work may be refused by the Commissioner, if such building or any portion thereof or such work comes within the regular line of any street, the position and direction of which have been laid down by the Commissioner but which has not been actually erected or executed, or if such building or any portion thereof or such work is in contravention of any building plan or any other scheme or plan prepared under this Act or any other law for the time being in force.
- (3) The Commissioner may refuse permission for the erection or re-erection of any building which, when completed, will be within such distance from a fly-over or overbridge or transportation terminal or other construction as may be provided by rules or regulations made in this behalf.
- Provision against use of inflammable material for building etc. without permission.
274. (1) No roof, verandah, *pandal* or wall of a building or no shed or fence shall be constructed or reconstructed of cloth, grass leaves, mats or other inflammable materials except with the permission, in writing, of the Commissioner, nor shall any such roof,

verandah, *pandal*, wall, shed or fence, constructed or reconstructed in any year, be retained in a subsequent year except with the fresh permission obtained in this behalf.

- (2) Every permission under sub-section (1) above shall expire at the end of the financial year for which it is granted.
- (3) The Commissioner may regulate the use of materials, design or construction or other practices for interior decoration in accordance with the rules and the regulations in this behalf.

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

275. (1) The Commissioner may, subject to the prior approval of the Empowered Standing Committee, give notice of his intention to declare -
- (a) that in any street or portion thereof specified in such notice, the elevation and construction of the frontage of all buildings or any classes of buildings erected or re-erected after such notice shall, in respect of their architectural features, be such as the Empowered Standing Committee 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, being not less than that specified in such notice, or
 - (c) that the division or sub-division of building plots in a particular locality shall be of a minimum specified area, or

- (d) that in any locality specified in the notice, the construction of more than a specified number of buildings on each acre of land shall not be allowed, or
- (e) that in any street, portion of a street, or locality, 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 Empowered Standing Committee.
- (2) The Empowered Standing Committee shall consider all suggestions or objections, received within a period of three months of the publication of such notice, and may confirm the declaration, or may modify it, so, however that the effect of such notice is not extended.
- (3) The Commissioner shall publish any declaration so confirmed or modified in the *Official Gazette* and the declaration shall take effect from the date of such publication.
- (4) No person shall, after the date of publication of such declaration, erect or re-erect any building in contravention of such declaration.
- (5) The Empowered Standing Committee shall ensure that such declaration is in conformity with the provisions of any State law relating to urban land use planning.

Power to stop
excavation.

276.

If, during excavation or any other operation for the purpose of construction of any building or execution of any work, any of the underground utilities (such as electric or telephone cables, water-supply, drainage and sewerage mains, and gas pipes) is touched or

is likely to be touched, or if the Commissioner is of opinion that such excavation may cause danger to the public, the Commissioner may, by order, in writing, stop forthwith any such excavation or other work till the matter is investigated and decided to his satisfaction.

Power to require alteration of existing buildings.

277.

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

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

Power to order removal of dangerous buildings.

278.

- (1) If any wall or building, or anything affixed thereto, is deemed by the Commissioner to be in a ruinous state, or is likely to fall, or to be in any way dangerous, he shall forthwith cause a notice, in writing, to be served on the owner and to be put on some conspicuous part of the wall or building or served on the occupier, if any, of the building requiring such owner or occupier forthwith to demolish, repair, or secure such wall, building or thing, as the case may require.
- (2) The Commissioner may, if it appears to him necessary so to do, cause a proper hoarding or fence or other means of protection to be put up at the expense of the owner of such wall or building for the safety of the public or the inmates thereof; and may, after giving them such notice as the Commissioner may think necessary, require the inmates of the building to vacate it.

- (3) The provisions of this Act and of any rules or regulations made thereunder relating to buildings shall apply to any work done in pursuance, or in consequence, of a notice issued under sub-section (1) above.
- (4) (a) Notwithstanding anything contained in the foregoing provisions of this section, the Commissioner may, forthwith or with such notice as he thinks fit, demolish, repair or secure or cause to be demolished, repaired or secured, any such wall or building or thing affixed thereto, on the report of the Municipal Architect and 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 Commissioner may cause the inmates of the building to be summarily removed from such building or from such portion thereof as he may consider necessary.
- (c) All expenses incurred by the Commissioner for carrying out the purposes of this sub-section shall be paid by the owner of such wall, building or thing.
- (5) Anything done or any action taken by the Commissioner under sub-section (4) above shall, unless the contrary is proved, be deemed to have been done or taken lawfully and in good faith.

Inspection of
building.

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

Permission in case
of non-residential
uses of premises.

- (2) The Commissioner may inspect any existing building at any time by giving seven day's notice in advance.
280. (1) No person shall, without the previous permission, in writing, of the Commissioner, or otherwise than in conformity with the conditions, if any, of such permission, put any premises to non-residential use including the use for an educational building or an institutional building or an assembly building or a business building or a mercantile building or an industrial building or a storage building or a hazardous building:

Provided that all permission under this sub-section is subject to the provisions as prescribed by bye-laws / rules.

- (2) The Commissioner may refuse to give such permission in any case on the ground that such use -
- (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 playground facilities.

- (3) Subject to any land use control under this Act or any other law for the time being in force, the decision of the Commissioner in every case where permission is refused under this section shall be final.

Conditions for grant of permission.

281. In the case of any premises for the use of which a licence or permission is required from the State Government or any authority under any law for the time being in force, the Commissioner shall not grant such permission under this Act to any person until such person produces before the Commissioner the licence or the permission from the State Government or such authority, as the case may be, and submits duly authenticated copy thereof to him:

Provided that in the case where production of a permission of the Corporation is a precondition for the grant of a licence or permission under any other law for the time being in force, the Commissioner may grant a provisional permission which shall be authenticated to be final only upon production of a licence 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 grant of the licence or the permission under any other law as aforesaid.

C. Regulation of Building Uses

Power to prohibit change of authorized use of building.

282. (1) No person shall, without the permission, in writing, of the Commissioner or otherwise than in conformity with the conditions of such permission, -

- (a) use, or permit to be used, for the purpose of human habitation any building or part thereof not originally erected or authorized to be used for such purpose,
 - (b) change, or allow the change of, the use of a building for any purpose other than that specified in the sanctioned plan,
 - (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 or to the use to which such building was actually put,
 - (d) convert, or allow the conversion of, a tenement within a building to an occupational use, other than the use intended in the original sanctioned plan, or materially alter, enlarge, or extend such use.
- (2) If, in any case, such permission is given, no change of occupancy or use shall be allowed before necessary alterations or provisions have been made to the satisfaction of the Commissioner and in accordance with the provisions of this Act and the rules and the regulations made thereunder and any other law for the time being in force.
- (3) Any change of use made before the commencement of this Act, except in so far as such use is permissible under the provisions of an earlier State law on the subject in force before the commencement of this Act, shall be deemed to be a change in contravention of the provisions of this Act.
- (4) Without prejudice to any other action that may be taken against any person, whether owner or occupier, contravening any provision of this section, the Corporation may levy on such person such fine as may be prescribed.

- (5) The Commissioner may, if he deems fit, order that such unauthorized use be stopped forthwith:

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

- (6) Any person aggrieved by an order of the Commissioner under sub-section (5) above may, within thirty days from the date of the order, prefer an appeal against the order to the Appellate Authority whose decision in the matter shall be final and conclusive.
- (7) When an appeal is preferred under sub-section (6) above, the Appellate Authority may stay the enforcement of the order made by the Commissioner under sub-section (5) above on such terms, and for a period not beyond sixty days.
- (8) Save as otherwise provided in this section, no court shall entertain any suit, application or other proceeding for any relief or injunction, restraining the Commissioner from taking any action or making any order in pursuance of the provisions of this section.

Explanation. – For the purposes of this chapter, “unauthorized use” shall mean change or conversion of a building without sanction from one occupancy or use group to another occupancy or use group.

Power to prevent use of premises for environmental reasons.

283. (1) The Corporation may give notice of its intention to declare that in any area specified in the notice, no person shall, for environmental reasons stated therein, use any premises for any purpose specified in the notice.
- (2) Any objection to any such notice shall be received within a period of thirty days from the date of the notice.

- (3) The Corporation shall consider all objections received within the period as aforesaid, giving any person affected by the notice an opportunity of being heard, and may, thereupon, make a declaration in accordance with the notice under sub-section (1) above, with such modifications, if any, as it may think fit.
- (4) Every such declaration shall be published in the manner provided by regulations and shall take effect from the date of such publication.
- (5) No person shall, in any area specified in the declaration published under sub-section (4) above, use any premises for any purpose specified in the declaration, and the Commissioner shall have the power to stop such use of any such premises by such means as he may consider necessary.
- (6) The Corporation shall ensure that such declaration is in conformity with the provisions of any land use plan in force in the Municipal Corporation area under any State law regulating such use.

Chapter XXXV

Municipal Licences

Premises not to be used for non-residential purpose without municipal licence.

284. (1) Except as hereinafter provided in this Act, no person shall use, or permit to be used, any premises for any of the non-residential purposes as may be prescribed by rules:

Provided that no such licence shall be given in respect of any non-residential use of a premises, if such use 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 or the orders made thereunder.

- (2) In the case of a non-residential use of a premises for a purpose for which a licence or permission is required from the State Government or any statutory body under any law for the time being in force, no licence under this section shall be given until the licence or the permission under the said law has been produced before the Commissioner, and duly authenticated copies thereof have been submitted to him:

Provided that in the case where the production of a licence under this Act is a pre-condition for the grant of a licence under any other law for the time being in force, the Commissioner may grant a provisional licence, which shall be authenticated to be final only upon the production of a licence or permission under the said law:

Provided further that such provisional licence shall have validity only for the purpose of fulfilling the preconditions of the grant of a licence under any other law as aforesaid.

- (3) In specifying the terms of a licence granted under this section, the Commissioner may require the licensee to take all or any of such measures as he may deem fit to guard against danger to life, health or property or for the abatement of nuisance of any kind.
- (4) The Corporation shall, by regulations, determine the fees to be paid in respect of a licence granted under sub-section (1) above, and may specify different fees for different categories of non-residential uses in different areas within the Municipal Corporation area:

Provided that no such fees shall exceed an amount as may be prescribed.

- (5) The Corporation may, by regulations, determine-
- (a) as to when the initial licence is to be taken out and the procedure of annual renewal thereof, and
 - (b) the matters connected with the display of licence, inspection of premises, power of inspectors, and such other matters as may be deemed necessary.
- Registers to be maintained. 285. The Commissioner shall maintain in such Form, and in such manner, as may be prescribed, two separate registers of which -
- (a) one shall contain premises-wise information of non-residential uses, indicating the unique premises number, if any, assigned under this Act, and
 - (b) the other shall contain such information, on the basis of different non-residential user groups for factories, warehouses, medical institutions, educational institutions, and such other uses, as may be provided by regulations.
- Municipal licence for private markets. 286. (1) The Commissioner may, with the prior approval of the Corporation, grant to any person a licence to establish or keep open a private market on payment of such fees as may be determined by the Corporation by regulations, and may specify such conditions consistent with this Act as he may deem fit.
- (2) When the Commissioner refuses to grant any licence, he shall record a brief statement of the reasons for such refusal.
- (3) The Commissioner may, with the prior approval of the Corporation and for reasons to be recorded in writing, by order, suspend a licence in respect of a private market for such period as he thinks fit or cancel such licence.

- (4) A private market in respect of which the licence has been suspended or cancelled under sub-section (3) above shall be closed with effect from such date as may be specified in the order of suspension or cancellation.

Municipal licence
for sale of flesh,
fish or poultry.

287. (1) No person shall, without or otherwise than in conformity with a licence from the Commissioner, carry on 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 Commissioner may, by general order made in this behalf, require in token of the fact that the animal has been slaughtered in a municipal or licensed slaughterhouse:

Provided further that no licence shall be required for any place used for sale, or storage for sale, of preserved flesh or fish contained in air-tight or hermetically sealed receptacles.

- (2) The Commissioner may, by order, and subject to such conditions as to supervision and inspection as he may think fit to impose, grant a licence or may, by order and for reasons to be recorded in writing, refuse to grant a licence.
- (3) The Corporation shall, by regulations, determine the procedure for the issue of a licence and renewal thereof.

- (4) If any place is used for the sale of flesh, fish or poultry intended for human food in contravention of the provisions of this section, the Commissioner may stop the use of such place in such manner as he may consider necessary.

Prohibition of unlicensed activities

Prohibition of unlicensed activities.

288. (1) Without or otherwise than in conformity with the terms of a licence granted by the Commissioner in this behalf, no person shall, within the Municipal Corporation area, use, or permit to be used, any land or building -
- (a) for keeping horses, cattle or other quadruped animals or birds for transportation, sale or hire or for sale of the produce, or
- (b) as a market in respect of which a licence is required under this Act, or
- (c) for carrying out work as an artisan, or
- (d) for trade of a butcher, fish-monger, poulterer or importer of flesh intended for human food or for sale thereof.
- (2) If any land or building, public or private, is used, or permitted to be used, in contravention of the provisions of sub-section (1) above, the Commissioner may stop the use thereof by such means as he deems fit, and may confiscate any article in respect of which such use is being made, prepare an inventory thereof, and, in the case of perishable items, auction them without notice.

Power to stop use of premises used in contravention of licences.

289. (1) If the Commissioner is of the opinion that any premises is being used for a non-residential purpose without a licence under this Act or otherwise than in conformity with the terms of a licence

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 a premises in contravention of the provisions of sub-section (1) above, the Commissioner may, notwithstanding any other action that may be taken against such person under this Act, levy on such person a continuing fine in accordance with the provisions of sub-section (4) of section 282 of the Act.

Power to seize
food or drug etc.

290. (1) The Commissioner, or any officer or other employee of the Corporation authorized by him in this behalf, may, at any time by day or night, without notice, inspect and examine any food or drug or 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 Commissioner or the officer or other employee authorized by him in this behalf, unwholesome or unfit for human consumption, or is not what it is 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) above is, in the opinion of the Commissioner, unfit for human consumption, he shall cause such food or drug 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 XXXVI**Vital Statistics**

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|--|------|-----|--|-------------------------|
| Appointment of Chief Registrar and Registrars. | 291. | (1) | The Medical and Health Officer shall be the Chief Registrar of births and deaths occurring in the Municipal Corporation area, subject to the provisions of the Registration of Births and Deaths Act, 1969. | Central Act 18 of 1969. |
| | | (2) | The Commissioner shall, for the purposes of this chapter, appoint such number of persons to be Registrars of births and deaths as he deems necessary and shall define the respective areas which shall be under the charge of such Registrars. | |
| Duties of Registrars. | 292. | | Each Registrar shall keep himself informed of every birth or death occurring within the area of his jurisdiction and shall ascertain such particulars in respect of every birth or death as may be prescribed in this behalf. | |
| Register books to be maintained. | 293. | (1) | Such particulars regarding births and deaths as the Commissioner may, from time to time, specify, shall be entered in separate registers of births and of deaths, and such registers shall be maintained by each Registrar. | |
| | | (2) | The Commissioner shall specify the Forms of the registers required to be maintained under sub-section (1) above and the manner in which such registers shall be maintained. | |
| | | (3) | On an application from a person interested, the Chief Registrar or a Registrar, as the case may be, shall issue an extract from any entry in a register on payment of such fees as may be determined by the Corporation by regulations. | |
| Registration of births and deaths. | 294. | | Subject to the provisions of the Registration of Births and Deaths Act, 1969, the Corporation shall cause registration of births and deaths taking place within the Municipal Corporation area and extracts of information | Central Act 18 of 1969. |

therefrom shall be supplied, on application, in such Form of a certificate, and on payment of such fees, as may be determined by regulations.

Registration of name of child or of alteration of name.

295. (1) When the birth of any child has been registered and the name, if any, by which it was registered, is altered or, if it was registered without a name, when a name is given to it, the parent or the guardian of such child or other person proposing such name to be altered or given may, within sixty months next after the registration of the birth, deliver to the Registrar of the area in which the birth was registered, such certificate as hereinafter provided, and the Registrar, upon the receipt of the certificate, shall, without any erasure of the original entry, forthwith enter in the register the name mentioned in the certificate as having been given to the child.
- (2) The certificate shall be in such Form as the Commissioner may, from time to time, specify, and shall be signed by the parent, or the guardian, of the child or other person proposing the name of the child to be altered or given.

Information of births.

296. It shall be the duty of the father or the mother of every child born in the Municipal Corporation area and, in default of the father or the mother, of any relation, of the child living in the same premises and, in default of such relation, of the person having charge of the child, to give, to the best of his or her knowledge and belief, to the Registrar of the area concerned within eight days after such birth, information containing such particulars as may be prescribed in this behalf:

Provided that in the case of an illegitimate child, no person shall, as father of such child, be required to give information

under this Act concerning the birth of such child, and the Registrar shall not enter in the register the name of any person as father of such child, except at the joint request of the mother and the person acknowledging himself to be the father of such child, and such person shall, in such case, sign the register together with the mother.

Information
respecting finding
of newborn child.

297.

In case any newborn child is found exposed, it shall be the duty of any person finding such child or of any person in whose charge such child may be placed, to give, to the best of his knowledge and belief, to the Chief Registrar or the Registrar, within eight days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as such person possesses.

Information
regarding deaths.

298.

It shall be the duty of the nearest relation present at the time of the death or in attendance during the last illness of any person dying in the Municipal Corporation area and, in default of such relation, of any person present or in attendance at the time of the death and of the occupier of the premises in which, to his knowledge, the death took place and, in default of the person as aforesaid, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of, to give, to the best of his knowledge and belief, to the Registrar of the area within which the death took place information containing such particulars as may be prescribed within twenty-four hours of such death:

Provided that –

- (a) if the cause of death is known to be a dangerous disease, the information as aforesaid shall be given within twelve hours of its occurrence, and
- (b) if the death of any person occurs in a hospital or a nursing home or a maternity home, it shall be the duty of none but the medical officer or other officer-in-charge thereof to forward forthwith a report of such death in such Form as the Chief Registrar may, from time to time, specify.

Medical Practitioner to certify cause of death.

299.

In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, such practitioner shall, within three days of his becoming cognizant of the death of such person, sign and forward to the Chief Registrar a certificate of the cause of death of such person in such Form as shall, from time to time, be specified by the Commissioner in this behalf, and the cause of death as stated in such certificate shall be entered in the register together with the name of the certifying medical practitioner.

Duties of police in regard to unclaimed corpses.

300.

It shall be the duty of the police to convey every unclaimed corpse to a registered burial or burning ground or other place for disposal of the dead or to a duly appointed mortuary and, thereafter, to inform the Registrar within whose jurisdiction such corpse was found.

Chapter XXXVII

Disaster Management

Management of natural or technological disasters.

301.

- (1) As far as possible, the Corporation shall, in collaboration with the concerned authorities of the Central Government or the State Government, including the meteorological office, have prepared environmental base

maps and impact area diagrams and shall collect other relevant data and shall take necessary steps for erecting installations and other accessories required to mitigate the effects of natural or technological disasters.

- (2) The Corporation shall organize emergency operations and promote public awareness in relation to disaster management.
- (3) The Corporation shall take adequate measures to implement the regulations, if any, made by the planning and urban development authorities to mitigate earthquake hazards in high seismic zones and to promote citizen awareness in this regard.

POWERS, PROCEDURES, OFFENCES AND PENALTIES

Chapter XXXVIII

Procedure

A. Licences and Permissions

Signature,
conditions,
duration,
suspension,
revocation, etc., of
licences and
permissions.

302. (1) Whenever it is provided in this Act or the rules or the regulations made thereunder that a licence or a permission, in writing, may be granted for any purpose, such licence or permission shall be signed by the Commissioner or by any other officer empowered to grant such licence or permission under this Act or the rules or the regulations made thereunder and shall specify the following particulars in addition to any other particulars required to be specified under any other provision of this Act or the rules or the regulations made thereunder:-
- (a) the date of the grant of licence or permission,
 - (b) the purpose and the period, if any, 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 the permission.
- (2) Except as otherwise provided in this Act or the rules or the regulations made thereunder, for every such licence or 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 the permission is granted.
- (3) Save as otherwise provided in this Act or the rules or the regulations made thereunder, any licence or permission granted under this Act or the rules or the regulations made thereunder may, at any time, be suspended or revoked by the Commissioner or the officer by whom it was granted, if he is satisfied that it has been secured by the grantee through misrepresentation or fraud, or if any of the restrictions or conditions of licence or permission 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 the rules or the regulations made thereunder relating to any matter for which the licence or the permission, as the case may be, was granted:

Provided that –

- (a) before making any order of suspension or revocation, an opportunity shall be given to the grantee of the licence or the 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 the revocation of the licence or the permission, as the case may be.
- (4) When any such licence or permission is suspended or revoked, or when the period for which such licence or permission was granted has expired, the grantee shall, for the purposes of this Act and the rules and the regulations made thereunder, be deemed to be without a licence or permission, as the case may be, until such time as the order suspending or revoking the licence or the permission, as the case may be, is rescinded or until the licence or the permission, as the case may be, is renewed.
- (5) Every grantee of any licence or permission granted under this Act shall, at all reasonable times while such licence or permission, as the case may be, remains in force, if so required by the Commissioner or the other officer by whom it was granted, produce such licence or permission, as the case may be.

B. Tax on Professions, Trades and Callings

License to be taken out annually.

303. (1) Every person who exercises or carries in the city, either by himself or by an agent or representative, any of the professions, trades or callings indicated in a schedule as may provided by the Corporation in the bye-laws, shall annually take out a license before the first day of April in each year or within one month of his taking up the profession, trade or calling, as the case may be, and pay for the same, such fee as is mentioned in that behalf in the said schedule.

Provided also that the grant of such a license shall not be deemed to affect the liability of the licensee to take out a license under any other section of this Act:

Provided also that the Commissioner may-

- (a) remit or refund any portion of the fee so payable in respect of the exercise or carrying on of any profession, trade or calling if he is satisfied that the profession, trade or calling has not been exercised or carried on for more than six consecutive months; or
 - (b) exempt a person, who in the opinion of the Commissioner is unable to pay the fee due for a license, from liability to take out such license, or declare that he shall be entitled to take out a license under a lower class than that under which he is chargeable according to the said schedule;
 - (c) in any other case exempt any person from liability to take out a license or declare that any person shall be entitled to take out a license under a lower class than before.
- (2) The Commissioner may at any time grant a license for any previous year for which no license has been taken out, on payment of the fee which would have been payable therefore in the first instance:

Provided that the production of such a licence shall not afford a valid defence if the licence is prosecuted for failing to take a license within the time required by this Act.

- (3) Power of Commissioner to call for list of persons:- The Commissioner may, by written notice, require the owner or occupier of any building or place of business to forward to

him within seven days a list, signed by such owner or occupier of the names of all persons exercising or carrying on any professions, trades or calling therein, and of their respective professions, trades, and callings.

- (4) Liability and class how to be determined:- The liability of any person to take out a license and the class under which he shall be deemed bound to take out a license, shall be determined in accordance with the bye-laws that may be made in this behalf by the Corporation.
- (5) The Corporation may, by notification in the official gazette, from time to time, increase the rates specified in the schedule of trades.
- (6) The license so granted will be non-transferable but on the death of the licensee, the Commissioner may replace the name of legal heir on receipt of application.
- (7) The Corporation shall frame rules / bye-laws to carry out the provisions of this Chapter which will prescribe the schedule of trades and fees to be paid annually for such trades:

Provided that till such bye-laws are framed the existing schedule or rates as may be notified by the Municipal Board shall be in force.

C. Entry and Inspection

Power of entry.

304.

The Commissioner or any other officer or employee of the Corporation authorized by the Commissioner in this behalf, or empowered by or under any provision of this Act, may enter into or upon any land or building with or without assistants or workmen, for the purpose of -

- (a) ascertaining whether in connection with the land or the building there is or has been any contravention of the provisions of this Act or the rules or the regulations made thereunder, or
- (b) making such inquiry, inspection, examination, measurement, valuation or survey as may be authorized or required by or under this Act or as may be necessary for the proper administration of this Act, or
- (c) generally ensuring efficient discharge of the functions by any of the municipal authorities under this Act or the rules or the regulations made thereunder.

Power to enter land or adjoining land in relation to any work.

305. (1) The Commissioner or any person authorized by him in this behalf, or empowered by or under this Act, may enter upon any land within fifty metres of any work authorized by or under this Act with or without assistants or 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 purpose connected with the execution thereof.
- (2) Every person so authorized shall, before entering upon any such land, state the purpose thereof, and shall, if so required by the owner or the occupier thereof, fence off so much of the land as may be required for such purpose.
- (3) Every person as aforesaid shall, in exercising any power conferred by this section, do as little damage as may be necessary, and compensation shall be payable by the Corporation in accordance with the rules or the regulations made under this Act in this behalf to the owner or the occupier of such land or to both for any such damage, whether permanent or temporary.

Breaking into
building.

306. (1) It shall be lawful for the Commissioner or any person authorized by him in this behalf, or empowered by or under this Act, to make any entry into any place and to open or cause to be opened any door, gate or other barrier, -
- (a) if he considers the opening thereof necessary for the purpose of such entry, and
- (b) if the owner or the occupier is absent or, being present, refuses to open such door, gate or other 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 authorized 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 the 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 Empowered 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.

307. Save as otherwise provided in this Act or the rules or the regulations made thereunder, no entry authorized under this Act shall be made except between the hours of sunrise and sunset:

Provided that if the Commissioner is satisfied that the erection of any building or the execution of any work has been commenced or is being carried on in contravention of the provisions of this Act in any premises between the period of sunset and sunrise, he may, if he considers it necessary so to do, enter such premises

during such period accompanied by a police officer to make an inspection thereof and take such action as may be necessary under this Act.

Consent ordinarily to be obtained.

308.

Save as otherwise provided in this Act or the rules or the regulations 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 such occupier or owner, as the case may be, not less than twenty four hours' notice, in writing, of the intention to make such entry:

Provided that no such notice shall be necessary if the Corporation considers, for reasons to be recorded in writing, that there is immediate urgency for such entry and the service of a notice, in writing, may defeat its purpose.

Regard to be had to social or religious usages.

309.

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.

310.

No person shall obstruct or molest any person authorized or empowered by or under this Act, or with whom the Corporation or any of the municipal authorities referred to in section 11 of the Act has lawfully contracted, in the execution of his duty or anything which he is authorized or empowered or required to do by virtue, or in consequence, of any of the provisions of this Act or the rules or the regulations made thereunder, or in fulfillment of his contract, as the case may be.

D. Public Notices and Advertisements

Public notices how
to be made known.

311. Every public notice given under this Act or the rules or the regulations made thereunder shall be in writing under the signature of the Commissioner or any other officer of the Corporation authorized by him 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 such locality or by publishing the same by advertisement in local newspapers or by such other means as the Commissioner may think fit.

Newspapers in
which
advertisements or
notices to be
published.

312. Whenever it is provided by or under this Act or the rules or the regulations made thereunder that notice shall be given by advertisement in local newspapers or a notification or information shall be published in local newspapers, such notice, notification or information shall be inserted in at least two newspapers of which at least one shall be in the regional language.

E. Evidence

Proof of consent
etc. of Corporation,
Empowered
Standing
Committee, Mayor,
Commissioner, etc.

313. Whenever under this Act or the rules or the regulations made thereunder the doing of, or the omission to do, anything or the validity of anything done depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of -
- (a) the Corporation, or
 - (b) the Empowered Standing Committee, or
 - (c) the Mayor, or
 - (d) the Commissioner or any other officer of the Corporation,
- as the case may be, a document, in writing, signed, -

(i) in the cases referred to in clause (a) and clause (b), by the Municipal Secretary where there is a Municipal Secretary, or where there is no Municipal Secretary, by the Commissioner, and

(ii) in the cases referred to in clause (c) and clause (d), by the Commissioner,

purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion, satisfaction, as the case may be, shall be sufficient evidence thereof.

F. Notices, etc.

Notices etc. to fix reasonable time.

314. Where any notice, bill, order, or requisition, issued or made under this Act or the rules or the regulations made thereunder, requires anything to be done, for the doing of which no time is fixed in this Act or the rules or the regulations made thereunder, such notice, bill, order or requisition shall specify a reasonable time for doing the same.

Signature on notices etc. may be stamped.

315. (1) Every licence, permission, in writing, notice, bill, summons or other document, which is required by this Act or the rules or the regulations made thereunder to bear the signature of the Commissioner or any other officer of the Corporation, shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or such other officer, as the case may be, and stamped thereupon.

(2) Nothing in sub-section (1) above shall be deemed to apply to a cheque drawn upon the Municipal Fund under section 60 of the Act.

Notices etc. by whom to be served or issued.

316. Every notice, bill, summons, or other document, required by this Act or the rules or

the regulations made thereunder to be served upon, or issued to, any person, shall be served or issued by an officer or other employee of the Corporation or by any person authorized by the Commissioner in that behalf.

G. Enforcement of Orders to Execute Works etc.

Time for complying with requisition or order, and power of Commissioner.

317. (1) When, under this Act or the rules or the regulations made thereunder, any requisition or order is made by a notice, in writing, issued to any person or persons by any municipal authority or any officer of the Corporation, such authority or officer shall specify in such notice such period within which-
- (a) such requisition or order shall be complied with, and
 - (b) any objection thereto, in writing, shall be received by such authority or officer as such authority or officer may consider reasonable.
- (2) If any such requisition or order or any portion thereof is not complied with within the period specified in the notice under sub-section (1) above, the Commissioner may, subject to the provisions of section 318 of the Act and such regulations / Bye-laws as may be made by the Corporation in this behalf, take such measures, or cause such measures to be taken, as may, in his opinion, be necessary for causing due compliance with such requisition or order, and, except where otherwise expressly provided in this Act or the rules or the regulations made thereunder, the expenses, if any, incurred by such authority or officer in causing such compliance shall be paid by the person or persons to whom such notice is issued.
- (3) The Commissioner may take any scheme, execute any work, or cause anything to be

done under this section, notwithstanding any prosecution or punishment or liability to punishment of any person under this Act or the rules or the regulations made thereunder for his failure to comply with such requisition or order.

Submission of objections to comply with notice.

318. (1) Any person who has been served with a notice under sub-section (1) of section 317 of the Act may, within such period as is specified in such notice, deliver to the municipal authority or the officer or the Corporation, as the case may be, any objection, in writing, setting forth the objections which he may desire to state for withdrawal or modification of such notice.
- (2) Every such objection shall be placed before the Commissioner for determination and, pending such determination, compliance with any requisition or order in accordance with such notice shall be stayed.
- (3) The Commissioner or, if he so directs, any other officer of the Corporation of such rank as may be specified by him, other than an officer who has issued such notice, shall, after hearing the person concerned or his agent duly authorized by him, in writing, in this behalf and after considering the circumstances of the case, make such order, either confirming or modifying or cancelling the notice, as he thinks fit.
- (a) Where the Commissioner or the other officer of the Corporation referred to in sub-section (3) makes an order under that sub-section, either confirming or modifying the notice, he may, if he thinks fit,-
- (i) direct that a portion of the expenses, if any, to be incurred in complying with the notice as confirmed or modified shall be borne by the Corporation, and

(ii) fix a time within which the notice so confirmed shall be complied with.

(b) If the notice as confirmed or modified is not complied with by such person within the time fixed under sub-clause (ii) of clause (a), the Commissioner shall take such measures, or cause such work to be executed, or such thing to be done, as may, in his opinion, be necessary for causing due compliance with such notice, and the expenses, if any, incurred by the Commissioner in this behalf shall be payable to the Commissioner on demand and, if not paid within ten days of such demand, shall be recoverable as an arrear of tax under this Act.

H. Recovery of Expenses

Power of Corporation to enter into agreement for payment of expenses in instalments.

319. (1) When, under this Act or the rules or the regulations made thereunder, the expenses of any measure taken or work executed or thing done by or under the order of any municipal authority or any officer of the Corporation or any Magistrate are payable by any person, the Commissioner may, if he thinks fit and with the approval of the Empowered Standing Committee, notwithstanding anything to the contrary contained in this Act or the rules or the regulations made thereunder, enter into an agreement with such person for payment of such expenses in such instalments, and at such intervals, as will secure the recovery of the whole amount due with interest thereon at such rate of interest as may be determined by the State Government from time to time within such period, not exceeding six years, as the Corporation may determine.
- (2) Every such agreement shall provide for adequate security against the whole amount due from such person.

Power of Corporation to declare certain expenses to be improvement expenses

320. (1) If any expenses are to be recovered or are incurred on account of any work mentioned in the rules or the regulations made under this Act, the Corporation may, if it thinks fit, declare such expenses to be improvement expenses.
- (2) A register shall be maintained by the Commissioner showing all expenses declared to be improvement expenses under this section, and such register shall be open to inspection by any person upon payment of such fee as may, from time to time, be determined by the Empowered Standing Committee.

Improvement expenses, how recoverable and by whom payable.

321. (1) Any improvement expenses under section 320 of the Act shall be a charge on the premises in respect of which, or for the benefit of which, such expenses are incurred, and shall be recoverable in such instalments, and at such intervals, as may be sufficient to discharge such expenses with interest thereon at such reasonable rate as may be determined by the Corporation from time to time.
- (2) The improvement expenses shall be payable by the owner or the occupier of the premises on which such expenses are chargeable.

Recovery of improvement expenses paid by occupier.

322. Notwithstanding anything contained in section 321 of the Act, when the occupier of any premises pays any instalment of improvement expenses, he shall, subject to any agreement to the contrary, if any, between himself and the owner of such premises, be entitled to deduct the amount of such instalment from the rent payable by him to such owner or to recover such amount from such owner in pursuance of any order of a court of competent jurisdiction.

Execution of work
by occupier on the
failure of owner.

323. Whenever the owner of any land or building fails to execute any work which he is required to execute under this Act or the rules or the regulations made thereunder, the occupier, if any, of such land or building may, with the approval of the Commissioner, execute such work and shall, subject to any agreement to the contrary between himself and the owner of such land or building, be entitled to recover from the owner the reasonable expenses incurred by him in the execution of the work and may deduct any amount thereof from the rent payable by him to such owner.

Relief to receivers,
agents and
trustees

324. (1) Whenever under this Act or the rules or the regulations made thereunder, any person, by reason of his-

(a) receiving the rent of any immovable property as receiver or agent or trustee of such property, or

(b) being such receiver or agent or trustee, would receive the rent if such property were let to a tenant,

is bound to discharge any obligation imposed on the owner of such property but has not at his disposal funds, belonging or payable to such owner, sufficient for the purpose of discharging such obligation, he shall, within a period of six weeks from the date of service upon him by any municipal authority or officer of the Corporation empowered in this behalf under this Act, of any notice requiring him to discharge such obligation, apply to a court of competent jurisdiction for leave to raise such funds or for such directions as he may consider necessary for such purpose.

- (2) If such receiver or agent or trustee fails to apply to a court of competent jurisdiction under sub-section (1) above or, after such

court has granted leave to raise funds or has issued directions, fails to discharge such obligation or to comply with such directions within twelve months of such leave or such directions, he shall be personally liable to discharge such obligation.

I. Payment of Compensation

General power of Corporation to pay compensation.

325. In any case not otherwise expressly provided for in this Act or the rules or the regulations made thereunder, the Commissioner may, with the prior approval of the Empowered Standing Committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or the rules or the regulations made thereunder on the Commissioner or on any other officer or other employee of the Corporation.

Compensation to be paid for damage to property of Corporation.

326. (1) Any person who has been convicted of any offence under this Act or the rules or the regulations made thereunder shall, without prejudice to any punishment to which he may be subject, be liable to pay such compensation for any damage to any property of the Corporation resulting from such offence as the appropriate municipal authority may consider reasonable.

(2) In the case of any dispute regarding the amount of compensation under sub-section (1) above, such amount shall, on an application, in writing, made by such person to the Magistrate who convicts such person of such offence, be determined by such Magistrate, and, if the amount of compensation so determined is not paid by such person, such amount shall be recovered under a warrant from such Magistrate as if it were a fine imposed by him on the person liable thereof.

J. Recovery of Expenses or Compensation in Case of Disputes

Reference by Corporation to Civil Court in certain cases of recovery of expenses.

327. (1) If, in respect of any expenses referred to in section 319 of the Act, any dispute arises, the Commissioner shall refer such dispute to the Civil Court having jurisdiction for determination.
- (2) Upon such reference, the Commissioner shall defer further proceedings for the recovery of such expenses and shall recover only such amount, if any, as may be determined by the Civil Court having jurisdiction.

Application to Civil Court in certain cases of payment of expenses or compensation.

328. Save as otherwise provided in this Act or the rules or the regulations made thereunder or in any other law for the time being in force, in the case of any dispute in respect of any expenses or any compensation payable to any person by any municipal authority or any officer or other employee of the Corporation or any other person under this Act or the rules or the regulations made thereunder, the amount of such expenses or such compensation shall be determined by the Civil Court having jurisdiction at any time within one year from the date of such expenses or such compensation first becoming due.

K. Recovery of Certain Dues

Recovery of certain dues of Corporation.

329. Save as otherwise provided in this Act or the rules or the regulations made thereunder, any sum due to the Corporation on account of any charge, cost, expense, fee, rate or rent or on any other account under this Act or the rules or the regulations made thereunder shall be recoverable from the person from whom such sum is due as if it were property tax.

L. Obstruction of Owner by Occupier

Application to Civil Court by owner when occupier prevents from complying with Act etc.

330. (1) Any owner of any land or building may, if he is prevented by the occupier thereof from complying with any provision of this Act or the rules or the regulations made thereunder or any requirement under any such provision in respect of such land or building, apply to the Civil Court having jurisdiction within the time fixed for compliance with such provision or requirement, and, thereupon, such owner shall not be liable for his failure to comply with such provision or requirement within the time fixed for such compliance.
- (2) On receipt of any application under sub-section (1) above, the Civil Court may make an order, in writing, requiring the occupier of the land or the building, as the case may be, to afford all reasonable facilities to the owner for complying with the provision or the requirement as aforesaid, and may also, if it thinks fit, direct that the costs of such application and order shall be paid by the occupier.
- (3) The occupier shall, within eight days from the date of any order under sub-section (2) above, afford all reasonable facilities to the owner in compliance with such order. In the event of any continued refusal by the occupier to do so, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise have incurred by reason of his failure to comply with the provision or the requirement as aforesaid.

M. Proceedings before the Civil Court

Procedure in Civil Court.

331. Whenever under this Act any application, appeal or reference is made to a Civil Court having jurisdiction, such Civil Court may, for

the purpose of any inquiry or proceeding in connection with such application, appeal or reference, summon and enforce the attendance of witnesses and compel them to give evidence or compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the Code of Civil Procedure, 1908, and, in all matters relating to any such enquiry or proceedings, the Court shall be guided generally by the provisions of the Code of Civil Procedure, 1908, so far as such provisions are applicable to such inquiry or proceeding.

Central Act 5 of
1908.

N. Municipal Magistrates and Proceeding before Municipal Magistrates

Municipal
Magistrate.

332. (1) The State Government may, in consultation with the High Court of the State, appoint one or more Judicial Magistrates of the First Class for the trial of offences against-
- (a) this Act, and
- (b) the rules and the regulations made thereunder,
- and may prescribe the time within which, and the place at which, such Judicial Magistrate or Judicial Magistrates shall sit for such trial of offences.
- (2) Every such Judicial Magistrate shall exercise all other powers, and discharge all other functions, of a Magistrate as provided in this Act.
- (3) Every Judicial Magistrate appointed under sub-section (1) above shall be called Municipal Magistrate.
- (4) The procedure in the court of a Municipal Magistrate shall, except where otherwise specifically provided in this Act, be in

Central Act 2 of
1974.

- accordance with the provisions of the Code of Criminal Procedure, 1973.
- Certain offences to be cognizable. 333. The offences mentioned in section 259, section 267, section 268, section 270, section 310, and section 363 of the Act shall be cognizable within the meaning of the Code of Criminal Procedure, 1973. Central Act 2 of 1974.
- Power of Municipal Magistrate to hear cases in absence of accused summoned to appear. 334. If, in any case, any person, who is summoned to appear before a Municipal Magistrate to answer any charge of an offence under this Act or the rules or the regulations made thereunder, fails to appear on the date and at the time and the place mentioned in the summons issued in this behalf or on any subsequent date to which the hearing of such case is adjourned, the Municipal Magistrate may, if -
- (a) service of the summons is, to his satisfaction, proved to have been effected, and
- (b) no sufficient cause is shown for non-appearance of such person,
- hear and determine such case in the absence of such person.
- Limitation of time for prosecution. 335. No person shall be liable to any punishment for an offence under this Act or the rules or the regulations made thereunder unless a complaint of such offence is made before a Municipal Magistrate within six months next after -
- (a) the date of commission of such offence, or
- (b) the date on which the commission or the continuance of such offence is first brought to the notice of the Corporation or the Commissioner.

Complaint
regarding nuisance
and removal
thereof.

336. (1) The Commissioner or any other officer of the Corporation authorized by him in this behalf, in writing, or any person who resides or owns property in the Municipal Corporation area, may complain of the existence of any nuisance to a Municipal Magistrate.
- (2) Upon receipt of any such complaint, the Municipal Magistrate, after making such inquiry as he considers necessary, may, if he thinks fit, by an order, in writing,
- (a) direct the person responsible for such nuisance or the owner of the land or the building on which such nuisance exists to take, within such period as may be specified in the order, such measures for abating, preventing, removing or remedying such nuisance as may appear to the Municipal Magistrate to be practicable and reasonable, and may direct the Commissioner to enforce any of the provisions of this Act or the rules or the regulations made thereunder for prevention of such nuisance, and
- (b) further direct the person held responsible for the nuisance to pay to the complainant such reasonable cost of the complaint (including compensation for loss of time in prosecuting such complaint) as the Municipal Magistrate may determine:
- Provided that where, in the opinion of the Municipal Magistrate, immediate action to prevent the nuisance is necessary, he may dispense with the inquiry and make forthwith such order as he considers necessary.
- (3) If any person responsible for any nuisance or any owner of any land or building on which any nuisance exists fails to comply with any

order under sub-section (2) above within the period specified in the order, the Commissioner may, on the expiry of such period, proceed to take necessary action in accordance with the order, or may take such other measures to abate, prevent, remove or remedy the nuisance as he may consider necessary, and the cost of any such action shall be recovered from such person or such owner, as the case may be.

Appeal from Municipal Magistrate to District and Sessions Judge.

337.

Appeal shall lie against the order of Municipal Magistrate to the District and Sessions Judge.

O. *Legal Proceedings*

Power to institute etc. legal proceeding and to obtain legal advice.

338.

The Commissioner may-

(a) take, or withdraw from, proceeding against any person who is charged with -

(i) any offence under this Act or any rules or regulations 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, or

(b) agree or disagree any appeal against assessment of any tax or rate, or

(c) take, or withdraw from, or compromise, any proceeding under this Act for the recovery of expenses or compensation claimed to be due to the Corporation, or

(d) withdraw or compromise any claim for a sum not exceeding one thousand rupees against any person, or

- (e) defend any suit or other legal proceeding brought against the Corporation or against any municipal authority or any officer or other employee of the Corporation in respect of anything done or omitted to be done by the Corporation or such municipal authority or officer or other employee under this Act or the rules or the regulations made thereunder in the official capacity, or
- (f) agree, with the approval of the Empowered Standing Committee or, where there is no Empowered Standing Committee, with the approval of the Corporation, any claim, suit or other legal proceeding brought against the Corporation or any municipal authority or any officer or other employee of the Corporation in respect of anything done or omitted to be done under any of the foregoing clauses of this section, or
- (g) withdraw from, or agree to, any claim against any person in respect of a penalty payable under any contract entered into with such person by the Commissioner on behalf of the Corporation, or
- (h) institute or prosecute any suit or other legal proceeding or, with the approval of the Empowered Standing Committee, or where there is no Empowered Standing Committee, with the approval of the Corporation, 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 Corporation or the Commissioner, or
- (i) obtain, for any of the purposes mentioned in the foregoing provisions of this section or for securing lawful exercise or

discharge of any power or duty vesting in, or imposed upon, any municipal authority or any officer or other employee of the Corporation, such legal advice and assistance as he may, from time to time, consider necessary or expedient, or as he may be required by the Corporation or the Empowered Standing Committee, to obtain.

Notice, limitation,
and tender of
amends in suits
against
Corporation etc.

339. (1) No suit shall be instituted in any court having jurisdiction against any municipal authority or any officer or other employee of the Corporation or any person acting under the direction of any municipal authority or any officer or other employee of the Corporation in respect of anything done, or purported to be done, under this Act or the rules or the regulations made thereunder, until the expiration of one month next after a notice, in writing, has been delivered or left at the office of such authority or at the office or the residence of such officer or other employee or person, stating.
- (a) the cause of action.
 - (b) the name and residence of the intending plaintiff, and
 - (c) the relief which such plaintiff claims.
- (2) Every such suit shall be commenced within four months next after accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required under sub-section (1) above.
- (3) If the municipal authority, at the office of which, or the officer or the other employee of the Corporation or the person acting under the direction of any municipal authority or any officer or other employee of the Corporation, at the office or the residence of whom, a notice has been delivered or left

under sub-section (1) above, satisfies the court having jurisdiction that the relief claimed was tendered to the plaintiff before the institution of the suit, the suit shall be dismissed.

- (4) Nothing in the foregoing provisions of this section shall apply to any suit instituted under section 38 of the Specific Relief Act, 1963.

Central Act 47
of 1963.

Indemnity.

340.

No suit shall be maintainable against any municipal authority or any officer or other employee of the Corporation or any person acting under the direction of any municipal authority or any officer or other employee of the Corporation or a Magistrate in respect of anything done lawfully and in good faith and with due care and attention under this Act or the rules or the regulations made thereunder.

P. Powers and duties of Police Officers

Co-operation of
police.

341.

- (1) The Inspector-General of Police, the Commissioner of Police, if any, and the officers and the other employees subordinate to the Inspector-General of Police and the Commissioner of Police, if any, shall-

(a) co-operate with the Corporation for carrying into effect, and enforcing, the provisions of this Act and for maintaining good order in and outside the Municipal Corporation area, and

(b) assist the Corporation or the Commissioner or any other officer or other employee of the Corporation in carrying out any order made by a Magistrate under this Act.

- (2) It shall be the duty of every police officer-

(a) to communicate without delay to the Commissioner or any other officer of the

Corporation any information which he received in respect of any design to commit, or any commission of, any offence under this Act or the rules or the regulations made thereunder, and

(b) to assist the Commissioner or any other officer or other employee of the Corporation requiring his aid for the lawful exercise of any power vesting in the Corporation or the Commissioner or such other officer or other employee under this Act or the rules or the regulations made thereunder.

(3) Any officer or other employee of the Corporation may, when empowered by a general or special order of the Inspector-General of Police, or the Commissioner of Police, if any, on the recommendation of the Corporation in that behalf, exercise the powers of a police officer for such of the purposes of this Act as may be specified in such general or special order.

(4) The District Magistrate, the Sub-Divisional Magistrate, and the officers under them and the other employees subordinate to them shall cooperate with the municipal authorities in the performance of their duties under this Act.

Power of police to arrest offenders.

342. (1) Any police officer may arrest any person who commits, in his view, any offence under this Act or the rules or the regulations made thereunder, provided that such person declines to give, on demand, his name and address or gives a name or address which the police officer has reason to believe to be false.
- (2) No person so arrested shall be detained in custody after his correct name and address are ascertained or without the order of a

Municipal Magistrate for a period longer than twenty-four hours from the time of arrest, exclusive of the period necessary for the journey from the place of arrest to the court of such Municipal Magistrate.

- (3) On an application, in writing, of the Commissioner or any other officer authorized by him in this behalf, any police officer above the rank of a constable shall arrest any person who obstructs the Commissioner or any other officer or other employee of the Corporation in the exercise of any power or performance of any function or discharge of any duty under this Act or the rules or the regulations made thereunder.
- (4) On an application, in writing, of the Commissioner or any other officer, not below the rank of an officer authorized in this behalf by the Commissioner under sub-section (3) above, any police officer above the rank of a constable shall arrest any person who, in violation of the order referred to in sub-section (1) of section 267 of the Act, commences the erection of a building, or execution of any work, referred to in that sub-section or carries on such erection or such execution.

Q. General Provisions

Validity of notice and other document.

343.

No notice, order, requisition, licence or permission, in writing, or any other document, issued under this Act, shall be invalid merely by reason of defect of Form.

Admissibility of document or entry as evidence.

344.

A copy of any receipt, application, plan, notice, order, or other document or any entry in a register in the possession of any municipal authority shall, if duly certified by the legal keeper thereof or other person authorized by the Commissioner in this behalf, be admissible in evidence of the

existence of the document or entry, and shall be admitted as evidence of the matters and transactions therein recorded, in every case where, and to the same extent to which, the original document or entry would, if produced, have been admissible to prove such matters and transactions.

Evidence of officer or employee of Corporation.

345.

No officer or other employee of the Corporation shall, in any legal proceeding to which the Corporation is not a party, be required to produce any register or document, the contents of which can be proved by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein, save by an order made by a court having jurisdiction.

Prohibition against obstruction of Mayor or any municipal authority etc.

346.

No person shall obstruct or molest -

(a) any municipal authority, or the Mayor, or the Deputy Mayor, or a Councillor, or the Commissioner, or any employee of the Corporation or any person employed by the Corporation, or

(b) any person, authorized or empowered by or under this Act or with whom the Corporation or any of the municipal authorities has lawfully entered into a contract,

in the performance of his or its duty, or in the execution of his or its work, or anything which he or it is empowered or required to do by virtue, or in consequence, of any provision of this Act or the rules or the regulations made thereunder, or in the fulfilment of the contract, as the case may be.

Prohibition against removal of mark.

347.

No person shall remove any mark set up for the purpose of indicating any level or direction incidental to the execution of any work authorized by this Act or the rules or the regulations made thereunder.

Prohibition against removal or obliteration of notice.

348. No person shall, without authority, remove, destroy, deface or otherwise obliterate any notice exhibited by or under the orders of the Corporation, or any municipal authority, or any officer or other employee of the Corporation specified by the Commissioner in this behalf.

Prohibition against unauthorized dealings with public place or materials.

349. No person shall, without authority in that behalf, remove earth, sand or other material from, or deposit any matter in, or make any encroachment on, any land vested in the Corporation, or in any way obstruct such land.

Liability for loss, waste or misapplication of money or property of Corporation.

350. (1) Every person shall be liable for the loss, waste, or misapplication of any money or other property, owned by, or vested in, the Corporation, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct in the performance of his duty, and he may, after being given an opportunity by a notice served in the manner provided for the service of summons in the Code of Civil Procedure, 1908, to show cause by a representation, in writing or oral, why he should not be required to make good the loss, by order, be surcharged with the value of such property or the amount of such money by the Director of Local Bodies, and if the amount is not paid within one month of the expiry of the period of appeal specified in sub-section (2) below, it shall be recoverable as an arrear of tax leviable under this Act.

Central Act 5 of 1908.

- (2) The person, against whom an order under sub-section (1) above is made, may, within thirty days of the date of communication of the order, appeal to the State Government, and the State Government may confirm, modify or disallow the surcharge:

Provided that no person shall, under this section, be called upon to show cause after the expiry of a period of four years, or,

		in the case of a Councillor, after a period of one year, from the occurrence of such loss or waste or misapplication.	
Councillors and officers and other employees of Corporation to be public servants.	351.	Every Councillor, the Commissioner, and every other officer or other employee of the Corporation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.	Central Act 45 of 1860.
Other laws not to be disregarded.	352.	Save as otherwise expressly provided in this Act, nothing contained in this Act shall be construed to authorize the Corporation or any municipal authority or any officer or other employee of the Corporation to disregard any law for the time being in force.	

Chapter XXXIX

Appeals

Appeals from Commissioner to Empowered Standing Committee.	353.	(1) Notwithstanding anything contained in the provisions of this Act in the matter of appeal, an appeal shall lie to the Empowered Standing Committee from- <ul style="list-style-type: none"> (a) any notice issued or other action taken or proposed to be taken by the Commissioner- <ul style="list-style-type: none"> (i) under any section of this Act; (ii) under any bye-law concerning house-drainage, or the connection of house-drains, with municipal drains or house-connections with municipal water supply or lighting mains; (b) any refusal by the Commissioner to grant permission to conduct or reconstruct a building; (c) any refusal by the Commissioner to grant a permission under any section of this Act; 	
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- (d) any refusal by the Commissioner to grant a licence;
 - (e) any order of the Commissioner suspending or revoking a licence;
 - (f) any other order of the Commissioner that may be made applicable by rules framed under this Act.
- (2) If, on any such appeal the Empowered Standing Committee reverses or substantially modifies any action taken or proposed to be taken by the Commissioner or any order passed by him, he may, within sixty days of the date of receipt of order refer the matter to the Government and pending the decision of the Government on such reference the Commissioner shall not be bound to give effect to the decision of the Empowered Standing Committee.

The decision of the Empowered Standing Committee, or where the matter has been referred to the Government as aforesaid, the decision of the Government shall be final.

Provided that notwithstanding any contained in the Act, during the period of supersession, an appeal shall lie before the Administrator under this section as if the appeal has been preferred before the Empowered Standing Committee.

- (3) Notwithstanding anything contained in the principal Act, the State Government may, at any time, call for records in any matter from the Corporation and give such order as may be deemed necessary after examination of such records. The order of the State Government, in this regard, shall be final.
- (4) In any case in which no time is laid down in the forgoing provisions of this Act, for the presentation of an appeal allowed thereunder, such appeal shall, subject to the provisions of section 5 of the Indian Limitation Act, 1908 be presented-

(a) where the appeal is against an order granting a licence or permission, with in thirty days after the date of the publication of the order on the notice board of the Corporation and;

(b) in other case within thirty days after the date of receipt of the order or proceeding against which the appeal is made.

Chapter XL

Rules and Regulations

Power to make rules.

354. (1) The State Government may, by notification, make rules Bye-Laws for carrying out the purposes of this Act.
- (2) Any rule made under this Act may provide that any contravention thereof shall be punishable with fine as may be prescribed.
- (3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session.

Power to make regulations.

355. The Corporation may, from time to time, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder for the purpose of giving effect to the provisions of this Act.

Conditions precedent to making of regulations.

356. The power to make regulations under this Act is subject to the condition of the regulations being made after previous publication and to the following further conditions, namely:
- (a) such draft of regulations shall not be further proceeded with until a period of one month has expired from the date of such publication,
- (b) for not less than one month during such period, a printed copy of such draft shall be kept in the office of the Corporation for public inspection, and any person shall be permitted at any reasonable time to peruse such draft, free of charge, and

(c) printed copies of such draft shall be obtainable by any person requiring such draft on payment of such fee as may be fixed by the Empowered Standing Committee.

Regulations to be subject to approval of State Government.

357. (1) No regulation, Bye-Laws made by the Corporation under this Act shall have any effect until it has been approved by the State Government and published in the *Official Gazette*.
- (2) Before approving any regulations, Bye-Laws, rules the State Government may make such changes therein as may appear to it to be necessary.

Chapter XLI

Offences and Penalties

Punishment for certain offences.

358. Whoever -
- (a) contravenes any provision of any of the sections, sub-sections, clauses, provisos or any other provision 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, provisos or other provisions,
- shall be punishable -
- (i) with fine which may extend to such amount, or with imprisonment which may extend to such period, as the State Government may, by rules, provide, and
- (ii) in the case of a continuing contravention or failure, with an additional fine which may extend to such amount as the State Government may, by rules, provide for every day during which such contravention or failure continues after conviction for the first such contravention or failure.

Punishment for acquiring share or interest etc. with Corporation.	359.	Any Councillor who knowingly acquires, directly or indirectly, any share or interest in any contract made with, or any work done for, the Corporation except as a shareholder (other than a Director) in an incorporated company or as a member of a co-operative society shall be deemed to have committed the offence punishable under section 168 of the Indian Penal Code.	Central Act 45 of 1860.
Fine for putting building to any use other than that for which a licence has been granted.	360.	When any premises is used or is permitted to be used by any person for any purpose other than that for which a licence has been granted under this Act or as a stable or cow-house, then such person shall, without prejudice to any other penalty to which he may be subject, be liable to a fine which may extend, in the case of a masonry building, to an amount as may be prescribed and, in the case of a hut, to an amount as may be prescribed, and, in the case of continuance of such use, to a further fine which may extend, in the case of a masonry building, to an amount as may be prescribed and, in the case of a hut, to an amount as may be prescribed for each day during which such use continues after the first day.	
Penalty for obstructing contractor.	361.	Whoever obstructs or molests any person with whom the Corporation has entered into a contract for execution of any work under this Act shall, on conviction, be punished with imprisonment for a term which may extend to two months or with fine as may be prescribed.	
Penalty for causing damage to property belonging to Corporation.	362.	No person shall cause any damage to any property belonging to the Corporation. Any person causing any damage to any property belonging to the Corporation shall, on conviction, be punished with fine as may be prescribed.	

- Encroachment on streets. 363. No person shall cause any encroachment or obstruction on any municipal property such as a street or footpath or park without specific permission of an officer of the Corporation duly authorized to grant such permission. Any person causing such encroachment or obstruction on any municipal property as aforesaid shall, be liable to be evicted forthwith by the commissioner.
- Punishment of imprisonment in default of payment of fine. 364. 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 a Court having jurisdiction to pay a fine, it shall be competent for such Court to direct that in default of payment of fine, he shall suffer imprisonment for such term or, as the case may be, such further term, not exceeding six months, as the Court may fix.
- General penalty. 365. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice or order or requisition issued under any provisions thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to an amount as may be prescribed, and, in the case of a continuing failure or contravention, with an additional fine which may extend to an amount as may be prescribed for every day after the first during which he has persisted in such failure or contravention.
- Offences by companies. 366. 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.

- Prosecution. 367. Save as otherwise provided in this Act, no Court shall proceed to the trial of any offence punishable by or under this Act except on the complaint of, or upon information received from, the Commissioner or any person authorized by him by general or special order in this behalf.
- Compounding of offences. 368. (1) The Commissioner or, if so authorized by the Corporation in this behalf by a general or special order, the Municipal Health Officer, the Municipal Engineer or any other officer of the Corporation may, either before or after the institution of the proceeding and on payment of such fee as may be specified by regulations, compound any offence as may be classified as compoundable by the State Government by rules.
- (2) Notwithstanding anything contained in subsection (1) above, no offence punishable by or under this Act or by any rule or regulation made thereunder shall be compoundable if such offence is committed due to the failure to comply with any notice, order or requisition, as the case may be, issued by or on behalf of any of the municipal authorities referred to in section 11 of the Act, unless and until such notice, order or requisition, as the case may be, has been complied with in so far as such compliance is possible.
- (3) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceeding shall be taken against him in respect of the offence so compounded.

Chapter XLII**Supplemental Provisions*****Miscellaneous and Transitory Provisions***

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| Provisions of the chapter to override other provisions. | 369. | The provisions of this chapter shall have effect notwithstanding anything to the contrary contained elsewhere in this Act. |
| Removal of difficulties. | 370. | <p>If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order do or cause to be done anything which may be necessary for removing the difficulty:</p> <p style="padding-left: 40px;">Provided that no such order shall be made after the expiry of a period of five years from the date of commencement of this Act.</p> |
| Transitory provision. | 371. | <p>(1) Notwithstanding anything to the contrary contained elsewhere in this Act, the State Government may appoint a person to be called the Administrator to exercise all the powers and discharge all the functions of the municipal authorities mentioned in the Act, for the period from the date of coming into force of this Act till the first meeting of the Corporation at which a quorum is present.</p> <p>(2) The Administrator appointed under subsection (1) above, may constitute such Committees, and for such period, as he may deem fit.</p> <p>(3) Each such Committee shall consist of not more than twenty-five persons, appointed on such terms and conditions as the Administrator may deem fit, and shall advise the Administrator in the discharge of his functions under this Act.</p> |

Chapter XLIII

Election

Notification for
election of
Councillors.

372. (1) For the purposes of constituting the Corporation, the State Election Commission shall, by one or more notifications published in the *Official Gazette*, call upon all the wards to elect Councillors in accordance with the provision of this Act and the rules and orders made thereunder before such date or dates as may be specified in the notification or notifications. A general election of Councillors shall be held for the purpose of constituting the Corporation under this Act.
- (2) Every person whose name is for the time being, entered in Election Roll for a ward shall be entitled to vote at the election of Councillor from that ward.
- (3) Voting shall be by secret ballot or by Electronic Voting Machine as may be decided by the State Election Commission.
- (4) Notwithstanding contained in this Act or the rules made thereunder, the giving and recording of votes by voting machines may be adopted in such manner as may be prescribed, in such ward or wards as the State Election Commission may, having regard to the circumstances of each, specify.

Explanation:- For the purpose of this section, 'voting machine' means any machine or apparatus whether operated electronically or otherwise used for giving or recording of votes.

Vacancy in office of
Councillor.

373. When a vacancy occurs in the office of a Councillor, the State Election Commission shall, as soon as may be, after the occurrence of such vacancy by a notification in the *Official Gazette* call upon the ward concerned to elect a person for the purpose of filling the vacancy:

Provided that no election shall be held to fill a vacancy occurring within six months prior to the holding of general election.

Procedure if election fails or it set aside

374.

If at a general election or a subsequent bye-election held to fill a vacancy no Councillor is elected or an insufficient number of Councillors are elected or the election of any or all of the Councillors is set aside under this Act and there is no other candidate or candidates who can be deemed to have been elected in his place or their places, the State Election Commission shall fix another day for holding a fresh election and fresh election shall be held accordingly in the prescribed manner.

Procedure on failure of election in case of equality of votes.

375.

If at a general election or an election held to fill a vacancy there is an equality of votes between two or more candidates, the State Election Commission shall decide by drawing lots which candidate shall be deemed to have been elected.

Term of office of Councillors

376.

The term of the Corporation shall be for five years and shall continue from the date of first meeting after publication of the result of the general election. The term of the office of a Councillor shall be co-terminus with the term of the Corporation.

Publication of results of election.

377.

The names of all persons elected as Councillors shall as soon as may be after such election be published by the Government in the *Official Gazette*:

Provided that the names of all councillors elected at a general election shall be so published as far as possible simultaneously.

Resignation of office by Councillor.

378.

Any Councillor may by writing under his hand addressed to the Mayor resign his office and such resignation shall take effect from the date on which it is accepted by the Mayor.

TRIAL OF ELECTION PETITIONS

Definitions.

379.

In this chapter unless there is anything repugnant in the context —

(a) “Costs” mean all costs charges and expenses of or incidental to the trial of an election petition;

(b) “Corrupt practice” means any of the practices so defined in the Representation of Peoples’ Act, 1951 as amended from time to time;

Central Act 43 of
1951.

(c) “Election” means an election held under the provisions of this Act or of any rules made thereunder; and

(d) “Advocate” means any person entitled to appear and plead for another in a Civil Court and includes a Pleader, a vakil and an Attorney of High Court.

Election petition.

380.

(1) No election shall be called in question except by an election petition presented in accordance with the provisions of this section.

(2) Such election petition shall be presented to the prescribed authority within forty-five days from the date on which the result of the election is notified;

(3) An election petition calling in question any such election may be presented on one or more of the grounds specified in Section 382 of the Act, by any candidate at such election or, by any elector of the ward concerned;

(4) An election petition —

(a) shall contain concise statement of the material facts on which the petitioner relies;

(b) shall with sufficient particular set forth the ground or grounds on which the election is called in question;

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings; and

Central Act 5 of 1908.

(d) shall be accompanied by a sum of rupees two hundred and fifty for election petition.

Appointment of District Judge.

381.

The procedure provided in the Code of Civil Procedure, 1908 in regard to the suits shall be followed by the Court of the District Judge as far as it can be made applicable in the trial and disposal of an election petition under this Act.

Central Act 5 of 1908.

Ground for declaring election to be void.

382.

(1) Subject to the provisions of sub-section (2) below, if the District Judge is of opinion -

(a) that on the date of his election a returned candidate was not qualified or was disqualified, to be chosen as a Councillor 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 candidate 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 which is void; or

(iv) by the non-compliance with the provisions of this Act or of any rules or orders made;

the District Judge shall declare the election of the returned candidate to be void.

(2) If in the opinion of the District Judge, the agent of a returned candidate has been guilty of any corrupt practice but the Judge 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 District Judge may decide that the election of the returned candidate is not void.

Decision of the
District Judge

383. (1) At the conclusion of the trial of an election petition, the District Judge 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 filed an election petition has, in addition to calling in question the election of the returned candidate, claimed declaration that he himself or other candidate has been duly elected and the District Judge 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 District Judge 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.

(3) The District Judge after pronouncing orders made under this section shall send a copy thereof to the Corporation and the Government.

(4) Every order of the District Judge under this section shall take effect as soon as it is pronounced by him:

Provided that an application may be made to the District Judge's Court for stay of operation of an order made by him under this Section before the expiration of the time allowed for appealing therefrom and the District Judge may, on sufficient cause being shown and on such terms and conditions as he may think fit stay operation of the order, but on application for stay should be made to the District Judge after an appeal has been preferred to the High Court:

Provided further that where by any such order the election of a returned candidate is declared to be void, acts and proceedings in which that candidate has, before the date of the order, participated as a

Appeals from the
order of District
Judge.

- member of the Corporation shall not be invalidated by reason of that order.
384. (1) An appeal shall lie from every order passed by the District Judge under section 383 of the Act to the High Court.
- (2) The High Court shall subject to the provisions of this Act have the same powers, jurisdiction and authority, and follow the same procedure, with respect to an appeal under this section as if it were an appeal from the original decree passed by a Civil Court situated within the local limits of its civil appellate jurisdiction.
- (3) Such appeal shall be preferred within a period of forty-five days from the date of the order of the District Judge under section 383 of the Act:
- Provided that the High Court may entertain an appeal after the expiry of the said period of forty-five days, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within such period:
- Provided further that where an appeal has been preferred against an order made under this section, the High Court may, on sufficient cause being shown and on such terms and conditions as it may think fit, stay the operation of the order appealed from.
- (4) The decision of the High Court on an appeal under this section shall be final and conclusive.

Schedule – I**Form A**

[See section 8 (4)]

"I, A.B., having been elected a Councillor of the municipal area of do swear in the name of God / solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duties upon which I am about to enter."

Form B

[See section 15 (1)]

"I, A.B., do swear in the name of God / solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the presiding officer or as a member of the Empowered Standing Committee except as may be required for the due discharge of my duties."

GEETANJALI DAS SAIKIA,

Secretary to the Government of Assam,
Legislative Department, Dispur, Guwahati-6.