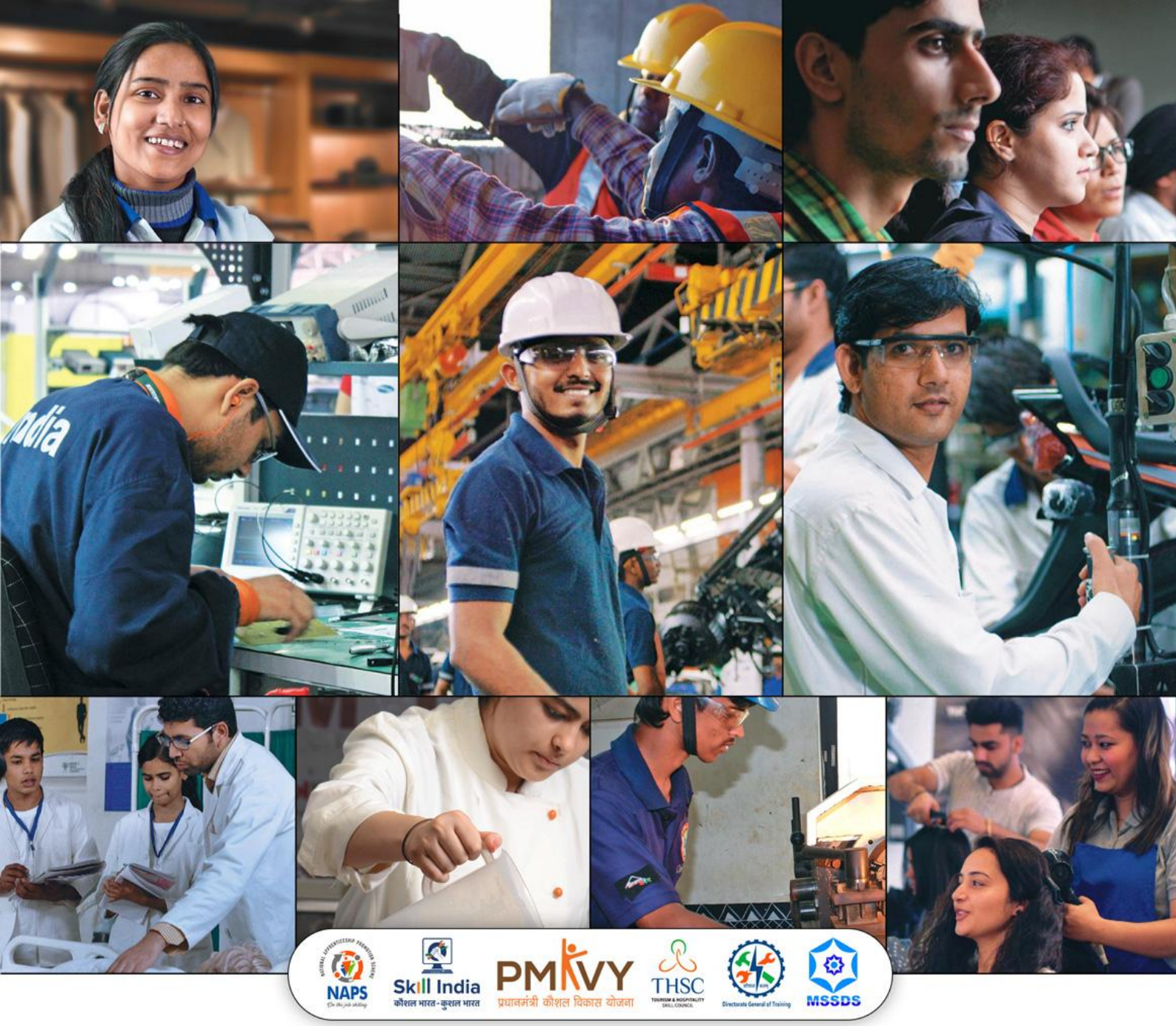

Uttar Pradesh Municipal Corporation Act, 1959

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THE UTTAR PRADESH MUNICIPAL CORPORATION ACT, 1959[1]
[U.P. Act No. 2 of 1959]

[22nd January, 1959]

An Act to provide for the establishment of Municipal Corporations for certain cities in Uttar Pradesh

Whereas it is expedient to provide for the establishment of Municipal Corporations in certain cities with a view to ensure better municipal government of the said cities; it is hereby enacted as follows :

GENERAL AMENDMENT

In the Uttar Pradesh Municipal Corporation Act, 1959, hereinafter referred to as the principal Act, for the workds "Mukhya Nagar Adhikari", "Apar Mukhya Nagar Adhikari", "Upa Nagar Adhikari", "Sahayak Nagar Adhikari", "Nagar Pramukh", "Upa Nagar Pramukh", "Sabhasad" and "Sabhasads", wherever occurring, including headings, sub-headings and marginal headings, the words, "Municipal Commissioner", "Additional Municipal Commissioner", "Deputy Municipal Commissioner", "Assistant Municipal Commissioner", "Mayor", ♣[* * *], "Corporator" and "Corporators" shall respectively be substituted. [U.P. Act 16 of 2004, S.2 (w.r.e.f. 21-11-2002)].

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement** – [2][(1) This Act may be called the Uttar Pradesh Municipal Corporation Act, 1959.]

(2) It extends to the whole of the State of Uttar Pradesh.

(3) This Chapter shall come into operation at once, and the remaining provisions of this Act shall in relation to a City come into operation from such day as the State Government may by notification in the Official Gazette appoint in that behalf [and different dates may be appointed for different provisions][3].

Provided that for the limited purpose of constituting a Corporation for a City under this Act, the provisions of Chapter II including –

(a) the delimitation of wards in the City;

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1 Passed in Hindi by the Uttar Pradesh Legislative Assembly on September 15, 1958 and by the Uttar Pradesh Legislative Council on December 17, 1958. Received the assent of the President on January 22, 1959 and was published in the Uttar Pradesh Gazette, Extra., dt. Jan. 24, 1959.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

2 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

3 Ins. by U.P. Act 14 of 1959.

(b) the preparation and publication of electoral rolls;

(c) the qualifications and disqualifications for being chosen as Mayor, [4][* * *] or Corporator of a Corporation; and for nomination as candidate for election as Mayor, [* * *][5] or Corporator; and

(d) generally, the conduct of election and all other matters necessary for the due constitution of the Corporation;

shall come into operation in and in respect of such City from the date of notification under Section 3 and notwithstanding anything in any other enactments all acts may be done and all proceedings taken as may be necessary for holding the elections in accordance with the provisions of the said Chapter and rules made thereunder for the due constitution of the Corporation.

NOTES

1. **Commencement of the Act.** – The Legislature has stated expressly that Chapter 1 of the Act shall come into operation at once, and the remaining provisions shall come into operation from such day as the State Government may by notification in the Official Gazette appoint. Notification No. 41 Ma-PRA-II/XI-C-12 : Corp-59 dated January 18, 1960, published in U.P. Gazette, Extraordinary, dated January 18, 1960, appointed the 1st day of February, 1960. It runs as under :

"In exercise of the powers conferred by sub-section (3) of Section 1 of the U.P. Nagar Mahapalika Adhiniyam, 1959 and in continuation of Notification No. 331-PRA-1/XI-C-30-Corp-58, dated September 28, 1959, bringing into operation Section 579 and 580 of the said Adhiniyam, the Governor of the Uttar Pradesh is pleased to appoint the 1st day of February, 1960, as the date on which the remaining provisions of the said Act and three Schedules, appended thereto shall come into operation in relation to the cities of Kanpur, Allahabad, Varanasi, Agra and Lucknow as constituted under Section 3 of the said Adhiniyam".

2. **Extent.** – The Act extends to the whole of State of Uttar Pradesh. It is restricted in its application to only KAVAL towns. But subsequently, under Section 8-AA(1)(b), the District Magistrates concerned were appointed as Administrators and deemed Nagar Mahapalikas for the cities of Gorakhpur, Meerut and Bareilly. [For details see 1982 LLT-201[232], 1982 LLT-V-201[233], 1984 LLT-V-133 [190].] Extension to other towns was being contemplated for which details are not available. The State of U.P. comprises of the territories which immediately before the commencement of the Indian Constitution were either comprised in the province known as the United Provinces or were being administered as if they formed part of the Province.

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4 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

5 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

2. **Definitions.** – In this Act unless there be something repugnant in the subject or context –

(1) "advertisement" means any word, letter, model, sign, placard, board, notice, device, or representation whether illuminated or not, in the nature of and employed wholly or in part for the purpose of advertisement, announcement or direction and includes any hoarding or similar structures used or adapted to be used for the display of advertisement;

(2) "appointed day" with reference to a City means the day on which the due constitution of the Corporation for the City is notified in the Official Gazette;

(3) "Assembly Rolls" mean the electoral rolls prepared for the Assembly constituencies under and in accordance with the provisions of the Representation of the People Act, 1950;

(4) "bakery or bake-house" means any place in which bread, biscuits or confectionery are baked, cooked or prepared in any manner whatsoever for the purposes of sale or profit;

(5) "budget grant" means the total sum entered on the expenditure side of a budget estimate under a major head as prescribed by rules and adopted by the Corporation and includes any sum by which such budget grant may be increased or reduced by a transfer from or to other heads in accordance with the provisions of this Act and rules;

(6) "building" includes a house, out-house, stable, shed, hut and other enclosure or structure whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as a human dwelling or otherwise, and also includes verandahs, fixed platforms, plinths, door-steps, walls including compound walls and fencing and the like but does not include a tent or other such portable temporary structures;

(7) "building-line" means a line which is in rear of the street-alignment and to which the main wall of a building abutting on a street may lawfully extend and beyond which no portion of the building may extend except as prescribed in the building rules;

(8) "by-law" means a bye-law made under the provisions of this Act;

(9) "cesspool" includes a settlement tank or other tank for the reception or disposal of foul matter from building;

[6][(10)"city" means a larger urban area as notified under clause (2) of Article 243-Q of the Constitution;]

[7][(10-A) "Commercial building" means any building not being a factory which is used or occupied for carrying on any trade or commerce or any work connected therewith or incidental or ancillary thereto;]

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[6] Subs. by U.P. Act 26 of 1995, S.2 (w.e.f. 28-12-1994).

(11) ”Commissioner of Division” with reference to a City means the Commissioner of the Division in which the City is situated and includes any Additional Commissioner to whom the Commissioner of the Division has delegated his functions under this Act;

[8][(11-A) “Corporation” or “Municipal Corporation” means the Municipal Corporation constituted for a city under sub-clause (c) of clause (1) of Article 243-Q of the constitution;]

(12) “cubical contents” when used with reference to the measurement of a building means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest storey, or, when the building consists of one storey only, the upper surface of its floor;

(13) “dairy” includes any farm, cattle-shed, milk-store, milk-shop or other place from which milk is supplied for sale or in which milk is kept for the purposes of sale or manufactured into butter, ghee, cheese, curd, or dried or condensed milk for sale and, in the case of dairyman who does not occupy any place for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk but does not include a shop or other place in which milk is sold for consumption on the premises only;

(14) “dairyman” includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or intended to be offered for sale for human consumption and any purveyor of milk and any occupier of a dairy;

(15) ‘dairy product” includes milk, butter, ghee, curd, butter-milk, cheese and every product of milk;

(16) “dangerous disease” means cholera, plague, smallpox, or any other epidemic or infectious disease by which the life of human beings is endangered and which the Corporation may from time to time by public notice declare to be a dangerous disease;

(17) [* * *][9]

[10][(17-A) “Director” means the Director of Local Bodies, Uttar Pradesh, appointed by the State Government under Section 5-A].

(18) “District Judge’ includes an Additional District Judge to whom any function of the District Judge has been transferred under this Act;

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7 Ins. by U.P. Act 3 of 1987 (w.e.f. 21-1-1987).
8 Ins. by U.P. Act 26 of 1995, S.2 (w.e.f. 28-12-1994)).
9 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
10 Ins. by U.P. Act 41 of 1976 (w.e.f. 15-9-1976).

(19) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel and cistern flush-tank, septic-tank, or other devices for carrying off or treating sewage offensive matter, polluted water, sullage, waste water, drain water, or subsoil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith and any ejectors, compressed air mains, sealed sewage main and special machinery or apparatus for raising, collecting, expelling or removing sewage offensive matter from any place;

(20) "eating house" means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owning or having an interest in or managing such premises;

(21) "elector" in relation to a ward means a person whose name is for the time being entered in the electoral roll of that ward;

[11][(22) "essential service" means a service referred to in Section 112-B];

(23) 'factory" means a factory as defined in the Factories Act, 1948;

(24) "filth" includes sewage, night-soil and all offensive matter;

[12][(24-A) "Finance Commission" means the Finance Commission [13][constituted under} Article 243-I of the Constitution];

(25) "financial year" means the year commencing on the first day of April;

(26) "food" includes every article used for food or drink by man other than drugs or water, and any article which ordinarily enters into or is used in composition or preparation of human food, and also includes confectionery, flavouring and colouring matters and spices and condiments;

(27) "frame building" means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing;

(28) "house-drain" means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating therefrom with a Corporation drain;

(29) "house-gully" or "service passage" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to

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11 Subs. by U.P. Act 21 of 1964.

12 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

13 Subs. for "referred to in" by U.P. Act 26 of 1995, S.2 (w.e.f. 28-12-1994).

Corporation servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom;

(30)"hut" means any building which is constructed principally of wood, mud, leaves, grass, cloth, or thatch and includes any temporary structure of whatever size or any small building of whatever material made which the Corporation may declare to be a hut for the purpose of this Act;

(31) "inhabitant" used with reference to a local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein.

(32) "the judge" means the judge of the Court of Small Causes having jurisdiction in the City under the Provisional Small Cause Courts Act, 1887;

(33) "land" includes land which is being built upon or is built upon or is covered with water, benefits to arise out of and things attached to the earth or permanently fastened to anything attached to the earth and rights created by legislative enactment over any street;

(34) "licensed plumber", "licensed surveyor", "licensed architect", "licensed engineer", "licensed structural designer" and "licensed clerk of work" respectively, mean a person licensed by the Corporation as a plumber, surveyor, architect, engineer, structural designer or a clerk of works under this Act;

(35) "lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration and includes a collection of buildings, or a building, or part of a building used for the accommodation of pilgrims and travelers whether on payment or otherwise;

(36) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, live-stock or food for live-stock or meat, fish fruit, vegetables, animals intended for human food or any other articles of human food whatsoever with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person;

(37) "masonry building" means any building other than a frame building or a hut and includes any structure a substantial part of which is made of masonry or of steel, iron or other metal;

[14][(38) "member of a Corporation" means a Corporator, a Paden Sadasya, a Nam-Nirdishta Sadasya or a Chairperson of a Committee, if any, established under clause (e) of Section 5, if he is not member of the Corporation and, unless the contrary is indicated, includes a Mayor;

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[14] Subs. by U.P. Act 26 of 1995, S.2 (w.e.f. 28-12-1994).

(39) Municipal Commissioner means the Municipal Commissioner appointed under Section 58 and includes an Additional Municipal Commissioner appointed under the said section, a Deputy Municipal Commissioner and a Assistant Municipal Commissioner appointed under Section 107 while exercising powers and performing duties under Section 112;]

(40) "Corporation drain" means a drain vested in the Corporation;

(41) "Corporation market" means a market vested in or managed by the Corporation;

(42) "Corporation slaughter-house" means a slaughter-house vested in or managed by the Corporation;

(43) "Corporation Office" means office of the Municipal Corporation;

(44) "Corporation tax" means any impost levied under the provisions of this Act;

(45) "Corporation waterworks" means waterworks belonging to or vesting in the Corporation;

[15][(45-A) "Metropolitan area" means an area as defined in clause (c) of Article 243-P of the Constitution;

(45-B) "municipality" means an institution of self government constituted under Section 4;

(45-C) "municipal area" means the territorial area of a Corporation;]

(46) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance, or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

(47) "occupier" includes –

(a) any person who for the time being is paying or is liable to pay the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;

(b) an owner living in or otherwise using his land or building;

(c) a rent-free tenant;

(d) a licensee in occupation of any land or building; and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

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[15] Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

(48) "offensive matter" includes animal carcasses, dung, dirt and putrid or putrefying substances other than sewage;

(49) "Officer of the Corporation" means a person holding for the time being an office created or continued by or under this Act but shall not include a member of the Corporation or of a Committee as such;

(50) "Official Gazette" means the Gazette issued under the authority of the State Government;

(51) "Order" means any order published in the Official Gazette or in the manner prescribed;

[16][(51-A) "backward classes" means the backward classes of citizens specified in Schedule I of the Uttar Pradesh Public Services (Reservation for Scheduled Castes, Scheduled Tribes and Other Backward Classes) Act, 1994;]

(52) "owner" means –

(a) When used with reference to any premises the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let and includes –

(i) an agent or trustee who receives such rent on account of the owner;

(ii) an agent or trustee who receives the rent of or is entrusted with, or concerned for any premises devoted to religious or charitable purposes;

(iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises; and

(iv) a mortgagee-in-possession;

(b) when used with reference to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;

[17][(52-A) "Panchayat" means a Panchayat referred to in clause (f) of Article 243-P of the Constitution;]

(53) "part of a building" includes any wall, underground room or passage, verandah, fixed platform, plinth, staircase or door-step attached to, or within the

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16 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

17 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

compound of an existing building or constructed on ground which is to be the site or compound of a projected building;

[18][(53-A) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;]

[19][(54) "premises" means any land or building;]

(55) "prescribed" means prescribed by this Act or by rule or other made thereunder or by or under any other enactment;

(56) "prescribed authority" means an officer or a body corporate appointed by the State Government in this behalf by notification in the Official Gazette, and, if no such officer or body corporate is appointed, the Commissioner of the Division in which the City is situate;

(57) "petroleum" means petroleum as defined in the [20][Petroleum Act, 1934];

(58) "private street" means a street which is not a public street;

(59) "privy" means a place set apart for defecating or urinating or both, together with the structure comprising such place, the receptacle therein for human excreta and the fitting and apparatus, if any, connected therewith, and includes a closet of the dry type, an aqua privy, a latrine and a urinal;

(60) "public place" includes any public park or garden or any ground to which the public have or are permitted to have access;

(61) "public securities" means –

(a) securities of the Central Government or any State Government;

(b) securities, stocks, debentures or shares, the interest whereon has been guaranteed by the Central or the State Government;

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of the powers conferred by any enactment for the time being in force in any part of the Republic of India;

(d) securities expressly authorized by any order which the State Government makes in this behalf;

(62) "public street" means any street –

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18 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

19 Subs. by U.P. Act 24 of 1972.

20 Subs. by U.P. Act 14 of 1959 for Indian Petroleum Act, 1899.

(a) heretofore leveled, paved, metalled, channeled, sewered or repaired out of Corporation of other public funds; or

(b) which under the provisions of Section 290 is declared to be, or under any other provisions of this Act becomes, a public street;

(63) (a) a person is deemed to 'reside" in any dwelling which, or some portion of which, he sometimes uses, whether interruptedly or not, as a sleeping apartment, and

(b) a person is not deemed to cease to "reside" in any such dwelling merely because he is absent from it or has elsewhere another dwelling in which he resides, if there is the liberty or returning to it at any time and no abandonment of the intention of returning to it;

(64) "rubbish" includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse and refuse of any kind which is not offensive matter or sewage;

(65)"rules" mean rules made under powers conferred by this Act;

(66) "Schedule" means the schedule appended to this Act;

(67) [* * *][21]

(68) "The expression "Scheduled Bank" shall have the meaning assigned to it in the Reserve Bank of India Act, 1934;

(69) "Servant of the Corporation" means any person in the pay and service of the Corporation;

(70) "sewage" means night-soil and other contents of water-closets, latrines, privies, urinals, cess-pools, or drains and polluted water from sinks, bath-rooms, stables, cattle-sheds, and other like places and includes trade effluent and discharges from manufactories of all kinds;

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

(a) every part of support, and

(b) any balloon, parachute or similar device employed wholly or in part for the purpose of any advertisement or announcement, on,

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[21] Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

over or above any building, structure or erection of any kind, or on or over any street or public place;

but shall not be deemed to include –

(i) any flagstaff, pole, vane or weathercock unless adapted or used wholly or in part for the purposes of any advertisement or announcement;

(ii) any sign on any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, on the cornice or blocking course of any wall or to the ridge or a roof, if such contrivance be of one continuous face and not open work and does not extend in height more than three feet above any part of such wall, parapet or ridge; or

(iii) any representation which relates exclusively to the business of a railway administration as defined in the Indian Railway Act,1890, and which is placed wholly upon or over any railwaystation yard, platform or station approach, or premises belonging to such railway administration, and which is also so placed that it could not fall into any street or public place;

(72) "special fund" means a fund constituted under Section 139;

(73) "State Government" means the Government of Uttar Pradesh;

[22][(73-A) "State Election Commission" means the State Election Commission referred to in Article 243-K of the Constitution appointed by the Governor;]

(74) "street" includes any highway and any causeway, bridge, viaduct, arch, road, lane, foot-way, sub-way, court, alley or riding path or passage, whether a thoroughfare or note, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years; and, when there is a foot-way as well as a carriage way in any street, the said term includes both;

(75) "street alignment" means the line dividing the land comprised in an forming part of a street from the adjoining land;

(76) "sweetmeat shop" means any premises or part of any premises used for manufacture, treatment or storage for sale or for the sale, wholesale or retail, of any ice-cream, confections or sweetmeats, whatsoever, for whomsoever intended, and by whatsoever name the same may be known, and whether the same be for consumption on or outside the premises;

(77) "theatre tax" means a tax on amusement or entertainments;

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22 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

(78) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is so wholly or in part produced in the course of any trade or industry carried on at trade premises and in relation to any trade premises, means any such liquid as aforesaid which is so produced in the course of any trade or industry carried on at those premises, but does not include domestic sewage;

(79) "trade premises" means any premises used or intended to be used for carrying on any trade or industry;

(80) "trade refuse" means and includes the refuse of any trade, manufacture or business;

(81) "vehicle" includes a carriage, cart, van dray, truck, hand-cart, bicycle, tricycle, motor-car and every wheeled conveyance which is used or is capable of being used on a street;

[23][(82) ["ward" means the territorial constituency of a Corporation;]

[24][(82-A) "Ward Committees" means the Ward Committee [25][referred to in Article 243-S of the Constitution;]]

(83) "water closet" means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

(84) "water connection" includes –

(a) any tank, cistern, hydrant, stand-pipe, meter or tap, situated on a private property and connected with a water-main or pipe bloning to the Corporation; and

(b) the water-pipe connecting such a tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe;

(85) "water-course" includes any river, stream, or channel whether natural or artificial;

(86) "water for domestic purposes" shall not include water for cattle or for horse, or for washing vehicles, when the cattle, horses or vehicles are kept for sale or hire, or by a common carrier, and shall not include water for any trade, manufacture or business, or for building purposes, for watering gardens, or streets or for fountains or for any ornamental or mechanical purposes;

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23 Subs. by U.P. Act 26 of 1995, S.2 (w.e.f. 28-12-1994).

24 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

25 Subs. for "constituted under Section 6-A" by U.P. Act 26 of 1995, S.2 (w.e.f. 28-12-1994).

(87) "waterworks" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open sluice, main-pipe, culvert, engine, water-trust, hydrant, stand-pipe, conduit and machinery, land, building or thing for supplying water or for protecting sources of water-supply;

(88) "Workshop" means any building, place or premises, or any part thereof, not being a factory, to or over which the employer or the persons working therein have the right to access or control and in which or within the compound or precincts of which, any manual labour is employed or utilized in aid of or incidental to any process for the following purposes :

(a) the making of any article or part thereof; or

(b) the altering, repairing, ornamenting or finishing of any article; or

(c) the adopting for sale or any article;

[26][(89) The expressions "transitional area" and "smaller urban area" shall have the meanings respectively assigned to them in the U.P. Municipalities Act, 1916.]

[27][3. **Declaration of larger urban area.** – (1) Any area specified by the Governor in a notification under clause (2) of Article 243-Q of the Constitution with such limits as are specified therein to be a larger urban area, shall be known as a City, by such name as he may specify.

(2) Where, by a subsequent notification under clause (2) of Article 243-Q of the Constitution the Governor includes any area in a city, such area shall thereby become subject to all notifications, rules, regulations, bye-laws, orders and directions issued or made under this or any other enactment and in force in the city at the time immediately preceding the inclusion of such area and all taxes, fees and charges imposed under this Act, shall be and continue to be levied and collected in the aforesaid area.]

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[26] Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

[27] Subs. by U.P. Act 26 of 1995, S.3 (w.e.f. 28-12-1994).

CHAPTER II

CONSTITUTION AND GOVERNANCE OF CORPORATION

[28][4. **Municipal Corporation to be a body corporate.** – A Municipal Corporation constituted under sub-clause (c) of clause (1) of Article 243-Q of the Constitution in accordance with Part IX-A thereof shall be known as the Municipal Corporation of.....(Name of the city) and be a body corporate.]

5. **Corporation authorities.** – The Corporation authorities charged with carrying out the provisions of this Act for each City shall be –

(a) the Corporation;

[29][(aa) the Ward Committees];

(b) an Executive Committee of the Corporation;

[30][(bb) the Mayor;]

(c) a Development Committee of the Corporation;

[31][(d) a Municipal Commissioner and one or more Additional Municipal Commissioner appointed for the Corporation under this Act;]

(d) in the event of the Corporation establishing or acquiring electricity supply or public transport undertaking or other public utility services, such other committee or committees of the Corporation as the Corporation may with the previous sanction of the State Government establish with respect thereto.

[32][5-A. **Director of Local Bodies.** – (1) The State Government shall appoint an officer to be the Director of Local Bodies, Uttar Pradesh.

(2) In addition to the functions expressly assigned to him by or under this Act, the Director shall exercise such powers of the State Government in relation to the affairs of the Mahapalika (not being powers under Section 538 and 539), as the State Government may, by notification in the Gazette and subject to such conditions and restrictions (including the condition of review by itself) as may be specified in such notification, delegate to him.]

[33][6. **Composition of the Corporation.** – (1) The Corporation shall consist of a Mayor and –

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28 Subs. by U.P. Act 26 of 1995, S.4 (w.e.f. 28-12-1994).
29 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
30 Ins. by U.P. Act 41 of 1976 (w.e.f. 15-9-1976).
31 Subs. by U.P. Act 16 of 2004, S. 3 (w.r.e.f. 21-11-2002).
32 Ins. by U.P. Act 41 of 1976 (w.e.f. 15-9-1976).

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(a) Corporators whose number shall be such as the State Government may, by notification in the Official Gazette, fix but which shall not be less than sixty and not more than one hundred and ten, which number shall be in addition to the members nominated under clause (b);

(b) Nam Nirdishta Sadasyas who shall be nominated by the State Government by a like notification from amongst persons having special knowledge or experience in municipal administration and whose number shall not be less than five and not more than ten;

(c) Paden Sadasyas comprising the members of the House of the People and the State Legislative Assembly representing constituencies comprising the whole or part of the City;

(d) Paden Sadasyas comprising the members of the Council of States and the State Legislative Council who are registered as electors in the City;

(e) The Chairpersons of the Committees, if any, established under clause (e) of Section 5 if they are not members of the Corporation;

[34][Provided that the persons referred to in clause (b) shall hold office during the pleasure of the State Government and they shall have the right to vote in the meetings of the Corporation;]

Provided further that any vacancy in any category of members referred to in clauses (a) to (e) shall be no bar to the constitution or reconstitution of a Corporation.

(2) The Corporators shall be chosen by direct elections from the wards.

[35][6-A. **Constitution and composition of Wards Committees.** – Each Wards Committee, constituted under clause (1) of Article 243-S of the Constitution within the territorial area of a Corporation having a population of three lakh or more, shall consist of ten wards.

(2) The territorial area of a Wards Committee shall consist of the territorial areas of the wards comprised in such committee;

(3) Each Wards Committee shall consists of -

(a) all the Corporators representing the wards within the territorial area of the Wards Committee;

(b) such other members, not exceeding five, as may be nominated by the State Government from amongst persons registered as electors within the territorial area of the Wards Committee

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33 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

34 Subs. by U.P. Act 8 of 2005, S.2.

35 Subs. by U.P. Act 26 of 1995 (w.e.f. 28-12-1994)).

concerned who have special knowledge or experience in municipal administration;

(4) The Wards Committee shall, at its first meeting after its constitution and at its first meeting in the same month in each succeeding year, elect one of the members, mentioned in clause (a) of sub-section (3), as the Chairperson of that committee.

(5) The duration of the office of the Chairperson shall be one year but he shall hold office until his successor is elected and shall be eligible for re-election.

(6) The Chairperson shall vacate office as soon as he ceases to be a Corporator.

(7) In the event of the office of the Chairperson falling vacant, due to resignation or otherwise, before the expiry of his term, the Ward Committee shall as soon as may be, on the occurrence of the vacancy elect a new Chairperson in accordance with sub-section (4) :

Provided that a Chairperson so elected shall hold office only for the remainder of the period of which the person in whose place he is elected would have held it if such vacancy had not occurred.

(8) The duration of the Wards Committee shall be coterminous with the term of the Corporation.

(9) Subject to the provisions of this Act, the Wards Committee shall exercise such powers and perform such functions as may be prescribed by rules.]

[36][7. **Reservation of seats.** – (1) In every Corporation, seats shall be reserved for the Scheduled Castes, the Scheduled Tribes [37][and the backward classes] and the number of seats so reserved shall, as nearly as may be, bear the same proportion to the total number of seats to be filled by direct election in the Corporation, as the population of the Scheduled Castes in the municipal area or of the Scheduled Tribes in the municipal area [38][or the backward classes in the municipal area] bears to the total population of such area and such seats may be allotted by rotation to different wards in a Corporation in such order as may be prescribed by rules :

[39][Provided that the reservation for the backward classes shall not exceed twenty-seven per cent of the total number of seats in a Corporation :

Provided further that if the figures of population of the backward classes are not available, their population may be determined by carrying out a survey in the manner prescribed by rules.]

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36 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

37 Ins. by U.P. Act 26 of 1995, S.6 (w.e.f. 30-5-1994).

38 Ins. by U.P. Act 26 of 1995, S.6 (w.e.f. 30-5-1994)

39 Ins. by U.P. Act 26 of 1995, S.6 (w.e.f. 30-5-1994)

[* * *][40]

(3) Not less than one-third of the seats reserved under [41][sub-section (1)] shall be reserved for the women belonging to the Scheduled Castes, the Scheduled Tribes or the backward classes, as the case may be.

(4) Not less that one-third of the total number of seats to be filled by direct election in a Corporation, including the number of seats reserved under sub-section (3), shall be reserved for women and such seats may be allotted by rotation to different wards in the Corporation in such order as may be prescribed by rules.

[42][(5) The offices of Mayor and ♣[Deputy Mayor] of the Corporation shall be reserved for the Scheduled Castes, the Scheduled Tribes and the Backward classes and women in the manner given below :-

(1) *Reservation and allotment of offices of mayor.* – (a) The reservation and allotment of offices of the Mayor shall be done in the manner hereinafter provided.

(b) The number of offices to be reserved –

(i) for the Scheduled Castes or for the Scheduled Tribes or for the backward classes shall be determined in the manner that it shall bear, as nearly as may be, the same proportion to the total number of offices in the State as the population of the Scheduled Castes in the urban area of the State, or of the Scheduled Tribes in the urban area of the State, or of the backward classes in the urban area of the State bears to the total population of such area in the State and if in determining such number of offices there comes a remainder then, if it is half or less than half of the devisor, it shall be ignored and if it is more than half of the devisor, the quotient shall be increased by one and the number so arrived at shall be the number of office to be reserved for the Scheduled Castes or the Scheduled Tribes or the backward classes, as the case may be :

Provided that the number of offices to be reserved for the backward classes under this clause shall not be more than twenty-seven per cent of the total number of offices in the State;

(ii) for the women belonging to the Scheduled Castes, the Scheduled Tribes and the backward classes, as the case may be, under sub-section (3) shall not be less than one-third of the

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40 Omitted by U.P. Act 26 of 1995, S.6 (w.e.f. 30-5-1994)

41 Subs. by U.P. Act 26 of 1995, S.6 (w.e.f. 30-5-1994)

42 Subs. by U.P. Act 25 of 2006, S.3 (w.r.e.f. 12-7-2006)

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

number of offices for the Scheduled Castes, Scheduled Tribes and for the backward classes, and if in determining such number of offices there comes a remainder then the quotient shall be increased by one and the number so arrived at shall, as case may be, be the number of offices to be reserved for women belonging to the Scheduled Castes, Scheduled Tribes and backward classes.

(c) All Municipal Corporation of the State shall be arranged in such serial order that the Municipal Corporations having largest percentage of population of Scheduled Castes in the State, shall be placed at Serial Number 1 and Municipal Corporations having lesser population of the Scheduled Castes than those shall be placed at Serial Number 2 and the rest shall likewise be placed respectively at succeeding numbers and likewise the remaining shall be numbered respectively.

(d) Subject to item (ii) of sub-clause (b) the number of offices of the Mayor determined under sub-clause (b) for Municipal Corporations of the State, shall be allotted to different Municipal Corporations in the State as the case may be, in the manner that, -

(i) the number of offices determined under item (i) of sub-clause (b) for the offices of Scheduled Castes including the number of offices determined under item (ii) of the said sub-clause for the women belonging to the Scheduled Castes, shall be allotted to Scheduled Castes serialwise next to the Municipal Corporations placed at Serial No. 1 onwards under sub-clause (c) :

Provided that such Municipal Corporations shall be first allotted to the women belong to the Scheduled Castes;

(ii) the number of offices determined under item (ii) of sub-clause (b) for the offices of Scheduled Tribes including the number of offices determined under item (ii) of the said sub-clause for the women belonging to the Scheduled Tribes, shall be allotted to Scheduled Tribes serialwise next to the last serial allotted under item (i) :

Provided that such Municipal Corporation shall be first allotted to the women belonging to the Scheduled Tribes;

(iii) the number of offices determined under item (i) of sub-clause (b), for the offices of backward classes including the number of offices determined under item (ii) of the said sub-clause for the women belonging to the backward classes shall be allotted to backward classes serialwise next to the last serial number allotted under item (ii) :

Provided that such Municipal Corporation shall be first allotted to the women belonging to the backward classes :

(iv) the number of offices determined under item (ii) of sub-section (b) excluding the offices determined under the said sub-clause for the women of Scheduled Castes, Scheduled Tribes and backward classes shall be allotted to the women serialwise next to the last serial number allotted under item (iii).

(e) If on the basis of population of Scheduled Castes or Scheduled Tribes in a Municipal Corporation -

(i) only one office could be reserved for the Scheduled Castes or for the Scheduled Tribes, as the case may be, such office shall be allotted to the women;

(ii) no office could be reserved for the Scheduled Castes or for the Scheduled Tribes, the order of allotment of offices referred in sub-clause (d) shall be so adhered to as if there is no reference in it to the Scheduled Castes or to the Scheduled Tribes, as the case may be.

(f) The offices allotted in any previous election to the Scheduled Castes, the Scheduled Tribes, the backward classes or the women shall not be allotted in the subsequent election respectively to the Scheduled Castes, the Scheduled Tribes, the backward classes or the women and the offices in such subsequent election shall be allotted serially from the next to the last office allotted to the women in the previous election in the order referred to in sub-clause (d) in cyclic order.

(2) *Reservation and allotment of the offices of Deputy Mayor.* – [43][* * *]

(3) *Allotment Order.* – (a) Notwithstanding anything contained in the foregoing sub-sections the State Government shall, after determining the number of offices to be reserved for the Scheduled Castes, Scheduled Tribes, backward classes and the women, by order published in the Gazette, allot the offices to the Municipal Corporations.

(b) The draft of order under sub-clause (a) shall be published for objections for a period of not less than seven days.

(c) The State Government shall consider the objections, if any, but it shall not be necessary to hear in person on such objections unless the State Government consider it necessary so to do and thereupon it shall become final.

(d) The draft of order referred to in sub-clause (b) shall be published in at least one daily newspaper having wide circulation in the concerned district

[43] Clause (2) omitted by U.P. Act 49 of 2007, S.9

and shall also be affixed on the notice board of the offices of the District Magistrate and the concerned Municipal Corporation.]

(6) The reservation of the seats and the offices under this section for the Scheduled Castes and the Scheduled Tribes shall cease to have effect on the expiry of the period specified in Article 334 of the Constitution.

Explanation. – It is clarified that nothing in this section shall prevent the persons belonging to the Scheduled Castes, the Scheduled Tribes, the backward classes and the women from contesting elections to unreserved seats and offices.]

[44][8. **Duration of Corporation.** – (1) A Corporation, unless sooner dissolved under Section 538, shall continue for five years from the date appointed for its first meeting and no longer.

(2) An election to constitute a Corporation shall be completed -

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiration of a period of six months from the date of its dissolution under Section 538 :

Provided that where the remainder of the period for which the dissolved Corporation would have continued is less than six months, it shall not be necessary top hold any election for constituting the Corporation for such period.

(3) A Corporation constituted upon its dissolution before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Corporation would have continued under sub-section (1), had it not been so dissolved.

[45][(4) Notwithstanding anything to the contrary contained in any other provisions of this Act, where due to unavoidable circumstances or in the public interest, it is not practicable to hold an election to constitute a Municipal Corporation before the expiration of its duration, then until the due constitution of such Municipal Corporation, all powers, functions and duties of the Corporation, its Mayor, [Deputy Mayor]♣, Wards Committee, Executive Committee, Development Committee and other Committees established under clause (e) of Section 5 shall as from the specified date, be vested in and be exercised, performed and discharged by District Magistrate who shall be called the Administrator and such Administrator shall be deemed in law to be the Corporation, the Mayor, the [Deputy Mayor]♣, Ward Committee, Executive Committee, Development Committee or other Committee as the occasion mayrequire.]

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44 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

45 Ins. by U.P. Act 23 of 2005, S.3

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

[8-A. [* * *][46]]

[47][8-AA. **Temporary provisions for the constitution of Corporation and administration of area notified as City.** – (1) [48][Where any area has been specified to be a larger urban area under clause (2) of Article 243-Q of the Constitution] and the State Government is of opinion that until the due constitution for such area under [49][the Constitution], it is expedient so to do, then the State Government may, notwithstanding anything contained in this Act or any other law for the time being in force, by order direct that –

(a) [the Municipal Council][50] or any other local authority constituted for exercising jurisdiction in such area shall, with effect from such date as may be specified in the said order, hereinafter in this section referred to as 'specified date', stand dissolved or, as the case may be, cease to exercise jurisdiction in such area;

(b) all powers, functions and duties of the Corporation, its Mayor, ♣[Deputy Mayor], [Wards Committee][51], Executive Committee, Development Committee and other Committees established under clause (e) of Section 5 and of the Municipal Commissioner shall as from the specified date, be vested in and be exercised, performed and discharged by an officer appointed in that behalf by the State Government (hereinafter referred to as the Administrator) and the Administrator shall be deemed in law to be the Corporation, the Mayor, the ♣[Deputy Mayor] [Wards Committee][52], Executive Committee, Development Committee or other Committees, or the Municipal Commissioner as the occasion may require;

(c) such salary and allowances of the Administrator as may be fixed by general or special orders of the State Government in that behalf, shall be paid out of the Corporation fund.

(2) Subject to any general or special orders of the State Government, the Administrator may, in respect of all or any of the powers conferred on him by clause (b) -

(i) consult such Committee or other body, if any, constituted in such manner as may be specified in that behalf; or

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46 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
47 Ins. by U.P. Act 3 of 1983, S.2 (w.e.f. 23-4-1982)
48 Subs. by U.P. Act 26 of 1995, S.7 (w.e.f. 28-12-1994)
49 Subs. for "this Act" by U.P. Act 26 of 1995, S.7 (w.e.f. 28-12-1994).
50 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.
51 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
52 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

(ii) delegate, subject to such conditions as he may think fit to impose, the power so conferred to any person or Committee or other body constituted under sub-clause (i), to be specified by him in that behalf.

(3) The provisions of this section shall be in addition to, and not in derogation of, the provisions contained in Section 579 and Section 580.]

9. **Notification of Constitution of Corporation.** – As soon as may be after the election of the Corporators, [53][* * *] and the Mayor of a Corporation for any City has been completed, the State Government shall notify by publication in the Official Gazette that the Corporation for that City has been duly constituted.

Mayor and* [Deputy Mayor]

10. **Deputy Mayor. –** [54][* * *]

11. **Qualification for election as Mayor and [Deputy Mayor].** – (1) No person shall be qualified for election as Mayor –

(a) if he is an elector in the City;

(b) if he is not attained the age of 30 years;

(c) if he is disqualified under sub-section (1) of Section 25 for election as a Corporator [55][* * *]; or

(d) if he was defeated at the poll at an election to any seat of [56][* * *] Corporator unless at least six months have elapsed since the date of declaration of the result of that election.

(2) [* * *][57]

(3) [58][* * *]

[59][11-A. **Election of Mayor.** – (1) The Mayor shall be elected on the basis of adult suffrage by electors in the City.

(2) An outgoing Mayor shall except as provided in Section 16, be eligible for re-election.

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53 Omitted by U.P. Act 12 of 1977.

54 Section 10 omitted by U.P. Act 49 of 2007, S.10.

55 Omitted by U.P. Act 12 of 1977.

56 Omitted by U.P. Act 12 of 1977.

57 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

58 Sub-section (3) omitted by U.P. Act 49 of 2007, S.11.

59 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

(3) The provisions of this Act and the rules framed thereunder in relation to elections (including disputes relating to elections and electoral offences) of a Corporator shall, mutatis mutandis, apply in relation to the election of the Mayor.

(4) If in a general election, a person is elected both as a Mayor and as a Corporator or being a Corporator is elected Mayor, in any bye-election, he shall cease to be a Corporator from the date of his election as Mayor.]

12. **Election of [* * *][60] Deputy Mayor.** – [61][* * *]

13. **When election of Corproators to be deemed completed.** – For the purpose of [the election of][62] ♣[Deputy Mayor] the election of the Corporators shall, notwithstanding any seat remaining unfilled, be deemed to be completed if at least four-fifth of the total number of Corproators fixed under Section 6 have been elected.

14. **Casual vacancy in the office of Mayor or ♣[Deputy Mayor].** – If a casual vacancy occurs in the office of Mayor or ♣[Deputy Mayor] owing to death or resignation or any other cause a Mayor or ♣[Deputy Mayor], as the case may be, shall be elected as soon as may be thereafter in the manner provided [63][in Section 11-A or Section 12, as the case may be] :

Provided that where the remainder of the term is two months or less the vacancy shall remain unfilled unless the Mahapalika resolves otherwise.

[64][14-A. **Temporary arrangement in certain cases.** – When the office of the Mayor is vacant or he is unable to perform his functions owing to absence, illness or any other cause, the State Government may, by order make such arrangement as he thinks fit, for exercising the powers, performing the functions and discharging the duties of the Mayor, till the Mayor resumes his duties.]

15. **Terms of Mayor and ♣[Deputy Mayor].** – [65][(1) Except as otherwise provided in this Act,

(a) the term of office of a Mayor shall be co-terminus with the term of the Corporation;

(b) [66][* * *]

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60 The words "Nagar Pramukh and the" omitted by U.P. Act 12 of 1994, S.16 (w.e.f. 30-5-1994).

61 Section 12 omitted by U.P. Act 49 of 2007, S.12.

62 Sub. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

63 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

64 Ins. by U.P. Act 49 of 2007, S.13.

65 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

66 Omitted by U.P. Act 49 of 2007, S.14.

(2) The term of office of a Mayor or a ♣[Deputy Mayor] elected to fill a casual vacancy shall be the remainder of the term of office of his predecessor.

(3) A mayor or a ♣[Deputy Mayor] shall, unless he resigns or ceases to be qualified or becomes disqualified, continue in office until his successor assumes office as Mayor or ♣[Deputy Mayor] as the case may be.

[67][15-A. [* * *]

16. **Motion of non-confidence against [* * *][68] Mayor.** – (1) A motion expressing non-confidence in the [* * *][69] Mayor shall be made only in accordance with the procedure laid down in this section.

[70][(2) No notice of a motion of non-confidence under this section shall be received within two years of the assumption of office by the Mayor.]

(3) Written notice of intention to make a motion of non-confidence in the [* * *][71] Mayor signed by such number of members of the Mahapalika as constitute not less than [72][one-half] of the total number of members of the Corporation, together with a copy of the motion which it is proposed to make, shall be delivered by any two of the members signing the notice to the Commission of the Division in which the City is situate.

(4) The Commissioner of the Division shall then convene a meeting for the consideration of the motion to be held at the office of the Corporation, on the date and at the time appointed by him which shall not be earlier than thirty and not later than thirty-five days from the date on which the notice under sub-section (3) was delivered to him. He shall send not less than seven clear days before the date of the meeting, a notice of such meeting, and of the date and time appointed therefore, to every member of the Corporation at his place of residence and shall at the same time cause such notice to be published in such manner as he may deem fit. Thereupon every member shall be deemed to have received the notice.

(5) The [District Judge][73] shall preside at the meeting convened under this section and no other person shall preside thereat. If within half an hour from time appointed for the meeting, the [District Judge][74] is not present to preside at themeeting, the meeting shall stand adjourned to the date and time to be appointed by the[District Judge][75] under sub-section (6).

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67 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
68 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
69 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
70 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
71 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
72 Subs. by U.P. Act 17 of 1982 (w.e.f. 4-1-1982).
73 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
74 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
75 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

(6) If the [District Judge][76] is unable to preside at the meeting, he may, after recording his reasons adjourn the meeting to such other date and time as he may appoint, but not later that fifteen days from the date appointed for the meeting under sub-section (4). He shall without delay communicate in writing to the Commissioner of the Division the adjournment of the meeting. It shall not be necessary to send notice of the date and the time of adjourned meeting to the members individually, but the Commissioner of the Division shall give notice of the date and the time of the adjourned meeting by publication in the manner provided in sub-section (4).

(7) [* * *][77]

(8) Save as provided, in [78][sub-sections (5) and (6)] a meeting convened for the purpose of considering a motion under this section shall not for any reason be adjourned.

(9) As soon as the meeting convened under this section has commenced, the [District Judge][79] shall read to the members present the motion for the consideration of which it has been convened and declare it to be open for discussion.

(10) No discussion on any motion under this section shall be adjourned.

(11) Such discussion shall automatically terminate on the expiry of three hours from the time appointed for the commencement of the meeting, unless it is concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of three hours, as the case may be, the motion shall be put to the vote of the Corporation.

(12) The [District Judge][80] shall not speak on the merits of the motion, nor vote thereon.

(13) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon shall, on the termination of the meeting, be forwarded forthwith by the [District Judge][81] to the ♣[Deputy Mayor] and the Commissioner of the Division.

(14) As soon as may be after three days of the receipt of the copies mentioned in sub-section (13), the Commissioner of the Division shall forward the same to the State Government, [82][in the event of the motion of non-confidence having been carried.]

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76 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
77 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
78 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
79 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
80 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
81 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.
82 Subs. by U.P. Act 16 of 2004, S.4 (w.e.f. 21-11-2002).

[83][(14-A) (a) The State Government shall, after considering the report of the Commissioner referred to in sub-section (14) on merits shall take decision within one month.

(b) In case the non-confidence motion against a Mayor is rejected by the State Government, no notice of any subsequent motion of non-confidence in that Mayor shall be received within a period of one year from the date of such rejection.]

(15) The motion shall be deemed to have been carried only when it has been passed by [84][a majority of [85][three-fourths] of the total number of members of the Corporation.

[86][(16) If the motion is not carried as aforesaid, or if the meeting can not be held for want of quorum, which shall not be less than [87][three-fourth] of the total number of members of the Corporation, for the time being, no notice of any subsequent motion of non-confidence in the same Mayor shall be received until after the expiry of a period of two years from the date of meeting.]

(17) On a motion of non-confidence in the ♣[Deputy Mayor] having been passed and communicated to him in accordance with this section, the ♣[Deputy Mayor] shall –

[88][(a)] within three days of the receipt of such communication resign his office;]

(b) on the expiry of three days after the date of receipt of such communication, stop acting as ♣[Deputy Mayor].

(18) In the event of failure of the ♣[Deputy Mayor] to act in accordance with clause (a) of sub-section (17) within the time allowed under that sub-section, the State Government shall remove him with effect from a date to be specified in the order and any person so removed shall notwithstanding anything elsewhere in this Act be not eligible for re-election to fill any casual vacancy occurring before the general election next following.

(19) [* * *][89]

(20) [* * *][90]

(21) [* * *][91]

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83 Ins. by U.P. Act 16 of 2004, S.4 (w.e.f. 21-11-2002).
84 Subs. by U.P. Act 8 of 1998, S.2 (w.e.f. 13-11-1997).
85 Subs. for "two-thirds" by U.P. Act 16 of 2004, S.4 (w.r.e.f. 21-11-2002).
86 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
87 Subs. for "two-thirds" by U.P. Act 16 of 2004, S.4 (w.r.e.f. 21-11-2002).
♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.
88 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
89 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
90 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

(22) [* * *][92]

(23) Nothing done by any member of the Corporation, the Commissioner of the Division, the [District Judge][93] or the State Government in pursuance of the provisions of this section shall be questioned in any Court.

17. **Mayor to be member.** – [94][(1) A Mayor shall be ex-officio member of the Corporation.]

(2) A Mayor shall have only a casting vote in the event of equality of votes when presiding at meetings of the Corporation or any committee thereof and not vote as a member.

"**Ex-officio member**" – Meaning by reason of office, The Mayor need not necessarily be a member of Corporation. If he is not already a member of the Mahapalika he will be treated as an ex-officio member of the Corporation.

18. **Allowance of Mayor.** – [95][The Mayor and the ♣[Deputy Mayor] may be given such allowances or facilities as the Corporation may, with the previous approval of the State Government, fix;]

19. **Resignation of Mayor and ♣[Deputy Mayor].** – (1) A Mayor wishing to resign his office may do so by writing under his hand addressed to the State Government and it shall take effect from the date of the information to the Municipal Commissioner that it has been accepted by the State Government.

(2) A ♣[Deputy Mayor] may at any time resign his office by writing under his hand addressed to the Mayor and it shall take effect as soon as it is received by the Mayor.

Resignation need not be accepted. – It is not necessary that the resignation of the ♣[Deputy Mayor] be accepted by the Mayor. It shall take effect as soon as it is received by the Mayor.

Members of Corporation

20. [1][* * *]

21. [2][* * *]

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91 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
92 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
93 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
94 Subs. by U.P. Act 26 of 1995, S. 8 (w.e.f. 30-5-1994).
95 Subs by U.P. Act 21 of 1964.
♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.
1 Ss. 21, 21 and 22 omitted by U.P. Act 12 of 1977.
2 Ss. 21, 21 and 22 omitted by U.P. Act 12 of 1977.

22. [3][* * *]

[4][23. **Certain provisions applicable to Corporators to apply to Nam Nirdishta Sadasyas.** – The provisions of Sections 24, 25, 26, 28, 29, 30-A, 81, 82, 83, 85, 87, 538, 565, 570 and 572 as they apply to Corporators shall, mutatis mutandis, apply to Nam Nirdishta Sadasyas.]

[5][24. **Qualifications for election as Corporator.** – A person shall not be qualified for being chosen as, and for being a Corporator unless he –

(a) is an elector in the City;

(b) has attained the age of twenty-one years; and

(c) belongs in respect of a seat reserved for the Scheduled Castes, the Scheduled Tribes, backward classes or women, to such category, as the case may be.]

25. **Disqualifications for [* * *][6] Corproator. –** (1) A person shall notwithstanding that he is otherwise qualified, be disqualified for being chosen as and for being, [7][* * *] a Corporator, if he –

[8][(a) whether before or after the commencement of this Act has been convicted by a court in India of any offence and sentenced to imprisonment for not less than two years, unless a period of five years, or such less period as the State Government may allow in any particular case, has elapsed since his release];

(b) is a undischarged insolvent;

(c) holds any place of profit in the gift or disposal of the Mahapalika;

[9][(d) is in the service of a State Government or the Central Government or any local authority or any undertaking or body owned or controlled by the State Government or the Central Government or is a District Government Counsel or an Additional or Assistant District Government Counsel or an Honorary Magistrate or an Honorary Munsif or an Honorary Assistant Collector;]

(e) has whether by himself or by any person in trust for him or for his benefit or to his account, any share or interest in a contract for supply

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3 Ss. 21, 21 and 22 omitted by U.P. Act 12 of 1977.
4 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
5 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
6 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
7 Omitted by U.P. Act 12 of 1977.
8 Subs. by S.4 of U.P. Act 14 of 1959.
9 Subs. by U.P. Act 16 of 2004, S.5 (w.r.e.f. 30-5-1994).

of foods to, or for the execution of any works or the performance of any services undertaken by the Corporation;

(f) is in arrears in excess of one year's demand, of any tax payable to the Corporation, to which Section 504 applies or of any charges for water supplied by the Corporation;

(g) having held any office under the Government of India or the Government of any State he has been dismissed for corruption or disloyalty to the State, unless a period of [10][six years] has elapsed since his dismissal;

(h) is debarred from practicing as a legal practitioner by order of any competent authority;

(i) is disqualified under Section 80 or 83 of this Act from being a member of a Corporation;

(j) [* * *][11] is suffering from any of the infectious diseases to be specified by the State Government by order and has been declared by a medical officer not below the rank of a [Chief Medical Officer][12] to be incurable of such disease;

[13][(k) is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State;

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;]

Provided that in the case of sub-clause (f), the disqualification shall cease as soon as the arrears are paid :

Provided further that arrears of any tax or water charges due to the [14][Municipal Council] or any other local authority exercising jurisdiction within the area which has since been [15][notified] a City shall for the purposes of clause (f) be deemed to be arrears of tax or water charges payable to the Corporation.

(2) [16][* * *]

(3) [17][* * *]

(4) Having been elected as [18][* * *] a Corporator a person shall be disqualified for continuing as [19][* * *] a Corporator if he –

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10 Subs. by U.P. Act 15 of 1983 (w.e.f. 29-11-1982).
11 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
12 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
13 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
14 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).
15 Subs. for "declared" by U.P. Act 26 of 1995, S.9 (w.e.f. 28-12-1994).
16 Omitted by U.P. Act 12 of 1977.
17 Omitted by U.P. Act 12 of 1977.

(i) is retained or employed in any professional capacity either personally or in the name of a firm in which he is a partner or with which he is engaged in a professional capacity in connection with any cause or proceeding in which the Corporation or the Municipal Commissioner is interested or concerned, or

(ii) absents himself for six consecutive months from the meetings of the Corporation, except on account of illness or any other cause accepted by the Corporation, or

[20][(iii) has created an obstacle in a meeting of the Corporation in such manner that it becomes impossible for the Corporation to conduct its business in the meeting or instigated someone to do so; or

(iv) has misbehaved with any officer or employee of the Corporation; or

(v) has directly or indirectly caused any loss or damage to any property of the Corporation or abets any other person to cause such loss or damage; or

(vi) is convicted for an offence which, in the opinion of the State Government involves moral turpitude.]

(5) A person shall not be deemed to have incurred any disqualification under clause (c) of the sub-section (1) by reason only of his receiving –

(i) any pension

(ii) any allowance or facility for serving as the Mayor or ♣[Deputy Mayor] or as a Corporator [21][* * *].

(6) A person shall not be deemed to have incurred disqualification under clause (e) of sub-section (1) by reason merely of his having any share or interest in –

(i) any joint stock company or any society registered or deemed to be registered under the [Uttar Pradesh, Co-operative Societies Act, 1965][22] which shall contract with or be employed by the Municipal Commissioner on behalf of the Corporation.

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18 Omitted by U.P. Act 12 of 1977.
19 Omitted by U.P. Act 12 of 1977.
20 Ins. by U.P. Act 16 of 2004, S.5 (w.r.e.f. 21-11-2002).
♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.
21 Omitted by U.P. Act 12 of 1977.
30 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

(ii) the occasional sale to the Municipal Commissioner on behalf of the Corporation of any article in which he regularly trades to value not exceeding in the aggregate in any one calendar year to two thousand rupees.

[23][(7) Any person who, after being elected as Corporator, becomes disqualified under this section shall not remain a Corporator and his seat shall become vacant with effect from the date of incurring such disqualification.]

NOTES

1. **Scope.** – Section 25 lays down the disqualification for Corporators.

2. **"Shall be disqualified for being chosen".** – Election is a continuous process consisting of several stages and embracing many steps of which nomination is one; nomination is the foundation of a candidate's right to go to the polls and must be treated as an integral part of the lection. If a person is disqualified on the date of nomination, he cannot be chosen as a candidate because the disqualification mentioned under this Act attach to him on that date. See Bhagwan Das Burnwal V. State of U.P., AIR 1957 All 375. Mangoo Singh V. Election Tribunal, Bareilly, 1958 ALJ 155 (SC) Per S.K. Das, J.; Chatturbhuj Vithaldas Jasani V. Moreshwar Parashram, 1954 SCR 817; N.P. Ponnuswami V. The Returning Officer, Salem Distt, 1952 SCR 218.

3. **Meaning of "otherwise qualified".** – It cannot be said that the question of disqualification is beyond the scope of the consideration of the question of qualification. When a person has to be stated to be qualified to be a member he must satisfy certain positive and negative requirements, that is to say, he must possess certain qualifications and he must at the same time be free from certain disqualifications. To be free from disqualifications may, thus, be stated to be a qualification within the meaning of the expression "otherwise qualified" in this section. Ahmed Husain V. State of Travancore-Cochin, 1953 Ker LJ 310. AIR 1953 Tra Co 386. In other words, the phrase "otherwise qualified" means also not disqualified.

4. **Disqualification on date of nomination.** – If a person is disqualified on the date of nomination, he cannot shake off his pre-existing disqualification by acquiring a new right between the date of nomination and the date of scrutiny. Ahmed Husain V. A.K. Paul, AIR 1953 Cal. 542. If the want of a qualification of a candidate does not appear on the face of the nomination paper or of the electoral roll, but is a matter which could be established only by evidence, an enquiry at the stage of scrutiny of the nomination papers is required only if there is any objection to the nomination. The Returning Officer is then bound to make such enquiry as he thinks proper on the result of which he can either accept or reject the nomination. But when the candidate appears to be properly qualified on the face of the electoral roll and the nomination paper and no objections is raised to the nomination, the Returning Officer has no

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[31] Subs. by U.P. Act 12 of 1994 (w.e.f. 30-5-1994).

other alternative but to accept the nomination. D.S. Mehta V. T.R. Singh, AIR 1954 SC 520.

5. **Applicability.** – The provisions of this section apply also to Corporators incurring disqualification during the term of their office and are not confined in their application to the pre-election stage. Mool Chand Sharma V. State of U.P. AIR 1967 SC 112.

6. **"Place of profit": Sub-section (1)(c) : Scope.** – The words "place of profit" occurring in this sub-section have apparently been used in the sense of "office of profit". An insurance medical practitioner under the Employees' State Insurance Scheme does not hold an office of profit under the Government. Madhukar G.E. Pankakar V. Jaswant Chobbildas Rajani, (1977) 1 SCC 70: AIR 1976 SC 2283. The test to find out whether or not a person held an office of profit was to enquire whether such person occupied a subsisting, permanent, substantive position which had an existence independent from the person who filled it, which went on and was filled in succession by successive holders. Ibid., Mahadeo V. Shantibhai, (1969) 2 SCR 422 : (1970) 2 SCJ 407; Kanta Kathuria V. Manak Chand Surana, (1969) 3 SCC 268: AIR 1970 SC 694, referred to. The following principles laid down in Shivamurthy Swami Inamdar V. Sagadi Sanganna Andanappa, (1971) 3 SCC 870, for determining whether an office was under the Government could be helpful in understanding the ambit of "a place of profit in the gift or disposal of the Mahapalika" –

(1) Whether the Government makes the appointment;

(2) Whether the Government has the right to remove or dismiss the holder;

(3) Whether the Government pays the remuneration;

(4) What are the functions of the holder? Does he perform them for the Government; and

(5) Does the Government exercise any control over the performance of these functions?

The word profit connotes the idea of pecuniary gain. If there is really a gain, its quantum or amount would not be material, but the money so receivable may be material in deciding whether the office really carried any profit. Ibid., relying on Ravanna Subanna V. G.S. Kaggerappa; AIR 1954 SC 653. See also Guru Govinda Basu V. Shankari Prasad Ghosal; AIR 1964 SC 254 : (1964) I SCJ 259; Abdul Shakoor V. Rikhali Chand, AIR 1958 SC 52; Shivamurthy Swami Inamdar V. Agadi Sanganna Andanappa, (1971) 3 SCC 870. An MLC's ex officio membership of a local body and receiving compensatory allowances therefrom did not amount to holding an office of profit, (1971) 3 SCC 870.

A dominant, though not always decisive, test to determine the holding of an office of profit under the Government is to find out the appointing and removing authority. Kona Prabhakara Rao V. Sheshagiri Rao, (1982) 1 SCC 442.

In order to determine whether a person holds an office of profit under the Government, though several tests are applied such as the power to appoint, remove or dismiss, the liability to pay remuneration, the nature of the work and control of the Government over the duties and functions of the person, no conclusive test to determine the question has so far been laid down. Biharilal Dobray V. Roshan Lal Dobray, (1984) 1 SCC 551. The question has to be determined on the basis of the features of the office involved in each particular case. Ibid. Notwithstanding the existence of the Board of Basic Education as a body corporate, in view of the degree of the control of the Government, the financial contribution of the Government towards the Board's expenditure, the functioning of the Board's employees being in connection with the affairs of the Government and the Government's control over the appointment and disciplinary proceedings in respect of the Board's employees, it has held that a teacher of a Basic Primary School run by the U.P. Board of Basic Education under the U.P. Basic Education Act, 1972, held an office of profit under the State Government. Biharilal Dobray V. Roshan Lal Dobrey, (1984) 1 SCC 551: AIR 1984 SCC 551 : 1984 ALJ 203.

The majority of a Full Bench of the M.P. High Court has held that a lawyer engaged by a Municipal Council does not hold an office of profit under the Council. Girja Shankar Shukla V. S.D.O. Harda, AIR 1973 MP 104 (FB). However, S.M.N. Raina, J. held that the said lawyer being a standing counsel held an office of profit. Ibid.

A teacher of an institution, receiving Government aid and administered by a society, registered under the Societies Registration Act, does not hold an office of profit under a local authority or other authority under the control of the Government. Lalitha Bhai V. Returning Officer, AIR 1971 Mys. 35 (DB).

For holding an office of profit under the Government, one need not be in the service of the Government. Guru Govinda Basu V. Shankari Prasad Ghosal, AIR 1964 SC 254 : (1964) 1 SCJ 259. See also Bihari Lal Dobray V. Roshan Lal, (1984) 1 SCC 551 : 1984 ALJ 203:AIR 1984 SC 385.

The following have been held to be holding offices of profit : A person on panel of lawyers for the Railways, Mahadeo V. Shantibhai,(1969)2 SCR 422:(1970) 2 SCJ 407, an Auditor to Government Companies Guru Govinda Basu V. Shankari Prasad Ghosal, AIR 1964 SC 254 : (1964) 1 SCJ 259, Patels and Shanbhogs, M. Ramappa V. Sangappa, AIR 1958 SC 937 : 1959 SCJ 167.

The following have been held not to be holding an office of profit. A person appointed to an office but still not having entered upon that office. Chandulal V. Ramdas, 41 ELR 214, a special Government Pleader Kanta Kathuria V. Nanak Chand Surana, (1969) 3 SCC 268 : AIR 1970 SC 694. (But see the minority opinion in this case.), an employee of a Government owned company (such person does not hold an office of profit under the Government) D.R. Gurushantappa V. A.K. Anwar, (1969) 1 SCC 466 : AIR 1969 SC 744, the Chairman of a Panchayat Samiti being paid under Rules 3 to 7 of the Punjab Panchayat Samitis and Zila Parishads Non-Official Members (Payment of Allowances) Rules, 1965. Umrao Singh V. Darbara Singh,

AIR 1969 SC 262 : (1969) 1 SCJ 349 and the Chairman of Gubbi Taluk Development Committee, Ravanna Subanna V. G.S. Kaggeerappa, AIR 1954 SC 653.

7. **"Interest in a Contract" : Sub-section (1)(e) : Scope.** – Collecting rent from the Municipal Committee, on behalf of the owner of a building, did not create an interest in the contract of tenancy. Bhagwandas Ramcharandas V. President Municipal Committee, Achalpur City, AIR 1967 Bom 143 (Nag) (DB). Where a person and the Municipal Committee were tenants of different parts of the same building, merely this fact did not create an interest of the said person in the contract of tenancy of the other part with the Municipal Committee. Ibid. Even the fact that the said person had sought reduction in the tax on the said building did not lead to the inference of having an interest in the contract of tenancy with the Municipal Committee. Ibid.

"Contract" does not mean a mere agreement, hence, an agreement entered into in contravention of Article 299 of the Constitution of India and not ratified by the Government was not a contract within Section 7(d) of the Representation of Peoples Act, 1951. Laliteshwar Prasad Sahi V. Bateshwar Prasad, AIR 1966 SC 580; distinguishing Chatturbhuj Vithaldas Jasani V. Moreshwar Parashram, 1954 SCR 817; AIR 1954 SC 236.

A contract for the purpose of this sub-section need not necessarily be a contract made in accordance with the provisions of this Act. Pyase Saheb V. Dashrath Wasudeo, AIR 1977 Bom 91 (Nag) (DB).

Where there was intentional breach of contract or refusal to work with due notice, the contract ceased to subsist and could not constitute a disqualification. S. Munishamappa V. B. Venkatarayappa, (1981) 3 SCC 260 : AIR 1981 SC 1177.

A person could not be held to be disqualified on the ground that his son was employed under the Municipal Committee. Gulam Yasin Khan V. Sahebrao Yeshwantrao Walaskar, AIR 1966 SC 1339.

7-A. **Sub-Section (1)(f) : Scope.** – In view of sub-section (1) and (2) of Section 150 of Maharashtra Municipalities Act, 1965 (corresponding to Section 504 and 505 of this Act) it has been held that a bill not specifying the sum due and not mentioning the penal consequences of default in payment was not a valid bill, hence, non-payment thereof would not render a person disqualified for the membership of the Municipal Council under Section 16(1)(h) of the Maharashtra Act [Corresponding to Section 25(f) of this Act]. Kastureehand Kisanlal Chandak V. District Judge, Nagpur, AIR 1968 Bom 381 (Nag) (DB).

A candidate, though in arrears, was not disqualified under Section 49(2)(g) of the Madras District Municipalities Act, 1920, if the payment thereof could not be demanded by the Municipality on account of a stay order of a Court. Returning Officer (Special Officer), Tiruchirapali Municipality V. S. Ramchandran, AIR 1972 Mad 17 (DB).

In view of the provisions of U.P. Municipal Account Code, it has been held that the date of presentation of the cheque in payment of tax, could not be taken to be the date of ceasing of the disqualification of being in arrears of the tax under the provisions of the U.P. Municipalities Act, 1916 ILR (1966) 1 All 126.

In view of Sections 115 and 2(32) of the Maharasthra Municipalities Act of 1965 [the former Section corresponding to Section 207 of this Act and the latter being identical to Section 2(52) of this Act], the Bombay High Court has held that joint owners of a house are jointly and severally liable to pay the municipal tax on the house. Hence, the payment of any portion of such tax by any one of them did not save him from the joint liability and each of them continued to be in arrears until the entire tax was paid. Sohinder Singh Gyanchand Kuckerja V. Kadu Babu Laxman, AIR 1975 BOM 303 (DB).

8. **Sub-section (1)(f): Constitutionality**.-Section 56(2)(ee) providing for disqualification. for election as a Councillor, of a person being in arrears of any kind due to the Corporation, has been held constitutional, V. Narayanachari v. Commissioner and Returning Officer, AIR 1971 Mys 186 (DB).

9. **Demand. -** The word "demand" as used in Section 25(1)(f} does not attract the operation of Section 506 of this Act. This contention finds support from a decision of the Allahabad High Court on Sections 13-D and 166 of U.P. Municipalities Act, 1916, where it was held that the word "demand" ordinarily means something more than what is due; it means something which has been demanded, called for and asked for. But the meaning of a word must take colour from the context in which it is used. The context in which the word "demand" is used has a very obvious and clear reference to the amount of arrears or dues on which the disqualification depends. The word "demand" in that context and in the collection of words in which it has been used can only mean "in excess of one year's tax or other dues". Mangoo Singh v. Election Tribunal, Bareilly, 1957 AWR 722: AIR 1957 SC 871: 1958 SCJ 136: 1958 ALJ 155.

10. **Sub-section (4)(i): Validity and Scope.-** The validity of Section 62(2)(f) of the Kerala Municipalities Act, 1961 disqualifies a candidate for being elected as a Councillor, if at the date of election such candidate was employed as a paid legal practitioner on behalf of the Councilor as a regal practitioner against the Council. Upholding the validity of the said section the Kerala High Court observed:-

> "The disqualification prescribed in Section 62(2)(f) of the Act is not against an Advocate's right to practise, on the other hand, it is against a person's right to contest the election to the Municipal Council based on salutary principles of public policy."

The Court further observed that the said Section did not violate Section 30 of the Advocates Act, 1961 or Section 14 of the Bar Councils Act, 1926 or Article 14 or 19 of the Constitution of India. Thomas Rajan v. Philip John, AIR 1982 Ker 118; see also Sakhawat Ali v. State of Orissa, AIR 1955 SC 166.

During the supersession of a Municipal Council, when the functions of the Council were being discharged by the Administrator, a Councillor appearing as an Advocate in a suit against the Municipal Council did incur a disqualification. Laxmi Narain v. State of M.P., AIR 1975 MP 71 (DB).

11. **Absence from meeting: Six consecutive months: Computation of: Sub-section 4(ii)**.- The period of six months should be computed from the actual date on which the member remained absent in the meeting and not from the first day of the month in which such meeting was held. Abdul Latif Nomani v. Commissioner, Gorakhpur, AIR 1968 All 44 (DB): 1967 ALJ 431; see also Rama Shankar v. Commissioner, Rohilkhand Division, AIR 1966 All 1067.

12. **"Absents himself': Scope: Sub-section 4(ii).-** The expression "absents himself' can not be equated with mere absence. The said expression connotes deliberation. It means absence in spite of having an opportunity to attend the meeting. It contemplates that after due notice the Councillor was in a position to attend the meeting but did not do so because of his own conduct or volition. It implies some sort of willful act or at least a culpable negligence in remaining absent. Hence, a councillor detained under MISA, could not be said to have absented himself from meetings of the corporation during the period of detention. Bhaskar Atmaram Joshi v. State of Maharashtra, AIR 1976 Bom 206; approving Wamanrao v. The Corporation of the City of Nagpur, Petn. No. 322 of 1955, decided on 2-1-1956 (Nag) (DB).

13. **Ineligibility under Life Insurance Corporation of India (Staff) Regulation, 1960, Regulation 25(4): Effect. -** The said provision prohibits the employees of the said Corporation from participating in elections to legislature or local authorities. Reversing the Bombay High Court's decision, the Supreme Court, by a majority (V.D. Tulzapurkar, J. dissenting) held that contravention of this provision could not render the election. of the employee void. Such contravention could only affect his employment but the Regulation could not abrogate the right conferred by the election Law. Manohar Nathusao Samarth v. Marotrao, (1979) 4 SCC 93: AIR 1979 SC 1084; overruling G. Narayanaswamy Naida v. C. Krishnamurthi, AIR 1958 Mad 343 (DB); approving Md. Sarafatulla Sarkar v. Surja Kumar Mondal, AIR 1955 Cal 382 (DB); Uttam Singh v. S. Kripal Singh, AIR 1976 P&H 176 (FB).

14. **Disqualification after being elected a member**. - Under U.P. Municipalities Act, 1916, there was no specific provision dealing with the person who, after being elected as member, becomes disqualified and, therefore, in Madan Mohan Lal v. Om Prakash, AIR 1957 All 384, it was held that an elected member incurring disqualification subsequently would continue to be a member for the remaining life of the Board unless he has been removed under Section 30 by the State Government on the ground that he has incurred disqualification enumerated in Section 13-D or any other ground. But sub-section (7) of this Act clearly lays down that a person who after being elected as Corporator, becomes disqualified shall cease to be a Corporator.

[24][25-A. **Bar to legislators becoming or continuing as Mayor, ♣[Deputy Mayor] or Corporator**. - Notwithstanding anything to the contrary, contained in any other provision of this Act,

(a) A person shall be disqualified for being elected at, and for being -a Mayor, ♣[Deputy Mayor] or Corporator, if he is a Member of Parliament or of the State Legislature;

(b) if a person after his election as Mayor, ♣[Deputy Mayor] or Corporator subsequently elected or nominated to any of the offices referred to in clause (a) he shall on the date of first publication in the Gazette of India or of the Uttar Pradesh of the declaration of his election or his nomination, cease and within a period of fourteen days from such notification intimate by notice in writing signed by him and delivered to any person authorised by the Government in this behalf, submit his option, in which office he wishes to serve and any choice so intimated shall be conclusive, failing which he shall upon expiry of said period, to hold, the office of Mayor, ♣[Deputy Mayor] or Corporator and a casual vacancy shall thereupon occur in the office of the Mayor, ♣[Deputy Mayor] or Corporator as the case may be.]

26. **Term of office of Corporator** [25][* * *]. - (1) The term of a Corporator [26][* * *] other than Corporator [27][* * *] chosen to fill a casual vacancy shall be co-terminus with the term of the Corporation.

(2) The term of a Corporator [28][* * *] chosen to fill a casual vacancy shall be the remainder of his predecessor's term.

NOTES

Whether subject to Section 25(1). - This section lays down a general principle that the term of a Corporator shall be co-terminus with the term of the Mahapalika and the term of Corporator chosen to fill a casual vacancy shall be the remainder of his predecessor's term. But it appears that the provisions of this section are subject to sub-section (7) of Section 25 which lays down that any person who. after being elected as Corporator, incurs any of the disqualifications mentioned in Section 25, shall not remain a Corporator and his seat shall become vacant. It means that he shall cease to be a member even though the term of Mahapalika shall not have ceased,

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24 Ins. by U.P. Act 8 of 2005, S.3.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

25 Omitted by U.P. Act 12 of 1977.

26 Omitted by U.P. Act 12 of 1977.

27 Omitted by U.P. Act 12 of 1977.

28 Omitted by U.P. Act 12 of 1977.

27. **Election of Corporators**. - (l) The Corporators shall be elected on the basis of adult suffrage in accordance with the provisions of this Act and the rules framed thereunder.

(2) An outgoing Corporator shall be eligible for re-election.

28. **Causal vacancy in the office of Corporator**. - Where before the expiration of the term of office of a Corporator his seat becomes vacant owing to death or resignation or any other cause a Corporator shall be elected as soon as may be after the occurrence of the vacancy in the same manner as far as may be, but subject to any other provisions of the Act in that behalf, as is provided for the election of Corporators at a general election by and under this Act:

Provided that where the term of an outgoing Corporator would in the ordinary course expire within four months of the occurrence of the vacancy, the vacancy shall be left unfilled unless the Corporation resolves otherwise.

29. **Resignation of Corporators**. - A Corporator may at any time resign his office by writing under his hand addressed to the Mayor and his resignation shall take effect upon the receipt of the same by the Mayor.

NOTES

1. **Receipt of resignation letter : Importance**. - In this section as well the words used are "upon the receipt of the same" which means that acceptance is not necessary to constitute "resignation" in the eyes of this Act.

2. **Delivery of resignation letter**. - Section 33(1)(b) of the Delhi Municipal Corporation Act, 1966 reads: "If a councillor or an alderman resigns his seat by writing in his hand addressed to the Mayor and delivered to the Commissioner his seat shall thereupon become vacant." A councillor placed his resignation letter before the Deputy Commissioner, who had been asked by the Commissioner to preside over the meeting of the Standing Committee of the Municipal Corporation, The Commissioner's Private Secretary collected the said resignation 1etter from the Deputy Commissioner and delivered the same to the Commissioner. It was held that such delivery satisfied the requirement of Section 33(I)(b) and that the resignation letter need not be submitted personally to the Commissioner. Y.K. Mathur v. The Commissioner, AIR 1974 Delhi 58 (DB).

3. **Resignation from a future date and withdrawal thereof**. - A Councillor may resign his seat in the Municipal Council from a future date. Y.K. Mathur v. The Commissioner, AIR 1974 Delhi 58 (DB). He may withdraw the resignation before that date, Ibid.

4. **Enquiry into genuineness of resignation**. - A resignation, to be lawful, must be written by the member in his hand and it must be a bona fide and genuine resignation given by him with a free will. Rameshwar Das Mittal v. State of U.P. 1972 ALJ 990 (DB). The authority competent to entertain the resignation is under an implied duty to satisfy itself whether the resignation letters received by it fulfilled

these requirements. Ibid. If it is satisfied that the resignations were otherwise, it can ignore them and in such case the resignations would not be effective. Ibid.

The Collector is the competent authority under the Maharashtra Municipalities Act, 1965 and the relevant rules to decide whether a vacancy has occurred on account of the resignation of a Councillor. A Councillor informed the Collector that her signature on the resignation was obtained by fraud. In such circumstances, it was held that the Collector ought to have held an inquiry into the allegation. Gangabai v. President, Municipal Council, Tumsar, AIR 1970 Bom 170 (DB).

30. **Election of same person for more than one ward**. - (l) If any person has been elected a Corporator from more than one ward, he shall within three days of the date of the last of such election intimate the Municipal Commissioner the ward for which he chooses to serve.

(2) In default of such intimation, the Municipal Commissioner shall determine by lot and notify the ward for which such person shall serve.

(3) The said person shall be deemed to have been elected only for the ward so chosen or notified and the vacancy or vacancies arising in the representation of the other ward or wards shall be filled by fresh election as if they were casual vacancies.

[29][30-A. **Conveyance allowance or facilities for members**. - The Corporators [30][* * *] may be paid such conveyance allowance, or be given such facilities in lieu of conveyance allowance, for attendance at meetings of the Corporation and its committees as may be provided by rules.]

Delimitation of Wards

31. **Provision of wards**. - (1) For the purpose of the election of Corporators [31][each municipal area] shall be divided into [32][territorial constituencies to be known as] wards in the manner provided in Section 32 and there shall be a separate electoral roll for each ward.

[33][(2) Each ward shall be represented by one Corporator in the Corporation.]

(3) [* * *][34]

32. **Delimitation Order**. - [35][(1) The State Government shall by order-

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29 Ins. by U.P. Act 21 of 1964.
30 Omitted by U.P. Act 12 of 1977.
31 Subs. for "every city" by U.P. Sact 26 of 1995, S.10 (w.e.f. 28-12-1994).
32 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
33 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
34 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
35 Subs. by U.P. Act 26 of 1995, S.11 (w.e.f. 30-05-1994).

(a) divide a [36][municipal area] into wards in such manner that the population in each ward shall, so far as practicable, be the same throughout the municipal area;

(b) determine the number of wards into which a [36][municipal area] shall be divided;

(c) determine the extent of each ward;

(d) determine the number of seats to be reserved for the Scheduled Castes, the Scheduled Tribes, the backward classes or the women.]

(2) The draft of the Order under sub-section (1) shall be published in the Official Gazette for objections for a period of not less than [37][seven] days.

(3) The State Government shall consider any objection filed under sub-section (2) and the draft Order shall, if necessary, be amended, altered or modified accordingly and thereupon it shall become final.

33. **Alteration or amendment of Delimitation Order and its effect**. - (1) The State Government may, by a subsequent Order, alter or amend any final Order under sub-section (3) of Section 32.

[38][(1-A) For the alteration or amendment of any order under sub-section (1) the provisions of sub-sections (2) and (3) of Section 32 shall mutatis mutandis apply.]

(2) Upon alteration or amendment of any final Order under this section the State Government shall apportion the existing Corporators to the altered or amended wards so as to provide so far as is reasonably practicable for their continuing to represent as large a number as possible of their former constituents.

(3) An existing Corporator shall hold his office in the ward to which he is assigned for the same period that he would have held it had the wards remained unaltered and unamended.

Electors and Electoral Rolls

34. [* * *][39]

[40][35. **Electoral roll for each ward**. - There shall be an electoral roll for each ward which shall be prepared in accordance with the provisions of this Act, under the superintendence, direction and control of the State Election Commission.]

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36 Subs. for "City" by U.P. Act 26 of 1995, S.11 (w.e.f. 28-12-1994).
37 Subs. for "fifteen" by U.P. Act 26 of 1995, S.11 (w.e.f. 30-05-1994).
38 Ins. by U.P. Act 26 of 1995, S.12 (w.e.f. 30-05-1994).
39 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
40 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

[41][36. **Qualifications of electors**. - Subject to the provisions of Sections 37 and 38; every person who has attained the age of 18 years on the first day of January of the year in which the electoral roll is prepared or revised and who is ordinarily resident in the area of the ward shall be entitled to be registered in the electoral roll for the ward.

Explanation.- (i) A person shall not be deemed to be ordinarily resident in the area of a ward on the ground only that he owns, or is in possession of, a dwelling house therein.

(ii) A person absenting himself temporarily from his place of ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(iii) A member of Parliament or of the Legislature of the State shall not, during the term of his office, cease to be ordinarily resident in the area of a ward merely by reason of his absence from that area in connection with the duties as such member.

(iv) Any other factors that may be prescribed shall be taken into consideration for deciding as to what persons may or may not be deemed to be ordinarily residents of a particular area at any relevant time.

(v) If in any case a question arises as to where a person is ordinarily resident at any relevant time, the question shall be determined, with reference to all the facts of the case.]

37. **Disqualification for electors**. - [42][(1) A person shall be disqualified for registration in an electoral roll, if he -

(i) is not a citizen of India, or

(ii) is of unsound mind and stands so declared by a competent court, or

(iii) is for the time being disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.]

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electoral roll of the ward in which it is included:

Provided that the name of any person struck off the electoral roll of a ward by reason of disqualification under sub-section (1) shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under the provisions of this Act or under any other law authorising such removal.

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41 Subs. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).

42 Subs. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).

38. **Registration to be in one ward and in one place**.-(1) No person shall be entitled to be registered in the electoral roll for more than one ward in the same City.

(2) No person shall be entitled to be registered in the electoral roll for any ward more than once.

[43][(3) No person shall be entitled to be registered in the electoral roll for any ward, if his name is entered in any electoral roll pertaining to any other City, or to any [44][smaller urban area, transitional areas, cantonment or Gram Panchayat] unless he shows that his name has been struck off from such electoral roll]

[45][39. **Preparation and publication of electoral roll**.-(1) Subject to the superintendence, direction and control of the State Election Commission the electoral roll for each ward shall be prepared and published in the manner prescribed by rules by an Electoral Registration Officer under the supervision of the Chief Election Officer (Urban Local Bodies).

(2) The Chief Election Officer (Urban Local Bodies) and the Electoral Registration Officer, referred to in sub-section (1), shall be such officers of the State Government as the State Election Commission may, in consultation with the State Government, designate or nominate in this behalf.

(3) Upon the publication of the electoral roll it shall, subject to any alteration, addition or correction made in accordance with this Act or the rules made thereunder, be the electoral roll for the ward prepared in accordance with this Act.

(4) The Electoral Registration Officer may, for the purpose of preparation of electoral roll for a ward, adopt, in accordance with the direction of the State Election Commission, the Assembly roll for the time being in force so far as it relates to the area of that ward:

Provided that the electoral roll for that ward shall not include any amendment, alteration or correction made after the last date for making nomination for the election of such ward and before the completion of such election.

(5) Where the Electoral Registration Officer is satisfied after making such enquiry as he thinks fit, whether on an application made to him or on his own motion, that any entry in the electoral roll should be corrected or deleted or that the name of any person entitled to be registered should be added in the electoral roll, he shall subject to the provisions of this Act and rules and orders made thereunder delete or correct or add the entry, as the case may be:

Provided that no such deletion, correction or addition shall be made after the last date for making nominations for an election in the ward and before the completion of such election:

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43 Ins. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).

44 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

45 Subs. by U.P. Act 26 of 1995, S.13 (w.e.f. 30-05-1994).

Provided further that no deletion or correction affecting the interest of any person adversely shall be made without giving him reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

(6) An appeal shall lie within such time and manner and to such officer or authority as may be prescribed by rules against any order of the Electoral Registration Officer in regard to the inclusion, deletion or correction of a name in the electoral roll.]

[46][40. **Revision of electoral roll**. - The State Election Commission may, if it thinks it necessary so to do, for the purposes of general or bye-election, direct a revision of the electoral roll for all or any of the wards in such manner as it may think fit:

Provided that subject to other provisions of this Act, the electoral roll for the ward, as in force at the time of issue of any such direction, shall continue to be in force until the completion of revision so directed].

41. **Other matters relating to electors and electoral rolls**. - [47][In so far as provision with respect to any of the following matters is not made by this Act or the rules made thereunder, the State Election Commission may] by order make provisions in respect of the following matters concerning the electoral rolls, namely

(a) the date on which the electoral rolls first prepared and subsequently prepared under this Act shall come into force and their period of operation; .

(b) the correction of any existing entry in the electoral rolls on the application of the elector concerned;

(c) the correction of clerical or printing errors in the electoral rolls;

(d) correction of electoral rolls in case of large omissions of names therefrom in respect of any area;

(e) the inclusion in the electoral rolls of the name of any person

(i) whose name is included in the Assembly Rolls for the area relatable to the ward but is not included in the electoral roll of the ward or whose name has been wrongly included in the electoral roll of some other ward, or

(ii) whose name is not included in the Assembly Rolls and who is otherwise qualified to be registered in the electoral roll of the ward,

(f) exclusion of the names of persons who are disqualified for registration;

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46 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

47 Subs. by U.P. Act 26 of 1995, S.14 (w.e.f. 30-05-1994).

(g) the maintenance of the record of persons disqualified for voting;

(h) fees payable on application for inclusion and exclusion of names;

(i) [* * *][48]

(j) custody and preservation of the electoral rolls; and

(k) generally for all matters relating to the preparation and publication of the electoral rolls.

Voting

42. **Right of vote**. - (1) No person who is not, and, except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any ward shall be entitled to vote in that ward.

(2) No person shall vote at any election in any ward if he is subject to any of the disqualifications referred to in Section 37.

(3) No person shall vote at a general election in more than one ward of a Corporation and if a person votes in more than one such ward, his votes in all such wards shall be void.

(4) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been registered in the electoral roll for that ward more than once, and if he does so vote, all his votes in that ward shall be void.

(5) No person shall vote at any election if he is confined in a prison whether under a sentence of imprisonment or transportation or otherwise or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

43. [* * *][49]

44. **Manner of voting**. - At every election in a ward where a poll is taken votes shall be given by secret ballot and no vote shall be received by proxy.

Conduct of Elections

[50][45. **Superintendence, etc. of the conduct of elections**. - [51][(1)] The superintendence, direction and control of the conduct of elections of the Mayor,

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48 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

49 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

50 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

51 Section 45 renumbered as sub-section (1) by U.P. Act 26 of 1995, S.15 (w.e.f. 30-05-1994).

♣[Deputy Mayor] and Corporators of the Corporation shall be vested in the State Election Commission.]

[52][(2) Subject to sub-section (1) the Chief Election Officer (Urban Local Bodies), referred to in sub-section (2) of Section 39, shall supervise the conduct of the elections of the Mayor, ♣[Deputy Mayor] and Corporators of the Corporation.]

46. **Order regarding conduct of elections**. - In so far as provision with respect to any matter is not made by this Act, [the State Election Commission][53] may, by order, provide for matters concerning conduct of elections to the offices of Mayor and ♣[Deputy Mayor] and to the seats of [54][* * *] Corporators, that is to say

(a) [* * *][55]

(b) the appointment, powers and duties of Nirvachan Adhikaris (Returning Officers), Sahayak Nirvachan Adhikaris (Assistant Returning Officers), Nirvachan Adhyakshas (Presiding Officers) and Matdan Adhikaris (Polling Officers) and clerks;

(c) appointment of dates for nomination, scrutiny, withdrawal and polling;

(d) the manner of presentation and the requirements for valid nomination, scrutiny of nominations and withdrawal of candidatures;

(e) appointment and duties of election agents, polling agents and counting agents;

(f) procedure at general elections including death of candidate before poll, procedure in contested and uncontested elections; [* * *][56];

(g) identification of voters;

(h) hours of polling;

(i) adjournment of poll and fresh poll;

(j) manner of voting at elections;

(k) scrutiny and counting of votes including recount of votes and procedure to be followed in case of equality of votes and declaration of results;

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

52 Ins. by U.P. Act 26 of 1995, S.15 (w.e.f. 30-05-1994).

53 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

54 Omitted by U.P. Act 12 of 1977.

55 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

56 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(l) the notification of the names of the persons elected as Corporators [57][* * *], Mayor and [♣][Deputy Mayor];

(m) refund and forfeiture of deposits;

(n) manner in which votes are to be given by Nirvachan Adhyaksha (Presiding Officer), polling agent or any other person who being an elector for a ward is appointed for duty at a polling station at which he is not entitled to vote;

(o) the procedure to be followed in respect of the tender of vote by person representing himself to be an elector after another person has voted as such elector;

(p) the safe custody of ballot boxes, ballot papers and other election papers, the period for which such papers shall be preserved and the inspection and production of such papers;

(q) [* * *][58];

(r) issue of copies of election papers and fixing of charges for such copies;

(s) maintaining of list of [59][electorates referred to in sub-section (3) of Section 12] [60][* * *] for the purposes of [61][elections of] [62][* * *] [* * *][63]; the . [♣][Deputy Mayor]; and

(t) generally on all matters relating to conduct of elections.

47. **Failure of elections**. - (1) If at any election of Corporators, [64][* * *1 any seat remains unfilled, a fresh election shall be held to fill the vacancy.

(2) For the purposes of conduct of election and ascertainment of the term of a Corporator [65][* * *] an election under sub-section (1) shall be deemed to be an election to fill a casual vacancy.

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57 Omitted by U.P. Act 12 of 1977.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

58 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

59 Subs. for "Sabhasads" by U.P. Act 23 of 2001, S.3 (Now S.12 of the main Act Omitted by U.P. Act 49 of 2007, S.12).

60 Omitted by U.P. Act 12 of 1977.

61 Subs. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).

62 Omitted by U.P. Act 12 of 1977.

63 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

64 Omitted by U.P. Act 12 of 1977.

65 Omitted by U.P. Act 12 of 1977.

48. **Electoral offences**. - [66][(l) The provisions of Sections 125, 126, 127, 127-A, 128, 129, 130, 131, 132, 134, 134-A, 135 [67][135-A] and 136 of Chapter III of Part VII of the Representation of the People Act, 1951 shall have effect as if -

(a) the reference therein to an election were a reference to an election held under this Act;

(b) for the word "constituency" the word "ward" had been substituted; (bb)

in Section 127-A in sub-section (2) in clause (b) in sub-clause (i) , for the words "the Chief Electoral Officer" the words the [68][Chief Election Officer (Urban Local Bodies)] had been substituted;

(c) in Sections 134 and 136 for the words "by or under this Act" the words "by or under the Uttar Pradesh [69][Municipal Corporation Act], 1959" had been substituted.]

(2) If the [70][Chief Election Officer (Urban Local Bodies)] has reason to believe that any offence punishable under Section 129 or 134 or [71][under Section 134-A] or under clause (a) of sub-section (2) of Section 136 of the said chapter has been committed in reference to any election to a Corporation he may cause such enquiries to be made and such prosecutions to be instituted as the circumstances of the case to him may appear to require.

(3) No court shall take cognizance of any offence punishable under Section 129 or under Section 134 [72][or under Section 134-A] or under clause (a) of sub-section (2) of Section 136 unless there is a complaint made by order of or under authority from the [73][Chief Election Officer (Urban Local Bodies)].

[74][49. **Bar on Jurisdiction of Civil Court**. - No civil court shall have jurisdiction

(a) to entertain or adjudicate upon the question whether any person is or is not entitled to be registered in an electoral roll for a ward; or

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66 Subs. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).
67 Ins. by U.P. Act 26 of 1995, S.16 (w.e.f. 30-05-1994).
68 Subs. for "State Election Commission" by U.P. Act 26 of 1995, S.16 (w.e.f. 30-05-1994).
69 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
70 Subs. for "State Election Commission" by U.P. Act 26 of 1995, S.16 (w.e.f. 30-05-1994).
71 Ins. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).
72 Ins. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).
73 Subs. for "State Election Commission" by U.P. Act 26 of 1995, S.16 (w.e.f. 30-05-1994).
74 Subs. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).

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[75][(b) to question the legality of any action taken by or under the authority of the State Election Commission in respect of preparation and publication of electoral roll; or]

(c) to question the legality of any action taken or of any decision given by the Nirvachan Adhikari (Returning Officer) or by any other person appointed under this Act in connection with an election.]

[76][50. **Notification for election and vacancy**. - (1) A general election shall be held for the purpose of constituting or reconstituting a Corporation.

(2) For the said purpose, the State Government shall, by notification published in the Official Gazette on such date as may be recommended by the State Election Commission, call upon all wards in the city to elect Corporators and the Mayor in accordance with the provisions of this Act and of the rules and orders made thereunder.

[77][(2-A) The State Government shall, in consultation with the State Election Commission, by notification published in the Office Gazette, appoint date or dates for election of the [Deputy Mayor] under Section 12 and call upon the Corporators to elect the [Deputy Mayor] in accordance with the provisions of this Act.]

(3) If a casual vacancy occurs in the office of Mayor, [Deputy Mayor] or a Corporator owing to death or resignation or any other cause, such office or seat, as the case may be, shall be declared vacant by the State Government by notification published in the Official Gazette.

(4) When an office or seat has been declared vacant, the State Election Commission shall, by a notification in the Official Gazette, call upon the ward concerned or, as the case may be, the Corporators, to elect a person for the purpose of filling the vacancy so caused in accordance with the provisions of this Act and of the rules and orders made thereunder before such date as may be specified in the notification.]

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75 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

76 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

77 Ins. by U.P. Act 7 of 2000, S.3 (w.r.e.f. 01-10-1999).

"Transitory Provision. – The provisions of Section 50 of the principal Act as amended by this Act shall also apply with respect to the election of the Upa Nagar Pramukh, whose office has been vacant, due to the expiry of his term of office, on the date (w.e.f. 01.10.1995) of the commencement of this Act and any order or notification issued by the Station Election Commission appointing date or dates for the election to fill such vacancy, shall stand rescined as if the provisions of this principal Act as amended by this Act were in force at all material time". [S. 4 of U.P. Act 7 of 2000].

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

Executive Committee

51. **Constitution and term of Executive Committee**. - (1) The Executive Committee shall consist of

(a) the [78][Mayor] who shall be ex officio Chairman of the Executive Committee; and

(b) twelve persons to be elected by the Corporation out of Corporators [79][* * *].

(2) The Executive Committee shall at its first meeting and, as often thereafter as may be necessary on account of a vacancy in the office of Vice-Chairman, elect one of its members to be its Vice-Chairman.

(3) A Vice-Chairman shall cease to hold office as soon as he ceases to be a member of the Executive Committee.

(4) The persons referred to in clause (b) of sub-section (1) shall be elected by the Corporation at its first meeting after general elections.

(5) One-half of the members of the Executive Committee shall retire every succeeding year at noon on the first day of the month in which the first meeting of the Corporation mentioned in sub-section (4) was held:

Provided that all the members of the Executive Committee in office when general elections are held shall retire from office on the election of a new Committee under sub-section (4).

(6) The members who shall retire under sub-section (5) one year after their election under sub-section (4) shall be selected by lot at such time previous to the date for retirement specified in sub-section (5) and in such manner as the Chairman of the Executive Committee may determine, and in succeeding years the members who shall retire under this section shall be those who have been longest in office:

Provided that, in the case of a member who has been re-appointed, the term of his office for the purposes of this sub-section shall be computed from the date of his re-appointment.

(7) The Corporation shall at its meeting held in the month preceding the date of retirement specified in sub-section (5) appoint fresh members of the Executive Committee to fill the offices of those who are due to retire on the said date.

(8) A casual vacancy in the seat of a member of the Committee shall be filled by electing a member for the remainder of the term of the member outgone:

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78 Subs. by U.P. Act 16 of 2004, S.2 (w.r.e.f. 21-11-2002).

79 Omitted by U.P. Act 12 of 1977.

Provided that where the remainder of the term of the Committee is less than two months, the vacancy shall not be filled unless the Corporation resolves otherwise.

(9) A retiring member shall be eligible for re-election.

52. **Election of members of Executive Committee**. - The election of members of the Executive Committee and of the Vice-Chairman thereof shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

53. **Resignation of members of Executive Committee**. - A member of the Executive Committee wishing to resign his office may do so in writing under his hand addressed to the Mayor and it shall take effect from the moment of its receipt by the Mayor.

Development Committee

54. **Constitution and term of Development Committee**. - (1) The Development Committee shall consist of –

(a) the [♣][Deputy Mayor] who shall be its ex officio Chairman;

(b) ten persons to be elected by the Corporation out of Corporators [80][* * *]; and

(c) two persons to be co-opted by the members referred to in clauses (a) and (b) from among persons who in the opinion of the said members have experience of municipal administration of matters pertaining to development, improvement or planning.

(2) The Development Committee shall at its first meeting and so often thereafter as may be necessary on account of a vacancy in the office of Vice-Chairman elect one of its elected members to be its Vice-Chairman.

(3) A Vice-Chairman shall cease to hold office as soon as he ceases to be a member.

(4) A co-opted member shall have the right to speak in and otherwise to take part in the proceedings of the Development Committee or of any sub-committee thereof of which he may be a member but shall not by virtue of this sub-section be entitled to vote.

(5) The term of a co-opted member shall be one year.

(6) The persons referred to in clause (b) of sub-section (1) shall be elected by the Corporation at its first meeting after general elections.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

80 Omitted by U.P. Act 12 of 1977.

(7) One-half of the members of the Development Committee shall retire every succeeding year at noon on the first day of the month in which the first meeting of the Corporation mentioned in sub-section (6) was held:

Provided that all the members of the Development Committee in office when general elections are held shall retire from office on the election of a new Committee under sub-section (6).

(8) The members who shall retire under sub-section (7) one year after their elections under sub-section (3) shall be selected by lot at such time previous to the date for retirement specified in sub-section (7) and in such manner as the Chairman of the Development Committee may determine, and in succeeding years the members who shall retire under this section shall be those who have been longest in office:

Provided that, in the case of a member who has been re-appointed, the term of his office for the purposes of this sub-section shall be computed from the date of his re-appointment.

(9) The Corporation shall at its meeting held in the month preceding the date of retirement specified in sub-section (7) appoint fresh members of the Development Committee to fill the offices of those who are due to retire on the said date.

(10) A casual vacancy in the seat of a member of the Committee shall be filled for the remainder of the term of the member outgone:

Provided that if the remainder of the term is less than two months, the vacancy shall not be filled unless the Corporation resolves otherwise.

(11) A retiring member whether elected or co-opted shall be eligible for re-election or re-co-option.

55. **Election of members of Development Committee.** – The election of members of the Development Committee and its Vice-Chairman shall be held in accordance with the system of proportional representation by means of the single transferable vote and the voting at such election shall be by secret ballot.

56. **Resignation of members of Development Committee.** – A member of the Development Committee wishing to resign his office may forward a written resignation signed by him to the Mayor and his resignation shall take effect upon the receipt of such writing by the Mayor.

Committees under clause (e) of Section 5

57. **Constitution of Committees under clause (e) of Section 5.** – (1) A Committee constituted under clause (e) of Section 5 shall consist of as many members not exceeding twelve as the Corporation may determine.

(2) Subject to the directions, if any, of the State Government in this behalf, the members of a Committee referred to in sub-section (1) shall elect from among

themselves a Chairman and a Vice-Chairman and shall fill any casual vacancy in the office of Chairman or Vice-Chairman by fresh election.

(3) The provisions relating to the term and manner of election of members of Executive Committee shall, as far as may be, apply to a Committee constituted under clause (e) of Section 5.

[81][57-A. **Metropolitan Planning Committee**. - (1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Metropolitan Planning Committee, referred to in sub-section (1), shall consist of a Chairperson who shall be chosen in such manner as may be prescribed by rules and such number of members not less than twenty-one and not more than thirty, as the State Government may, by order, specify.

(3) Out of the total number of members specified under sub-section (2) -

(a) two-thirds of the members shall be elected by, and from amongst, the elected members of the municipalities and chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the municipalities and of the Panchayats in that area; and

(b) one-third of the members shall be nominated by the State Government from amongst -

(i) an officer, not below the rank of Deputy Secretary to the Central Government in the Ministry of Urban Development;

(ii) an officer, not below the rank of Joint Secretary to the State Government in the Urban Development Department;

(iii) an officer not below the rank of Joint Secretary to the State Government in the Forest Department;

(iv) the Chief Town and Country Planner, Uttar Pradesh;

(v) Director, Environment, Uttar Pradesh;

(vi) the Managing Director of Jal Nigam established under the Uttar Pradesh Water Supply and Sewerage Act, 1975;

(vii) the General Manager of Jal Sansthan established under the Uttar Pradesh Water Supply and Sewerage Act, 1975 situated in the Metropolitan area;

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[81] Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(viii) a Superintending Engineer of the Public Works Department;

(ix) a Superintending Engineer of the Uttar Pradesh State Electricity Board;

(x) Vice-Chairman of the Development Authority in the Metropolitan area.

(4) The elected member of the Metropolitan Planning Committee referred to in clause (a) of sub-section (3) shall cease to hold office as soon as he ceases to hold the office by virtue of which he became such member.

(5) A member referred to in sub-clause (i) of clause (b) of sub-section (3) shall be nominated on the recommendation of the Secretary to the Government of India in the Urban Development Department.

(6) Any vacancy of members shall be no bar to the constitution or reconstitution of the Metropolitan Planning Committee.

(7) The Metropolitan Planning Committee shall, in preparing the draft development plan,

(a) have regard to,-

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the State Government;

(iv) the extent and nature of investment likely to be made in the Metropolitan area by agencies of the Government of India and other available resources whether financial or otherwise.

(b) consult such institutions and organisations as the Governor may, by order, specify.

(8) The Chairperson of a Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the State Government. Explanation.-For the purposes of this section "Municipalities" means the Municipal Corporation, Municipal Council and Nagar Panchayat.]

Municipal Commissioner

[82][58. **Appointment of Municipal Commissioner and Additional Municipal Commissioner.-** For every Municipal Corporation, the State Government shall appoint a Municipal Commissioner and one or more Additional Municipal Commissioner as it may consider necessary:

Provided that no person not already in the service of [83][the State Government may be appointed as Municipal Commissioner] unless his appointment has been approved by the State Public Service Commission:]

[84][Provided further that no person may be appointed as Additional Municipal Commissioner unless he is a Deputy Municipal Commissioner of the Corporation in the seniormost scale.]

59. **Salary and allowances, etc., of Municipal Commissioner [85][and the Additional Municipal Commissioner]** - (I**)** The Municipal Commissioner [86][and the Additional Municipal Commissioner] shall receive from the Corporation Fund such monthly salary and allowances, as the State Government may from time to time determine.

(2) The other terms of employment including leave, pension, contribution to Provident Fund, shall be such as the State Government may prescribe.

Disputes relating to Elections

60. **Election valid unless questioned, etc.** - No election under this Act shall be called in question except as provided by or under this Act.

61. **Questioning of election of [87][Mayor or ♣[Deputy Mayor]].** - (1) The election of a person as [88][Mayor or ♣[Deputy Mayor]] may be questioned by any unsuccessful candidate or by any person whose nomination paper was rejected or by any member of the Corporation by presenting a petition to the District Judge exercising jurisdiction in the City on anyone or more of the grounds mentioned in Section 71.

(2) The petition shall be presented within seven days of the declaration of the result of election.

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82 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

83 Subs. for "the Government may be appointed as such" by U.P. Act 26 of 1995, S. 17 (w.e.f. 30-05-1995).

84 Ins. by U.P. Act 26 of 1995, S.17 (w.e.f. 30-05-1994).

85 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

86 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

87 Subs. by U.P. Act 17 of 1982 (w.e.f. 04-01-1982).

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

88 Subs. by U.P. Act 17 of 1982 (w.e.f. 04-01-1982).

62. **Questioning of election of [89][* * *] Corporator**. - [90][(1) The election of any person as Corporator may be questioned by any unsuccessful candidate at the election or by any person whose nomination paper was rejected at the election, or by any elector of the ward concerned.]

(2) The petition may be presented on anyone or more of the grounds mentioned in Section 71.

(3) The election of any person as [91][* * *] Corporator shall not be questioned on the ground that the name of any person qualified to vote, has been omitted from, or the name of any person not qualified to vote, has been inserted in the electoral roll or rolls.

[92][(4) The petition shall be presented to the District Judge exercising jurisdiction in the City within 30 days of the declaration of result of the election.]

NOTES

1. **Disputes relating to elections**. - The election of a member cannot be challenged on grounds other than those mentioned in Section 71. The omission or mistake in preparing the electoral roll does not provide a ground for challenging the election. This mistake, if any, would be an irregularity and not illegality so as to vitiate the election. Nawal Kishore v. Municipal Board, Gorakhpur, AIR 1937 All 765: 1937 ALJ 336. Section 62 does not envisage an election petition challenging an election to various committees of the Mahapalika. See Bhushanlal Sahu v. Jamunadas Sukhwani, AIR 1983 MP 168.

Where in an election there were only two candidates and one of them was not validly nominated, the other would get automatically elected. [Madhukar G.E. Pankakar v. Jaswant Chobbildas Rajani, (1977) 1 SCC 70: AIR 1976 SC 2283.]

Where the parties agreed that a specified number of ballot papers had been rejected for irregular marking but there was a dispute as to whether the petitioner was entitled to the credit of such ballot papers, it was held that the petitioner's application for scrutiny of the said ballot papers should have been allowed. Mohanraj Boid v. Eshwar Charan Patnaik, AIR 1976 Ori 129 (DB).

It may not be possible to allow scrutiny of rejected votes for the purpose of unseating a successful candidate but in order to ascertain the effect of the presiding officer's failure to comply with a Rule, the totality of the votes discarded on account of his such failure can be taken into consideration for deciding whether the result of the election was materially affected. Hence, where the presiding officer failed to affix

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89 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
90 Subs. by U.P. Act 12 of 1977.
91 Omitted by U.P. Act 12 of 1977.
92 Subs. by U.P. Act 12 of 1977.

the distinguishing mark on the ballot papers resulting in invalidation of 700 votes, the election was set aside. Shiv Pershad v. Ganesh Singh, AIR 1968 AP 20 (DB).

In view of Section 30 of the Representation of the People Act, 1950 (corresponding to Section 49 of this Act), the Supreme Court has held that finality of the electoral roll cannot be challenged in a proceeding impeaching the validity of an election. Ramaswamy v. V.B. Krishnamurthy, AIR 1963 SC 458; Kabul Singh v. Kundan Singh, AIR 1970 SC 340.

2. **"Presented to the District Judge": Scope**. - The scope of these words as occurring in Section 40 of the Rajasthan Municipalities Act, 1959 was considered by a learned Single Judge of the Rajasthan High Court in Madan Gopal Gupta v. Leelaram, AIR 1972 Raj 177. It was held that there was no irregularity if the election petition was presented to the Munsarim of the District Judge and not to the District Judge himself. Ibid.

3. **Transfer of election petition to Additional District Judge by District Judge**. -See comments under Section 61.

4. **Jurisdiction of High Court: Article 226**. - A person not eligible to file an election petition under this section, can impugn the election under Article 226 of the Constitution. See Rama Devi v. S.D.O., Balaghat, AIR 1966 MP 151 (DB).

Where the entire election was sought to be impugned on the ground of being held in a manner contrary to the provisions of the Act and that it had resulted in depriving the people of a part of the Municipal district of the right to vote at the election, the Gujarat High Court took the view that the remedy could be had by filing a writ petition instead of filing an election petition, Bhaichandbhai Maganlal Shah v. State of Gujarat, AIR 1967 Guj 105 (DB). But the Supreme Court has held that if an alternative remedy existed, resort should be had to it. However, if in view of the nature and the ground of the case the alternative remedy was no remedy in the eyes of the law or was not an adequate and efficacious remedy, a writ petition challenging the whole election was maintainable. Bar Council (!l India v. Surjeet Singh, (1980) 4 SCC 211: AIR 1980 SC 1612. See also K.K. Srivastava v. Bhupendra Kumar Jain, (1977) 2 SCC 494: AIR 1977 SC 1703: Mohinder Singh Gill v. Chief Election Commissioner, (1978) 1 SCC 405: AIR 1978 SC 851.

The Case law on the scope of Article 226 in respect of election disputes was considered in detail by a Division Bench of the Gujarat High Court. Dismissing two writ petitions which sought to challenge the municipal elections for contravention of the relevant act and rules, the Court observed:

(1) The extraordinary jurisdiction of the High Court, though wide, should not, ordinarily, be exercised where an alternative efficacious remedy is available, under the statute. However, if the impugned order is ultra vires or a nullity as being ex facie without jurisdiction, the question of exhausting the alternative remedy would not arise.

(2) Where a statute creates a right or liability and provides a special remedy for its enforcement, that remedy must be availed of.

(3) The right to vote or stand as a candidate is a statutory right and is subject to statutory limitations. Hence, the special jurisdiction conferred on the Tribunal, created by statute, must be invoked to enforce that right.

(4) In view of the existence of an alternative statutory remedy, the High Court should refuse to exercise jurisdiction under Article 226, in matters relating to election disputes.

(5) A writ petition would not be maintainable on the mere ground that it impugned the entire process of the election.

(6) Election dispute cannot be raised before completion of the election.

(7) Where an election is questioned on the ground of being held in accordance with an ultra vires provision, the High Court need not go into the question as to whether the result was materially affected thereby. But in other cases where an election is impugned for breach of a mandatory provision, the effect of the alleged breach would have to be examined.

Accordingly, the Court held that since Section 14 of the Gujarat Municipalities Act, 1963 provided for a special jurisdiction for adjudication of municipal election disputes and the same was an efficacious alternative remedy, the petitioners were not entitled to seek relief from the High Court under Article 226. Ravjibhai Bhikhabhai Patel v. Chief Officer, Bilimora Nagar Palika, AIR 1982 Guj 163 (DB). See also Pravin C. Soneji v. Ranjit Singh Dolasingh Dodia, AIR 1981 Guj 184.

However, the decision of the Election Tribunal is amenable to writ jurisdiction of the High Court. H. V. Kamath v. Ahmad Ishaque, AIR 1955 SC 233: 1955 SCJ 267. See also comments under Sections 49 and 61.

63. **Forms and contents of petitions**. - (1) An election petition shall specify the ground or grounds on which the election of respondent is questioned and shall contain a concise statement of the material facts on which the petitioner relies, and shall set forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice.

(2) The petition and if there is any schedule or annexure to the petition, such schedule or annexure also, 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.

(3) A petitioner shall join as respondent to his petition -

(a) where the petitioner claims a declaration under [* * *][93] Section 64, all the contesting candidates, other than the petitioner, and in any other case all the returned candidates; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

NOTES

1. **Scope**. - This section lays down that the election petition should mention the ground or grounds on which the election is to be called in question as well as a summary of the circumstances which justify the election being challenged on such grounds. Besides, the petitioner must, in the election petition. claim to be declared as elected and not merely call in question the election of a successful candidate. Suraj v. Jang Bahadur, 45 All 687. It does not mean that express claim should be made. Tribunal can infer from plaint whether petitioner claims to be declared elected in place of returned candidate. AIR 1955 NUC (All) 3542.

An election petition has to contain allegations of three kinds. In the first place, it has to specify the ground or grounds on which the election is questioned. Secondly, it must give material facts on which the petitioner relies and lastly, if the petitioner relies upon some corrupt practices. then he has to state full particulars as to names of parties, date and place, etc. of such practices. Bohrey Ram Gopal v. Dr Ladi Prasad Tandon, FA Appeal No.6 of 1961 decided on March 26. 1962.

2. **"Material facts" and material particulars: Distinction**.-"Material facts" are those facts which are essential to vest the petitioner with a cause of action while "material particulars" are the details which are necessary to amplify, refine and embellish the material facts already pleaded in the petition. Udhav Singh v. Madhav Rao Scindia, (1977) 1 SCC 511: AIR 1976 SC 744; Roop Lal Sathi v. Nachhattar Singh Gill, (1982) 3 SCC 487: AIR 1982 SC 1559. The purpose of material particulars is to embellish the petitioner's cause of action with detailed information so as to enable the returned candidate to defend himself. Roop Lal Sathi v. Nachhattar Singh Gill, (1982) 3 SCC 487.

An election petition suffering from lack of material facts is liable to be summarily rejected. But in case of a petition deficient in material particulars, the court may at its discretion allow the required particulars to be supplied even after the expiry of limitation. Udhav Singh v. Madhav Rao Scindia, (1977) 1 SCC 511: AIR 1976 SC 744.

Under Section 90(5) of the Representation of the People Act, 1951 the Election Tribunal is competent to allow the amending and amplifying the particulars of any corrupt practice alleged in the petition. However, if the parties have already led evidence on the allegation, the petition cannot be dismissed for lack of the particulars of the alleged corrupt practice. If the absence of such particulars results in material

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[93] Omitted by U.P. Act 21 of 1964.

prejudice, the appellate court may set aside the Tribunal's decision. Balwant Singh v. Lakshmi Narain, AIR 1960 SC 770. In considering whether material prejudice has resulted, the failure to raise such objection before going to trial will be given due weight. Ibid.

3. **"Contesting candidates": Meaning**. - In respect of Section 38 of the Representation of the People Act, 1951, it has been held that the words "contesting candidates" mean "candidates who were included in the list of validly nominated candidates and who have not withdrawn their candidatures within the period prescribed for such withdrawal". K. Kamraja Nadar v. Kunju Thevar, AIR 1958 SC 687.

4. **Election petition: Who can be joined as respondent'?** - In an election petition only those persons may be joined as respondents who are mentioned in Sections 82 and 86(4) of the Representation of the People Act. 1951, and no others. Jyoti Basu v. Debi Goshal (1982)1 SCC 691: AIR 1982 SC 983, Section 82 of that Act is similar to Section 63(3) of this Act and Section 86(4) of that Act runs as follows:

> "Any candidate not already a respondent shall, upon application made by him to the High Court within fourteen days from the commencement of the trial and subject to any order as to security for costs which may be made by the High Court, be entitled to be joined as a respondent."

4-A. **Non-joinder : Effect**. - Non-compliance with Section 82(b) of the Representation of the People Act, 1951 [corresponding to sub-section (3)(b) of this Act] renders the election petition liable to dismissal. Udhav Singh v. Madhav Rao Scindia, (1977) 1 SCC 511: AIR 1976 SC 744. Non-joinder of another candidate against whom allegation of corrupt practice was made cannot be waived by the opposite party and plea of non-joinder can be raised even if not mentioned in the written statement. Ibid.

Where in an election petition, in respect of wrongful rejection of nomination, the petitioner neither sought himself to be declared elected nor made an allegation of corrupt practice against anyone, impleading of only the successful candidate was sufficient. Jugal Kishore Patnaik v. Ratnakar Mohanty, (1977) 1 SCC 567.

Considering a provision similar to Section 63. the Rajasthan High Court has held that in a petition seeking to declare the result of the election of the returned candidate void, the returned candidate alone was the necessary party. But, where a further relief was sought to the effect that the petitioner himself or any other candidate had been duly elected all the contesting candidates other than the petitioner should have been joined as respondents to the petition. Shrinivas v. Keshri Chand, AIR 1984 Raj 14.

5. **Joinder of unnecessary party**. - Joinder of unnecessary party does not vitiate the election petition. Murarka Radhey Shyam Ram Kumar v. Roop Singh, AIR 1964 SC 1545.

6. **Defective verification**. - Defect in verification due to inexperience of the Oaths Commissioner is not such a serious defect as to culminate in dismissal of the election petition. Murarka Radhey Shyam v. Roop Singh, AIR 1964 SC 1545. Such a defect can be removed in accordance with the principles of the Code of Civil Procedure. Ibid.

64. **Relief that may be claimed by the petitioner**. - A petitioner may, in addition to claiming a declaration that the election of all or any of the returned candidates is void, claim a further declaration that he himself or any other candidate has been duly elected.

65. **Recrimination**. - (l) Where in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within 21 days of the service upon him of notice of the election petition in case the election questioned is as [94][* * *] Corporator and three days in all other cases given a notice to the District Judge trying the election petition of his intention to do so and has also given the security, if any, prescribed under Section 79.

(2) Every notice referred to in sub-section (1) shall be accompanied by the specification, statement and particulars required by Section 63 in the case of an election petition and shall be signed and verified in like manner.

NOTES

1. **Meaning of "Recriminatory proceedings".** - The expression "recriminatory proceedings" connotes those type of proceedings in which one retorts accusation or indulges himself in mutual or counter-charges. At the time of trial the opposite party is entitled to produce evidence in order to prove that any person with respect to whom a claim is made that such person should be declared elected in his room or in priority to him, should not be proclaimed so elected. in the same manner as if he himself had presented an election petition calling in question the election of such person. In other words, where in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed. the returned candidate or any other party may recriminate. that is to say, it may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election. See Section 97(1) of the Representation of People Act, 1951.

2. **Object of Recrimination**. - The object of recrimination is to prevent also the candidate for whom seat is claimed from being elected, so that, in case the

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94 Omitted by U.P. Act 12 of 1977.

election of the returned candidate is declared void, there may be a fresh election. Moreover, recrimination gives an opportunity to have the said candidate, and possibly his supporters, disqualified for voting and for membership. See page 257 of the Indian Election and Election Petitions by G.L. Srivastava.

Recrimination ensures the declaration of the properly qualified candidate as duly elected and the purity of the election. It further ensures that no person gets elected by flagrant breach of law or by resorting to corrupt practices. Inamati Mallappa Basappa v. Desai Basavaraj Byyappa, AIR 1958 SC 698.

A returned candidate, who failed to file a recrimination within time, could not claim the benefit of the votes cast in his favour which, though originally rejected, were found valid on recounting. Vasudeo v. Ram Kishan, AIR 1972 Raj 74; relying on Jabar Singh v. Genda Lal, AIR 1964 SC 1200. Nor can he dispute the validity of any vote cast in favour of the alternative candidate. Jabar Singh v. Genda Lal, AIR 1964 SC 1200. .

Since Delhi Municipal Corporation Act, 1957, did not make a provision for recrimination, it was held that recrimination could not be allowed in connection with an election petition under that Act. Banwari Dass v. Sumer Chand, (1974) 4 SCC 817: AIR 1974 SC 1032.

66. **Petition when to be dismissed**. - If an election petition has not been presented within the time allowed by this Act or it does not comply with any provisions made under Section 79 relating to deposit of security or the necessary court-fee payable thereon is not furnished within the time allowed therefor it shall forthwith be rejected by the District Judge.

67. **Procedure of hearing of petition**. - (l) An election petition not rejected under Section 66 shall be heard by the District Judge.

(2) The District Judge hearing the petition shall follow such procedure as may be prescribed by rules under Section 79.

68. **Transfer of petition**. - (l) On the application of any party to an election petition and after notice to the other parties thereto and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court may at any stage –

(a) transfer an election petition pending before a District Judge for trial to any other District Judge; or

(b) re-transfer the same for trial to the District Judge from whom it was withdrawn.

(2) Where any election petition has been transferred or re-transferred under subsection (1), the District Judge who thereafter tries such petition may, subject to any direction in the order of transfer to the contrary, proceed from the point at which it was transferred or re-transferred:

Provided that he may, if he thinks fit, re-call and re-examine any of the witnesses already examined.

69. **Decision on the petition**. - If the petition has not otherwise been dismissed in the course of hearing, the District Judge shall at the conclusion of the trial of an election petition make an order –

(a) dismissing the election petition; or

(b) declaring the election of all or any of the returned candidates to bevoid; or

(c) declaring the election of all or any of the returned candidates to be void and the petitioner or any other candidate to have been duly elected.

70. **Other orders to be made while disposing of the petition**. - At the time of making an order under Section 69 the District Judge shall also make an order –

(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording –

(i) a finding whether any corrupt practice has or has not been proved to have been committed by, or with the consent of, any candidate or his agent at the election, and the nature of that corrupt practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and

(b) fixing the total amount of costs payable, and specifying the persons by and to whom costs shall be paid:

Provided that no person shall be named in the order under sub-clause (ii) of clause (a) unless –

(a) he has been given notice to appear before the District Judge and to show cause why he should not be so named; and

(b) if he appears in pursuance of the notice, he has been given an opportunity of cross-examining any witness who has already been examined by the District Judge and has given evidence against him, of calling evidence in his defence and of being heard.

71. **Grounds for declaring an election to be void**. - 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 to fill the seat under this Act; or

(b) that any corrupt practice specified in Section 78 has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination 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 election agent or a person acting with the consent of such candidate or election agent, or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

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

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

NOTES

1. **Jurisdiction of District Judge**. - Section 30(b) of the Representation of the People Act. 1950 [corresponding to Section 49(b) of this Act] does not bar the High Court's jurisdiction to set aside an election on the grounds mentioned in Section 100(1)(a), of the Representation of the People Act, 1951 [corresponding to Section 71 (1) of this Act]. Ramji Prasad Singh v. Ram Bilas Jha, (1977) I SCC 260: AIR 1976 SC 2573.

If a successful candidate was disqualified at the date of election on account of conviction and sentence exceeding two years' imprisonment, but was subsequently acquitted by the appellate court before the decision of the election petition pending against him, his disqualification became non est from the beginning and the petition challenging his election on the ground of said disqualification was not sustainable. Vidya Charan Shukla v. Parshottam Lal Kaushik, (1981) 2 SCC 84: AIR 1981 SC 547.

2. **Corrupt practice with the consent of the candidate: Clause (b): Scope**.- Where corrupt practice was committed in favour of a candidate on numerous occasions spread over a number of days within the knowledge of the candidate and the candidate failed to prohibit it, such failure on his part amounted to consent. Sheopat Singh v. Harish Chandra, AIR 1960 SC 1217. Consent implies conscious assent. Mohammad Koya v. Muthukoya, (1979) 2 SCC 8: AIR 1979 se 154.

3. **Improper rejection of a nomination paper: Clause (c**). - An enquiry before the Election Tribunal into the question of improper rejection of a nomination paper as contemplated in Section 100(1)(C) of the Representation of the People Act, 1951, must embrace all the matters regarding qualification and disqualification and should not remain confined to the ground of disqualification taken before the Returning Officer. N.T Veluswami Thevar v. V.G. Raja Nainar, AIR 1959 SC 422.

Unlike improper acceptance of, improper rejection of a nomination paper itself raises a presumption of the result of the election being materially affected. Surendra Nath Khosla v. S. Dalip Singh, AIR 1957 SC 242: 1957 SCJ 162.

Rejection of a nomination paper only on the ground of absence of the candidate is not sustainable under clause 10(2)(d) of the U.P. Nagar Mahapalika (Mayoron Aur Deputy Mayoron Ke Nirvachan Ka Sanchalan) Agya, 1959 or clause 22(2)(d) of the U.P. Nagar Mahapalika (Corporatoron Ke Nirvachan Ka Sanchalan) Agya, 1959 or clause 22(2) (a) of U.P.Nagar Mahapalika (Corporation ke Nirvachan ka sanchalan) agya, 1959 Mohd. Yasin Shah v. Ali Akbar Khan, (1977) 2 SCC 23. However, if the rejection was based also on the additional ground of false signature of the candidate on the nomination paper, the rejection order would be upheld. Ibid.

4. **Improper acceptance of nomination paper: Clause (d)(i)**. - Where after the acceptance of the nomination paper some disqualification of the candidate, which was neither apparent nor was brought to the notice of the Returning Officer. was discovered, the Election Tribunal could quash the election on the ground of his disqualification but not on the ground of improper acceptance of the nomination paper. Durga Shankar Mehta v. Raghuraj Singh, AIR 1954 SC 520: 1954 SCJ 723; see also S.M. Banerji v. Sri Krishna Agarwal, AIR 1960 SC 368.

5. **Clause (d)(ii): Scope**. - Every act of a person not working full time for the candidate can not be regarded as done with his consent so as to make the candidate liable. Samant N. Balkrishna v. George Fernandez, (1969) 3 SCC 238: AIR 1969 SC 1201.

6. **Improper acceptance or rejection of vote: Clause (d)(ii**i). - Mere acceptance of an illegal vote did not vitiate the election unless such acceptance materially affected the result of the election. Parkash Chand v. State of Punjab, AIR 1977 P&H 26 (FB).

Improper reception or improper rejection of votes can result in invalidating an election only if such act materially affects the result of the election. Bashir Ahmad Magrey v. Ghulam Qadir Mir, (1977) 1 SCC 285: AIR 1977 SC 231.

The adjective “improper” in this clause, qualifies not only the word “reception” but also the word “refusal”. The expression “refusal” implies “refuse to accept” and the expression “reception” implies “refuse to reject”. S. Raghbir Singh v. S. Gurcharan Singh Tohra, 1980 Supp SCC 53.

Where a number of candidates were elected by proportional representation by a single transferable vote and an unsuccessful candidate filed an election petition seeking a composite relief of the election of a successful candidate being declared

void and the petitioner being declared elected in his place, it has been held that it was not necessary for a successful candidate to file a recrimination against another successful candidate. Hence, a successful candidate could claim the first preference under a vote which had not the effect of challenging the validity of the votes received by the election petitioner or any election activity of the petitioner. Anirudh Prasad v. Rajeshwari Saroj Das, (1977) I SCC 105: AIR 1976 SC 2184.

In the system of proportional representation by a single transferable vote, the voter must cast the first preference vote clearly and unambiguously. But if he commits some error in indicating his subsequent preferences, the whole ballot paper can not be rejected as invalid and the error would affect only the preferences cast subsequent to the error. Shradha Devi v. Krishna Chandra Pant, (1982)03 SCC 389: AIR 1982 SC 1569.

7. **Clause (d)(iii): Objections can be raised without filing recrimination**. - In an enquiry under Section 100(1)(d)(iii) of the Representation of the People Act. 1951 [corresponding to Section 71 (d)(iii) of this Act], with regard to improper refusal of votes, objection in respect of the identity of the voters can be raised without filing a recrimination under Section 97 (corresponding to Section 65 of this Act) Shankar Balaji Savant v. Sakharam Vithoba Salunkhe, AIR 1965 SC 1424: (1965) 2 SCJ 684.

8. **Clause (d)(iv): Scope**. - Where an election is impugned for non-compliance with a rule. the Election Tribunal must consider the question as to whether the election was thereby materially affected. Nanhoo Mal v. Hira Mal, (1976) 3 SCC 211: AIR 1975 SC 2140. Moreover, very minor mistakes not affecting the substance can not be the basis of getting relief from a court. Prem Chand v. Sri O.P. Trivedi, 1967 ALJ 5 (DB). Hence, a minor error in the spelling of the name of a candidate as printed on the ballot paper did not amount to non-compliance with the relevent Rule. Ibid.

72. **Grounds for which candidate other than the returned candidate may be declared elected**. - If any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any 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 by corrupt practice the petitioner or such other candidate would have obtained a majority of the valid votes;

(c) 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,

73. **Procedure in case of equality of votes**. – If during the trial of an election petition it appears that there is an equality of votes between any candidates at the

election and that the addition of a vote would entitle any of these candidates to be declared elected, then –

(a) any decision made by the Nirvachan Adhikari (Returning Officer) under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(b) in so far as that question is not determined by such a decision, the District Judge shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

74. **Appeal against order of District Judge**. - (1) An appeal shall lie from every order made by the District Judge under Section 69 or Section 70 to the High Court within thirty days from the date of the order:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

(2) Every person who prefers an appeal under sub-section (1) shall enclose with the memorandum of appeal a Government Treasury receipt showing that a deposit of five hundred rupees has been made by him either in a Government Treasury or in the State Bank of India in favour of the High Court as security costs of the appeal.

(3) 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 Chapter as if the appeal were an appeal from an original decree passed by a Civil COl1rt situated within the local limits of its civil appellate jurisdiction:

Provided that every appeal under this section shall be heard by a bench of not less than two judges.

(4) Every appeal shall be decided as expeditiously as possible and endeavour shall be made to determine it finally within three months from the date on which the memorandum of appeal is presented to the High Court.

(5) A copy of the order of the High Court on appeal shall be sent by the Registrar of the High Court to the State Government for information.

(6) Where an appeal has been preferred against an order under clause (b) of Secti9n 69, the High Court may, on sufficient cause being shown, stay operation of the order appealed from and in such a case the order shall be deemed never to have taken effect under Section 77 and shall not take effect until the dismissal of the appeal.

NOTES

1. **Interlocutory orders not appealable**. - Interlocutory orders of the Election Tribunal are not appealable under this Section. Hence, an order of the Tribunal for recounting the votes was not appealable during the pendency of the election petition. B.M. Munner v. Returning Officer, AIR 1982 Kant 313.

2. **Interlocutory orders of Election Tribunal whether amenable to writ jurisdiction**. - In view of the statutory provision for appeal against the Election Tribunal's decision, it would be a proper exercise of discretion under Article 226 to refuse to interfere with interlocutory orders of the Tribunal. N. T. Veluswami Thevar v. G. Raja Nainar, AIR 1959 SC 422.

75. **Finality of orders and decision**. - The decision of the High Court on appeal under Section 74 and subject only to such decision, the order of the District Judge under Section 69 or Section 70 shall be final and conclusive.

76. **Communication order**. - The District Judge shall after pronouncing his orders made under Sections 69 and 70 send a copy thereof to the State Government.

77. **Taking effect of order**. - An order of the District Judge under Section 69 or Section 70 shall take effect on the day next following the day on which the same is pronounced.

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

(1) Bribery, that is to say, any gift, offer or promise by a candidate or his agent or by any other person, of any gratification to any person whosoever, with the object, directly or indirectly of inducing

(a) a person to stand or not to stand as, or to withdraw from being a candidate, or to retire from contest at an election;

(b) an elector to vote or refrain from voting at an election, or as a reward to –

(i) a person for having so stood or not stood, or for having withdrawn his candidature, or for having retired from contest; or

(ii) an elector for having voted or refrained from voting.

Explanation.-For the purposes of this clause the term "gratification" is not restricted to pecuniary gratification or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward.

(2) Undue influence, that is to say, and direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person, with the free exercise of any electoral right at an election:

Provided that –

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who

(i) threatens any candidate, or any elector, or any person in whom a candidate or any elector is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause;

(3) The systematic appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds of caste, race, community or religion or the use of, or appeal to, religious symbols or the use of, or appeal to, national symbols, such as the national flag or the national emblem for the furtherance of the prospects of that candidate's election.

(4) The publication by a candidate or his agent or by any other person, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the candidature, or withdrawal, or retirement from contest, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The procuring or abetting or attempting to procure by a candidate or his agent, the application by a person whether for a ballot paper in the name of any other person, whether living or dead or in a fictitious name, or by a person for a ballot paper in his own name when by reason of the fact that he has already voted in the same or some other ward, he is not entitled to vote.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person, for the conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under order issued in pursuance of Section 46:

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

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

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

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent, or, by any other person, any assistance (other than the giving of vote), for the furtherance of the prospects of that candidate's election, from any person in the service of the Government and belonging to any of the following classes, namely:

(a) gazetted officers;

(b) stipendiary judges and magistrates;

(c) members of the armed forces of the Union;

(d) members of the police forces;

(e) excise officers;

(f) revenue officers including village accountants, such as patwaris, lekhpals, talatis karnams and the like but excluding other village officers; and

(g) such other class of persons in the service of the Government as may be prescribed.

NOTES

1. **Corrupt practices**. - Gift, offer or a promise of any gratification in order to amount to corrupt practice must be proved to have been made with an express design of inducing (a) a person to stand or not to stand, or to withdraw from being a candidate, or to retire from contest, or (b) a voter to vote for the person who makes the gift. offer or promise of any gratification. Mere evidence to prove the making of gift, offer or promise of any gratification is not sufficient. Some other additional circumstances have got to be proved from which such an inference can legitimately be drawn. Mazharuddin v. Ram Shankar, AIR 1956 All 169.

Procuring the exercise of undue influence on the voters, impersonation of absent and dead voters and tampering with the Death Register in the interest of a

candidate amounted to corrupt practice under Rule 49 of the Rules framed under the U.P. Town Areas Act, 1914. Saiyid Alimuddin v. Saeed Ahmad, AIR 1955 SC 761. So is the act of canvassing to induce a voter to vote for or abstain from voting in favour of a candidate on the ground of sect, caste or sub-caste. Hari Ram v. Election Tribunal. AIR 1970 All 146 (FB): 1969 ALJ 550.

Appealing to the voters of a particular community to vote for a candidate on the ground of religion was not a corrupt practice under Section 28-F of the Bombay Municipal Corporation Act, 1888. Shaikh, Mohamed Arshad (Dr) v. Devidas Vithal Salsingikar, AIR 1976 Bom 281 (DB).

2. **With the object of inducing an elector for having voted or refrained from voting.** - The mere doing of an act which may be beneficial to a person does not necessarily lead to the inference that there was a design to induce voters to vote for him. There must be some further circumstances to prove corrupt practice besides merely proving the fact that something beneficial was done by the returned candidate. Ibid. The distribution of sweets to children of the constituency with the object of gaining popularity for the candidate did not amount to any corrupt practice. Braj Bhushan v. A.B. Shah, 1960 ALJ 369.

3. **Sub-section (3**). - Merely giving certain benefits to a community does not necessarily mean that the candidate canvassed on the ground of caste, community, sect or religion. Ibid.

4. **Corrupt Practices, standard of proof**. - The standard of proof in respect of corrupt practices alleged in the election petition is the standard applicable in criminal cases, i.e. corrupt practices must be proved beyond any reasonable doubt. Suspicion however strong is not sufficient to prove such a charge. The evidence whether it is direct or circumstantial must be conclusive and if there is any doubt the returned candidate should be given the benefit of that doubt.

In the case of Harish Chandra v. Triloki Singh, AIR 1975 SC 444. [See also KM. Mani v. P.J. Antony, (1979) 2 SCC 221: (1979) 1 SCR 701] the Supreme Court observed as follows:

> "It should not be forgotten that charges of corrupt practices are quasi-criminal in character and that the allegation relating thereto must be sufficiently clear and precise to bring home the charges to the candidates."

The same view was taken in the case of Gokulnandi v. Jogesh Chandra, AIR 1959 Orissa 47 in which it was held that:

> "Now as the standard of proof required for judging the evidence by the parties, it has been held in a long array of cases both under the old and new law that in the case of allegations of corrupt practices the burden of proof is on the petitioner. It never shifts and the standard of proof to discharge this burden is the same as in criminal cases, that is, the matter requiring proof should be established beyond any reasonable doubt and that in case of doubt the benefit should go to the

respondent". Braj Bhushan v. AB. Shah, 1960 ALJ 369. See also Mohammad Koya v. Muthukoya, (1979) 2 SCC 8: AIR 1979 SC 154; Ramanbhai Rao v. G. Venkata Reddy, (1977) I SCC 771: AIR 1977 SC 208; Narendra Modivalappa Kheni v. Manik Rao Patil, (1977) 4 SCC 16: AIR 1977 SC 2171; Ramji Prasad Singh v. R.B. Jha, (1977) 1 SCC 260; Lakshmi Raman Acharya v. Chandan Singh, (1977) 1 SCC 423: AIR 1977 SC 587.

The burden of proof of commission of corrupt practice is primarily on the petitioner. Amolakchand Chhazed v. Bhagwandas Arya, (1977) 3 SCC 566: AIR 1977 SC 813. But on election petitioner proving various admissions made by the returned candidate, onus shifts from the petitioner to that candidate. Thiru John v. Returning Officer, (1977) 3 SCC 540: AIR 1977 SC 1724.

A charge of corrupt practice is easy to level but difficult to prove. M. Narayana Rao v. G. Venkata Reddy, (1977) 1 SCC 771: AIR 1977 SC 208. In absence of corroborating contemporaneous documents, the court should be very careful in scrutinizing oral evidence and should not lightly accept it unless the evidence is credible, trustworthy, natural and showing beyond doubt the commission of the alleged corrupt practice. Ibid. See also Lakshmi Ratan Acharya v. Chandan Singh, (1977) 1 SCC 423: AIR 1977 SC 587; Amolakchand Chhazed v. Bhagwandas Arya, (1977) 3 SCC 566: AIR 1977 SC 813; Mohd. Yasin Shah v. Akbar Ali Khan, (1977) 2 SCC 23.

5. **Mens r**ea. - It is not an essential ingredient of corrupt practice. Y.S. Pasmer v. Hira Singh Paul, AIR 1959 SC 244: 1959 SCJ 483.

6. **Pleading**s. - Allegation in pleadings regarding corrupt practice must be clear and precise. Kona Prabhakara Rao v. M. Sheshagiri Rao, (1982) 1 SCC 442.

A plea not incorporated in the election petition cannot be raised at the time of arguments. Bashir Ahmad Magrey v. Ghulam Qadir Mir, (1977) 1 SCC 285: AIR 1977 SC 231.

7. **Bribery.** - The term "bribery" is defined under Section 171-B of the IPC as under: -

"(1) Whoever –

(i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right; commits the offence of bribery:

Provided that a declaration of public policy or a promise of public action shall not be an offence under the section.

(2) A person who offers, or agrees to give, or offers or attempts to procure a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification and a person who accepts a gratification as a motive for doing what he does not intend to do or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward."

Where bribery is alleged then it is necessary for the petitioner before the Election Tribunal to prove and the Tribunal to give a distinct finding that the names of the persons to whom inducement was alleged to have been made, were entered in the electoral rolls of the constituency. However. every allegation of fact in the plaint if not denied specifically or by necessary implication, is taken to be admitted. And acting on this principle the Tribunal may be justified in taking it as admitted that the persons were electors in the constituency. Tirath Singh v. Bachitar Singh, AIR 1954 Pepsu 118.

8. **Bribery: Sub-section (1): Scope**. - Acceptance of a gift is not a corrupt practice, S.B. Adityan v. S. Kandaswami, AIR 1958 SC 857: 1958 SCJ 1072. An offer of bribery was a corrupt practice even if no specific amount had been mentioned. Rajendra Prasad Jain v. Sheel Bhadra Yajee, AIR 1967 SC 1445. Ordinary courtesy and hospitality can not be equated with corrupt practice. T.N. Anganani v. Ravoluen, (1971) 2 SCC 592: AIR 1972 SC 2367. Making payment to a worker for his expenses in canvassing is not a corrupt practice. Onkar Singh v. Ghasiram Manjhi, 39 ELR 477.

An offer to help to secure employment does not constitute gratification, hence, not a corrupt practice. Withdrawal of one's own candidature, in order to induce another person to stand, is not covered by the word "gratification". S.B. Adityan v. S. Kandaswami, AIR 1958 SC 857. An announcement of increase in dearness allowance of Government employees was not a gift, offer or promise of gratification. H. V. Kamath v. Niraj Singh, (1969) 1 SCC 601: AIR 1970 SC 211.

Bribery by a person who was not yet a validly nominated candidate, did not amount to corrupt practice. Harjit Singh Mann v. S. Umrao Singh, (1980) 2 SCC 713: AIR 1980 SC 701. Mere delivery of a cheque by the candidate would not amount to bribery unless an element of bargain was there. Ibid.

9. **Voting, what docs it mean**. - Voting means expressing one's opinion on a particular point and nobody can be said to have voted unless he has so indicated his opinion obviously, therefore. the process of voting cannot start until the voter has obtained the ballot paper and has at least started the act of expressing his opinion. Rajendra Pal v. H.N. Kapoor, 1960 ALJ 339.

10. **Undue influence: Sub-section (2**). - The definition of "undue influence" in sub-section (2) is more or less in the same language as in Section 123(2) of the Representation of the People Act, 1951 or Section 171 of the Indian Penal Code.

However, in the Nagar Mahapalika Act and Representation of the People Act, the scope of the definition has been widened by adding the words "direct or indirect" to indicate the nature of interference. Babu Rao Patel v. Zakir Hussain, AIR 1968 SC 904: (1968) 2 SCJ 490. The pleadings in respect of undue influence must be specific and full particulars thereof should be given in the election petition. Lakhi Prasad Agarwal v. Nathmal Dakaria, AIR 1969 SC 583.

Exercising undue influence vitiates the election even if the result was not materially affected. M. Narayana Rao v. G. Venkata Reddy, (1977)1 SCC 771: AIR 1977 SC 208.

Printing and distribution of handbills or posters making false allegations regarding the result of some alleged election in which one party routed another would not amount to undue influence unless direct or indirect interference or attempt to interfere with the free exercise of any electoral right was alleged and proved. Aad Lal v. Kanshi Ram, (1980) 2 SCC 350: AIR 1980 SC 1358. Moreover, unless such material was prepared at the instance of the returned candidate, charge of exercising undue influence would fail. Ibid.

If the speech is calculated to interfere with the free exercise of electoral right and to leave no choice to the electors in the matters, a corrupt practice is committed irrespective of the actual effect of the speech. Manubhai Nandlal Amorsey v. Popatlal Manilal Joshi, (1969) I SCC 372: AIR 1969 SC 734; Ram Dial v. Sant Lal, AIR 1969 SC 855: 1959 SCJ 196. A statement that those voting for the Congress Candidate would be guilty of the sin of gohatya is covered by Section 78(2)(ii). Narbada Prasad v. Changa Lal, AIR 1969 SC 395: (1969) 1 SCJ 786; Manubhai Nandlal Amorsey v. Popatlal Manilal Joshi, AIR 1969 SC 734: (1969) 2 SCJ 138.

But an allegation that voting for Congress would be equal to slaughter of a cow, has been held not amounting to exercising undue influence. Pundit Shree Krishna Selot v. Ramcharan Pujari. (1969) 3 SCC 548: but see Mohan La! Sethia v. Chiranjilal Harsola, Civil Appeal No. 272 of 1969 decided on 16-12-1969.

For more case law refer to "The Complete Digest of Supreme Court Cases, Volumes V and VI".

11. **Appeal on grounds of caste: Sub-section (3).** - Where the allegation was that canvassing on the ground of caste was widespread and at several places and the persons making such appeals had been specified in the petition and substantiated by witnesses, mere failure of the witnesses to mention the name of the voters to whom such appeal was made, did not justify the rejection of their evidence. Ambika Saran Singh v. Mahant Mahadeva, (1969) 3 SCC 492.

A letter written by a supporter of the returned candidate to the supporter of the petitioner did not amount to an appeal. Biswanath Rai v. Sachidanand Singh, AIR 1971 SC 1949.

12. **Appeal on religious grounds: Sub-section (3).** - Section 123(3) of the Representation of the People Act, 1951 [corresponding to Section 78(3)] barred appeal on the ground of the candidate's religion but not mere appeal in the name of religion. Kanti Prasad Jayashanker Yagnik v. Purushottamdas Ranchoddas Patel, (1969) 1 SCC 445: AIR 1969 SC 351.

Appeal on religious grounds can be committed even when the rival candidates belong to the same religion. Kultar Singh v. Mukhtiar Singh, (1965) 1 SCJ 565: 1964 CrLJ 268: 26 ELR 300.

Alleging that the activities of a candidate ran counter to the interest of his community was not a corrupt practice. J.K. Choudhary v. Birendra Chandra Dutt, 42 ELR 66.

13. **Test of appeal to, or use of religious symbol**. - An act not tending to arouse religious sentiments is not within the ambit of prohibition. Ramanbhai Ashabhai Patel v. Dobhi Ajitkumar Fulsinji, AIR 1965 SC 669.

A pendant with the word "Om" printed upon, was not a religious symbol. Jagdev Singh v. Pratap Singh, AIR 1965 SC 183: (1964) 2 SCJ 633.

14. **Publishing false statement: Sub-section (4)**. - The onus to prove that a statement of the type prohibited by this sub-section was made, is on the election petitioner. This onus can be discharged by swearing to that effect. Once that is done, the burden shifts to the candidate making the statement to show either that the statement was true or that he did not believe the same to be false. Napal Chandra Roy v. Netai Chandra Das, (1971) 3 SCC 303. This sub-section places restriction on a statement "reasonably calculated to prejudice the prospects of the election of the candidate" against whom it is made. The word "calculated" means designed, it denotes more than likelihood and imports a design to affect the voters. Sheopal Singh v. Ram Pratap, AIR 1965 SC 677. The emphasis is on the calculated effect and not on the actual result, though the latter proves the former Ibid. See also Shrihari Baliram Jivatode v. Vithalrao, (1969) 1 SCC 82: AIR 1970 SC 1841: Om Prakash v. Lalchand, (1969) 2 SC 533: AIR 1970 SC 1889.

Circulating a pamphlet making a false allegation of a candidate having been ostracised from a particular religious community and also that he was running a brothel in the graveyard and trading in illicit liquor and on these grounds asking the members of that community to vote against the said candidate, has been held to be a corrupt practice under the provisions of the Maharashtra Municipalities Act. Shaikh Mohamad Umarsaheb v. Kadalaskar Hasham Karimsab, (1969) 1 SCC 741: AIR 1970 SC 61.

Failure to give particulars of printing of the offending pamphlet is not detrimental and does not render the election petition liable to be dismissed. Thakur Virendra Singh v. Vimal Kumar, (1977) 1 SCC 718: AIR 1976 SC 2169. The printer of such pamphlet is not an accomplice and his statement can be received in evidence. Ibid.

Publication means and includes distribution also. Lalraoukung v. Maokho Lal Thangiom, 41 ELR 35. Recitation of a poem at a public meeting is publication. Kumara Nand v. Brij Mohan Lal Sharma, AIR 1967 SC 808: (1967) 2 SCJ 889. Belief of the candidate, and not of the person reciting the statement as to the falsehood of the statement is material. Ibid. This sub-section does not accept in respect of the statement the doctrine of constructive knowledge. Sheopal Singh v. Ram Pratap, AIR 1965 SC 677. A statement prohibited under this sub-section can not be validated on the ground that it was published to counteract the rival statement of an opponent. T.K. Gangi Reddy v. M.C. Anjaneya Reddy, 22 ELR 261.

For more case law refer to "The Complete Digest of Supreme Court Cases", Vols. V and VI.

15. **Hiring a vehicle: Sub-section (6)**. - In Balwant Singh v. Lakshmi Narain, AIR 1960 SC 770. the Supreme Court by a majority decided that in considering whether a corrupt practice had been committed, conveying of electors could not be dissociated from the hiring of a vehicle. The minority opinion was that unless the contract of hiring the vehicle was established, mere conveying the electors to and from the polling station did not amount to corrupt practice. Balwant Singh v. Lakshmi Narain, AIR 1960 SC 770. However, the majority opinion was reaffirmed in a subsequent case. D.D. Pawar v. Pandurang Raoji Jagtap, (1978) 1 SCC 504: AIR 1978 SC 351.

16. **Obtaining assistance of Government Servants: Sub-section (7**). - The material facts to be alleged in an election petition, challenging an election on the ground of corrupt practice, are as to whether the candidate obtained or procured or abetted or attempted to obtain or procure any assistance other than the giving of vote. Hardwari Lal v. Kanwal Singh, (1972) 1 SCC 214: AIR 1972 SC 515. The petitioner must prove that while the assistance was obtained the person concerned was still in Government service and the respondent had at that time become a candidate. Raj Narain v. Indira Nehru Gandhi, (1972) 3 SCC 850: AIR 1972 SC 1302. The assistance, objected to, must be meant for furthering the election. Y.S. Parmar v. Hira Lal, AIR 1959 SC 244: 1959 SCJ 483.

A Gram Panchayat is not in the service of the Government. Kishore Chandra Deo Bhanj v. Raghunath Misra, AIR 1959 SC 589: 1959 SCJ 612. Nor is a Municipality, a District Board, a cooperative society or a company in Government service. Ibid.

17. **Sub-section (7)(f): Revenue Officer: Meaning**. - A revenue officer is one who is employed in the business of revenue, and the term includes all such revenue officers in the chain of hierarchy in the revenue administration of the State. Gurmej Singh v. Pratap Singh Kairon, AIR 1960 SC 122: 1960 SCJ 386.

Extra departmental agents in branch Post Offices and Presidents of Chowkidari Unions are not Government servants. Dibandhu Sahu v. Jadumoni Mangaraj, AIR 1954 SC 411: 1954 SCJ 605. The proposing or seconding of a candidate by a Government servant is not a corrupt practice. Raj Krishna Bose v.

Binod Kanungo, AIR 1954 SC 202: 1954 SCJ 286. Appointment of a Government servant, as polling agent was, in absence of proof of canvassing work, not a corrupt practice. Mahendra Kumar v. Vidyavati, AIR 1956 SC 315. But if his presence, on account of his rank and importance might prove to be a source of unfair election practice and such appointment was made with the object of furthering the candidate's election prospects such appointment would be bad. Satya Deo Bushahri v. Padam Dev, AIR 1955 SC 5: AIR 1954 SC 587: 1954 SCJ 764: 1955 SCJ 21.

79. **Rules regarding decision of disputes relating to elections**. - The State Government may make rules with respect to the following matters:

(a) appointment and remuneration of staff for District Judges trying election petitions;

(b) abatement and withdrawal of election petitions;

(c) dismissal of election petitions for non-appearance, non-prosecution or non-compliance with orders of court and with the provisions of the Act and orders made thereunder;

(d) procedure at hearing of election petitions;

(e) powers of District Judge trying election petitions;

(f) place of trial;

(g) deposit of security and additional security;

(h) refund and forfeiture of security deposits;

(i) recovery of costs awarded under Section 70;

(j) substitution of parties;

(k) consignment and weeding out of records of decisions of election petitions;

(l) any other matter about which provision is necessary in the opinion of the State Government.

80. **Disqualification for electoral offences and corrupt practices**.- (1) Offences punishable with imprisonment under Section 171-E or Section 171-F of the Indian Penal Code, 1860, and offences punishable under Section 135 or Section 136 of the Representation of the People Act, 1951, as applied to elections under this Act by Section 48 shall entail disqualification for membership of a Corporation.

(2) The corrupt practices specified in Section 78 shall entail disqualification for membership of a Corporation.

(3) The period of disqualification shal1 be five years commencing in the case of disqualification under sub-section (1) from the date of the conviction for the offence and in the case of disqualification under sub-section (2) from the date on which the finding of the District Judge under section 70 takes effect under Section 77.

Certain Other Matters

81. **Penalty for sitting and voting before making oath or affirmation or when not qualified or disqualified**. - If a person sits or votes as a Mayor, ♣[Deputy Mayor] or member of a Corporation at a meeting of the Corporation or any Committee thereof before he has complied with the requirements of sub-section (1) of Section 85 or when he knows that he is not qualified or that he is disqualified for being a Mayor, ♣[Deputy Mayor), [95][* * *] or Corporator as the case may be, he shall be liable in respect of each day on which he so sits or votes to penalty of fifty rupees to be recovered as a debt due to the State.

82. **Questions as to disqualifications to be determined by the State Government**. - If any question arises as to whether a member of a Corporation has become subject to any of the disqualifications mentioned in Section 25 the question shall be referred in the manner prescribed for decision to the State Government and the decision of the State Government shall be final.

83. **Removal of members**. - (1) The State Government may remove a member of the Corporation or of any Committee thereof on any of the following grounds:

(a) that he has acted as a [96][* * *] Corporator or member of any Committee, as the case may be, by voting or taking part in the discussion of any matter other than a matter referred to in clause (e) of Section 25 in which he has directly or indirectly a personal interest or in which he was professionally interested on behalf of a client, principal or other persons;

(b) that he has become physically or mentally incapacitated for performing his duties as such member;

(c) that he has been guilty of gross misconduct in the discharge of his duty as such member:

Provided that no order of removal shall be made by the State Government under this section unless a [97][* * *] Corporator or member of Committee to whom it relates has been given a reasonable opportunity of showing cause why such order should not be made.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

95 Omitted by U.P. Act 12 of 1977.

96 Omitted by U.P. Act 12 of 1977.

97 Omitted by U.P. Act 12 of 1977.

(2) The removal shall be made by notification in the Official Gazette and shall become effective from the date of publication of such notification.

(3) The State Government may direct a member who is suffering from any of the serious infectious diseases to be specified by the State Government, by order not to attend any meeting of the Corporation or any Committee, Joint Committee or Sub-Committee thereof and any member who has been so directed shall not be qualified to attend any meeting of the Corporation or any Committee, Joint Committee or Sub-Committee thereof until upon his furnishing proof to the satisfaction of the State Government of his having been cured of the disease the State Government withdraw the direction.

(4) A person who has been removed from membership of the Corporation under sub-section (1) shall be disqualified for being elected and for being a member of the Corporation for a period of four years from the date of his removal, and a person who has been removed from the membership of any Committee of the Corporation shall be disqualified for being elected or for being a member of such Committee for a period of four years from the date of his removal:

Provided that the State Government may at any time by order remove the disqualification.

84. [* * *][1]

85. **Oath of allegiance to be taken by the Mayor and members**. - [2][(1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected a Corporator [3][* * *] or co-opted as a member of the Development Committee and every person who is elected a Mayor shall before taking his seat make an oath or affirmation in the following form, namely:

Corporator [* * *]

"I, A.B., having been elected_____Co-opted member of the
"Mayor"
do swear in the name of God
Development Committee of this Corporation_____that I will
solemnly affirm
bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."]

[4][(1-A) Within seven days of the constitution under Section 9 or reconstitution under Section 538 of the Corporation the Municipal Commissioner shall convene a

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1 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
2 Subs. by U.P. Act 21 of 1964.
3 Omitted by U.P. Act 12 of 1977.
4 Subs. by U.P. Act 38 of 2006, S.4.

meeting of the Municipal Corporation. The Commissioner of the Division or in his absence the District Magistrate shall administer the oath or affirmation to the Mayor and thereafter the Mayor shall administer the oath or affirmation to corporators who have been declared elected. Such meeting shall be presided over by the Commissioner of the Division or in his absence the District Magistrate. The meeting so convened, shall be treated as the First Meeting of the Municipal Corporation.]

(2) Any person who having been elected a Corporator or Mayor [5][* * *] or co-opted a member of the Development Committee fails to make within three months of the date on which his term of office commences or at one of the first three meetings of the Corporation held after the said date, whichever is later, the oath or affirmation laid down in and required to be taken by sub-section (1) shall cease to hold his office and his seat shall be deemed to have become vacant.

(3) Any person required under sub-section (1) to make an oath or affirmation shall not take his seat at a meeting of the Corporation, in the case of a person co-opted a member of the Development Committee at a meeting of such Committee, or do any act as Corporator [6][* * *] or Mayor or such member of the Development Committee, as the case may be, unless he has made an oath or affirmation as laid down in sub-section (1).

86. **Expenses of election**. - (1) All expenditure incurred in connection with the preparation and revision of electoral rolls for a City and the conduct of all elections under this Act in respect of that City shall except as otherwise directed by the State Government be charged to and be realizable from the Corporation to the extent and in the manner laid down by the State Government.

(2) The Nirvachan Adhikari (Returning Officer) or any officer charged with the duty of conducting any election may require the Corporation to advance such sum as may be necessary for the conduct of that election and the Corporation shall thereupon make that sum available to the Nirvachan Adhikari (Returning Officer) or other officer concerned.

87. **Power to make rules**. - (1) The State Government may make rules in respect of matters to be prescribed but which are not prescribed in the Act or by order.

(2) Without prejudice to the generality of the foregoing power such rules may provide for

(a) the manner of notification of election of Mayor, ♣[Deputy Mayor], [7][* * *] or Corporator, and of a vacancy in the office of Mayor, ♣[Deputy Mayor] [8][* * *] or Corporator;

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5 Omitted by U.P. Act 12 of 1977.

6 Omitted by U.P. Act 12 of 1977.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

79 Omitted by U.P. Act 12 of 1977.

(b) manner of election of members of Executive Committee, Development Committee and committees constituted under clause (e) of Section 5 and of co-option of members of the Development Committee;

(c) manner of election of Vice-Chairman of the Executive Committee and Development Committee and Chairman and Vice-Chairman of Committees constituted under clause (e) of Section 5;

(d) maximum salary and allowances of Municipal Commissioner;

(e) manner of reference under Section 82 of any question as to disqualification of member;

(f) procedure for ascertaining if a member is suffering from a serious infectious disease for the purposes of Sections 25 and 83; and

(g) matters relating to taking of oath under Section 85.

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[80] Omitted by U.P. Act 12 of 1977.

CHAPTER III

PROCEEDINGS OF THE MAHAPALIKA, EXECUTIVE COMMITTEE, DEVELOPMENT COMMITTEE AND OTHER COMMITTEES

88. **Meeting of Corporation**. - (1) The Corporation shall meet for the transaction of business six times at least in every year and more than two months shall not intervene between its last sitting and the date appointed for the first sitting of the next meeting.

(2) The Mayor and in the absence of the Mayor the ♣[Deputy Mayor] may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-sixth of the total number of members of the Corporation call a meeting of the Corporation. The requisition may be delivered to the Mayor or, as the case may be, to the ♣[Deputy Mayor] by any member subscribing the same, or sent to him by registered post. [9][The meeting on such requisition shall be convened within fifteen days from the date of delivery or service thereof.]

[10][(2-A) Notwithstanding anything contained in sub-section (2), where a meeting has already been called to be held within a period of fifteen days from the date of delivery or service of a requisition, the Mayor or ♣[Deputy Mayor], as the case may be, may, instead of calling a separate meeting upon that requisition, include, subject to the provisions of sub-section (1) of Section 91, the matters mentioned in such requisition in the list of business to be transacted at the meeting already called and thereupon such meeting shall be deemed to be a meeting convened on that requisition as well.

(2-B) The Mayor or the ♣[Deputy Mayor], as the case may be, may, for reasons to be recorded, postpone a meeting, other than a meeting convened on requisition of members, by giving such notice as may be provided by bye-laws in this behalf.]

(3) Every meeting of the Corporation shall be open to the public unless the Presiding Officer considers that the public shall be excluded during the whole or any part of the meeting.

89. **Meetings of Executive Committee, etc**. - (1) The Executive Committee, [the Development Committee, the Wards Committees][11] and any other Committee constituted under Section 5 shall meet once at least in every month for the transaction of business.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

9 Ins. by U.P. Act 21 of 1964.

10 Ins. by U.P. Act 21 of 1964.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

11 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

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(2) The Chairman or in the absence of the Chairman the Vice-Chairman of any Committee referred to in sub-section (1) may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fourth of the total number of members of the Committee, call a meeting of the Committee.

90. **Quorum**. - (1) Where any business is required to be transacted by special resolution, the quorum for the transaction of such business shall be at least one-half of members of the Corporation or the Committee as the case may be.

(2) No business shall, except as provided in sub-section (3) be transacted at any meeting of the Corporation, the Executive Committee, [the Development Committee, the Wards Committees][12] or any other Committee constituted under Section 5 unless at least one-fifth of the total number of members thereof be present throughout the meeting.

(3) Where any meeting fails or is unable to continue to transact its business for want of quorum, the Presiding Officer of the meeting shall direct that a meeting be held at such time and place as he thinks fit and thereupon the Municipal Commissioner shall give notice to all members of the time and place of such meeting and the business which had been listed for transaction at the original meeting may be brought forward and transacted in the usual manner at such meeting but no quorum shall be necessary thereat.

91. **Notice of meeting and business**. - (1) A list of the business to be transacted at every meeting, except an adjourned meeting, shall be sent to the address, given by himself, of each member of the Corporation, the Executive Committee, [the Development Committee, the Wards Committees][13] or other Committee constituted under clause (e) of Section 5, as the case may be, at least ninety-six hours in the case of a meeting of the Corporation and seventy-two hours in the case of a meeting of any such Committee before the time fixed for such meeting and no business, except as provided in sub-section (2), shall be brought or transacted at any meeting other than a business of which notice has been given:

Provided that if the list of business aforesaid is sent by post it shall be sent under a certificate of posting.

(2) Any member of the Corporation or of a Committee referred to in sub-section (1), as the case may be, may send or deliver to the Municipal Commissioner notice of any resolution with a copy thereof proposed to be moved by him at any meeting of which notice has been sent under sub-section (1). The notice shall be sent or delivered at least forty-eight hours in the case of a meeting of the Corporation and twenty-four hours in the case of a meeting of any Committee before the date fixed for the meeting and thereupon the Municipal Commissioner shall with all possible despatch cause to be circulated such resolution to every member in such manner as he

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12 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

13 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

may think fit. Any resolution so circulated may, unless the meeting otherwise decides, be considered and disposed of thereat.

92. **Vote of majority decisive at meetings of the Corporation**. - (1) All matters required to be decided by the Corporation or by any Committee thereof shall, save as otherwise provided in this Act, be determined by a majority of the members present and voting at the meeting.

[14][* * *]

(2) The voting at all meetings shall be by show of hands but the bye-laws to be framed by the Corporation may provide that any question or class of questions as may be specified, be decided by secret ballot.

(3) At any meeting, unless a poll be demanded by at least one-fourth of the members present, a declaration by the Presiding Officer at such meeting that the resolution has been carried or lost and an entry to that effect in the minutes of the proceedings shall, for the purposes of this Act, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(4) If a poll be demanded by at least one-fourth of the members present at a meeting, the votes of all the members present who desire to vote shall be taken under the direction of the Presiding Officer of the meeting and the result of such poll shall be deemed to be the resolution of the Corporation at such meeting.

93. **Adjournment of meeting of Corporation and Committee, etc**. - The Presiding Officer of any meeting of the Corporation or of any Committee referred to in Section 89 at which a quorum of the members is present may, with the consent of the majority of the members present, adjourn the meeting from time to time.

94. **Presiding Officers at meetings**. - (1) The Mayor and in his absence the [♣][Deputy Mayor] shall preside at meetings of the Corporation.

(2) In the absence of the Chairman of any Committee the Vice-Chairman thereof shall preside at meetings of the Committee.

(3) The members present at any meeting shall, in the absence of the Mayor and the [Deputy Mayor] in the case of the Corporation and the Chairman or Vice - Chairman, in the case of any Committee referred to in Section 89, choose one of their members to preside at the meeting.

(4) Subject to the provisions of Section 17 a person presiding at a meeting of the Corporation or of any Committee may vote on any motion before the Corporation

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[14] Provisos ins. by U.P. Act 41 of 1976 but subsequently omitted by U.P. Act 17 of 1982 (w.e.f. 04-01-1982).

[♣] The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

or the Committee, as the case may be, and in the case of equality of votes shall have also a casting vote.

95. **Special Committees and Joint Committees**. - (l) The Corporation may from time to time by special resolution constitute a Special Committee consisting of such members and other persons, if any, as it may think fit, to enquire into and report upon any matter connected with its powers, duties or functions. Every member of a Special Committee shall have the right to speak in and otherwise to take part in the proceedings of the Committee, but no member who is not a" member of the Corporation shall have a right to vote at any meeting of the Committee.

(2) The Corporation may from time to time by resolution appoint a Joint Committee of any two or more of the committees mentioned in Section 5 in respect of matters in which such committees may be jointly interested.

(3) Every Special Committee and Joint Committee shall conform to any instructions that may from time to time be given to it by the Corporation.

(4) The Corporation may at any time dissolve or alter the constitution of any Special Committee or Joint Committee or may at any time withdraw from any Special Committee any of the powers, duties and functions delegated to it.

(5) Every Special Committee and Joint Committee shall appoint one of their member to be the Chairman, provided that no member of the Corporation may be the Chairman of more than one Special Committee or Joint Committee and no person who is not a member of the Corporation shall be appointed Chairman of any Committee.

(6) In the absence of a Chairman at any meeting the members of a Special Committee or Joint Committee shall choose one of their members to preside at the meeting, provided that no person who is not a member of the Corporation shall be so chosen.

(7) The report of any Special Committee shall, as soon as may be practicable, be laid before the Corporation which may thereupon take such action as it thinks fit or may refer back the matter to the Special Committee for such further investigation and report as it may direct.

96. **Joint transaction with other local authorities**. - (l) The Corporation may from time to time and shall, if so required by the State Government, join with a Cantonment authority or any other local authority or with a combination of such authorities -

(a) in appointing a Joint Committee out of their respective bodies for any purpose in which they are jointly interested, and in appointing a Chairman of such Committee;

(b) in delegating to any such Committee power to frame terms binding on each such body as to the construction and future maintenance of any

joint work and any power which might be exercised by any of such bodies, and

(c) in framing and modifying bye-laws for regulating the proceedings of any such Committee in respect of the purpose for which the Committee is appointed.

(2) Where the Corporation has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any matter and such other local authority has refused to concur, the State Government may pass such orders as it deems fit requiring the concurrence of such other authority, not being a Cantonment authority, in the matter aforesaid and such other authority shall comply with such orders.

(3) If any difference of opinion arises between the Corporation and any such other local authority which has joined the Corporation under this section, the matter shall be referred to the State Government whose decision thereon shall be final and binding:

Provided that, if the authority concerned is a Cantonment authority, any such decision shall not be binding unless it is confirmed by the Central Government.

(4) The Corporation may from time to time enter into an agreement with a Cantonment authority, or a local authority or with a combination of such authorities for the levy of octroi or terminal tax or tolls by the Corporation on behalf of the authorities so agreeing and, in that event, the provisions of this Act shall apply in respect of such levy as if the area of the City were extended so as to include the area or areas subject to the control of such authority or such combination of authorities.

(5) The terms on which the Corporation proposes to join with a Cantonment authority or a local authority or a combination of such authorities under sub-section (1) or sub-section (4) shall be reduced to writing and be subject to prior approval of the State Government.

(6) Subject to the prior approval of the State Government the terms referred to in sub-section (5) may be varied or rescinded with the concurrence of all the local authorities concerned and any such variation or rescission shall take effect from such date as may be agreed upon and specified by the said local authorities.

97. **Sub-committees.** - (1**)** The Executive Committee, [the Development Committee, the Wards Committees][15] or any Committee appointed under clause (e) of Section 5 or a Joint Committee may appoint one or more sub-committees for any purpose with which it is entitled to deal and which, in its opinion, can be more usefully carried out by a sub-committee.

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[15] Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(2) A sub-committee appointed under sub-section (1) shall possess such powers and perform such duties and functions as the Committee appointing it may from time to time delegate or confer.

98. **Right to ask questions**. - A Corporator [16][* * *] may, subject to the conditions prescribed by rules, ask questions on any matter relating to the administration of this Act or the Municipal Government of the City.

99. **Attendance of Chairman of a Committee at meetings of other committees**. - With the permission of the Mayor the Chairman of any Committee of the Corporation may be present at and address a meeting of any other Committee of the Corporation but he shall not, by virtue of this section, be entitled to vote thereat.

100. **Vacancy in the offices of both Mayor and ♣[Deputy Mayor].** - Whenever the office of the Mayor as well as of the ♣[Deputy Mayor] is vacant, the Municipal Commissioner shall, subject to any directions which the prescribed Authority may give in this behalf, carry on the routine duties of the Mayor till a Mayor or ♣[Deputy Mayor] is elected.

101. **Presence of Municipal Commissioner and other officers at meetings**. - (1) The Municipal Commissioner shall have the right of being present at a meeting of the Corporation or of any Committee, sub-committee, Joint Committee or Special Committee constituted under this Act and of taking part in the discussion thereat and with the permission of the Presiding Officer, may at any time make a statement or explanation of facts but shall not be at liberty to vote upon or to make any proposition at such meeting.

(2) The Corporation or any Committee, Special Committee, Joint Committee or sub-committee referred to in sub-section (1) may require any of the officers of the Corporation to attend any of its meetings or meeting at which any matter dealt with by such officer in the course of his duties is being discussed and if any officer is required to attend such meeting, he may be called upon to make a statement or explanation of facts or supply such information in his possession relating to any matter dealt with by him as the Corporation or any Committee, Special Committee, Joint Committee or sub-committee, as the case may be, may require.

(3) Any officer specially authorized by the State Government in this behalf shall be entitled to attend the meeting of the Corporation and to address it on any matter affecting his department or in respect of which he has special knowledge.

(4) The Corporation may request the State Government to direct the Head of any Government department or any other officer of that department to attend a meeting of the Corporation.

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[16] Omitted by U.P. Act 12 of 1977.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

102. **Proceedings of the Corporation, Executive Committee, etc**. - The meeting of the Corporation, the Executive Committee, [the Development Committee, the Wards Committees][17] and all other Committees and sub-committees shall be held and the business before them conducted and disposed of in the manner prescribed by bye-laws made by the Corporation.

103. **Bye-laws under this Chapter**. - (1) Subject to and consistent with the provisions of this Act, the Corporation may make bye-laws for regulating the holding of and the conduct of business at its meeting and the meetings of the Executive Committee, [the Development Committee, the Wards Committees][18], Committees constituted under Section 5, Special Committees, Joint Committees and sub-committees.

(2) Without prejudice to the generality of powers conferred under sub-section (1) the bye-laws may provide for -

(i) the time and place of meetings of the Corporation, Committees and sub committees;

(ii) the manner in which notice of such meetings shall be given;

(iii) the management and adjournment of such meetings, and the regulation of orderly conduct of business thereat, including the withdrawal or suspension of members guilty of disorderly conduct;

(iv) the procedure at meetings of the Corporation, Committees and sub committees;

(v) the minute book, and keeping of record of proceedings of Corporation, Committees and sub-committees;

(vi) inspection of minutes and reports of proceedings and supply of copies thereof to members and other persons on payment of fee or otherwise;

(vii) constitution of Committees and sub-committees;

(viii) appeal from decisions of sub-committees to the Committee appointing it;

(ix) conditions attaching to the right to ask questions and the answering of such questions.

(3) The bye-laws made under this section shall be subject to the provisions of Sections 542, 543, 544, 546, 547 and 549.

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17 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

18 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

104. **Vacancies, etc. not to invalidate proceedings.** - (1) No act or proceeding of the Corporation or of any Committee or sub-committee appointed under this Act shall be invalid or be questioned on account of any vacancy in its body.

(2) No disqualification of, or defect in, the election or appointment of any person acting as a Corporator [19][* * *] or as Mayor or ♣[Deputy Mayor] or Presiding Officer of the Corporation or as Chairman or Vice-Chairman or member of any Committee or sub-committee appointed under this Act shall be deemed to vitiate any act or proceeding of the Corporation or of any such Committee or subcommittee as the case may be, in which such person has taken part, provided the majority of the persons who were parties to such act or proceedings were entitled to act.

(3) Until the contrary is proved, every meeting of the Corporation or of a Committee or sub-committee in respect of the proceedings whereof a minute has been made and signed in accordance with this Act or the bye-laws shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are proceedings of a Committee or sub-committee, such Committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

105. **Bar to questioning of act and proceeding on ground of mere irregularity.** - No act done or proceeding taken under this Act shall be called in question in any court on the ground merely of any defect or irregularity in procedure not affecting the substance.

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[19] Omitted by U.P. Act 12 of 1977.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S. 8.

CHAPTER IV

OFFICERS AND STAFF

106. **Creation of posts.** - (1) Subject to such conditions as may be prescribed a Corporation may from time to time create one or more of the following posts, as it may consider necessary, in connection with its affairs namely,

(i) Deputy Municipal Commissioner;

(ii) Assistant Municipal Commissioner;

[20][(iii) Mukhya Abhiyanta];

(iv) Nagar Swasthya Adhikari;

(v) Mukhya Nagar Lekha Parikshak; and

(vi) other posts of officers, staff and other servants necessary for the efficient discharge of its functions:

Provided that where the State Government orders to the effect that the Corporation do create a post, it shall be obligatory for the Corporation to create such post:

Provided further that a post created under the first proviso shall not be abolished without the sanction of the State Government.

(2) The qualifications of persons to be appointed to posts created under sub section (1) shall be such as may be prescribed by the State Government.

107. **Appointment of posts**. - (1) [21][Appointments to the post of Deputy Municipal Commissioner, Assistant Municipal Commissioner, [22][Mukhya Abhiyanta, Nagar Swasthya Adhikari, Mukhya Nagar Lekha Parikshak and to other posts as the Mayor may specify, shall be made by the Mayor] after consultation with the State Public Service Commission in the manner prescribed and not otherwise]:

Provided that the appointment of Nagar Swasthya Adhikari shall preferably be made out of officers of the Public Health Department of the State Government whom the State Government may be agreeable to send on deputation and in such case consultation with the Public Service Commission shall not be necessary.

(2) [23][Appointments to the posts not included in the posts referred to in sub-section (1)] per mensem shall be made after consultation with the State Public Service

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20 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
21 Subs. by U.P. Act 21 of 1964.
22 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
23 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

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Commission in the manner prescribed and not otherwise.] The authority to appoint such officers and servants of the Corporation shall vest

(a) in respect of those officers and servants who are immediately subordinate to the Mukhya Nagar Lekha Parikshak, in the Mukhya Nagar Lekha Parikshak, and

(b) in respect of all other officers and servants, in the Municipal Commissioner.

(3) All other appointments except those specified in sub-sections (1), (2) and (5) shall be made in accordance with the recommendations of a Selection Committee constituted under sub-section (4) and authority to make such appointments shall vest -

(a) in respect of those officers and servants who are immediately subordinate to the Mukhya Nagar Lekha Parikshak, in the Mukhya Nagar Lekha Parikshak, and

(b) in respect of all other officers and servants, in the Municipal Commissioner.

(4) The Selection Committee referred to in sub-section (3) shall consist of the Municipal Commissioner or his nominee, the Mukhya Nagar Lekha Parikshak and Head of the Department for which the appointment is to be made. The Municipal Commissioner and, in his absence, the member designated by him for the purpose, shall be the Chairman of Selection Committee:

[24][Provided that the Committee referred to above which may be substituted in connection with the appointments of officers and servants immediately subordinate to the Municipal Commissioner or the Mukhya Nagar Lekha Parikshak, shall consist of the Municipal Commissioner or the Mukhya Nagar Lekha Parikshak, as the case may be, as Chairman and two other officers of the Corporation who shall be nominated by the Executive Committee as members.]

(5) Appointments to posts in the engineering, [25][public health and other departments of the Corporation carrying scales of pay lower than the scales of pay of the posts referred to in sub-section (3)] shall be made by the Heads of the departments concerned specified under Section 112 subject however to any byelaws made by the Corporation in this behalf.

(6) In the case of any difference of opinion between the appointing authority and the State Public Service Commission a reference shall be made by the Municipal Commissioner to the State Government whose decision shall be final.

108. **Officiating and temporary appointments to certain posts**. - Notwithstanding anything contained in Section 107 officiating and temporary

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[24] Subs. by S. 5 of U.P. Act 14 of 1959.

[25] Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

appointments to posts mentioned in sub-sections (1), (2) and (3) of the said section may be made by the appointing authorities specified in those sub-sections without consulting the State Public Service Commission or obtaining the recommendation of the Selection Committee, but no such appointment shall continue beyond the period of one year, nor shall be made where it is expected to last for more than a year, without consulting the State Public Service Commission or otherwise than in accordance with the recommendation of the Selection Committee, as the case may be.

[26][108-A. **Appointment of teachers of institutions maintained by Corporations**. -Notwithstanding anything in Sections 107 and 108, -

(a) the appointment of a teacher in any college. affiliated to any University as defined in the Uttar Pradesh State Universities Act, 1973 and maintained by a Municipal Corporation, shall be made in accordance with the provisions of that Act, and

(b) the appointment of a teacher or Head of an institution recognised in accordance with the Intermediate Education Act, 1921, and maintained by the Municipal Corporation shall be made in accordance with the provisions of that Act]

109. **Conditions of service etc**. - The emoluments and other conditions of service of officers, staff and other servants of the Corporation shall be such as may be prescribed by the State Government.

110. **Punishment of officers of the Corporation**. - [27][(1) No officer or servant of the Corporation shall be dismissed or removed or otherwise punished by an authority subordinate to that by which he was appointed:

Provided that in the case of an officer or servant whose appointment is required to be made in consultation with the State Public Service Commission under Section 107, it shall be necessary for the authority concerned to consult the Commission in the manner prescribed, before passing an order for the dismissal, removal or reduction in rank of any such officer or servant.]

(2) Punishment of officers and servants of the Corporation shall be subject to such right of appeal as may be prescribed.

111. **Power of the State Government to make appointments**. - Where any authority specified in Section 107 fails within a reasonable time to make appointment to any post specified in Section 106 or created thereunder the State Government may after giving the authority due opportunity and consulting the State Public Service Commission, if necessary, make appointment thereto and such appointment shall then be deemed for all purposes to have been made by the authority concerned.

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[26] Ins. by U.P. Act 10 of 1978, clause (a) being effective from December 1, 1977 and clause (b) from April 25, 1978.

[27] Subs. by U.P. Act 10 of 1978 (w.e.f. 25-04-1978).

112. **Power and duties of certain officers.** - (1) [The Additional Municipal Commissioner, Deputy Municipal Commissioner][28] and Assistant Municipal Commissioner shall subject to the control of the Municipal Commissioner. exercise such powers and perform such duties of the Municipal Commissioner as the Municipal Commissioner may specify in this behalf.

(2) All acts done and jurisdictions exercised by the Additional Municipal Commissioner or the Deputy Municipal Commissioner or the Assistant Municipal Commissioner in pursuance of the powers delegated to him under sub-section (1) shall, for all purposes, be deemed to have been performed and done by the Municipal Commissioner.

(3) [The Mukhya Abhiyanta][29], the Nagar Sawasthya Adhikari, the Mukhya Nagar Lekha Parikshak and such other officers as may be specified by the State Government shall be called the Heads of the Departments of the Corporation and shall perform such duties and shall exercise such powers as are imposed upon them by or under this Act or any other enactment for the time being in force.

[30][[31][112-A. **Centralization of services.** - (1) Notwithstanding anything contained in Sections 106 to 110, the State Government may at any time by rules provide for the creation of one or more services of such officers and servants as the State Government may deem fit, common to the Corporations or to the Corporations, [Nagar Panchayat, Municipal Council][32] and Jal Sansthans of the State, and prescribe the method of requirement and conditions of service of persons appointed to any such service.]

[33][Explanation. - For the purposes of this sub-section it is clarified that services common to Nagar Panchayats and Municipal Councils or Nagar Panchayats, Municipal Councils, Municipal Corporations and Jal Sansthan in the districts comprised in the Kumaon and Garhwal divisions of the State may be created.]

[34][(2) When any such service is created, officers and servants serving on the posts included in the service, as well as officers and servants performing the duties and functions of those posts under sub-clause (1) of clause (ee) of Section 577 may, if found suitable, be absorbed in the service, provisionally or finally, and the services of others shall stand determined, in the prescribed manner.

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28 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
29 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
30 New Sections 112-A, 112-B, 112-C and 112-D added by U.P. Act XXI of 1964.
31 Subs. by U.P. Act 5 of 1984 (w.e.f. 12-12-1983).
32 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
33 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
34 Subs. by U.P. Act 29 of 1966 (w.e.f. 31-12-1966).

[35][Provided that such absorption in the service shall not operate as a bar against holding or continuing to hold any disciplinary proceedings against a member of the service in respect of any act committed before the date of such absorption.] .

(3) Without prejudice to the generality of the provisions of sub-sections (1) and (2), such rules may also provide for consultation with the State Public Service Commission in respect of any of the matters referred to in the said sub-sections.]

[36][(4) Notwithstanding anything contained in the preceding sub-sections (1), (2) and (3) or in any other provision of the Act, the State Government may by rules also provide for regularisation of temporary and ad hoc appointments, made before the prescribed date, without consultation with the State Public Service Commission.]

112-B. **Essential services**. - The following services of the Corporation shall be the essential services, namely:

(a) medical and public health services;

(b) waterworks and mechanical engineering services;

(c) sweepers;

(d) staff of the lighting department;

(e) transport services; and

(f) such other services as may be specified in the rules.

112-C. **Member of essential services not to resign, etc. without permission**. -No member of an essential service shall

(a) resign his office or withdraw or absent himself from the duties thereof, except -

(i) after obtaining written permission from the Municipal Commissioner or any officer authorised by him in this behalf; or

(ii) in the event of illness or accident disabling him from the discharge of his duties or for such other reasons as the Municipal Commissioner or other officer authorised by him in this behalf may consider sufficient; or

(iii) after giving three months' notice in writing to the Municipal Commissioner; or

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35 Ins. by U.P. Act 15 of 1983 and deemed always to have been inserted.

36 Ins. by U.P. Act 15 of 1983 (w.e.f. 29-11-1982).

(b) neglect or refuse to perform his duties or willfully perform them in a manner which, in the opinion of the Municipal Commissioner or such other officer, as aforesaid, is inefficient.

112-D**. Power of State Government to declare emergency**. - (1) If the State Government is of the opinion that the stoppage or the cessation of the performance of any of the essential services will be prejudicial to the safety or health or to the maintenance of services essential to the life of the community in the City it may, by notification in the official Gazette, declare that an emergency exists in the City and specify the period for which such declaration shall be in operation.

(2) While a declaration of emergency under sub-section (1) is in operation no member of such of the essential services as may be specified in the notification shall, notwithstanding any law or agreement to the contrary for the time being in force

(a) withdraw or absent himself from his duties except in the event of illness or accident disabling him from the discharge of his duties; or

(b) neglect or refuse to perform his duties or willfully perform them in manner which in the opinion of such officer as the State Government may specify in this behalf is inefficient.]

[37][112-E. (1) Notwithstanding anything contained in any other law for the time being in force and without prejudice to the generality of the powers conferred by this Act or the rules made thereunder the Municipal Commissioner may at any time by general or special order direct any regular, ad hoc or contractual employee of the Municipal Corporation who goes or remains on or otherwise takes part in any strike which has been prohibited by an order under sub-section (1) of Section 3 of the Uttar Pradesh Essential Services Maintenance Act, 1966 to resume duty by the day or hour and in the manner specified in the order.

(2) Notwithstanding anything contained in any other provisions of this Act or the rules made thereunder,-

(a) the employment or contract of a regular, ad hoc or contractual employee with the Corporation shall become void with effect from the day or hour specified in the order referred to in sub-section (1) if the employee fails to resume duty in response to the said order;

(b) where the employment or contract of a regular, ad hoc or contractual employee becomes void under clause (a), the services of such employee shall stand terminated and such employee shall not be entitled to any notice before the termination of his services, nor any disciplinary inquiry, shall be required before such action.

(3) In particular, and without prejudice to the generality of the foregoing provisions of this section, the Municipal Corporation shall not be liable for payment

[37] Ins. by U.P. Act 38 of 2006, S. 5.

of salary of any such employee beyond the day or hour specified in the order referred to in sub-section (1).

(4) The Municipal Commissioner shall, notwithstanding anything to the contrary contained in any other provisions of the Act or the rules and regulations made thereunder be competent to appoint on temporary basis any person possessing the requisite qualifications for discharging the duties of the post or the employee referred to in sub-section (2).]

113. **Power to make rules**. - (1) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for –

(a) the method of recruitment, and qualification of persons to be appointed to the posts created in connection with the affairs of the Corporation;

(b) the designation and grade of posts of officers, staff and other servants created under clause (v) of sub-section (1) of Section 106;

(c) the appointment of persons in temporary or officiating capacity;

(d) the salaries, emoluments and other allowances of persons appointed to the aforesaid posts;

(e) the leave, punishment, including dismissal and removal, appeal and other disciplinary matters and other conditions of service of the officers, staff and other servants of the Corporation; [38][* * *]

(f) specification of officers as Head of Department of the Corporation; [39][and]

[40][(g) the creation of municipal services under Section 112-A and recruitment thereto, absorption of existing officers and servants therein, and transfer, leave, punishment, including dismissal and removal, appeal, and other disciplinary matters and other conditions of service of such officers and servants.]

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38 Omitted by U.P. Act 21 of 1964, S.13.

39 Ins. by U.P. Act 21 of 1964, S.13.

40 Ins. by U.P. Act 21 of 1964, S.13.

CHAPTER V

DUTIES AND POWERS OF THE CORPORATION AND CORPORA ION AUTHORITIES

[41]114. **Obligatory duties of the Corporation**. - It shall be incumbent on the Corporation to make reasonable and adequate provision, by any means or measures which it is lawfully competent to it to use or to take, for each of the following matters, namely, -

(i) erection, where there are no natural boundary marks, of substantial boundary marks of such description and in such a position as shall be approved by the State Government defining the limits or any alteration in the limits of the City;

(ii) the naming or numbering of streets and of public places vesting in the Corporation and the numbering of premises;

(iii) the collection and removal of sewage, offensive matter and rubbish and treatment and disposal thereof including establishing and maintaining farm or factory;

(iv) the watering, scavenging and cleansing of all public streets and places in the City and the removal of all sweepings therefrom;

(vi) the construction, maintenance and cleansing of drains and drainage works, and of public latrines, water-closets, urinals and similar conveniences;

(vii) supplying, constructing and maintaining in accordance with the general system approved by the Corporation receptacles, fittings, pipes and other appliances whatsoever on or for the use of premises for receiving and conducting the sewage thereof into drains under the control of the Corporation;

(viii) the management and maintenance of all Corporation waterworks and the construction or acquisition of new works necessary for a sufficient supply of water [42][for domestic, industrial and commercial purposes];

(ix) guarding from pollution water used for human consumption and preventing polluted water from being so used;

(x) the lighting of public streets, Corporation markets and public buildings and other public places vested in the Corporation;

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41 S. 114 shall stand affected as soon as a Jal Sansthan is constituted for a city vide U.P. Act 43 of 1975, S.100. See Note 1 under S. 115.

42 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

[43][(ix-a) the construction and maintenance of parking plots, bus stops and public conveniences];

(xi) the establishment, maintenance or supports of public hospitals and dispensaries including hospitals for the isolation and treatment of persons suffering or suspected to be infected with a contagious or infectious disease and carrying out other measures necessary for public medical relief;

(xii) preventing and checking the spread of contagious, infectious and dangerous diseases;

(xiii) provision for anti-rabic treatment;

(xiv) maintenance of ambulance service;

(xv) establishing and maintaining a system of public vaccination;

(xvi) the registration of vital statistics including births and deaths;

[44][(xvi)establishing, maintaining and assisting maternity centres and child welfare and birth control clinics and promoting population control, family welfare and small family norms;]

(xvii) the organization, maintenance or management of chemical or bacteriological laboratories for the examination or analysis of water, food or drugs, for the detection of diseases or adulteration or for researches connected with public health;

(xviii) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

(xix) the regulation and abatement of offensive and dangerous trades, callings or practices including prostitution;

(xx) the maintenance, fixing and regulation of places for the disposal of the dead and the provision of new places for the said purpose and disposing of unclaimed dead bodies or aiding within its means any arrangement made with the same objects by any other institution;

(xxi) the construction and maintenance of public markets and slaughter-houses, [tanneries][45] and the regulation of all markets and slaughter-houses;

(xxii) the securing or removal of dangerous buildings and places;

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43 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

44 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

45 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(xxiii) maintaining hydrants and rendering such assistance, including the maintaining or managing of a fire brigade in extinguishing fires and protecting life and property when fires occur, as the State Government may by general or special order direct from time to time;

(xxiv) the removal of obstructions and projections in or upon streets, bridges and other public places;

(xxv) establishing, maintaining, aiding and suitably accommodating schools for primary education including nursery education;

(xxvi) establishing and maintaining or granting aid to institutions of physical culture;

(xxvii) maintaining or contributing to the maintenance of veterinary hospitals;

(xxviii) the construction or acquisition and maintenance of cattle-pounds;

(xxix) the construction, maintenance, alteration and improvement of public streets, bridges, sub-ways, culverts, causeways and the like;

(xxx) planting and maintaining trees on road sides and other public places;

(xxxi) regulation of traffic and provisions of traffic signs;

(xxxii) assisting by constructing and maintaining residential quarters, by giving loans in the proper housing of Corporation conservancy staff and all sections of working classes;

(xxxiii) town planning and improvement including slum clearance and preparation and execution of housing schemes and laying out of new streets;

[46](xxxiii-a) promoting urban forestry and ecological aspects and protection of the environment;]

(xxxiv) maintaining and developing the value of property vested in, or entrusted to the management of the Corporation;

[47](xxxiv-a) safeguarding the interest of weaker sections of society including the handicapped and mentally retarded;

(xxxiv-b) the promotion of cultural, educational and aesthetic aspects;

(xxxiv-c) the construction and maintenance of cattle pounds and prevention of cruelty to animals];

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46 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

47 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(xxxv) the maintenance of a Corporation office and of all public monuments and open space and other property vesting in the Corporation;

(xxxvi) the issue of a Bulletin reporting proceedings or substance of proceedings of the Corporation and of its committees and giving other information about the activities of the Corporation;

(xxxvii) prompt attention to official letters and preparation and submission of such return, statements and reports as the State Government requires the Corporation to submit; and

(xxxviii) fulfillment of any obligation imposed by or under the Act or any other law for the time being in force.

[48][(xxxix) slum improvement and upgradation;

(xl) urban poverty alleviation;

(xli) providing urban amenities and facilities such as parks, gardens and play grounds.]

[49]115. **Discretionary duties of Corporation**. - The Corporation may, in its discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely:

(i) the organization, maintenance or management of institutions including lunatic asylums, leper homes, orphanages and rescue homes for women, within or without the City for the care of persons who are infirm, sick or incurable; or for the care and training of blind, deaf, mute or otherwise disabled persons or of handicapped children;

(ii) the provision of milk to expectant or nursing mothers or infants or schools children;

(iii) swimming pools, public wash houses, bathing places and other institutions designed for the improvement and construction of bathing *ghats* on river banks;

(iv) dairies or farms within or without the City for the supply, distribution and processing of milk or milk products for the benefit of the residents of the City;

(v) the construction and maintenance in public streets or places of drinking fountains or drinking sheds or stand-posts for human beings and water troughs for animals;

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48 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

49 S. 115 shall stand affected as soon as a Jal Sansthan is constituted for a city vide U.P. Act 43 of 1975, S.100.

(vi) encouraging music and other fine arts and providing music in public place or places of public resort;

(vii) making grants to educational and cultural institutions situated within and outside the City;

(viii) the provision of [* * *][50] recreation grounds, installing statues and beautifying the City;

(ix) the holding of exhibitions, athletics or games;

(x) the regulation of lodging houses, camping grounds and rest-houses in the City;

(xi) the construction, establishment and maintenance of theatres, rest-houses and other public buildings;

(xii) the organization or maintenance, in times of scarcity, of shops or stalls for the sale of necessities of life;

(xiii) the building or purchase and maintenance of dwellings for Corporation officers and servants;

(xiv) the grant of loans for building purposes to Corporation servants on such terms and subject to such conditions as may be prescribed by the Corporation;

(xv) any other measures for the welfare of Corporation servants or any class of them;

(xvi) with the State Government's previous sanction, the purchase of any undertaking for the supply of electrical energy or gas or the starting or subsidizing of any such undertaking which may be in the general interest of the public;

(xvii) with the State Government's previous sanction the construction, purchase, organization, maintenance or management of tramways, trackless trams or motor transport facilities for the conveyance of the public or goods within or without the City;

(xviii) the furtherance of educational objects other than those mentioned in clause (xxv) of Section 114 and making grants to educational institutions within or without the City;

(xix) the establishment and maintenance or the aiding of libraries, museums and art galleries, botanical or zoological collections and the purchaser construction of buildings therefor;

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[50] Omitted . by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(xx) construction, establishment, maintenance or contributions to the maintenance of baths, bathing ghats, washing places, tanks, wells, dams and other works of public utility; .

(xxi) the construction or maintenance of infirmaries or hospitals for animals;

(xxii) the destruction of birds or animals causing a nuisance or of vermin, and the confinement or destruction of stray or ownerless dogs; .

(xxiii) contributions towards any public fund raised for the relief of human suffering within the City or for the public welfare;

(xxiv) presentation of civic addresses and holding of civic receptions;

(xxv) the acquisition and maintenance of grazing grounds and the establishment and maintenance of a breeding stud;

(xxvi) grant of loans or other facilities to any persons, society or institution interested in the provision of dwellings or the execution of house schemes;

(xxvii) the provision of poor relief;

(xxviii) the building or purchase and maintenance of gaushalas and of sanitary stables of horses, ponies or cattle used in hackney carriages or cart;

(xxix) surveys of buildings or lands;

(xxx) relief measures to meet any calamity affecting the public in the City;

(xxxi) the adoption of any measure likely to promote the public safety, health or convenience than a measure specified in Section 114 or in the other clauses of this section;

(xxxii) subject to the provision in the budget, the making of a contribution towards any public ceremony or entertainment in the City;

(xxxiii) the establishment and maintenance of tourist bureau;

(xxxiv) the establishment and maintenance of a press and workshop for Corporation work as also for undertaking private work on charges in spare time;

(xxxv) making arrangement for preparation of compost manure from nightsoil and rubbish;

(xxxvi) taking measures to promote trade and industry and establishing a Corporation bank;

(xxxvii) establishing Labour Welfare Centres for its employees and subsidizing the activities of any association, union or club of such employees by grant or loan for its general advancement;

(xxxviii) organizing or contributing to municipal board unions;

(xxxix) making provision for removal of social disabilities of Scheduled Castes and Backward Classes;

(xl) taking measures for the control and relief of beggary;

(xli) with the previous sanction of the State Government the setting up and maintenance of a Corporation police force for taking over and discharging such police duties and in such manner as may be prescribed;

(xlii) with previous sanction of the State Government, the undertaking of any commercial duty providing or promoting amenity or employment or removing unemployment;

(xliii) the doing of anything whereupon expenditure is declared by the State Government or by the Corporation with the sanction of the State Government to be an appropriate charge on the Corporation fund:

Provided that the State Government may in respect of any Corporation or all Corporations by notification in the official Gazette declare any of the functions mentioned in this section to be a duty of the Corporation or all Corporations and thereupon the provisions of this Act shall apply thereto as if it had been a duty imposed by Section 114.

116. **Division of functions between Corporation authorities.** - (I) The respective functions of the several Corporation authorities shall be such as are specifically prescribed by or under this Act.

(2) In the event of any doubt or dispute arising as to which Corporation authority any particular function belongs, the Municipal Commissioner may, and if the Mayor so requires shall, refer the doubt or dispute to the State Government whose decision shall be final and not open to question in any court of law.

117. **Functions of Corporation authorities**. - (l) Except as otherwise expressly provided in the Act, the municipal administration of the City shall vest in the Corporation.

[51][(1-A) Except as otherwise expressly provided in this Act, every Ward Committee shall be vested, on behalf of the Corporation in relation to the area *for* which it has been constituted, with such powers and functions as may be prescribed by rules.]

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[51] Ins. . by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(2) Except as otherwise expressly provided in this Act the Executive Committee shall be vested, for and on behalf *of* the Corporation, with the superintendence *of* the municipal administration *of* the City.

(3) The Development Committee shall perform the functions and have the powers mentioned in Chapter XIV.

(4) The functions and powers of a Committee appointed under clause (e) *of* Section 5 shall be such as may be assigned to it by the Corporation with the previous sanction *of* the State Government.

(5) [52][Subject to the general control and direction *of* the Mayor, and wherever it is hereinafter expressly so directed, to the sanction *of* the Corporation] or *of* the Executive Committee, as the case may be, and subject to all other restrictions, limitations and conditions imposed by or under this Act, the executive power for the purposes *of* carrying out the provisions *of* this Act shall be vested in the Municipal Commissioner who shall also perform all the duties and exercise., all the powers specifically imposed or conferred on him.

(6) Without prejudice to the generality *of* the provisions *of* sub-section (5), the Municipal Commissioner shall also –

(a) subject to the provisions of this Act and the rules made thereunder, prescribe the duties of and exercise supervision and control over the acts and proceedings of all Corporation officers and servants other than the Mukhya Nagar Lekha Parikshak and the Corporation officers and servants immediately subordinate to him and dispose of all questions relating to the service *of* the said officers and servants and privileges and allowances;

(b) in any emergency take such immediate action for the service or safety of the public or the protection of the property of the Corporation as the emergency shall require notwithstanding that such action cannot be taken under this Act without the sanction, approval or authority of some other municipal authority or of the State Government:

Provided that the Municipal Commissioner shall report forthwith to the Executive Committee and to the Corporation the action taken by him and the reasons *for* taking the same and the amount *of* cost, if any, incurred or likely to be incurred in consequence *of* such action not already covered by a budget grant:

Provided further that the Municipal Commissioner shall not exercise his powers under this clause if the expenditure likely to be incurred over and above the budget grant in taking the particular action will-

(a) exceed Rs. 10,000 or, where the Mayor concurs in the taking *of* that action, Rs. 20,000; or

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[52] Subs. . by U.P. Act 4 of 1976 (w.e.f. 15-09-1976).

(b) together with any expenditure over and above the budget grant already incurred under this clause in the financial year, exceed Rs. 50,000, or, where the Mayor concurs in the taking *of* that action, Rs. 1,00,000.

118. **Powers and duties of Mukhya Nagar Lekha Parikshak**. - The Mukhya Nagar Lekha Parikshak shall –

(a) perform such duties as he is directed by or under this Act to perform and such other duties with regard to the audit of the accounts of the Corporation Fund as shall be required of him by the Corporation or by the Executive Committee;

(b) prescribe, subject to such directions as the Executive Committee may from time to time give, the duties of the auditors and assistant auditors, clerks and servants immediately subordinate to him; and

(c) subject to the orders of the Executive Committee, exercise supervision and control over the acts and proceedings of the said auditors, assistant auditors, clerks and servants and, subject to the rules dispose of all questions relating to the service, remuneration and privileges of the said auditors, assistant auditors, clerks and servants.

119. **Delegation of functions**. - (l) Subject to the other provisions of this Act and the rules thereunder and subject to such conditions and restrictions as may be specified by the Corporation –

(a) the Corporation may delegate to the Executive Committee or to the Municipal Commissioner any of its functions under this Act other than those specified in Part A of Schedule I;

(b) the Executive Committee may delegate to the Municipal Commissioner any of its functions under this Act other than those specified in Part B of Schedule I;

(c) the Development Committee may delegate to the Municipal Commissioner any of its functions under this Act other than those specified in Part C of Schedule I;

(d) the Municipal Commissioner may delegate to any municipal servants any of its functions other than those specified in Part D of Schedule I:

Provided that the State Government may from time to time by notification in the official Gazette declare any function specified in Part A, Part B, Part C or Part D of Schedule I be delegable or any function not specified therein to be non-delegable and upon such declaration that function may be delegated or shall cease to be delegable, as the case may be, as if it were not specified in Schedule I or were specified therein.

(2) Whenever there is delegation of functions by the Municipal Commissioner, a copy of the order by which delegation is made shall be placed before the Executive Committee for information.

(3) Notwithstanding the delegation by the Municipal Commissioner of any function under the Act under this section, the Municipal Commissioner shall continue to be responsible for the due performance of the function.

120. **Municipal Commissioner to exercise powers and perform duties of Corporation under other laws**. - (1) Any powers, duties and functions conferred or imposed upon or vested in the Corporation by any other law for the time being in force, shall subject to the provisions of such law and to such restrictions, limitations and conditions as the Corporation may imposed, be exercised, performed or discharged by the Municipal Commissioner.

(2) The Municipal Commissioner may, subject to any rules in that behalf, by order in writing of which a copy shall be placed before the Executive Committee for information empower any Corporation Officer other than the Mukhya Nagar Lekha Parikshak to exercise, perform or discharge any such power, duty or function under the control of the Municipal Commissioner and subject to his revision and to such conditions and limitations, if any, as he may think fit to impose.

121. **Corporation may call for extract from proceedings, etc., from the Executive Committee**. - The Corporation may at any time call for any extract from any proceedings of any Committee or sub-committee constituted under this Act, and call for a return, statement, account or report concerning or connected with any matter with which any such Committee or sub-committee as is empowered by or under this Act to deal, and every such requisition shall be complied with by the Committee or sub-committee, as the case may be, without unreasonable delay.

122. **Power of the Corporation to require Municipal Commissioner to produce documents and furnish returns, reports, etc**. - (1) The Corporation or the Executive Committee may at any time require the Municipal Commissioner –

(a) to produce any record, correspondence, plan or other document Which is in his possession or under his control as Municipal Commissioner or which is recorded on files in his office or in the office of any Corporation officer or servant subordinate to him;

(b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal administration of the City;

(c) to furnish a report by himself or to obtain from any officer subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal administration of the City.

(2) The Municipal Commissioner shall comply with every such requisition unless in his opinion immediate compliance therewith would be prejudicial to the interest of the Corporation or of the public, in which case he shall make a declaration in writing to that effect and shall if required by the Corporation or the Executive Committee refer the question to the Mayor whose decision shall be final.

123. **Exercise of powers to be subject to sanction by Corporation of the necessary expenditure**. - The exercise by any Corporation authority of any power conferred or the performance of any duty imposed by or under this Act which will involve expenditure shall, except where it is expressly provided otherwise by or under this Act, be subject to the conditions that –

(a) such expenditure, so far as it is to be incurred in the financial year in which such power is exercised or duty performed, is provided for under a budget grant, and

(b) if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said financial year, the sanction of the Corporation is taken before the liability for such expenditure is incurred.

124. **Power to make rules**. - (l) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of foregoing power such rules may provide for-

(a) the manner of approval of the description and position of boundary marks under clause (i) of Section 114;

(b) the manner and the procedure relating to the discharge of duties or fulfillment of obligations referred to in Sections 114 and 115, in cases for which no specific provision has been made in the Act;

(c) the procedure relating to the exercise of powers of superintendence by the Executive Committee of the municipal administration of the City;

(d) the manner in which the Executive powers shall be exercised by the Municipal Commissioner;

(e) the matters relating to the duties, supervision and control of the Corporation Officers and servants referred to in clause *(a)* of sub-section (6) of Section 117;

(f) the decision of doubts and disputes about functions of officers and servants subordinate to the Municipal Commissioner;

(g) the matters relating to the delegation of powers of the Municipal Commissioner to any other officer under Section 119 and sub-section (2) of Section 120;

(h) the procedure relating to the delegation of his powers by the Municipal Commissioner under sub-section (2) of Section 120;

(i) the manner in which requisition for production of extracts from proceedings or other documents or papers, etc. shall be made under Sections 121 and 122;

(j) the procedure relating to the compliance of such requisition;

(k) the manner in which the question regarding production of documents or other papers under sub-section (1) of Section 122 shall be referred to the Mayor for final decision;

(l) the manner in which declaration of the Municipal Commissioner under sub-section (2) of Section 122 shall be communicated to the Corporation;

(m) the guidance generally of the Corporation or the Municipal Commissioner in any matter connected with the discharge of their duties or performance of their functions or exercise of their powers under this Chapter; and

(n) the matters which are to be or may be prescribed under this Chapter.

CHAPTER VI

PROPERTY AND CONTRACTS

125. **Powers of Corporation as to acquisition and holding of property. -** (1) The Corporation shall, for the purposes of this Act, have power to acquire, hold and dispose of property or any interest therein whether within or without the limits of the City.

(2) All property and interests in property acquired by the Corporation shall vest in the Corporation for the purposes of this Act and subject to its provisions.

(3) Any immovable property which may be transferred to the Corporation by the Government shall be held by it, subject to such conditions including resumption by the Government on the occurrence of a specified contingency and shall be applied to such purposes as the Government may impose or specify while making the transfer.

126. **Succession to property, assets, rights, liabilities and obligations in certain cases**. - (1) As from the appointed day [and subject to any direction of the State Government in this behalf][53]

(a) all property, interests in property and assets including cash balances, wherever situate which immediately before such day were vested in any [Municipal Council][54], Improvement Trust or other local authority established for the area included in the City or any part of such area or in any local authority having jurisdiction both within and outside such area shall, [55][* * *] vest in and be held by the Corporation of such City, for the purposes of this Act, and

(b) all rights, liabilities and obligations of the aforesaid [Municipal Council][56], Improvement Trust or other local authority [in relation to the area included in the City][57]. whether arising out of any contract or otherwise, existing immediately before such day shall be the rights, liabilities and obligations of such Corporation.

(2) Where any doubt or dispute arises as to whether any property, interest on asset has vested in a Corporation under sub-section (1) or any rights, liabilities or obligations have become the rights, liabilities or obligations of the Corporation such doubt or dispute shall be referred by the Municipal Commissioner to the State Government whose decision shall unless superseded by any decision of a court of law be final.

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53 Ins. by 5.6 of U.P. Act 14 of 1959.

54 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

55 The words "unless otherwise directed by the State Government" deleted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

56 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

57 Ins. by U.P. Act 12 of 1994, S. 6(iii) (w.e.f. 30-05-1994).

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127. **Certain provisions governing acquisition of property.** - (1) All acquisitions of property shall be made by the Municipal Commissioner on behalf of the Corporation.

(2) Wherever it is provided that the Municipal Commissioner may acquire or wherever it is necessary or expedient for any purpose of this Act that the Municipal Commissioner shall acquire any movable or immovable property within or without the City or any interest in such property, the same may be acquired by the Municipal Commissioner, whether by agreement or otherwise:

Provided that –

(a) the Municipal Commissioner shall be bound by any resolution of the Executive Committee fixing terms, rates or maximum prices for a particular case or for any class of cases;

(b) the sanction of the Executive Committee shall be required -

(i) for the compulsory acquisition of any property,

(ii) for the exchange of any immovable property,

(iii) for the taking of any property on lease for a term exceeding twelve months, or

(iv) for the acceptance of any gift or bequest of property burdened by an obligation, and

(c) the sanction of the Corporation shall be required -

(i) for the acceptance or acquisition of any immovable property, if the value of the property which is proposed to accept, acquire or give in exchange, exceeds five thousand rupees,

(ii) for the taking of any property on lease for a term exceeding three years, or

(iii) for the acceptance of any gift or bequest or property burdened by an obligation if the value of such property exceeds five thousand rupees.

128. **Power to dispose of property**. - (l) The Corporation shall, for the purposes of this Act, and subject to the provisions thereof and rules made thereunder, have power to sell, let on hire, lease, exchange, mortgage, grant or otherwise dispose of any property or any interest therein acquired by or vested in the Corporation under this Act:

Provided that no property transferred to the Corporation by the Government shall be sold, let on hire, exchanged or mortgaged or otherwise conveyed in any

manner contrary to the terms of the transfer except with the prior sanction of the State Government.

129. **Provisions governing disposal of property**. - With respect to the disposal of property belonging to the Corporation the following provisions shall have effect, namely:

(1) Every disposal of property belonging to the Corporation shall be made by the Municipal Commissioner on behalf of the Corporation.

(2) The Municipal Commissioner may, in his discretion, dispose of by sale, letting out on hire or otherwise, any movable property belonging to the Corporation not exceeding in value in each instance five hundred rupees or such higher amount as the Corporation may, with the approval of the State Government, from time to time determine, or grant a lease of any immovable property belonging to the Corporation including any right of fishing or of gathering and taking fruit, and the like, for any period not exceeding twelve months at a time:

Provided that the Municipal Commissioner shall report to the Executive Committee every lease of immovable property within fifteen days of the grant thereof unless it is a contract for a monthly tenancy or the annual rent thereof does not exceed three thousand rupees.

(3) The Municipal Commissioner may with the sanction of the Executive Committee dispose of by sale, letting out on hire or otherwise any movable property belonging to the Corporation, of which the value does not exceed five thousand rupees; and may with the like sanction grant a lease of any immovable property belonging to the Corporation, including any such right as aforesaid, for any period exceeding one year or sell or grant a lease in perpetuity of any immovable property belonging to the Corporation the value or premium whereof does not exceed fifty thousand rupees or the annual rental whereof does not exceed three thousand rupees.

(4) The Municipal Commissioner may with the sanction *of* the Corporation lease, sell, let out on hire or otherwise convey any property, movable or immovable belonging to the Corporation.

[58][(5) Except as provided in sub-sections (5-A) and (5-B), no immovable property belonging to the Corporation shall be sold, leased or otherwise transferred for a sum less than the market-value thereof except in the case *of* sale, lease or other transfer of land-

(a) to a statutory corporation,

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58 Subs. by U.P. Act 22 of 1961, again subs. by U.P. Act 21 of 1964 and again by U.P. Act 24 of 1972.

(b) to a person displaced from any land (not being land held or occupied for purposes connected with agriculture, horticulture or animal husbandry which includes pisciculture and poultry farming) or building by reason of the compulsory acquisition thereof under this Adhiniyam and who does not own any land or building within the City, or

(c) for an educational, cultural or other charitable purpose (not including the practice or propagation of any religion and not involving discrimination in respect *of* the beneficiaries on the ground *of* religion, caste or place of birth) to a society registered under the Societies Registration Act, 1861:

Provided that except in the case of a sale, lease or other transfer of land with the previous approval the State Government, the value *of* any concession so granted shall not exceed

(i) in the case *of* a lease, one-half of the annual rentalvalue;

(ii) in the case of any other transfer, one-half *of* the market-value or ten thousand rupees whichever is less.

Explanation .- If any question arises as to the value *of* a proposed concession or as to whether the purpose *of* a proposed transfer is an educational, cultural or other charitable purpose as aforesaid the decision *of* the State Government shall be final.

(5-A) A house built or a plot of land acquired by the Corporation from a loan granted by the Central Government or the State Government or any other authority be sold, leased or otherwise transferred by the Corporation in accordance with the terms and conditions *of* such loan.

(5-B) Subject to any general or special order *of* the State Government in that behalf, a house or a house-site belonging to the Corporation may be sold, leased or otherwise transferred either free *of* cost or on such concessional terms as the Corporation thinks fit, in favour of any member *of* the armed forces *of* the Union in whose favour the prescribed authority under the Indian Soldiers (Litigation) Act, 1925 has issued a certificate that he has been disabled by enemy action or where the said prescribed authority has certified that he has died by enemy action, then in favour *of* such *of* his heirs as were dependant on him at the time *of* his death.]

(6) The sanction of the Executive Committee or of the Corporation under sub-section (3) or sub-section (4) may be given either generally for any class of cases or specially in any particular case.

(7) The aforesaid provisions of this section and the provisions of the rules shall apply to every disposal of property belonging to the Corporation made under or for any purposes of this Act.

[59][129-A. **Application of Chapter VII of Act I of 1966 to Corporation premises**. - The provisions of Chapter VII of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965, shall apply in relation to any premises belonging to or vesting in the Corporation or taken on lease by the Corporation for the purposes of this Act as they apply in relation to 'Board premises' as defined in that Act and the references therein to the Board and matters prescribed under that Act shall respectively be construed as references to the Corporation and matters prescribed under this Act.

130. **Procedure when immovable property cannot be acquired by agreement**. -(1) Whenever the Municipal Commissioner is unable under Section 127 to acquire by agreement any immovable property or any easement affecting any immovable property vested in the Corporation or whenever any immovable property or any easement affecting any immovable property vested in the Corporation is required for the proposes of this Act, the State Government may, in its discretion, upon the application of the Municipal Commissioner, made with the approval of the Executive Committee and subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation, as if such property or easement were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894, or other law which may be applicable to the case.

(2) Whenever an application is made under sub-section (1) for the acquisition of land for the purpose of providing a new street or for widening or improving an existing street it shall be lawful for the Municipal Commissioner to apply for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act.

(3) This section does not apply to the acquisition under Chapter XIV.

131. **Powers of Corporation to the making of contracts**. - Subject to the provisions of this Act, the Corporation shall have power to enter into contracts which may be necessary or expedient under or for any purposes of this Act.

132. **Certain provisions relating to the execution of contracts**. - (l) All contracts referred to in Section 131 including contracts relating to the acquisition and disposal of immovable property or any interest therein made in connection with the affairs of the Corporation under this Act, shall be expressed to be made, for and on behalf of the Corporation, and all such contracts and all assurances of property made in exercise of that power shall be executed, for and on behalf of the Corporation, by the Municipal Commissioner or by such other officer of the Corporation as may be

[59] Ins. by U.P. Act 30 of 1970 and substituted by U.P. Act 22 of 1972.

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authorized in writing by the Municipal Commissioner either generally or for any particular case or class of cases.

(2) No contract for any purpose, which in accordance with any provisions of this Act or any rules made thereunder the Municipal Commissioner may not carry out without the sanction of one of the other Corporation authorities, shall be made by him unless such sanction has been given.

(3) No contract involving an expenditure exceeding [one lakh][60] rupees and not exceeding [five lakh][61] rupees shall be made by the Municipal Commissioner unless it has been sanctioned by the Executive Committee.

[62][(3-A) No contract involving an expenditure exceeding two lakh rupees and not exceeding four lakh rupees shall be made by the Municipal Commissioner unless it has been sanctioned by the Mayor.]

(4) No contract involving an expenditure exceeding [eight lakh][63] rupees shall be made by Municipal Commissioner unless it has been sanctioned by the Corporation.

(5) Every contract made by the Municipal Commissioner involving an expenditure exceeding [one lakh][64] rupees and not exceeding [two lakh][65] rupees shall be reported to the Executive Committee within fifteen days after it has been made.

(6) The foregoing provisions of this section shall apply to every variation or discharge of a contract as well as to an original contract.

[66][(7) The State Government may, by notification in the Gazette, modify the monetary limits specified in sub-section (3) or sub-section (4) or sub-section (5) keeping in view the rise in costs or the exigencies of work and efficiency of Corporations.]

133. **Manner of execution**. - (1) Every contract entered into by the Municipal Commissioner on behalf of the Corporation shall be entered into in such manner and form as would bind him if it were made on his own behalf and may in like manner and form be varied or discharged:

Provided that--

(a) the common seal of the Corporation shall be affixed to every contract which, if made between private persons, would require to be under seal, and

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60 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

61 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

62 Ins. by U.P. Act 16 of 2004, S.6 (w.e.f. 21-11-2002).

63 Subs. for "five lakh" by U.P. Act 16 of 2004, S.6 (w.r.e.f. 21-11-2002).

64 Subs for "fifty thousand" by U.P. Act 16 of 2004, S.6 (w.r.e.f. 21-11-2002).

65 Subs for "one lakh" by U.P. Act 16 of 2004, S.6 (w.r.e.f. 21-11-2002).

66 Ins. by U.P. Act 16 of 2004, S.6 (w.r.e.f. 21-11-2002).

(b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding two thousand and five hundred rupees shall be in writing, shall be sealed with the seal of the Corporation and shall specify

(i) the work to be done or the materials or goods to be supplied as the case may be;

(ii) the price to be paid for such work, materials, or goods; and

(iii) the time or times within which the contract or specified portion thereof shall be carried out.

(2) The common seal of the Corporation shall remain in the custody of the Municipal Commissioner and shall not be affixed to any contract or other instrument except in the presence of a Corporator [67][* * *], who shall attach his signature to the contract or instrument in token that the same was sealed in his presence.

(3) The signature of the said Corporator [68][* * *] shall be distinct from the signature of any witness to the execution of such contract or instrument.

(4) No contract executed otherwise than as provided in the section shall be binding on the Corporation.

134. **Execution of works**. - The Corporation may determine either generally for any class of cases or specially for any particular case whether the Municipal Commissioner shall execute the work by a contract or otherwise.

[69][135**. Estimates not exceeding [70][eight lakh] rupees**. - (1) The Municipal Commissioner may sanction any estimate the amount of which does not exceed [71][two lakh] rupees.

[72][* * *]

[73][(l-A) The Mayor may sanction any estimate not exceeding four lakh rupees.]

(2) The Executive Committee may sanction any estimate the amount of which does not exceed five lakh rupees.]

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67 Omitted by U.P. Act 12 of 1977.
68 Omitted by U.P. Act 12 of 1977.
69 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).
70 Subs. for "five lakh" by U.P. Act 16 of 2004, S.7 (w.r.e.f. 21-11-2002).
71 Subs. for "one lakh" by U.P. Act 16 of 2004, S.7 (w.r.e.f. 21-11-2002).
72 Proviso omitted by U.P. Act 16 of 2004, S.7 (w.r.e.f. 21-11-2002).
73 Ins. by U.P. Act 16 of 2004, S.7 (w.r.e.f. 21-11-2002).

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136. **Estimates exceeding [eight lakh rupees][74].** - (l) Where a project is framed for the execution of any work or series of works the entire estimated cost of which exceeds [eight lakh rupees][75] –

(a) the Municipal Commissioner shall cause a detailed report to be prepared including such estimates and drawings as may be requisite and forward the same to the Executive Committee who shall submit the same before the Corporation with its suggestions, if any;

(b) the Corporation shall consider the report and the suggestions and may reject the project or may approve it either in its entirety or subject to modifications.

(2) *(a)* Where the Corporation approves the project and the entire estimated cost exceeds [76][sixteen lakh rupees], the report, subject to any modifications as aforesaid, shall be submitted to the State Government.

(b) The State Government may reject the project or may sanction it either in its entirety or subject to modifications.

(c) The work shall not be commenced before the project has been sanctioned by the State Government with or without modifications.

(d) No material change in the project sanctioned as aforesaid shall be carried into effect without the sanction of the State Government.

Explanation.- In this section and in Section 135 the expression "estimate" means the total estimate for the whole of a project including the whole of the series of transactions constituting the project.

[77][136-A. **Special provisions regarding certain projects**. - Notwithstanding anything contained in this Act, every contract or estimate in respect of an urban development project sponsored by the Government of India or receiving aid from the World Bank or any other foreign organisation, shall be made or sanctioned in accordance with the scheme approved by the State Government:

Provided that the meeting of the Corporation for sanction of funds for such urban development projects shall be convened and decision taken within one month from the date of approval of the project by the State Government:

Provided further that if the meeting of the Corporation is not convened or decision is not taken within the time specified in the first proviso, the Corporation shall be deemed to have sanctioned the fund and if the sanction is refused or is accorded with modification, the matter shall be referred to the State Government and

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74 Subs. for "five lakh rupees" by U.P. Act 16 of 2004, S.8 (w.r.e.f. 21-11-2002).
75 Subs. for "five lakh rupees" by U.P. Act 16 of 2004, S.8 (w.r.e.f. 21-11-2002).
76 Subs. for "ten lakh rupees" by U.P. Act 16 of 2004, S.8 (w.r.e.f. 21-11-2002).
77 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

the decision of the State Government shall be final and binding on the Corporation and the Corporation shall be deemed to have sanctioned the fund accordingly. The Municipal Commissioner may thereupon execute the project, spend funds and ensure the completion of project within the stipulated time:

Provided also that the Corporation shall undertake regular monitoring of the projects and shall send its report to the State Government.

137. **Powers of Corporation to enforce covenants against owner for the time being of land**. - A covenant concerning any immovable property for the purposes of this Act entered into with the Corporation by the owner of such property or by any person to whom such property of the Corporation has been transferred by sale or exchange shall be enforceable by the Corporation against any person deriving title under the covenanter notwithstanding that the Corporation is not in possession of, or interested in, any immovable property for the benefit of which the covenant was entered into, in the like manner and to the like extent as if it had been possessed of or interested in such property.

138. **Power to make rules**. - (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for

(a) the procedure for ascertaining the property and assets to be vested in the Corporation under clause *(a)* of sub-section (1) of Section 126;

(b) the procedure for ascertaining the rights, liabilities and obligations of the Corporation under clause *(b)* of sub-section (1) of Section 126;

(c) the procedure in general for the purchase or acquisition of the property, for and on behalf of the Corporation, or sale, lease, hire, exchange, grant or disposal of the property vested in or acquired by the Corporation;

(d) the terms and the rates at which any immovable property may be purchased or acquired by agreement for the Corporation;

(e) the payment of the expenses and the compensation awarded and other charges incurred for the compulsory acquisition of property for and on behalf of the Corporation;

(f) the procedure relating to entering into contracts;

(g) the manner in which contracts may be executed;

(h) the security to be demanded for the due performance of contracts;

(i) the preparation and sanctioning of detailed plans and estimates for works and the calling, examination and acceptance of tenders;

(j) the execution of works and conditions of sanction;

(k) the matters which are to be or may be prescribed.

[78][CHAPTER VI-A

FINANCE COMMISSION

138-A. **Finance Commission**. - (1) The Finance Commission shall review the financial position of the Corporation and make recommendations to the Governor as to -

(a) the principles which should govern -

(i) the distribution between the State and the Corporation of the new proceeds of the taxes, duties, tolls and fees leviable by the State which may be divided between them and allocation of share or such proceeds to the Corporations;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the Corporation;

(iii) the grants-in-aid to the Corporation from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Corporation;

(c) any other matter referred to the Finance Commission by the Governor in the interest of sound finance of the Corporation.

(2) Every recommendation of the Finance Commission made under sub-section (1) shall, together with an explanatory memorandum as to the action taken thereon, be laid before both the Houses of the State Legislature.]

[78] Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

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CHAPTER VII

CORPORATION AND OTHER FUNDS

[79]139. **Constitution of Corporation and other funds**. - (1) There shall be established a Fund for each Corporation, hereinafter called the Corporation Fund, and, subject to the provisions of this Act and the rules made thereunder, there shall be placed at the credit thereof all moneys received by or on behalf of the Corporation under this Act or any other law, or contract, including -

(a) the proceeds of the property of the Corporation;

(b) the rents of the property of the Corporation;

(c) the proceeds of all taxes or fees and fines (other than fines imposed by a court), levied by or under this Act;

(d) all money received by way of compensation or for compounding offences under the provisions of this Act;

(e) all interest and profits arising from any investment of, or from any transaction in connection with, any money belonging to the Corporation;

(f) all moneys received by or on behalf of the Corporation from the Government [80][including grants-in-aid from the Consolidated Fund of the State] or public bodies, private bodies or other persons by way of grant, gift or deposit, subject, however, to the conditions, if any, attached to such grant, gift or deposit.

(2) All moneys payable to the credit of the Corporation Fund shall be received by the Municipal Commissioner and shall forthwith be paid into the State Bank of India [81][or with the previous sanction of the State Government into the U.P. Co-operative Bank or such other Scheduled Bank or banks as the Corporation may appoint,] to the credit of an account which shall be styled "the account of the Corporation Fund of:

Provided that the Municipal Commissioner may, subject to any general or special directions issued by the Executive Committee, retain such balances in cash as may be necessary for current payments.

(3) The Corporation [82][shall constitute a Development Fund and] may also constitute such special funds as may be prescribed and such other funds as may be

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79 Section 59 of President's Act 11 of 1973 affects this section on constitution of the Authority for a development area.

80 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

81 Subs. by U.P. Act 21 of 1964.

82 Subs. by U.P. Act 22 of 1961.

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necessary for the purposes of this Act. The constitution and disposal of such funds shall be effected in the manner prescribed.

140. **Purposes for which Corporation Fund is to be applied**. - [83][The moneys credited to the Corporation Fund from time to time shall, in the first place, be applied for payment of salaries and allowances of Safai Mazdoors and then in the following order of preference]:

Firstly, in making due provision for the repayment of all loans payable by the Corporation under the provisions of Chapter VIII;

Secondly, in discharge of all liabilities imposed on the Corporation by clause *(b)* of sub-section (1) of Section 126;

Thirdly, in payment of all sums, charges and costs necessary for the purposes specified in Sections 114 and 115, and for otherwise carrying this Act into effect, or of which the payment shall be duly sanctioned under any of the provisions of this Act inclusive of -

(a) the cost of auditing the Corporation accounts;

(b) the expenses of every election held under this Act;

(c) the salaries, allowances and contributions to pensions and leave salaries of the Municipal Commissioner and of any other officer whose services may at the request of the Corporation be placed by the State Government at the disposal of the Corporation;

[84][(d) the salaries and allowances of Corporation officers and servants, other than Safai Mazdoors, and all pensions, gratuities, contributions and compassionate allowances payable to all officers and servants of Corporation under the provisions of this Act;]

(e) the salaries and fees of experts for service or advice in connection with any matter arising out of the administration or undertaking of the Corporation;

(f) all expenses and costs incurred by the Corporation or by any Corporation officer on behalf of the Corporation in the exercise of any power conferred, or the discharge of any duty imposed on it or them by this Act, including moneys which the Corporation is required or empowered to pay by way of compensation;

(g) every sum payable-

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83 Subs. by U.P. Act 15 of 1983 (w.e.f. 01-08-1983).

84 Subs. by U.P. Act 15 of 1203 (w.e.f. 01-08-1983).

(i) by order of the State Government or under an award made under the Arbitration Act, 1940, or a decree or order of a Civil Court, as the case may be;

(ii) under a decree or order of a civil or criminal court passed against the Municipal Commissioner;

(iii) under a compromise of any suit or other legal proceeding or claim;

(h) contributions to public institutions which the State Government may, after consulting the Corporation, declare to be in the interest of the inhabitants of the City.

[85][*Explanation .- For* the purposes of this section, a person shall be deemed to be a Safai Mazdoor if he is employed by Corporation for the purposes of sweeping and cleaning of Corporation roads, lanes, pathways, drains, sewers, latrines and urinals, carrying of dead animals and refuse and for other jobs of the like nature.]

[86][140-A. **Restriction on expenditure from Corporation fund over certain litigation.** - No expenditure from the Corporation fund shall be incurred without the prior sanction in writing of the Director for the purpose of defraying the costs of any proceedings instituted or commenced in any court of law by or on behalf of any Municipal Corporation or the Mayor or any authority thereof in respect of any order made or purporting to have been made by the State Government under Section 83, Section 84, Section 534, Section 535, [Section 537, or Section 538][87].]

141. **Temporary payments from Corporation Fund for works urgently required for public service**. - (l) On the written requisition of the State Government or the Prescribed Authority the Municipal Commissioner may at any time undertake the execution of any work certified by the State Government or such authority as the case may be, to be urgently required for a work of public utility and for this purpose may make payments from the Corporation Fund so far as the same can be made without unduly interfering with the regular working of the municipal administration.

(2) On receipt pf requisition under sub-section (1) the Municipal Commissioner shall forthwith forward a copy thereof to the Corporation together with a report of the action taken by him thereon for its information.

(3) The cost of all work executed under sub-section (1) and of the establishment engaged in executing the same shall be paid by the State Government and credited to the Corporation Fund.

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85 Ins. by U.P. Act 15 of 1983 (w.e.f. 01-08-1983).

86 Ins. by U.P. Act 41 of 1976 (w.e.f. 15-09-1976).

87 Subs. by U.P. Act 12 of 1214 (w.e.f. 30-05-1994).

142. **Maintenance and audit of accounts**. - (1) The account of the receipt and expenditure of the Corporation shall be maintained in such manner as may be prescribed.

(2) The Mukhya Nagar Lekha Parikshak shall conduct a monthly examination and audit of the Corporation accounts and shall within a month report thereon to the Executive Committee who shall publish monthly an abstract of the receipts and expenditure of the month last preceding, signed by not less than two members of that Committee and by the Mukhya Nagar Lekha Parikshak.

(3) The Executive Committee may also from time to time and for such period as they think fit conduct independently an examination and audit of the Corporation accounts.

143. **Special Audit**. - The State Government may at any time direct special examination and audit of Corporation accounts for such period as they think fit by auditors appointed by the State Government in that behalf and a report of such examination and audit shall be submitted by the said auditors to the State Government.

144. **Auditors to have access to all the Corporation accounts and to all records, etc.**- (1) For the purposes of examination and audit of accounts under Section 142 or 143 the Mukhya Nagar Lekha Parikshak and the auditors appointed under Section 143 shall have access to all the Corporation accounts and to all records and correspondence relating thereto and the Municipal Commissioner shall forthwith furnish to the said auditors or to the Executive Committee any explanation concerning receipts and disposal which they may call for.

(2) All charges, fee and expenses necessary for the examination and audit of accounts under these sections shall be paid by the Corporation.

145. **Preparation of annual administration report and statement of - accounts**. -(1) The Municipal Commissioner shall, as soon as may be after the first day of April in each year, have prepared a detailed report of the Corporation' administration of the City, during the previous official year, together with a statement showing the accounts of the receipts and disbursement credited and debited to the. Corporation Fund during the said year and the balance at the credit of the Fund at the close of the said year and shall submit the same to the Executive Committee.

(2) The report shall be in such form and shall contain such information as the Executive Committee may from time to time direct.

(3) The Executive Committee shall then examine the report and the statement, and a copy of the said statement together with a copy of the Committee's review shall be forwarded to the State Government and to each member and copies thereof shall also be placed on sale at the Corporation office.

146. **Budgets**. - (1) The Municipal Commissioner shall on or before the tenth day of December each year in the case of indebted Corporation and tenth day of

January each year in the case of other Corporations cause to be prepared and laid before the Executive Committee in such form as may be prescribed and in such manner as the Executive Committee may approve budget estimates of the income and expenditure of the Corporation Fund for the next financial year.

(2) Such estimates shall-

(a) take into account loans and grants from Government;

(b) provide for the repayment of all loans including loans taken from Government with interest due thereon, for the repayment of which the Corporation is liable;

(c) provide for the discharge of liabilities imposed on the Corporation by clause (b) of sub-section (1) of Section 126;

(d) provide for the payment in convenient instalments or lump sum from the Corporation Fund of an amount equal to the grant assigned for education;

(e) allow for a cash balance at the end of the said year of not less than such sum as may be prescribed by the State Government;

(f) provide for a sum of money not exceeding five thousand rupees to be spent by the Mayor in his discretion on any one or more of the matters specified in Section 114 or 115.

(3) The Executive Committee shall, on or as soon as may be after the tenth day of December or January, as the case may be, consider the budget estimates prepared by the Municipal Commissioner and make such modifications thereto as it shall think fit and submit the same to the Corporation not later than the fifteenth day of January following in the case of indebted Corporations and the fifteenth day of February in other cases.

(4) The Corporations shall finally adopt the budget estimates before March 1, if it is an indebted Corporation and before the beginning of the year to which they relate if it is not an indebted Corporation and shall forthwith submit copies thereof to the State Government:

Provided that if for any reason the Corporation has not finally adopted the budget estimates before the commencement of the financial year to which they relate, the budget estimates as prepared by the Municipal Commissioner or if the Executive Committee has submitted budget estimates under sub-section (3), such budget estimates shall be deemed to be the budget estimates for that year until action has been taken by the Corporation:

Provided further, that in the case of an indebted Corporation the adoption of budget estimates under this sub-section shall be subject to confirmation by the State Government.

147. **Revised Budget Estimates**. - As soon as may be after the first day of September if it is an indebted Corporation and the first day of October if it is not an indebted Corporation revised budget estimates for the year shall be adopted by the Corporation and the revised estimates shall, as far as may be, but subject to the modifications mentioned herein, be subject to all the provisions of Section 146.

Modifications -

(i) In sub-sections (1) and (3) of Section 146 for "tenth day of December" and "tenth day of January", "tenth day of August" and "tenth day of September", shall respectively be deemed to be substituted;

(ii) In sub-section (3) of Section 146 for "fifteenth day of January" and "fifteenth day of February", "fifteenth day of August" and "fifteenth day of September" shall respectively be deemed to be substituted, and

(iii) For the first proviso at the end of the section the following proviso shall be deemed to be *substituted:*

"Provided that as long as the Corporation has not adopted the revised budget estimates the budget estimates in force under the provisions of this Act on the first day of October of the year in question shall subject to the provisions of Sections 149 and 151 remain the budget estimates for the year."

148. **Determination of rates of taxes**. - The Corporation shall, on or before February 15 if it is an indebted Corporation but on or before March 15 otherwise, after considering the proposal of the Executive Committee, determine, subject to the limitations and conditions prescribed in Chapter IX the rates at which Corporation taxes referred to in sub-section (1) of Section 172 shall be levied in the next ensuing financial year.

149. **Corporation may increase amount of budget grants and make additional grants**.- (1) On the recommendation of the Executive Committee the Corporation may, from time to time during a financial year, increase the amount of any budget grant, or make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year exclusive of the balance, if any, of any special fund shall be reduced below the amount prescribed under clause *(e)* of sub-section (2) of Section 146 or such higher amount as may have been fixed for the time being in this behalf by the Corporation in the case of either the Corporation Fund or other special funds.

(2) Such increased or additional budget grants shall be deemed to be included in the budget estimates approved by the Corporation for the year in which they are made.

(3) Reductions in and transfers from one budget head to another or within a budget head shall be made in accordance with the rules by the Executive Committee.

150. **Restrictions on expenditure from Corporation Fund.** - Except as may be provided by rules in this behalf, no expenditure shall be incurred or payment made of any sum out of the Corporation Fund unless the same is covered by a current budget grant, and sufficient balance of such budget grant is still available, notwithstanding any reduction or transfer thereof which may have been made in accordance with the provisions of sub-section (3) of Section 149.

151. **Alteration in budget estimates**. - The Corporation may vary or alter from time to time as circumstances may render desirable, the budget estimates adopted under Section 146 or Section 147:

Provided that in the case of an indebted Corporation every variation or alteration under this section shall be subject to confirmation by the State Government.

152. **Indebted Corporation**. - Where in the opinion of the State Government the condition of indebtedness of any Corporation is such as to make the control of the State Government over its budget desirable, the State Government may by order notified in the official Gazette declare that such is the case and such Corporation shall for the purposes of this Act be deemed to be an indebted Corporation.

[88][152-A. **Surcharge**. - (1) The Mayor, ♣[Deputy Mayor], and every member, officer and servant of the Corporation shall be liable to surcharge for the loss, waste or misapplication of any money or property of the Corporation, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while acting as such Mayor, ♣[Deputy Mayor], member, officer or servant.

(2) The procedure of surcharge and the manner of recovery of the amount involved in loss, waste or misapplication shall be such as may be prescribed by rules.

(3) Where no surcharge proceedings are taken the Corporation may with the previous sanction of the State Government institute a suit for compensation against such Mayor, ♣[Deputy Mayor], member, officer or servant.]

153. **Power to make rules**. - The State Government may make rules to carry out all or any of the purposes of this Chapter, and in particular, without affecting the generality of the powers conferred hereby, make rules for the following purposes:

(a) receiving of payments by the Municipal Commissioner to the account of the Corporation Fund and lodging of the moneys received in a bank or banks;

(b) operation of the funds of the Corporation;

(c) deposit of portion of Corporation Fund with bank or agency outside the City;

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88 Ins. by U.P. Act 21 of 1964.

♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

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(d) investment of surplus moneys;

(e) the accounts to be kept by the Corporation, the manner in which accounts shall be audited and published [89][,] the power of auditors in respect of disallowance and surcharge [and the manner in which surcharge proceedings will be undertaken][90];

(f) reductions in or transfers from one budget head to another or within a budget head;

(g) preparation of annual administration report and statement of accounts;

(h) manner of keeping of Corporation accounts.

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89 Subs. by U.P. Act 21 of 1964.

90 Ins. by ibid.

CHAPTER VIII

BORROWING POWERS

154. **Power of Corporation to borrow money**. - (1) The Corporation may, with the previous sanction of the State Government and subject to the provisions of Section 31 of the Reserve Bank of India Act, 1934 from time to time, borrow or re--borrow and take up at interest by the issue of debentures or otherwise on the security of any immovable property vested in the Corporation or proposed to be acquired by it under this Act or of all or any taxes, duties, tolls, cesses, fees and dues which it is authorised to levy for the purposes of this Act, or of all or any of those securities, any sum necessary for the purpose of--

(a) defraying any costs, charges or expenses, incurred by it in the execution of this Act;

(b) for discharging any loan contracted under this Act or any other loan or debt for the repayment of which the Corporation is liable;

(c) generally for carrying out the purposes of this Act, including the advance of loans authorized thereunder:

Provided that--

(i) no loan shall be raised for the execution of any work other than a permanent work which expression shall include any work of which the cost should, in the opinion of the State Government, be spread over a term of years;

(ii) no loan shall be raised unless the State Government has approved the purpose and amount of the loan, the rate of interest and other terms thereof including the date of flotation and the period and method of repayment;

(iii) the period within which the loan is to be repaid shall in no case exceed thirty years.

(2) When any sum of money has been borrowed or re-borrowed under sub section (1)-

(a) no portion thereof shall without the previous sanction of the State Government, be applied to any purpose other than that for which it was borrowed; and

(b) no portion of any sum of money borrowed or re-borrowed for the execution of any work shall be applied to the payment of salaries or allowances of any Corporation officer or servant other than those who are exclusively employed upon the work for the construction of which

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the money was borrowed, or for meeting expenditure of recurring nature:

Provided that such share of the cost on account of the salaries and allowances of Corporation officers or servants employed in part upon the preparation of plans and estimates or the construction or supervision of or upon the maintenance of the accounts of such work as the Executive Committee may fix may be paid out of the sum so borrowed or re-borrowed.

155. **Power of Corporation to borrow from banks against public securities**. - Notwithstanding anything contained in Section 154 but subject to the provisions of Section 31 of the Reserve Bank of India Act, 1934, the Corporation may borrow for the purposes of this Act from any bank or banks in which the surplus moneys at the credit of the Corporation Fund may be deposited, against any public securities in which for the time being the cash balance of the Corporation may be invested:

Provided that in the case of an indebted Corporation, borrowing under this section shall be made with the previous approval of the State Government.

156. **When and how loan should be repaid**. - (1) Every loan raised under Section 154 shall be repaid within the time approved there for under the said section and by such of the following methods as may be approved under the said provision, namely-

(a) by payment from a sinking fund established under Section 157 in respect of the loan;

(b) by equal payments of principal and interest;

(c) from any sum borrowed for the purpose under clause (b) of sub-section (1) of Section 154;

(d) partly from a sinking fund established under Section 157 in respect of the loan and partly from money borrowed for the purpose under clause (b) of sub-section (1) of Section 154;

(e) by such other method including drawings as the State Government may specify.

(2) In the case of a loan borrowed before the appointed day, repayment shall normally be made by the method which was in operation for the repayment of such loan or if there was no such method, by any of the methods specified in subsection (1).

157. **Maintenance and application of sinking fund**. - (1) Whenever the repayment of a loan from a sinking fund has been sanctioned under proviso (ii) to sub-section (1) of Section 154, the Corporation shall establish such a fund and shall pay into it, on such dates as may have been approved under the said proviso, such sum

as will, with accumulations of compound interest, be sufficient after payment of all expenses to pay off the loan within the period approved:

Provided that if at any time the sum standing to the credit of the sinking fund established for the repayment of any loan is of such amount that, if allowed to accumulate at compound interest it will be sufficient to repay the loan within the period approved, then with the permission of the State Government further payments into such fund may be discontinued.

(2) The Corporation may apply a sinking fund, or any part thereof in or towards the discharge of the loan for which such fund is established, and, until such loan or part is wholly discharged, shall not apply the same for any other purpose.

158. **Investment of sinking fund**. - (1) All moneys paid into a sinking fund shall, as soon as possible, be invested by the Corporation in the name of the Municipal Commissioner -

(a) in Government securities, or

(b) in securities guaranteed by Government, or

(c) in debentures of the Corporation,

(d) and shall be held by the Corporation for the purpose of repaying from time to time the debentures issued by it.

(2) All dividends, interest and other sums received in respect of any such investment shall, as soon as possible after receipt, be paid into the appropriate sinking fund and invested in the manner prescribed by sub-section (1).

(3) Money standing to the credit of two or more sinking funds may, at the discretion of the Corporation, be invested in a common fund, and it shall not be necessary for the Corporation to allocate the securities held in such investments among the several sinking funds.

(4) When any part of sinking funds is invested in the debentures of the Corporation or is applied to paying of any part of a loan before the period fixed for repayment, the interest which would, otherwise have been payable on such debentures or on such part of the loan, shall be paid into the sinking fund and invested in the manner laid down in sub-section (1).

(5) Any investment made under this section may, subject to the provisions of sub-section (1), be varied or transposed:

Provided that whenever any transposition is made by the sinking fund from which any part is transposed shall be increased by a sum equal to the sum transposed.
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(6) During the year in which the loan for the repayment of which a sinking fund is established is due for repayment, the sum to be set apart as portion of the principal of such sinking fund and the sum received on account of interest on moneys forming part of such sinking fund may be retained by the Corporation in such form as it thinks fit.

159. **Investment of sinking fund and surplus moneys in debentures issued by Corporation**. - (1) In respect of any sinking funds which by this Act the Corporation is directed or authorized to invest in Public securities and in respect of any surplus moneys which by this Act the Municipal Commissioner on behalf of the Corporation is empowered to invest in the securities, it shall be lawful for the Corporation to reserve and set apart for the purpose of any such investment, any debentures issued or to be issued on account of any loan for which the sanction of the State Government shall have been duly obtained:

Provided that the intention so to reserve and set apart such debentures shall have been notified to the State Government as a condition of the issue of the loan.

(2) The issue of any such debentures direct to and in the name of the Municipal Commissioner on behalf of the Corporation shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Corporation or to the Municipal Commissioner of any debenture issued by the Corporation shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed, to any other person.

160. **Annual examination of sinking funds**. - (1) All sinking funds established or maintained under this Act shall be subject to annual examination by the Examiner, Local Fund Accounts, who shall ascertain whether the cash and the value of the securities belonging thereto are actually equal to the amount which should be at the credit of such funds, had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The amount which should be at the credit of a sinking fund shall be calculated on the basis of the present value of all future payments required to be made to such fund under the provisions of this Act, on the assumption that all investments are regularly made and the rate of interest as originally estimated is obtained therefrom.

(3) The securities belonging to a sinking fund shall be valued for the purposes of this section at their current market value, except in the case of debentures issued under this Act which will be valued at par, provided that the Corporation shall make good immediately any loss which may accrue on the actual sale of such debentures at the time of repayment of the loan.

(4) The Corporation shall forthwith pay into any sinking fund any amount which the Examiner, Local Fund Accounts, may certify to be deficient, unless the State Government specially sanctions a gradual re-adjustment.

(5) If the cash and the value of the securities at the credit of any sinking fund are in excess of the amount which should be at its credit, the Examiner, Local Fund Accounts, shall certify the amount of such excess sum and the Corporation may thereupon transfer the excess sum to the Corporation Funds.

(6) If any dispute arises as to the accuracy of any certificate made by the Examiner, Local Fund Accounts, under sub-section (4) or (5) the Mahapalika may, after making the payment or transfer, refer the matter to the State Government whose decision shall be final.

161. **Attachment of Corporation Fund in default of repayment of loan**. - (1) If any money borrowed by the Corporation or any interest or costs due in respect thereof are not repaid according to the conditions of the loan, the State Government, if it has itself given the loan, may, and in other cases shall, on the application of the lender after considering the explanation of the Corporation, if any, attach the Corporation Fund or a portion of the Corporation Fund.

(2) After such attachment no person, except an officer appointed in this behalf by the State Government shall in any way deal with the attached fund or portion thereof but such officer may do all acts in respect thereof which any Corporation authority, officer or servant might have done if such attachment had not taken place and may apply the proceeds in satisfaction of the arrears and of all interest and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the Fund or portion thereof attached was previously pledged in accordance with law, and all such prior charges shall be paid out of the proceeds of the Fund or portion thereof before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

162. **Form of debentures**. - (l) Debentures issued under this Act shall be in such form as the Corporation may with the previous sanction of the State Government from time to time determine.

(2) The holder of any debenture in any form duly authorized under subsection (1) may obtain in exchange therefor, upon such terms as the Corporation shall from time to time determine, a debenture in any other form so authorized.

(3) Every debenture issued by the Corporation under this Act shall be transferable by endorsement.

(4) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder for the time being without any preference by reason of some of such debentures being prior in date to others.

163. **Coupons attached to debentures to bear signature of Chairman of Executive Committee and Municipal Commissioner**. - All coupons attached to debentures issued under this Act shall be signed by the Chairman of the Executive Committee and the Municipal Commissioner on behalf of the Corporation and such signatures may be engraved, lithographed or impressed by any mechanical process.

164. **Debentures issued to two or more persons jointly**. - Notwithstanding anything contained in Section 45 of the Indian Contract Act, 1872--

(1) Where any debenture or security issued under this Act is payable to two or more persons jointly, and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of such persons:

Provided that nothing in this sub-section shall affect any claim by the legal representative of a deceased person against such survivor or survivors.

(2) When two or more persons are joint holders of any debenture or security issued under this Act, anyone of such persons may give an effectual receipt for an interest or dividend payable in respect of such debenture or security unless notice to the contrary has been given to the Corporation by any other of such persons.

165. **Issue of duplicate securities**. - (1) When a debenture issued under this Act is alleged to have been lost, stolen or destroyed either wholly or in part or has been defaced or mutilated and a person claims to be the person to whom but for the loss, theft, destruction, defacement or mutilation it would be payable, he may, on application to the Municipal Commissioner, and on producing proof of his satisfaction of the loss, theft, destruction, defacement or mutilation and of the justice of the claim, obtain from him an order-

(a) if the debenture alleged to have been lost, stolen, destroyed, defaced or mutilated is payable more than six years after the date of publication of the notification referred to in sub-section (2)-

(i) for the payment of interest in respect of the debenture pending the issue of a duplicate debenture; and

(ii) for the issue of a duplicate debenture payable to the applicant; or

(b) if the debenture alleged to have been lost, stolen, destroyed, defaced or mutilated is payable not more than six years after the date of publication of the notification referred to in sub-section (2)-

(i) for the payment of interest in respect of the debenture without the issue of a duplicate debenture, and

(ii) for the payment to the applicant of the principal sum due in respect of the debenture on or after the date on which the payment becomes due.

(2) An order shall not be passed under sub-section (1) until after the issue of such notification of the loss, theft, destruction, defacement or mutilation of the debenture as may be prescribed by the Corporation, and after the expiration of such period as may be prescribed by the Corporation nor until the applicant has given such indemnity as may be required by the Corporation against the claims of all persons deriving title under the debenture lost, stolen, destroyed, defaced or mutilated.

(3) A list of the debentures in respect of which an order is passed under sub-section (1) shall be published in the official Gazette.

(4) If at any time before the Corporation becomes discharged under the provisions of Section 168 from liability in respect of any debenture the whole of which is alleged to have been lost, stolen, destroyed, defaced or mutilated, such debenture is found, any order passed in respect thereof under this section shall be cancelled but subject to any payments of principal or interest already made.

166. **Renewal of debentures.** - (l) A person claiming to be entitled to a debenture issued under this Act, may on applying to the Municipal Commissioner and on satisfying him of the justice of his claim and delivering the debenture receipted in such manner and paying such fee as may be prescribed by the Municipal Commissioner obtain a renewed debenture payable to the person applying.

(2) Where there is a dispute as to the title to a debenture issued under this Act in respect of which an application of renewal has been made, the Municipal Commissioner may--

(a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such debenture, issue a renewed debenture in favour of such party;

(b) refuse to renew the debenture until such decision has been obtained; or

(c) after such inquiry as is hereinafter provided and on consideration of the result thereof declare by order in writing which of the parties is in his opinion entitled to such debenture and may, after the expiration of three months from the date of such declaration, issue a renewed debenture in favour of such party in accordance with the provisions of sub-section (1) unless within that period he has received notice that proceedings have been instituted by any person in a court of competent jurisdiction for the purpose of establishing a title to such debenture.

Explanation. - For the purposes of this sub-section the expression “final decision” means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

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(3) For the purposes of the inquiry referred to in sub-section (2) the Municipal Commissioner may himself record or may request the District Magistrate to record or to have recorded by any Magistrate subordinate to him the whole or any part of such evidence as the parties may produce. The Magistrate who records the evidence shall forward the record of such evidence to the Municipal Commissioner.

(4) The Municipal Commissioner or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

167. **Liability in respect of debenture renewed.** - (1) When a renewed debenture has been issued under Section 166 in favour of any person, the debenture so issued shall be deemed to constitute a new contract between the Corporation and such person and all persons deriving title thereafter through him.

(2) No such renewal shall affect the rights as against the Corporation of any other person to the debenture so renewed.

168. **Discharge in certain cases.** - When a duplicate debenture has been issued under Section 165 or when a renewed debenture has been issued under Section 166 or when the principal sum due on a debenture in respect of which an order has been made under Section 165 for the payment of the principal sum without the issue of a duplicate debenture has been paid on or after the date on which such payment became due the Corporation shall be discharged from all liability in respect of the debenture in place of which a duplicate or renewed debenture has been so issued or in respect of which such payment has been made, as the case may be--

(a) in the case of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of Section 165 or from the date of the last payment of interest on the original debenture, whichever date is later;

(b) in the case of a renewed debenture after the lapse of six years from the date of the issue thereof; and

(c) in the case of payment of the principal sum without the issue of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (2) of Section 165.

169. **Indemnity.** - Notwithstanding anything in Section 166 the Municipal Commissioner may in any case arising thereunder--

(1) issue a renewed debenture upon receiving such indemnity in favour of the Corporation and the Municipal Commissioner as he shall think fit against the claims of all persons claiming under the original debenture, or

(2) refuse to issue a renewed debenture unless such indemnity is given.

170. **Annual statement to be prepared by Municipal Commissioner**. - (1) The Municipal Commissioner shall, at the end of each year, prepare a statement showing -

(a) the loans borrowed in previous years for which the Corporation is liable and which have not been completely repaid before the commencement of the year, with particulars of the amount outstanding at the commencement of the year, the date of borrowing and the annual loan charges;

(b) the loans borrowed by the Corporation in the year with particulars as to the amount and the date of borrowing and the annual loan charges;

(c) in the case of every loan for which a sinking fund is maintained the amount of accumulation in the sinking fund at the close of the year showing separately the amount to the credit of the fund in the year;

(d) the loans repaid in the year and, in the case of the loans repaid in instalments or by annual drawings, the amounts repaid in the year, and the balance due at the close of the year;

(e) the particulars of securities in which the sinking funds have been invested or reserved therefor.

(2) Every such statement shall be laid before a meeting of the Corporation and shall be published in the official Gazette and a copy of such statement shall be sent to the State Government and the Examiner, Local Fund Accounts.

171. **Power to make rules**. - The State Government may make rules to carry out all or any of the purposes of this Chapter, and in particular, without affecting the generality of the power conferred hereby, make rules for the following purposes:

(a) procedure for obtaining sanction of the State Government under this Chapter;

(b) establishment of sinking fund;

(c) investment of money in the sinking fund;

(d) annual examination and audit of sinking fund;

(e) manner of attachment of Corporation Fund; and

(f) printing of debentures.

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CHAPTER IX

CORPORATION TAXATION

172. **Taxes to be imposed under this Act**. - (1) For the purposes of this Act and subject to the provisions thereof and of Article 285 of the Constitution of India the Corporation shall impose the following taxes, namely,

(a) property taxes;

(b) a tax on vehicles other than mechanically propelled vehicles, and other conveyances plying for hire or kept within the City or on boats moored therein;

[91][(c) a tax on helicopters or any other type of planes, when they land on or take off from the helipads, airports, airsteps (sic airstrip) or places made for this purpose situated within the Corporation. The tax so imposed shall be paid by the airport authority or person or persons, or managers, or director or institution or department or agency involved in the maintenance, management and supervision of the airport, airstrip, helipad or the place as the case may be;

(d) a tax on trades and professions;

(e) a tax on deeds of transfer of immovable property situated within the city;

(f) a tax on vacant land situated within the city;]

(2) In addition to the taxes specified in sub-section (1) the Corporation may for the purposes of this Act and subject to the provisions thereof impose any of the following taxes, namely, -

[92][(a) a tax on callings and on holding a public or private appointment;

(b) [* * *][93]

(c) [* * *][94]

(d) [* * *][95]

(e) a tax on dogs kept within the City;

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91 Subs. by U.P. Act 38 of 2006, S. 6.
92 Subs. by U.P. Act 38 of 2006, S. 6.
93 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).
94 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).
95 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

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(f) a betterment tax;

(g) [1][* * *]

(h) a tax on advertisements not being advertisements published in newspapers;

(i) a theatre tax; and

(j) [* * *][2]

[* * *][3]

(3) The Corporation taxes shall be assessed and levied in accordance with the provisions of this Act and the rules and bye-laws framed thereunder.

(4) Nothing in this section shall authorize the imposition of any tax which the State Legislature has no power to impose in the State under the Constitution of India:

Provided that where any tax was being lawfully levied in the area included in the City immediately before the commencement of the Constitution of India such tax may continue to be levied and applied for the purposes of this Act until provision to the contrary is made by Parliament.

Property Taxes

173. **Property taxes leviable**. - (1) For the purposes of sub-section (1) of Section 172 property taxes shall comprise the following taxes which shall, subject to the exceptions, limitations and conditions hereinafter provided, be levied on buildings and lands in the City

(a) a general tax which may be levied, if the Corporation so determines, on a graduated scale;

(b) a water tax [4][leviable in areas where water is supplied by the Corporation;]

(c) drainage tax leviable in areas provided with sewer system by the Corporation;]

(d) a conservancy tax in areas in which the Corporation undertakes the collection, removal and disposal of excrementitious and polluted matter from privies, urinals and cesspools.

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1 Omitted by U.P. Act 38 of 2006, S. 6.
2 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).
3 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).
4 Ins. by U.P. Act 17 of 1999, S. 2.

(2) Save as otherwise expressly provided in this Act or rules made thereunder, these taxes shall be levied on the annual value of buildings or land as the case may be:

[5][Provided that the aggregate of the property taxes shall in no case be less than 22 per cent and not more than 32 per cent of the annual value of the building or land or both assessed to such taxes, so however, that the general tax shall not be less than 10 per cent and not more than 15 per cent, the water tax shall not be less than 7.5 per cent and not more than 12.5 per cent, the drainage tax shall not be less than 2.5 per cent and not more than 5 per cent and the conservancy tax shall not be more than 2 per cent of the annual value.]

174. **Definition of "annual value**". - [6][(1)] "Annual value" means -

[7][(a) in the case of railway stations, colleges, schools, hostels, factories, commercial buildings, and other non-residential buildings, a proportion not below 5 per cent, to be fixed by rule made in this behalf of the sum obtained by adding the estimated present cost of erecting the building less depreciation at a rate to be fixed by rules, to the estimated value of the land appurtenant thereto; and]

[8][(b) in the case of a building or land not falling within the provisions of clause *(a),* twelve times the value arrived at on multiplying the carpet area of the building, or the area of the land, by the applicable minimum monthly rate of rent per square foot of the carpet area in the case of building or the applicable minimum monthly rate of rent per square foot of the area in the case of land, as the case may be, and for this purpose the minimum monthly rate of rent per square foot shall be such as may be fixed once in every two years by the Municipal Commissioner on the basis of the location of the building or the land, nature of the construction of the building, the circle rate fixed by the Collector for the purposes of the Indian Stamp Act, 1899 and the current minimum rate of rent in the area for such building or land and such other factors, and in such manner, as may be prescribed:

Provided that where the annual value of any building would, by reason of exceptional circumstances, in the opinion of the Corporation, be excessive if calculated in the aforesaid manner, the Corporation may fix the annual value at any less amount which appears to it equitable.

Explanation.- For the purpose of calculation of annual value the carpet area shall be calculated as under: -

(i) Rooms - fully measurement of internal dimension;

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5 Subs. by U.P. Act 17 of 1999, S. 2.
6 Section 174 renumbered as sub-section (1) by U.P. Act 17 of 1999, S. 3.
7 Subs. by U.P. Act 3 of 1987 (w.e.f. 21-01-1987).
8 Subs. by U.P. Act 17 of 1999, S. 3.

(ii) Covered Verandah - full measurement of internal dimension;

(iii) Balcony, Corridor, Kitchen and Store - 50 per cent measurement of internal dimension;

(iv) Garage - one-fourth measurement of internal dimension;

(v) Area covered by bathroom, latrines, portico and staircase shall not form part of the carpet area.

Explanation II.-The standard rent, the agreed rent or the reasonable annual rent of a building for the purposes of the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 shall not be taken into account while calculating the annual value of that building.]

[9][(2) Where the Corporation so resolves, the annual value for the purpose of assessment of property taxes shall -

(a) in the case of land and owner-occupied residential building which is not more than ten years old, be deemed to be 25 per cent less and if it is more than ten years but not more than twenty years old, be deemed to be 32.5 per cent less, and if it is more than twenty years old, be deemed to be 40 per cent less than the annual value determined under clause (b) of subsection (1); and

(b) in the case of residential building let on rent, which is not more than ten years old, be deemed to be 25 per cent more, and if it is more than ten years but not more than twenty years old, be deemed to be 12.5 per cent more than the annual value determined under clause (b) of sub-section (1), and if it is more than twenty years old, be deemed to be equal to the annual value determined under clause (b) of sub-section (1).]

[10][175. **[Restrictions on imposition of water tax]**[11]. - The imposition of a tax under clause (b) of sub-section (1) of Section 173 shall be subject to the restriction that the tax shall not be imposed -

(i) on any land exclusively for agricultural purposes, unless the water is supplied by the Corporation for such purposes; or

(ii) on a plot of land or building the annual value whereof does not exceed rupees three hundred and sixty and to which no water is supplied by the Corporation; or

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9 Ins. by U.P. Act 17 of 1999, S. 3.

10 Subs. by U.P. Act 10 of 1978 (w.e.f. 01-12-1977).

11 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

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(iii) on any plot or building, no part of which is within the radius prescribed for the City, from the nearest stand-pipe or other waterworks whereat water is made available to the public by the Corporation.

Explanation. - For the purposes of this section -

(a) 'building' shall include the compound, if any, thereof, and, where there are several buildings in a common compound, all such buildings, and the common compound;

(b) 'a plot of land' means any piece of land held by a single occupier, or held in common by several co-occupiers, whereof no one portion is entirely separated from any other portion by the land of another occupier or of other occupiers or by public property.]

176. **Pooling of income from waterworks, drainage works, etc**. - The proceeds of the water, drainage and conservancy taxes and all other incomes derived from waterworks, drainage works, drains and excrementitious and polluted matter collected from privies, urinals and cesspools and from disposal of such matters and income from sullage farms shall be pooled together and shall be defrayed on purposes connected with the construction, maintenance, extension or improvement of such waterworks and drainage works and with the collection, removal and disposal of excrementitious and polluted matter from privies, urinals and cesspools including maintenance of sullage farms.

177. **General tax on what premises to be levied**. - The general tax shall be levied in respect of all buildings and lands in the City except --

(a) buildings and lands solely used for purposes connected with the disposal of the dead;

(b) buildings and lands or portions thereof solely occupied and used for public worship or for a charitable purpose;

[12][(c) building solely used as schools and intermediate colleges whether aided by the State Government or not, fields, farms and gardens of Government aided institutes of research and development, playgrounds of Government aided or unaided recognised educational institutions and sports stadium;]

(d) ancient monuments as defined in the Ancient Monuments Preservation Act, 1904, subject to any direction of the State Government in respect of any such monument;

[13][(e) any building or land the annual value of which is rupees three hundred and sixty or less, provided that the owner thereof does not own any

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12 Subs. by U.P. Act 38 of 2006, S.7.

13 Subs. by U.P. Act 10 of 1978 (w.e.f. 01-12-1977).

other building or land in the same city [14][and provided further that in the case of a building situated within thirty metres from the main or branch sewer line of the Corporation it has a latrine with arrangements for flushing]; [15][* * *]

(f) buildings and lands vesting in the Union of India except where provisions of clause (2) of Article 285 of the Constitution of India apply;

[16][(g) any owner-occupied residential building constructed on a plot of land measuring thirty square metres, or having a carpet area up to fifteen square metres provided that the owner thereof does not own any other building in the city; and

[17][(h) residential buildings occupied by the owner of building, which is located in such area which has been included in the limit of Corporation within five years or the facilities of roads, drinking water and street light provided in the area, whichever is earlier.]]

178. **Remission by reason of non-occupation**. - (l) When a building or land has remained vacant and unproductive of rent for ninety or more consecutive days during any year, the Municipal Commissioner shall remit or refund so much of each of the property taxes of that year as may be proportionate to the number of days that the said building or land has remained vacant and unproductive of rent.

(2) When a building consists of two or more separate tenements and one or more such tenements has remained vacant and unproductive of rent during any such period as aforesaid, the Municipal Commissioner may remit or refund such portion (if any) of each tax or instalment as may be prescribed:

Provided that no remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Corporation; and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(3) The burden of proving the facts entitling a person to remission or refund under this section shall be upon the person claiming the same.

(4) For the purposes of this section a building or land shall not be deemed to be vacant, if it is maintained as a pleasure resort or town or country house, or be deemed to be unproductive of rent, if it is let to a tenant who has a continuing right of occupation thereof, whether he is in actual occupation or not.

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14 Ins. by U.P. Act 35 of 1978, w.e.f. such date as the State Government may, by notification, appoint in this behalf.

15 The word "and" omitted by U.P. Act 17 of 1999, S. 4.

16 Ins. by U.P. Act 17 of 1999, S.4.

17 Subs. by U.P. Act 16 of 2004, S. 9 (w.r.e.f. 21-11-2002).

179. **Primary responsibility for certain property taxes on annual value**. - - (1) Except where otherwise prescribed, every tax (other than a drainage tax or a conservancy tax) on the annual value of buildings or lands shall be leviable primarily from the actual occupier of the property upon which the tax is assessed, if he is the owner of the buildings or lands or holds them on a building or other lease from the Central or the State Government or from the Corporation, or on a building lease from any person.

(2) In any other case the tax shall be primarily leviable as follows, namely, -

(a) if the property is let from the lessor;

(b) if the property is sublet from the superior lessor;

(c) if the property is unlet from the person in whom the right to let the same vests.

[18][(d) if the property is let in pursuance of an order under the Uttar Pradesh Urban Buildings (Regulations of Letting, Rent and 'Eviction) Act,1972, from the tenant.]

(3) On failure to recover any sum due on account of such tax from the person primarily liable, the Municipal Commissioner may recover from the occupier of any part of the buildings or lands in respect of which it is due that portion thereof which bears to the whole amount due the same ratio as the rent annually payable by such occupier bears to the aggregate amount of rent payable in respect of the whole of the said building or lands, or to the aggregate amount of the letting value thereof in the authenticated assessment list.

(4) An occupier who makes any payment for which he is not primarily liable under the foregoing provisions shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable.

180. **Liability for payment of other such taxes**. - (1) A drainage tax, or a conservancy tax on the annual value of buildings or lands shall be levied from the actual occupier of the property upon which the taxes are assessed:

Provided that, where such property is let to more occupiers than one, the Municipal Commissioner may at his option levy the tax from the lessor instead of from the actual occupiers.

(2) A lessor from whom a tax is levied under the proviso to sub-section (1) may, in the absence of a contract to the contrary, recover the tax from any or all of the actual occupiers.

181. **Property taxes to be a first charge on premises on which they are assessed.** - (1) Property taxes due under this Act in respect of any building or land

[18] Ins. by U.P. Act 17 of 1999, S. 5.

shall, subject to the prior payment of the land revenue, if any, due to the State Government thereupon, be a first charge, in the case of any building or land held immediately from the State, upon the interest in such building or land of the person liable for such taxes and upon the movable property, if any, found within or upon such building or land and belonging to such person; and, in the case of any other building or land, upon the said building or land and belonging to the person liable for such taxes.

Explanation - The term "property taxes" in this section shall be deemed to include any charges payable for water supplied to any premises and the costs of recovery of property taxes as specified in the rules.

(2) In any decree in a suit for the enforcement of the charge created by sub-section (1), the Court may order the payment to the Corporation of interest on the sum found to be due at such rate as the Court deems reasonable from the date of the institution of the suit until realization, and such interest and the cost of enforcing the said charge, including the costs of the suit and the cost of bringing the premises or movable property in question to sale under the decree, shall, subject as aforesaid, be a first charge on such premises and movable property along with the amount found to be due, and the Court may direct payment thereof to be made to the Corporation out of the sale proceeds.

Taxes Oil Vehicles, Boats and Animals

182. **Taxes on vehicles, boats and animals**. - (1) A tax under clause *(b)* or clause *(c)* of sub-section (1) of Section 172 shall be levied at rates not exceeding those prescribed by rule by the State Government in this behalf from time to time on vehicles and boats or on animals, as the case may be.

(2) The Corporation shall from year to year, in accordance with Section 148, determine the rates at which the tax referred to in sub-section (1) shall be levied.

(3) A vehicle, boat or animal kept outside the limits of the City but regularly used within such limits shall be deemed to be kept for use in the City.

183. **Exemptions from certain taxes mentioned in Section 172**. - (1) The tax under clause *(b)* of sub-section (1) of Section 172 shall not be leviable in respect of -

(a) vehicles and boats belonging to the Corporation;

(b) vehicles and boats vesting in the Union of India except where the provisions of clause (2) of Article 285 of the Constitution of India apply;

(c) vehicles and boats vesting in any State comprised in the Union of India and used solely for public purposes and not used or intended to be used for purposes of profit;

(d) vehicles and boats intended exclusively for conveyance free of charge of the injured, sick or dead;

(e) children's perambulators and tricycles;

(f) vehicles or boats kept by *bonafide* dealers in vehicles or boats for sale merely, and not used.

(2) The tax under clause *(c)* of sub-section (1) of Section 172 shall not be leviable in respect of -

(a) animals belonging to the Corporation;

(b) animals vesting in the Union of India except where the provisions of clause (2) of Article 285 of the Constitution of India apply;

(c) animals vesting in any State comprised in the Union of India and used solely for public purposes and not used or intended to be used for purposes of *profit.*

(3) If any question arises under clause *(b)* Or clause *(c)* of sub-section (1) or clause *(b)* or clause *(c)* of sub-section (2) whether any vehicle, boat or animal vesting in the Union of India or any State comprised therein is or is not used or intended to be used for purposes of *profit,* such question shall be determined by the State Government whose decision shall be final.

Other Taxes

184. **Betterment tax.** -"Betterment tax" means a tax to be charged on the increase in the value of the land comprised in a scheme put into operation under Chapter XIV, but not actually required for the execution thereof, or on the increase in the value of any land adjacent to and within one quarter of a mile of the boundaries of such scheme, provided that such adjacent land is situated within the City.

185. **Amount of Betterment tax**. - The Betterment tax shall be an amount equal to one-half of the difference between the market value of the land on the date specified in the public notice under sub-section (2) of Section 187 and the market value of such land on or immediately before the date on which the scheme was finally notified under Chapter XIV:

Provided that *for* the purposes of calculation under this section the land shall be treated as free of all buildings.

186. **Payment of Betterment tax**. - Where a Corporation has imposed a tax mentioned in clause (*f)* of sub-section (2) of Section 172 every owner of land mentioned in Section 184 or any person, having an interest therein in respect of the increase in the value of such land, shall in the manner hereinafter provided pay to the Corporation such Betterment tax as may be determined by Municipal Commissioner.

187. **Notice of levy of Betterment tax**. - (1) The State Government shall, by notification in the Official Gazette, declare the date on which a scheme shall be deemed to have been completed.

(2) Within one year of the date of the completion of the scheme declared in subsection (1), the Municipal Commissioner shall give public notice of the intention of the Corporation to levy a Betterment tax from a specified date.

188. **Assessment of Betterment tax**. - (1) The Municipal Commissioner shall at any time after one month from the publication of such notice assess the amount of Betterment tax payable by the person concerned and shall give a notice in writing to such person stating the amount of the tax and the instalments, if any, and the dates on which the tax shall be paid together with such other particulars as may be necessary.

(2) Any person on *whom* a notice of assessment is served under sub-section (1) may, within one month from the date of the service of such notice, file an objection against such assessment before the Municipal Commissioner:

Provided that an objection may be entertained even after the expiry of the period mentioned in sub-section (1) if the Executive Committee or sub-committee thereof referred to in sub-section (3) is satisfied that the failure to file objection was due to causes beyond the control of the objector.

(3) After an opportunity has been given to the objector of being heard, the Executive Committee or a sub-committee thereof appointed in this behalf shall decide the objection and may then confirm, modify or cancel the assessment.

(4) If the person on whom a notice of assessment is served under sub-section (l) fails to file an objection, under sub-section (2), the order of assessment shall be conclusive and shall not be questioned before any court of law or tribunal.

189. **Alternative to payment of Betterment tax**. - (1) A person liable to pay Betterment tax may at his option instead of paying thereof to the Corporation, execute an agreement with the Corporation to leave the said payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of 6 per cent per annum.

(2) A person who has exercised his option under sub-section (1) may, at any time, subject to his giving six months' notice of his intention, pay the amount of Betterment tax assessed under Section 188.

190. **Recovery of arrears of Betterment tax**. - Arrears of Betterment tax shall be realized in the manner provided in Chapter XXI.

[19]191. **Tax on deeds of transfer of immovable property**. - (1) Where the Corporation has imposed a tax referred to in clause *(g)* of Section 172, the duty

[19] By virtue of Section 59 of President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974, Section 191 along with certain other provision of the U.P.

imposed by the Indian Stamp Act, 1899, on any deed of transfer of immovable property shall, in the case of immovable property situated within the City, be increased by 2 per cent [20][on the amount or value of the consideration with reference to which the duty is calculated under the said Act.]

(2) All collections resulting from the said increase shall, after the deduction of incidental expenses, if any, be paid to the Corporation by the State Government in such manner as may be prescribed by rules.

(3) For the purpose of this section, Section 27 of the Indian Stamp Act, 1899, shall be so read and construed as if it specifically required the particulars referred to therein to be separately set forth in respect of -

(a) property situated within the City, and

(b) property situated outside the City.

(4) For the purposes of this section, Section 64 of the Indian Stamp Act, 1899, shall be so read and construed as if it referred to the Corporation as well as to the Government.

192. **Tax on advertisements**. - Where a Corporation imposes a tax mentioned in clause *(h)* of sub-section (2) of Section 172, every person who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding or structure any advertisement or who displays any advertisement to public view in any manner whatsoever, in any place whether public or private, shall pay on every advertisement which is so erected, exhibited, fixed, retained or displayed to public view, a tax calculated at such rates and in such manner and subject to such exemptions as may be provided by the Act or rules made thereunder:

Provided that no tax shall be levied under this section on any advertisement or a notice-

(a) of public meetings, or

(b) of an election to any legislative body or the Corporation,

(c) of a candidature in respect of such an election:

Provided also that no such tax shall be levied on any advertisement which is not a sky-sign and which-

(a) is exhibited within the window of any building, or

Nagar Mahapalika Act shall in respect of a development area, remain suspended with effect from the date of constitution of Development Authority for that area and until the dissolution of such authority.

[146] Subs. by U.P. Act 29 of 1966.

(b) relates to the trade or business carried on within the land or building upon or over which advertisement is exhibited, or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held upon or in the same, or

(c) relates to the name of the land or building upon or over which the advertisement is exhibited, or the name of the owner or occupier of such land or building, or

(d) relates to the business of any railway administration, or

(e) is exhibited within any railway station or upon any wall or other property of a railway administration except any portion of the surface of such wall or property fronting any street.

Explanation 1.-The word "structure" in this section shall include any movable board on wheels used as an advertisement or an advertisement medium.

Explanation 2.-"Public place" shall, for the purpose of this section, mean any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not.

193. **Prohibition of advertisement without written permission of Municipal Commissioner**. - (1) No advertisement shall, after the-levy of the tax under Section 192 has been determined upon by the Corporation, be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure within the City or shall be displayed in any manner whatsoever in any place without the written permission of the Municipal Commissioner.

(2) The Municipal Commissioner shall not grant such permission if -

(i) the advertisement contravenes any bye-law made by the Corporation under [21][c1ause (48)] of Section 541, or

(ii) the tax, if any, due in respect of the advertisement has not been paid.

(3) Subject to the provisions of sub-section (2) in the case of any advertisement liable to the advertisement tax, the Municipal Commissioner shall grant permission for the period to which the payment of the tax relates and no fee shall be charged in respect of such permission:

Provided that the provisions of this section shall not apply to any advertisement erected, exhibited, fixed or retained on the railway premises or relating to the business of any railway administration.

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[147] Subs. by U.P. Act 23 of 1961.

194. **Permission of the Municipal Commissioner to become void in certain cases.** - The permission granted under Section 193 shall become void in the following cases, namely:

(a) if the advertisement contravenes any bye-law made by the Corporation under [22][clause (48)] of Section 541;

(b) if any addition to the advertisement be made except for the purpose of making it secure under the direction of the Municipal Commissioner;

(c) if any material change be made in the advertisement or any part thereof;

(d) if the advertisement or any part thereof falls otherwise than through accident;

(e) if any addition or alteration be made to, or in the building, wall or structure upon or over which the advertisement is erected, exhibited, fixed or retained if such addition or alteration involves the disturbance of the advertisement or any part thereof; and

(f) if the building, wall or structure upon or over which the advertisement is erected, exhibited, fixed or retained be demolished or destroyed.

195. **Beneficiary from advertisement to be deemed responsible**. - Where any advertisement shall be erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding or structure in contravention of the provisions of Section 192 or Section 193 or after the written permission for the erection, exhibition, fixation or retention thereof for any period shall have expired or become void, the person for whom or for whose purposes the advertisement has *prima facie* been so erected, exhibited, fixed or retained shall be deemed to be the person who has erected, exhibited, fixed or retained such advertisement in such contravention unless he proves that such contravention was committed by a person not in his employment or under his control or was committed without his connivance.

196. **Removal of unauthorised advertisements**. - If any advertisement be erected, exhibited, fixed or retained contrary to the provisions of Section 192 or Section 193 or after the written permission for the erection, exhibition, fixation or retention thereof for any period shall have expired or become void, the Municipal Commissioner may, by notice in writing, require the owner or occupier of the land, building, wall, hoarding or structure upon or over which the same is erected, exhibited, fixed or retained to take down or remove such advertisement or may enter any building, land or property and have the advertisement removed.

197. **Exemption from theatre tax**. - The theatre tax shall not be leviable in respect of -

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[148] Subs. by U.P. Act 23 of 1961.

(a) any entertainment or amusement for admission to which no charge is made or only a nominal charge is made;

(b) any entertainment or amusement which is not open to the general public on payment;

(c) any entertainment or amusement the full proceeds of which, without the deduction of expenses, are intended to be utilized for a public charitable purpose.

Explanation.-For the purposes of this section a nominal charge shall be such charge as may be fixed by the rules.

198. [* * *][23]

Imposition of Taxes

199. **Framing of preliminary proposals.** - (1) When a Corporation desires to impose a tax specified in sub-section (2) of Section 172 it shall by resolution direct the Executive Committee to frame proposals specifying -

(a) the tax, being one of the taxes described in sub-section (2) of Section 172 which it desires to impose;

(b) the persons or class of persons to be made liable, and the description of property or other taxable thing or circumstances in respect of which they are to be made liable, except where and in so far as any class or description is already sufficiently defined under clause (a) or by this Act;

(c) the amount or rate leviable from each such person or class of persons;

(d) any other matter referred to in Section 219 which the State Government requires by rule to be specified.

(2) Upon a resolution being passed under sub-section (1) the Executive Committee shall frame the proposals and also prepare a draft of the rules which it desires the State Government to make in respect of the matters referred to in Section 219.

(3) The Executive Committee shall, thereafter, publish in the manner prescribed by rule the proposals framed under sub-section (1) and the draft rules framed under sub-section (2) along with a notice in the form to be prescribed by rule.

200. **Procedure subsequent to framing proposals**. - (1) Any inhabitant of the City may, within two weeks from the publication of the said notice, submit to the Corporation an objection in writing to all or any of the proposals framed under the

[23] Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

preceding section, and the Corporation shall take any objection so submitted into consideration and pass orders thereon by special resolution.

(2) If the Corporation decides to modify the proposals of the Executive Committee, or any of them the Municipal Commissioner shall publish the modified proposals and, if necessary, revised draft rules along with a notice indicating that the proposals and rules (if any) are in modification of proposals and rules previously published for objection.

(3) Any objections which may be received to the modified proposals shall be dealt with in the manner prescribed in sub-section (1).

(4) When the Corporation has finally settled its proposals, the Municipal Commissioner shall submit them along with the objections (if any) made in connection therewith to the State Government.

201. **Power of State Government to reject, sanction or modify proposal. -** Upon receipt of the proposals and objection under the preceding section the State Government may either refuse to sanction the proposals or return them to the Corporation for further consideration or sanction them without modification or with such modification not involving an increase of the amount to be imposed, as it seems fit.

202. **Resolution of Corporation directing imposition of taxes**. - (1) When the proposals have been sanctioned by the State Government, the State Government, after taking into consideration the draft rules submitted by the Corporation, shall proceed forthwith to make such rules in respect of the tax as for the time being it considers necessary.

(2) When the rules have been made the order of sanction and a copy of the rules shall be sent to the Corporation, and thereupon the Corporation shall by special resolution direct the imposition of the tax with effect from a date to be specified in the resolution.

203. **Imposition**. - (1) A copy of the resolution passed under Section 202 shall be submitted to the State Government.

(2) Upon receipt of the copy of the resolution the State Government shall notify in the official Gazette, the imposition of the tax from the appointed date, and the imposition of tax shall in all cases be subject to the condition that it has been so notified.

(3) A notification of the imposition of a tax under sub-section (2) shall be conclusive proof that the tax has been imposed in accordance with the provisions of this Act.

204. **Procedure for altering taxes**. - The procedure for abolishing a tax, or for altering a tax in respect of the matters specified in clauses *(b)* and *(c)* of subsection (1) of Section 199 shall, so far as may be, be the procedure prescribed by Sections 199 to 202 for the imposition of a tax.

205. **Power of State Government to remedy or abolish tax**. - (1) Whenever it appears, on complaint made or otherwise to the State Government, that the levy of any tax is contrary to the public interests or that any tax is unfair in its incidence, the State Government may, after considering the explanation of the Corporation concerned, by order require such Corporation to take measures within a time to be specified in the order, for the removal of any defect which it considers to exist in the tax or in the method of assessing or collecting the tax.

(2) Upon the failure or inability of the Corporation to comply, to the satisfaction of the State Government, with an order made under sub-section (1), the State Government, may by notification, suspend the levy of the tax, or of any portion thereof, until the defect is removed, or may abolish or reduce the tax.

206. **Power of State Government to require Corporation to impose taxes.** - (1) The State Government may, by general or special order, published in the official Gazette, require a Corporation to impose any tax mentioned in subsection (2) of Section 172 not already imposed, at such rate and within such period as may be specified in the notification, and the Corporation shall thereupon act accordingly.

(2) The State Government may require a Corporation to increase, modify or vary the rate of any tax already imposed and thereupon the Corporation shall increase, modify or vary the tax as required.

(3) If the Corporation fails to carry out the order passed under sub-section (1) or (2), the State Government may pass suitable order imposing, increasing, modifying or varying the tax and thereupon the order of the State Government shall operate as if it had been a resolution duly passed by the Corporation**.**

Assessment and Levy of Property Taxes

207. **Preparation of assessment list.** - [24][The Municipal Commissioner shall cause areawise rental rates and an assessment list in the city or part thereof to be prepared from time to time, in accordance with the manner prescribed in the Rules.]

[25][207-A. **Option to deposit self-assessment property tax**. - Notwithstanding any other provisions of this Act, the owner or occupier primarily liable for payment of tax in respect of a residential building may himself assess every year his liability regarding the amount of property tax payable by him and in doing so he may himself determine the annual value of the building in accordance with the provisions of clause *(b)* of Section 174, and deposit the property tax so assessed by him in such manner, together with a statement of such self-assessment in such form, as may be prescribed.]

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24 Subs. by U.P. Act 16 of 2004, S. 10 (w.r.e.f. 21-11-2002).

25 Ins. by U.P. Act 17 of 1999, S. 6.

[26][207-B. **Submission of the details of houses or lands for assessment of tax**. - (1) For the purposes of annual rental value, the owner or the occupier of every house or land shall submit a property return up to a date as may be prescribed.

(2) Any person failing to submit the return referred to in sub-section (1) without proper reasons shall be liable to pay penalty as may be prescribed.

(3) The penalty referred to in sub-section (2) may be cpmpounded by the Municipal Commissioner.]

208. **Publication of list**. - [27][The Municipal Commissioner shall publish the list prepared under Section 207 in accordance with the manner prescribed in the rules.]

[28][209. **Objections on proposed rates and list**. - (1) The Municipal Commissioner or an officer authorised by him in this behalf shall dispose of the objections in accordance with the manners prescribed in the rules.]

[29][210. **Authentication and custody of list**. - [30][(1) The Municipal Commissioner or an officer authorised by him in this behalf, shall authenticate by his signature the areawise rental rates and the assessment list of the city or any part thereof, as the case may be.]

(2) Every list so authenticated shall be deposited in the office of the Corporation.

(3) As soon as the list for the entire City is so deposited it shall be declared by public notice to be open for inspection.]

211. **Revision and duration of list**. - (1) A new assessment list shall ordinarily be prepared in the manner prescribed by Sections 207 to 210 once in every [31][two] years.

(2) Subject to any alteration or amendment made under Section 213 and to the result of any appeal under Section 472 every valuation and assessment entered in a valuation list shall be valid from the date on which the list takes effect [32][in the City or part thereof and until the first day of the month next following the completion of the new list]:

[33][Provided that where as a result, of any order or adjudication of a court of law the new assessment list or any portion thereof cannot take effect, the old

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26 Ins. by U.P. Act 16 of 2004, S. 11 (w.r.e.f. 21-11-2002).
27 Subs. by U.P. Act 16 of 2004, S. 12 (w.r.e.f. 21-11-2002).
28 Subs by U.P. Act 16 of 2004, S. 13 (w.r.e.f. 21-11-2002).
29 Subs. by U.P. Act 8 of 1970.
30 Subs. by U.P. Act 16 of 2004, S. 14 (w.r.e.f. 21-11-2002).
31 Subs. for "five" by U.P. Act 17 of 1999, S. 7.
32 Subs. by U.P. Act 3 of 1987 (w.e.f. 21-01-1987).
33 Ins. by U.P. Act 21 of 1964.

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assessment list or the corresponding portion thereof shall, subject to such order or adjudication, be deemed to have continued to be effective.]

212. **Conclusiveness of entries in list**. - An entry in an assessment list shall be conclusive proof -

(a) for any purpose connected with a tax to which the list refers, of the amount leviable in respect of any building or land during the period to which the list relates, and

(b) for the purpose of assessing any other Corporation tax, of the annual value of any building or land during the said period.

213. **Amendment and alteration of list**. - [34][The Municipal Commissioner or an officer authorised by him in this behalf] may at any time alter or amend the assessment list -

(a) by entering therein the name of any person or any property which ought to have been entered or any property which has become liable to taxation after the authentication of the assessment list; or

(b) by substituting therein for the name of the owner or occupier of any property the name of any other person who has succeeded by transfer or otherwise to the ownership or occupation of the property; or

(c) by enhancing the valuation of, or assessment on, any property which [35][has become incorrectly valued or assessed or which, by reason of fraud, misrepresentation or mistake, has been incorrectly valued or assessed]; or

(d) by revaluing or re-assessing any property the value of which has been increased by additions or alterations to buildings; or

(e) where the percentage on the annual value at which any tax is to be levied has been altered by the Corporation under the provisions [36][of this Act] by making a corresponding alteration in the amount of the tax payable in each case; or

(f) by reducing upon the application of the owner or on satisfactory evidence that the owner is untraceable and the need for reduction established, upon its own initiative, the valuation of any building which has been wholly or partly demolished or destroyed; or

(g) by correcting any clerical, arithmetical or other apparent error:

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34 Subs. by U.P. Act 16 of 2004, S. 15 (w.r.e.f. 21-11-2002).
35 Subs. by U.P. Act 12 of 1987, S. 11 (w.e.f. 21-01-1987).
36 Subs. by U.P. Act 23 of 1961.

Provided that the Executive Committee or the sub-committee, as the case may be, shall give at least one month's notice to any person interested in any alteration [37][or amendment] which the Executive Committee or sub-committee proposes to make under clauses *(a), (b), (c)* or *(d)* of sub-section (1) and of the date on which the alteration [38][or amendment] will be made.

[39][(1-A) For the removal of doubts it is hereby declared that it shall not be necessary to follow the procedure laid down in Sections 199 to 203 or in Sections 207 to 210 in respect of any alteration made under clause *(e)* of sub-section (1) as a result of a determination of the rate of tax under Section 148.]

(2) The provisions of sub-sections (2) and (3) of Section 209 applicable to the objections thereunder mentioned shall, so far as may be, apply to any objection made in pursuance of a notice issued under sub-section (2) and to any application made under clause (f) of sub-section (1).

(3) Every alteration [40][or amendment] made under sub-section (1) shall be authenticated by the signature or signatures of the person authorized by Section 210 and, subject to the result of an appeal under Section 472, shall take effect from the date on which the next instalment falls due.

[41][214. **Obligation to supply informations for purpose of amendment**. - (1) When any building is constructed or reconstructed or any addition is made thereto by an owner or occupier and the covered area exceeds by more than 25 per cent then it shall be compulsory for him to submit its information to the Municipal Commissioner within sixty days of the date of completion or date of occupation whichever is earlier, in the prescribed form.

(2) The owners or occupiers, who do not submit information referred to in subsection (1) without proper reasons, shall be liable to be punished with fine which may extend to an amount equal to double of the assessed general tax or Rs. 500 per day of the delay whichever is less.

(3) The Municipal Commissioner may compound the proposed penalty under sub-section (2).]

215. **Obligation to give notice of re-occupation**. - The owner of a building or land for which a remission or refund of the tax has been given under Section 178 shall give notice of the re-occupation of such building or land within fifteen days of such re-occupation.

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37 Subs. by U.P. Act 21 of 1964.
38 Subs. by U.P. Act 21 of 1964.
39 Ins. by U.P. Act 21 of 1964 and shall be deemed always to have been inserted.
40 Subs. by U.P. Act 21 of 1964.
41 Subs. by U.P. Act 16 of 2004, S. 16 (w.r.e.f. 21-11-2002)..

216. **Consolidation of taxes**. - For the purpose of assessing, levying or collecting, but not for the purpose of imposing or granting exemption from, the property taxes described in Section 173 a Corporation may consolidate any two or more of such taxes:

Provided that in any register or assessment list relating to a consolidated tax and used for the purpose of informing a person of his liability thereunder or for the purpose of securing compliance with the provisions of Section 175 or Section 176 the Municipal Commissioner shall, in the manner prescribed, apportion the consolidated tax amongst the several taxes comprised therein, so as to show approximately the amount assessed or collected on account of each separate tax.

217. **Deduction required by exemptions**. - (l) In assessing a consolidated tax effect shall be given to any partial or total exemption from any single tax comprised therein.

(2) Such effect shall be given

(a) in the case of partial exemption, by means of the deduction from the total amount of the consolidated tax which would otherwise be leviable or assessable in respect of any buildings, or lands or both, to which the exemption applies, of a proportionate part, corresponding to the exemption, of the amount which might otherwise have been assessed on account of the single tax, and

(b) in the case of a total exemption, by means of the deduction from such total amount of the whole amount assessed on account of the singletax.

218. **Summary proceedings may be taken against persons about to leave the City.** - (1) If any sum recoverable under the provisions of this Chapter is due or is about to become due from any person, and if the Municipal Commissioner shall have reason to believe that such person is about to leave the limits of the City the Municipal Commissioner may direct the immediate payment by such person of such sum and cause a bill for the same to be presented.

(2) If, on presentation of such bill, the said person does not forthwith pay the said sum or does not furnish security to the satisfaction of the Municipal Commissioner, the amount shall be levied by distress and sale of his movable property or by attachment and sale of his immovable property in the manner specified in Chapter XXI except that it shall not be necessary to serve upon him any notice of demand and the Municipal Commissioner's warrant for distress and sale may be issued and executed without any delay.

Other Matters

219. **Rules as to assessment, collection and other matters**. - The following matters shall be regulated and governed by rules except in so far as provision therefor is made by this Act, namely -

(a) the assessment, collection or composition of taxes, and, [* * *][42];

(b) the prevention of evasion of taxes;

(c) the system on which refunds shall be allowed and paid;

(d) the fees for notices demanding payments on account of a tax and for the execution of warrants of distress;

(e) the rates to be charged for maintaining livestock distrained; and

(f) any other matters relating to taxes in respect of which this Act makes no provision or insufficient provision and provision is, in the opinion of the State Government, necessary.

220. **Composition**. - (1) Subject to the provisions of any rule, a Corporation may, by a special resolution confirmed by the State Government, provide that all or any persons may be allowed to compound for a tax.

(2) Every sum due by reason of the composition of a tax under sub-section (1) shall be recoverable in the manner provided by Chapter XXI.

221. **Exemption**.- (1) A Corporation may exempt, for a period not exceeding one year, from the payment of a tax, or any portion of a tax imposed under this Act, any person who is in its opinion, by reason of poverty unable to pay the same, and may renew such exemption as often as it deems necessary.

(2) A Corporation may, by a special resolution confirmed by the State Government, exempt from the payment of a tax, or any portion of a tax, imposed under this Act, any person or class of persons or any property or description of property.

(3) The State Government may, by order, exempt from the payment of a tax, or any portion of a tax, imposed under this Act, any person or class of persons or any property or description of property [43][for such period as may be specified in the order].

[44][221-A. **Interest payable by owner or occupier**. - (1) Where the owner or occupier primarily liable for payment of tax in respect of any premises has not paid by the date fixed by the Corporation in this behalf the tax or a part of the tax payable by him under this Act, simple interest at the rate of twelve per cent per annum from the date fixed for payment of tax up to the date of payment shall be payable by him upon the amount that has remained unpaid.

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42 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

43 Ins. by U.P. Act 17 of 1999, S. 8.

44 Ins. by U.P. Act 17 of 1999, S. 9.

(2) Without prejudice to the provisions of sub-section (1), where the owner or occupier of any premises has paid tax under Section 207-A on the basis of his own assessment and the tax so paid is found by the Corporation to be less than the amount of tax payable by him, simple interest at the rate of twelve per cent per annum upon the amount by which the tax so paid falls short of the tax which is found to bepayable, shall be payable by him from the date fixed by the Corporation for payment of tax up to the date the amount of such difference is paid.

221-B. **Statement of carpet area and area**. - (1) Every owner or occupier primarily liable for payment of tax in respect of any premises shall submit to the Corporation a statement in respect of the carpet area of the building, or in respect of the area of the land, as the case may be, in such form and at such times, as may be prescribed in this behalf.

(2) If the Corporation is, on an enquiry conducted in this behalf in such manner as may be prescribed, satisfied that the statement submitted under sub-section (1) is factually incorrect in as much as any part of the carpet area of building or any part of the area of the land, as the case may be, has been concealed, the Corporation may impose a penalty not exceeding one thousand rupees on the defaulter in such manner as may be prescribed in this behalf.]

222. **Obligation to disclose liability**. - (1) The Corporation may by written communication call upon an inhabitant of the City to furnish such information as may be necessary in order to ascertain -

(a) whether such inhabitant is liable to pay a tax imposed under this Act;

(b) at what amount he should be assessed;

(c) the annual value of the building or land which he occupied and the name and address of the owner.

(2) If an inhabitant so called upon to furnish information omits to furnish it or furnishes information which is untrue, he shall be liable upon conviction to a fine which may extend to five hundred rupees.

223. **Powers of discovery**. - The Municipal Commissioner or any other officer or servant of the Corporation authorised in this behalf may enter, inspect and measure a building for the purposes of valuation, or enter and inspect a stable, coach house or other place wherein, there is reason to believe that there is a vehicle or animal liable to taxation under this Act and the provisions of Sections 560, 562 and 563 shall apply to such inspections.

224. **Savings**. - No assessment list or other list, notice, bill or other such document specifying, or purporting to specify, with reference to any tax, charge, rent or fee, any person, property, thing or circumstances shall be invalid by reason only of the mistake in the name, residence, place of business or occupation of the person, or in the description of the property, thing or circumstances, or by reason of any more clerical error or defect of form and it shall be sufficient that the person, property,

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thing or circumstance is described sufficiently for the purpose of identification, and it shall not be necessary to name the owner or occupier of any property liable in respect of a tax.

Supplementary Taxation

225. **Any tax imposable under this Act may be increased or newly imposed by way of imposing supplementary taxation**. - Whenever the Corporation determines to have recourse to supplementary taxation in any financial year, it shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable under this Act is being levied, subject to the limit and conditions for such tax prescribed in this Act or in the orders or sanction of the State Government or by levying, with due sanction, a tax imposable under this Act but not being levied at the time being.

226. **Bar to jurisdiction of Civil and Criminal Courts in matters of taxation**. - No objection shall be taken to a valuation or assessment nor shall the liability of a person to be assessed or taxed be questioned in any other manner or before any other authority than is provided in this Act.

227. **Power to make rules**. - (1) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power such rules may provide for -

(a) matters referred to in Section 219;

(b) maintenance and inspection of register regarding taxes on vehicle, boat and animal;

(c) [* * *][45]

(d) [* * *][46]

(e) advance payment of taxes;

(f) summary disposal of objections to distress and attachment;

(g) the conditions on which exemptions and refunds of taxes shall be allowed.

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[45] Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

[46] Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

CHAPTER X[47]

DRAINS AND DRAINAGE

Effect of U.P. Act 43 of 1975. - Section 100 of the U.P. Water Supply and Sewerage Act (43 of 1975) provides:

On and from the day on which Jal Sansthan is constituted comprising any city as defined in the U.P. Nagar Mahapalika Adhiniyam, 1959, Sections 114 and 115 and Chapters X, XI, XIX, XXIII and XXV of that Adhiniyam shall have effect as if the powers, duties and functions assigned by the U.P. Water Supply and Sewerage Act to Jal Sansthan including the power to hold any property for purposes of the said duties and functions were excluded from the powers, duties and functions of the Mahapalika.

Corporation Drains

228. **Drains to be constructed and kept in repair by the Municipal Commissioner**. - (1) Subject to any general directions which the Executive Committee may from time to time give in this behalf, the Municipal Commissioner shall maintain and keep in repair all Corporation drains and may with the approval of the Executive Committee construct such new drains both within and without the City as shall from time to time be necessary for effectually draining the City and areas immediately around it:

Provided that no drain shall be constructed within the limits of the Cantonment without the approval of the State Government and otherwise than with the concurrence of the General Officer Commanding the Division in which such Cantonment is situate or, in the event of such concurrence being withheld, the previous sanction of the Central Government.

(2) The Municipal Commissioner shall also, in the case of any street in which there is a municipal drain, construct at the charge of the Corporation Fund such portion of the drain of any premises to be connected with such a Corporation drain as it shall be necessary to lay under any part of such street and the portion of any connecting drain so laid under the street shall vest in the Corporation and be maintained and kept in repair by the Municipal Commissioner as a Corporation drain.

229. **Adoption by Corporation of drains and drainage or sewage disposal works.** - (1) Subject to the other provisions of this Act the Municipal Commissioner may at any time with the approval of the Corporation declare that any drain or part thereof or any drainage or sewage disposal works situate within the City or serving the City or any part thereof shall, from such date as may be specified in the declaration, become vested in the Corporation.

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[47] Chaps. X, XI, XIX, XXIII and XXV and Sections 114 and 115 shall stand affected as soon as a Jal Sansthan is constituted for a city as per the provisions of S. 100 of U.P. Act 43 of 1975.

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(2) The Municipal Commissioner in deciding whether a declaration should be made under sub-section (1) shall have regard to all the circumstances of the case and, in particular, to the following considerations -

(a) whether the drain or works in question is or are adapted to, or required for, any general system of drainage or drainage disposal or sewage disposal which the Municipal Commissioner has provided for the City or any part thereof;

(b) whether the drain is constructed under a street or under land reserved by or under the provision of this Act or any other law for the time being in force for a street;

(c) the number of buildings which the drain in intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;

(d) the method of construction and state of repair of the drain or works; and

(e) whether the making of the proposed declaration would be seriously detrimental to the owner of the drain or works in question.

(3) Whenever it is proposed to make a declaration under sub-section (1), the Municipal Commissioner shall give written notice of the proposal to the owner or owners of the drain or works in question to show cause against it within a period of one month from the date of service and the declaration shall not be made until the expiry of the period aforesaid, or where any objection has been lodged until the objection has been disposed of.

(4) Where a declaration referred to in sub-section (1) relates to a drain or drainage or sewage disposal works situate within the jurisdiction of some local authority other than the Corporation or situate within the City but serving an area, or part of an area, within the jurisdiction of such local authority, the Municipal Commissioner shall also give notice to that authority and no declaration shall be made until either that authority has consented thereto or the State Government has dispensed with the necessity of such consent, whether unconditionally or subject to such conditions as it may think fit to impose.

(5) No declaration under sub-section (1) shall be made with respect to any drain or part of a drain or any works as is or are vested in some local authority other than the Corporation or the Central Government or a Railway Administration, except on the request of the authority, the Government or Railway Administration, concerned.

(6) Any person who, immediately before the making of a declaration under subsection (1) was entitled to use the drain in question shall notwithstanding the declaration be entitled to use it, or any drain substituted therefor, to the same extent as previously. .

230. **Power of making drains**. - (1) The Municipal Commissioner may carry any Corporation drain through, across or under any street or any place laid out as or intended for a street or under cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the City or, for the purpose of outfall or distribution of sewage, without the City.

(2) The Municipal Commissioner may enter upon, and construct any new drain in the place of an existing drain in any land wherein any Corporation drain has been already lawfully constructed, or repair or alter any Corporation drain so constructed.

231. **Alteration, etc., and discontinuance of drains**. - The Municipal Commissioner may enlarge, alter the course of, deepen, lessen, arch over or otherwise improve any Corporation drain, and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary, or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage:

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

232. **Cleansing of drains**. - (1) The Corporation drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

(2) For the purpose of flushing, cleansing and emptying the said drains, the Municipal Commissioner may construct or set up such reservoirs, sluices, engines and other works as he shall from time to time deem necessary.

Drains of Private Streets and Drainage of Premises

233. **Power to connect drain of private street with Corporation drain**. - The owner of a private street may, subject to his fulfilling the conditions to be prescribed connect the drain of such street with a Corporation drain.

234. **Right of owners and occupiers of buildings and lands to drain into Corporation drains**. - (1) Subject to the other provisions of this section, the owner or occupier of any premises shall be entitled to cause his drain to empty into a Corporation drain or other place lawfully set apart for the discharge of drainage:

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

(a) to discharge directly or indirectly into any Corporation drain any trade effluent except in accordance with the provisions of Section 240 or any

liquid or other matter the discharge of which is prohibited by or under this Act or any other law for the time being in force;

(b) where separate Corporation drains are provided for foul water and for surface water to discharge directly or indirectly -

(i) foul water into a drain provided for surface water; or

(ii) except with the permission of the Municipal Commissioner surface water into a drain provided for foul water; or

(c) to have his drain made to communicate directly with a storm water overflow drain.

(2) Every person desirous of availing himself of the provisions of sub-section (1) shall obtain the written permission of the Municipal Commissioner and shall comply with such conditions as the Municipal Commissioner may prescribe as to the mode in which and the superintendence under which connections with Corporation drains or other places aforesaid are to be made.

(3) The Municipal Commissioner may, if he thinks fit, in lieu of giving permission aforesaid under sub-section (2) himself so connect the drain, or sewer after giving notice to the person concerned within fourteen days of the receipt of his application. In any case where the Municipal Commissioner proceeds under this sub-section, the reasonable expenses of any work so done shall be paid by the person aforesaid.

235. **Power of Municipal Commissioner to require drain or proposed drain to be so constructed as to form part of general system**. - (1) Where a person proposes to construct a drain, the Municipal Commissioner may, if he considers that the proposed drain is or is likely to be needed to form part of a general drainage system which the Corporation has provided or proposes to provide, require him to construct the drain in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall or otherwise from the manner in which he proposes to construct, and thereupon it shall be the duty of such person to comply with the requisition of the Municipal Commissioner.

(2) The Municipal Commissioner shall reimburse from the Corporation Fund to the person constructing a drain in accordance with sub-section (1), the extra expenditure reasonably incurred by him in complying with the requisition and until the drain becomes a Corporation drain, he shall also from time to time reimburse to him from the Corporation Fund so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to the requisition having been made and complied with.

236. **Connections with Corporation drains not to be made except in conformity with Sections 233 and 234**. - Except as provided by Sections 233 and 234 or as may be prescribed, no person shall make or cause to be made any connection of a drain belonging to himself or to some other person with any

Corporation drain or other place lawfully set apart for the discharge of drainage, and the Municipal Commissioner may, after giving notice to the person concerned, close, demolish, alter or remake any such connection made in contravention of this section, and the expenses incurred by the Municipal Commissioner in so doing shall be paid by the owner of the street, or the owner or occupier of the premises, for the benefit of which the connection was made, or by the person offending.

237. **Right of owners and occupiers of premises to carry drain through land belonging to other persons**. - (1) If it shall appear to the Municipal Commissioner that the only means or the most convenient means by which the owner or occupier of any premises can cause his drain to empty into Corporation drain or other place lawfully set apart for the discharge of drainage, is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Municipal Commissioner may, by order in writing, authorize the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) No authorization shall be made under sub-section (1) except after notice to the owner of the land and considering the objection, if any, filed by him.

(3) Every such order under sub-section (1) bearing the signature of the Municipal Commissioner shall be a complete authority to the person in whose favour it is made, or his agent or servant to enter after reasonable written notice, upon the said land with assistants and workmen, at any time between sunrise and sunset and to execute the necessary work.

(4) Subject to the provisions of this Act, the owner or occupier of any premises, any agent or person employed by him for this purpose, may, after giving or tendering to the owner of any land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the land with assistants and workmen, at any time between sunrise and sunset and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(5) In executing any work under this section as little damage, as may be, shall be done, and the owner or occupier of the premises for the benefit of which the work is done shall -

(a) cause the work to be executed with the least practicable delay;

(b) fill in, reinstate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction opened, broken up or removed for the purpose of executing the said work;

(c) pay compensation to any person who sustains damage by the execution of the said work.

(6) If the owner of any land, into, through or under which a drain has been carried under this section whilst such land was unbuilt upon, shall subsequently, at any time desire to erect a building on such land, the Municipal Commissioner shall by written notice require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by the Municipal Commissioner and to fill in, reinstate and make good the land as if the drain had not been carried into, through or under the same:

Provided that no such requisition shall be made, unless, in the opinion of the Municipal Commissioner it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

238. **Municipal Commissioner may enforce drainage of undrained premises situate within hundred feet of Corporation drain**. - Where any premises are, in the opinion of the Municipal Commissioner, without sufficient means of effectual drainage and a Corporation drain or some place lawfully set apart for the discharge of drainage is situate at a distance not exceeding one hundred feet from some part of the said premises the Municipal Commissioner may, by written notice, require the owner or occupier of the said premises -

(a) to make a drain of such material, size, description and laid at such level and according to such alignment and emptying into such municipal drain or place aforesaid as the Municipal Commissioner may consider necessary or suitable;

(b) to provide and set up and all such appliances and fittings as may appear to the Municipal Commissioner necessary for the purposes of gathering and receiving the drainage from and conveying the same off the said premises and of effectually flushing such drain and every fixture connected therewith;

(c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which in the opinion of the Municipal Commissioner is injurious to the health or to provide a closed drain in substitution of an open drain or to provide similarly such other appliances or things as he may consider necessary;

(d) to provide and set up all such appliances and fittings as may appear to the Municipal Commissioner to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts or by down-take pipes, so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises.

239. **Municipal Commissioner may enforce drainage of undrained premises not situate within hundred feet of Corporation drain**. - Where any

premises are, in the opinion of the Municipal Commissioner, without sufficient means of effectual drainage, but no Corporation drain is situated within one hundred feet from some part of the said premises, the Municipal Commissioner may, by written notice, require the owner or occupier, of the said premises -

(a) to construct, a drain up to a point to be prescribed in such notice, but not distant more than one hundred feet from some part of the said premises; or

(b) to construct a closed cesspool of such material, size and description in such position, at such level, and with allowance for such fall as the Municipal Commissioner thinks necessary and also construct a drain or drains emptying into such cesspool.

240. **Special provisions relating to trade effluent**. - Subject to the provisions of this Act, the rules and the bye-laws and any other law in that behalf, the occupier of any trade premises, may, discharge into the Corporation drains any trade effluent proceeding from those premises.

241. **Power of Municipal Commissioner to drain premises in combination**. - (1) Where the Municipal Commissioner is of the opinion that any group or block of premises, any part of which is situated within one hundred feet of a Corporation drain, or other place set apart by the Corporation for the discharge of drainage already existing or about to be constructed, may be drained economically or advantageously in combination than separately, the Municipal Commissioner may cause such group or block of premises drained by such method as appears to the Municipal Commissioner to be best suited therefor, and the expenses incurred by the Municipal Commissioner in so doing shall be paid by the owners of such premises in such proportions as the Municipal Commissioner thinks fit.

(2) Not less than fifteen days before any work under this section is commenced the Municipal Commissioner shall give written notice to the owners of all the premises to be drained, of -

(a) the nature of intended work;

(b) the estimated expenses thereof; and

(c) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed, or continued for the special use and benefit only of such premises, and shall in the proportions in which it is determined that the owners of such premises are to contribute to the expenses incurred by the Municipal Commissioner under sub-section (1), be responsible for the expenses of maintaining every such drain in good repair and efficient condition:

Provided that every such drain shall from time to time be flushed, cleansed and emptied by the Municipal Commissioner at the charge of the Corporation Fund.

242. **Municipal Commissioner may close or limit the use of existing private drains**. - (1) Where a drain connecting any premises with a Corporation drain or other place lawfully set apart for the discharge drainage, even though such drain is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, is not, in the opinion of the Municipal Commissioner, adapted to the general drainage system of the City or of the part of the City in which such drain is situated, the Municipal Commissioner may -

(a) subject to the provisions of sub-section (2), close, discontinue, or destroy the said drain and after notice to the owner or occupier of the premises, cause any work necessary for that purpose to be done;

(b) direct that such drain shall, from such date as he may specify in this behalf, be used for sullage and sewage only, or for rain-water only or for unpolluted sub-soil water only, or for both rain-water and unpolluted subsoil water only, and by written notice require the owner or occupier of the premises to make an entirely distinct drain for rain-water or unpolluted sub-soil water or for both rain-water and unpolluted sub-soil water, or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the Municipal Commissioner under clause *(a)* of sub-section (1) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any Corporation drain or other place aforesaid which the Municipal Commissioner thinks fit; and the expense of the construction of any drain so provided by the Municipal Commissioner and of any work done under the said clause shall be paid by the Municipal Commissioner.

243. **Vesting and maintenance of drains for sole. use of properties**. - Subject to the provisions of sub-section (2) of Section 228 every drain which has been constructed, laid, erected or set up, whether at the expense of Corporation or not, or which is continued for the sole use and benefit of any premises or group of premises shall -

(a) notwithstanding anything contained in Section 244 vest in the owner of such premises, or group of premises on and from the appointed day;

(b) be provided with all such further appliances and fittings as may appear to the Municipal Commissioner necessary for the more effectual working of the same, and also be maintained in good repair and efficient condition by the owner of such premises or group of premises, and be from time to time flushed, cleansed and emptied by the Municipal Commissioner at the charge of the Corporation Fund.

244. **Right of Corporation to drains, etc., constructed at charge of Corporation Fund on premises not belonging to Corporation**. - All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage works constructed, erected or set up at any time at the charge of the Corporation Fund or at the charge of the funds of any local authority having jurisdiction in any part of the City before the date of the establishment of the Corporation upon any premises not belonging to the Corporation and otherwise than for the sole use and benefit of the premises or group of premises shall, unless the Corporation has otherwise determined, vest in the Corporation.

245. **New buildings not to be erected without drains**. - (1) It shall not be lawful newly to erect any building or re-erect any building, or to occupy any building newly erected or re-erected unless and until -

(a) a drain be constructed of such size, material and description, at such level and with such fall as shall appear to the Municipal Commissioner to be necessary for the effectual drainage of such building;

(b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the Municipal Commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a Corporation drain or into some place lawfully set apart for the discharge of drainage situated at a distance not exceeding one hundred feet from the premises in which such building is situated; but if no such drain or place is within that distance then such drain shall empty into such cesspool as the Municipal Commissioner may direct.

246. **Obligation of owners of drains to allow use or joint ownership to others**. - Every owner of the drain connected with a Corporation drain or other place lawfully set apart for the discharge of drainage shall be bound to allow the use of it to others or to admit other persons as joint owners thereof, on such terms as may be prescribed under Section 247.

247. **How right of use or joint ownership of a drain may be obtained by a person other than the owner**. - (1) Any person desiring to drain his premises into a Corporation drain through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain, or may apply to the Municipal Commissioner for authority to use such drain or to be declared joint owner thereof.

(2) Where the Municipal Commissioner is of opinion, whether on receipt of such application or otherwise, that the only, or the most convenient, means by which the owner or occupier of any premises can cause the drain of such premises to empty

into a Corporation drain or other place legally set apart for the discharge of drainage is through a drain communicating with such Corporation drain or place aforesaid but belonging to some person other than the said owner or occupier, the Municipal Commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, if no objection is raised or if an objection is raised the same is disallowed by an order in writing, either authorize the said owner or occupier to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the said premises with the communicating drain and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleansing and emptying the joint drain, or otherwise as may appear to him to be equitable.

(3) Every such order bearing the signature of the Municipal Commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the drain is situate with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for -

(a) connecting the two drains; or

(b) renewing, repairing or altering the connections; or

(c) discharging any responsibility attaching to the persons in whose favour the Municipal Commissioner's order is made for maintaining, repairing, flushing, cleansing or emptying the joint drain or any part thereof.

(4) In respect of the execution of any work under sub-section (3) the person in whose favour the Municipal Commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of Section 237.

248. **Sewage and rain-water drains to be distinct**. - Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, the Municipal Commissioner may require that there shall be one drain for sullage, excrementitious matter and polluted water and another and an entirely distinct drain for rain-water and unpolluted sub-soil water each emptying into separate Corporation drains or other places lawfully set apart for the discharge of drainage or other suitable places.

249. **Affixing of pipes for ventilation of drains, etc**.- (1) For the purpose of ventilating any drain or cesspools whether belonging to the Corporation or to any other person, the Municipal Commissioner may erect upon any premises or affix to the outside any building or to any tree any such shaft or pipe as shall appear to the Municipal Commissioner necessary and cut through any projection from any building

including the caves of any roof thereof in order to carry up such shaft or pipe through any such projection and lay in, through, or under any land such appliances as may in the opinion of the Municipal Commissioner be necessary for connecting such ventilating shaft or pipe with the drain or cesspool intended to be ventilated.

(2) Such shaft or pipe shall be erected or affixed or removed in such a manner as may be prescribed.

(3) If the Municipal Commissioner declines to remove a shaft or pipe when so required by the owner of the premises, building or tree, upon or to which the same has been erected or affixed in accordance with the rules made in this behalf, the owner may within fifteen days of the receipt by him of the reply of the Municipal Commissioner apply to the Judge for an order that the same be removed.

(4) In the hearing and the disposal of the application under sub-section (3), the Judge shall follow such procedure as may be prescribed, and the order passed by the Judge shall be final and binding upon the parties.

(5) Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the drain or cesspool intended to be ventilated, the Municipal Commissioner shall, so far as practicable, reinstate and make good such building, and fill in and make good such land, at the charge of the Corporation Fund.

"Judge" as defined in Section 2(32), means the Judge of the Court of Small Causes having jurisdiction in the City under the Provincial Small Cause Courts Act, 1887.

Disposal of Sewage

250. **Appointment of places for emptying of drains and disposal of sewage**. - The Municipal Commissioner may cause all or any Corporation drains to empty into any place, whether within or without the City, and dispose of the sewage at any place whether within or without the City, and in any manner which he shall deem suitable for such purpose:

Provided that-

(a) the Municipal Commissioner shall not cause any Corporation drain to empty into any place into which a Corporation drain has not heretofore emptied, or dispose of sewage of any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the Corporation;

(b) no Corporation drain shall be made to empty into any place, and no sewage shall be disposed of at any place or in any manner which the State Government shall think fit to disallow.

251. **Provision of means for disposal of sewage**. - The Municipal Commissioner may, for the purpose of receiving, treating, storing, disinfecting, distributing or otherwise disposing of sewage, construct any work within or without the City or purchase or take on lease any land, building, engine, material or apparatus either within or without the City or enter into any arrangement with any person for any period not exceeding twenty years for the removal or disposal of sewage within or without the City.

Water-closets, Privies, Urinals, etc.

252. **Construction of water-closets and privies**. - (1) It shall not be lawful to construct any water-closet or privy for any premises except with the written permission of the Municipal Commissioner and in accordance with such terms not being inconsistent with any rule or bye-law for the time being in force, as he may prescribe.

(2) In prescribing any such terms the Municipal Commissioner may determine in each case -

(a) whether the premises shall be served by the water-closet or by the privy system, or partly by one and partly by the other; and

(b) what shall be the site or position of each water-closet or privy.

(3) If any water-closet or privy is constructed on any premises in contravention of sub-section (1), the Municipal Commissioner, may, after giving not less than ten days' notice to the owner or occupier of such premises, close such water-closet or privy and alter or demolish the same, and the expenses incurred by the Municipal Commissioner, in so doing shall be paid by such owner or occupier or by the person offending.

253. **Water-closets and other accommodation in buildings newly erected or re-erected.** - (1) It shall not be lawful to erect or to re-erect or convert within the meaning of Section 315 any building for, or intended for, human habitation at or in which labourers or workmen are to be employed, without such water-closet or privy accommodation and such urinal accommodation and accommodation for bathing or for the washing of clothes and domestic utensils of such building as the Municipal Commissioner may prescribe.

(2) In prescribing any such accommodation the Municipal Commissioner may determine in each case -

(a) whether such building or work shall be served by the water-closet or by the privy system, or partly by one and partly by the other;

(b) what shall be the site or position of each water-closet, privy, urinal or bathing or washing place and their number.

(3) In determining the accommodation to be required under sub-section (2) the Municipal Commissioner shall have regard to the necessity of providing adequate and suitable water-closets or privies and bathing places for domestic servants employed by the occupants of the building.

254. **Public necessities**. - The Municipal Commissioner shall provide and maintain in proper and convenient situations water-closets, latrines, privies and urinals and other similar conveniences for public accommodation.

Inspection

255. **Drains, etc., not belonging to Corporation, to be subject to inspection and examination.** - (1) All drains, ventilation shafts and pipes, cesspools, house gullies, water-closets, privies, latrines and urinals and bathing and washing places which do not belong to the Corporation which have been constructed, erected or set up at the charge of the Corporation Fund on premises not belonging to the Corporation, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the Municipal Commissioner.

(2) The Municipal Commissioner may, in the course of an inspection or examination under sub-section (1) obtain and take away a sample of any trade effluent which is passing from the premises inspected or examined into a Corporation drain. The analysis of such sample shall be made in the manner prescribed.

(3) The results of any analysis of the sample taken under sub-section (2) shall be admissible as evidence in any legal proceedings under this Act.

256. **Power to open ground, etc., for purposes of inspection or examination**. - For the purpose of such inspection or examination the Municipal Commissioner may cause the ground or any portion of any drain or other work exterior to a building, which he shall think fit, to be opened, broken up or removed:

Provided that in the prosecution of any such inspection and examination as little damage as possible shall be done.

257. **Municipal Commissioner may require repairs, etc., to be made**. - When as a result of any inspection or examination under Section 255 the Municipal Commissioner finds that any drain, ventilation-shaft or pipe, cesspool, house-gully, water-close, 'privy, latrine, urinal or bathing or washing place is not in good order or condition or, except when the same has been erected by or under the order of the Municipal Commissioner, if it has been constructed in contravention of any of the provisions of this Act or the rules or bye-laws or of any enactment for the time being in force, the Municipal Commissioner may require the owner by written notice to remove the defect in such manner as he may, subject to any rules or byelaws in force, direct.

General Provisions

258. **Prohibition of acts contravening the provisions of the Act, rule or bye-laws or done without sanction**.- (1) No person shall -

(a) in contravention of any of the provisions of this Act or rules or bye-laws or of any notice issued or direction given under this Act or without the written permission of the Municipal Commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy, or change any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal or bathing or washing place or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the Municipal Commissioner, renew, re-build or unstop any drain, ventilation-shaft or pipe, cesspool, water closet, privy, latrine or bathing or washing place or any fitting or appliance, which has been ordered to be discontinued, demolished or stopped under any of the provisions of this Act or the rules or bye-laws;

(c) without the written permission of the Municipal Commissioner, make any projection over or encroachment upon or in any way injure or cause or permit to be injured, any drain, cesspool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place:

Provided that nothing in this clause shall apply to any weather-shade in width not exceeding three feet over any window which does not front a wall or window of any adjoining house;

(d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or in any drain any brick, stone, earth, ashes, dung or any substance or matter which is likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents;

(e) pass or permit or cause to be passed, into any drain provided for a particular purpose any matter or liquid for the conveyance of which such drain has not been provided;

(f) except as provided by or under this Act cause or suffer to be discharged into any drain any chemical refuse or waste steam or any liquid of temperature higher than one hundred and twenty degrees Fahrenheit, being refuse or steam which when so treated is, either along or in combination with the contents of the drain, dangerous or the cause of a nuisance or prejudicial to health;

(g) cause or suffer to be discharged into any drain, carbide of calcium or any such crude petroleum, any such oil made from petroleum, coal,

shale or bituminous substances, or such product of petroleum or mixture containing petroleum as gives off under test an inflammable vapor at a temperature of less than seventy-three degrees Fahrenheit.

(2) If the person carrying out any work or doing any act in contravention of the clauses of sub-section (1) is not at the time of notice the owner of such building or work then the owner of such building or work shall be deemed to have been responsible for carrying out all such requisitions in the same way as the person so carrying out would have been liable.

259. **Water-closets not to be injured or improperly fouled**. - (1) No person shall injure or foul any water-closet, privy, urinal or bathing or washing place or any fittings or appliances in connection therewith which have been provided for the use in common of the inhabitants of one or more buildings.

(2) If any such water-closet, privy, urinal or bathing or washing place or any fitting or appliance in connection therewith or the approaches thereto or the walls, floors, or seats or anything used in connection therewith are in such a state as to be nuisance or source of annoyance to any inhabitants of the locality or passer-by for want of proper cleaning thereof, such of the persons having the use thereof as may be in default or in the absence of evidence as to which of the persons having the use thereof in common is in default, every such person shall be deemed to have contravened the provisions of this section.

(3) The provisions of this section shall not exempt the owner of the building or buildings from any penalty to which he may otherwise have rendered himself liable.

260. **State Government may extend provisions of Chapter outside limits of City**. - The State Government may, by order which shall be published in the official Gazette, apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter and of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission, as it may deem to be necessary and expedient and thereupon the provision and rules so applied shall have effect in that area as if it were within the City.

261. **Appeals**. - Any person aggrieved by -

(a) a declaration under sub-section (1) of Section 229, or

(b) notice under sub-section (1) of Section 230 to connect the drain or sewer, or

(c) the requisition of the Municipal Commissioner under sub-section (1) of Section 235 to construct a drain in a different manner, or

(d) a notice of the Municipal Commissioner under Section 236 of his intention to close, demolish, alter or remake any connection, or

(e) an order of the Municipal Commissioner under sub-section (1) of Section 237 authorizing as owner or occupier to carry his drain into, through or under the land of another person, or

(f) a notice of the Municipal Commissioner under sub-section (6) of Section 237 requiring the owner or occupier of any premises to close, remove or divert the drain in a particular manner, or

(g) a notice of the Municipal Commissioner under Section 239, or

(h) a notice under clause (a) or a direction or notice under clause (b) of sub section (1) of Section 242 issued by the Municipal Commissioner, or

(i) a notice under sub-section (3) of Section 252 of the Municipal Commissioner's intention to close any water-closet or privy or to alter or demolish it, or

(j) a notice under Section 257 requiring the owner to remove defects in any washing place,

may, within the prescribed time and in the prescribed manner, appeal to the Judge.

262. **Power to make rules.** - (1) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for –

(a) filing and disposal of objections to any notice under sub-section (3) of Section 229;

(b) the conditions and restrictions to be observed with reference to drains;

(c) the construction, maintenance, improvement, alteration and discontinuance of drains;

(d) the conditions for connections with municipal drains;

(e) the conditions on which occupiers of trade premises may discharge any trade effluent into Corporation drains;

(f) the manner in which samples of trade effluent shall be analysed;

(g) the conditions to be observed in erecting or affixing ventilation-shafts or pipes under Section 249;

(h) the construction position and maintenance of water-closets, privies, urinals, bathing places or washing places;

(i) the manner in which the Municipal Commissioner shall exercise his powers under Sections 255 and 256;

(j) payment of expenses of inspection and examination under Sections 255 and 256;

(k) the manner of filing and disposal of appeals filed under Section 261 and the period within which appeals may be filed.

[48]CHAPTER XI

WATER-SUPPLY

Construction and Maintenance of Corporation Waterworks

263. **Power of the Corporation to construct, run or close waterworks**. - For the purposes of providing the City with a supply of water, proper and sufficient, for public and private purposes, the Municipal Commissioner may, subject to the provisions of this Act, construct, maintain, repair, alter, improve, and extend waterworks either within or without the City or close any such works and substitute other such works and for the purposes aforesaid do all such acts as may be incidental or necessary, including in particular -

(i) the carrying of such works, through, across, over or under any street or place, and after reasonable notice in writing to the owner or occupier, into, through, over or under any building or land;

(ii) purchasing or taking on lease any waterworks or right to store or to take or convey water either within or without the limits of the Corporation.

NOTES

Liability for negligence. - A Municipal Board performing its function negligently would be liable for its consequences. Hence, where the Board was negligent in getting old any rusty underground pipes repaired despite receiving information about the same, it was held that the Board was liable to pay damages to the person whose house was damaged due to leakage of water from such pipes. *Municipal Board, Mathura* v. *Gopi Nalh,* 1961 ALJ 894: AIR 1962 All 211.

264. **Inspection of waterworks**. - (1) The State Government may appoint any person for the purposes of inspecting any waterworks referred to in Section 263 or any water connection and such person shall have liberty to enter upon and inspect any such waterworks or water connection.

(2) The Municipal Commissioner and any person appointed under sub-section (1) may, for the purpose of inspecting, repairing or executing any work in, upon or in connection with any waterworks or water connection at all reasonable times -

(a) enter upon and pass through any land within or without the City. adjacent to or in the vicinity of such waterworks, or water connection in whomsoever such land may vest;

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[48] This chapter along with certain other provisions of U.P. Nagar Mahapalika Adhiniyam shall stand affected as soon as a Jal Sansthan is constituted for a city, as per the provisions of S. 100 of Act 43 of 1975.

(b) cause to be conveyed into and through any such land all necessary men, materials, tools and implements.

(3) In the exercise of any power conferred by this section, as little damage as can be, shall be done. and compensation for any damage which may be done in the exercise of any of the said powers shall be paid from the funds of the Corporation.

(4) Where any person has been appointed by the State Government for the purposes of inspection under sub-section (1) he shall, as soon as may be, submit his report to the Municipal Commissioner who shall without delay lay it before the Executive Committee which shall then forward it to the State Government with its comments.

(5) The State Government shall upon receipt of the report with the comments, if any, of the Executive Committee, consider it and communicate its decision to the Corporation and the Corporation shall be bound to implement the decision of the State Government, subject to funds being available for the purpose.

265. **Fire-hydrants to be provided by the Corporation** - The Municipal Commissioner shall provide, maintain and repair fire-hydrants and all incidental works for the supplying of water in case of fire at all such places as shall be deemed to be necessary.

266. **Power of carrying water-mains, etc**. - (1) For the purpose of carrying, renewing and repairing water-mains, pipes and ducts within or without the City, the Municipal Commissioner shall have the same powers and be subject to the same restrictions as he has, and is subject to, under the provisions hereinbefore contained for carrying, renewing and repairing drains within the City.

(2) This section shall apply in respect of carrying, renewing, and repairing private water-mains, pipes and ducts as it applies in respect of carrying, renewing and repairing, municipal water-mains, pipes and ducts.

267. **Prohibition of certain acts affecting the Corporation waterworks**.- (1) Except with the prior written sanction of the Municipal Commissioner, no person shall erect or re-erect any building, wall or structure of any kind or construct any street or minor railway over any Corporation water-mains.

(2) Except with the permission of the Corporation, no person shall -

(a) erect any building for any purpose whatsoever on any part of such area as shall be demarcated by the Municipal Commissioner near any lake, tank, well, reservoir or river from which a supply of water is derived for a Corporation waterworks;

(b) remove, alter, injure, damage or in any way interfere with the demarcation works of the area aforesaid;

(c) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the area aforesaid; or

(d) carry on, within the area aforesaid, any operation of manufacture, trade or agriculture in any manner or do any act whatsoever, whereby injury may arise to any such lake, tank, well, reservoir or river or to any portion thereof or whereby the water of any such lake, tank, well, reservoir or river may be fouled or rendered less wholesome.

(3) Except as hereinafter provided, no person shall -

(a) cause or suffer to percolate or drain into or upon any Corporation waterworks or to be brought thereinto or thereupon anything or to be done any act, whereby the water therein may in any way be fouled or polluted or its quality altered;

(b) alter the surface of any Corporation land adjacent to or forming part of any such work by digging therein to or depositing thereon any substance;

(c) cause or suffer to enter into the water in such work any animal;

(d) throw or put anything into or upon the water in such work;

(e) bathe in or near such work; or

(f) wash or cause to be washed in or near such work any animal or thing.

268. **Remedy against acts in contravention of Section 267 and removal of latrines, etc., near any source of water-supply**. - (1) For any building, wall or structure erected or re-erected in contravention of the provisions of sub-section (l) of Section 267 or any building erected in contravention of clause *(a)* of subsection (2) of Section 267, the Municipal Commissioner may, with the approval of the Executive Committee, cause the same to be removed or otherwise dealt with as shall appear fit to him and the expenses thereby incurred shall be paid by the person offending.

(2) If any person persists in acting in contravention of the provisions of clauses *(b), (c)* and *(d)* of sub-section (2) of Section 267, the Municipal Commissioner may, with the approval of the Executive Committee, take measures including the use of such minimum force, as may be necessary to stop further contravention of the provisions of the aforesaid clauses.

(3) The Municipal Commissioner may by notice require the owner or occupier on whose land a drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse exists within fifty feet of a spring, well, tank, reservoir, river or other source from which water is, or may be, derived for public use, to remove or close the same within one week from the service of such notice and if such owner or occupier fails to comply with the demand within the time allowed, the Municipal Commissioner, may

cause the same to be removed or closed and the expenses thereby incurred shall be paid by the person offending.

269. **Obligations of Corporation imposing water-tax**. - Where water-tax is levied on any building or land it shall be incumbent on the Municipal Commissioner to make provision for supply of water to owners and occupiers of such buildings or land in such manner, during such time and in such quantity as may be prescribed by rules :

Provided that the Corporation shall not be liable to any forfeiture, penalty or damages for failure to supply water if the same arises from accident or from unusual drought or other unavoidable causes.

270. **Prohibition of fraudulent and unauthorized use of water**. - (1) No person shall fraudulently dispose of any water supplied to him by the Corporation.

(2) No person to whom a private supply of water is furnished by the Corporation shall, except when the water-supply is charged for by measurement, permit any person who does not reside on premises in respect of which water-tax is paid to carry away water from the premises to which it is supplied.

(3) No person who does not reside on premises in respect of which water-tax is paid shall carry away water from any premises to which the private supply is furnished by the Corporation, unless in any case in which supply is charged for by measurement, he does so with the permission of the person to whom the said supply is furnished.

271. **Power to make rules**. - (1l) The State Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for -

(a) the maintenance, cleansing, efficient running and closure of a private water course, etc., within the limits of the Corporation;

(b) the provision for suitable measures for the inspection, disinfecting of any well, tank or other places from which water is likely to be taken for the purpose of drinking and for such steps as may be deemed necessary to prevent removal of water from the same;

(c) the supply of water by agreement to any owner or occupier of a land or building within the limits of the Corporation with conditions and rates therefor;

(d) purposes for the supply of water;

(e) precedence in the matter of supply of water for domestic purpose over all other purposes;

(f) the installation of water meters and connection pipes;

(g) the size and nature of the meters, pipes, stand-pipes, or pumps and, hydrants, the manner in which they will be laid, constructed, controlled and maintained, with a view to maintain an efficient supply of water;

(h) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited;

(i) the periodical analysis by a qualified analyst of the water-supply by the Corporation;

(j) the conservation and prevention of injury or contamination to sources and means of water-supply and appliances for the distribution of water, whether within or without the limits of the Corporation;

(k) the manner in which connections with waterworks may be constructed or maintained and the agency which shall or may be employed for such construction or maintenance;

(l) the regulation of all matters for the supply of water including the turning on and turning off and preventing the waste of water; and

(m) the supply of water outside the limit of the Corporation and the collection of water taxes and of charges relating to such supply and the prevention of evasion of the taxes.

CHAPTER XII

STREETS

Construction, Maintenance and Improvement of Streets

272. **Vesting of public streets in Corporation.** – (1) Subject to any special reservation made by the State Government from time to time all streets within the City being, or which at any time become, public streets, except streets which on the appointed day vested in the State Government or the Central Government or after the said day may be constructed and maintained by an authority other than the Corporation, with the soil, sub-soil and the side drains, footways, pavements, stones and other materials thereof, shall vest in the Corporation and be under the control of the Municipal Commissioner.

(2) The State Government may after consulting the Corporation by notification withdraw any such street with the soil, sub-soil, and the side drains, footways, pavements, stones and other materials thereof from the control of the Corporation.

273. **Power of Municipal Commissioner in respect of public streets.** – (1) The Municipal Commissioner shall from time to time cause all public streets vested in the Corporation to be leveled, metalled or paved, channelled, altered and repaired, as occasion shall require, and may also from to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered and may place and keep in repair fences and posts for the safety of pedestrians :

Provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees or such higher amount as the Corporation may, from time to time fix, shall be undertaken by the Municipal Commissioner unless or until such undertaking has been authorized by the Corporation.

(2) With the sanction of the Corporation given in accordance with the rules and bye-laws in force in that behalf, the Municipal Commissioner may turn, divert, discontinue the public use of, or permanently close the whole or any part of a public street vested in the Corporation and upon such closure may, subject to the previous sanction of the State Government and the Corporation dispose of the site of such street, or of the portion thereof which has been closed, as land vesting in the Corporation.

274. **Power to make new public streets.** – The Municipal Commissioner, when authorized by the Corporation in this behalf, may at any time –

(a) lay out and make a new public street;

(b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the

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Corporation, and may further agree that such street shall, on completion become a public street and vest in the Corporation;

(c) construct tunnels, bridges, causeways and other works subsidiary to the layout and making of a new public street;

(d) divert or turn an existing public street vested in the Corporation or a portion thereof.

275. **Minimum width of new public street**. - (1) The Corporation shall from time to time specify the minimum width for different classes of public streets according to the nature of the traffic likely to be carried thereon, the localities in which they are situated, the heights up to which buildings abutting thereon may be erected and other similar considerations.

(2) The width of a new public street made under Section 274 shall not be less than that prescribed under sub-section (1) for the class to which it belongs, and no steps and, except with the written permission of the Municipal Commissioner under Section 293 no other projections shall project over or extend into any such street.

(3) The Municipal Commissioner may, with the approval of the Executive Committee, by written notice require the owner or occupier of any premises to remove or to take such order as he may direct with any projection existing within the minimum width of any street specified under sub-section (1):

Provided that if in any such case the projection was lawfully erected or set up, compensation shall be paid by the Municipal Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

276. **Power to adopt, construct or alter any subway, bridge, etc**. - The Municipal Commissioner when authorized by the Corporation in this behalf, may agree with any person -

(a) to adopt and maintain any existing or projected subway, bridge, viaduct or arch, and the approaches, thereto, and may accordingly adopt and maintain such subway, bridge, viaduct or arch and approaches as parts of public streets, or as property vested in the Corporation, or

(b) for the construction or alteration of any such subway, bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required for the foundations and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the Corporation.

277. **Power to prohibit use of public streets for certain kinds of traffic**.- (1) It shall be lawful for the Municipal Commissioner with the sanction of the Corporation to -

(a) prohibit vehicular traffic in any particular public street vesting in the Corporation so as to prevent danger, obstruction or inconvenience to the public by fixing up posts at both ends of such street or portion of such street;

(b) prohibit in respect of all public streets, or particular public streets, the transit of any vehicle of such form, construction, weight, or size or laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the roadways or any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over such street or streets, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadways, number of lights and assistants and other general precautions and the payment of special charges as may be specified by the Municipal Commissioner generally or specially in each case.

(2) Notices of such prohibitions as are imposed under sub-section (1) shall be posted up in conspicuous places at or near *both* ends of the public streets or portions thereof *to* which they relate, unless such prohibitions apply generally *to* all public streets.

278. **Power to acquire premises for improvement of public streets**. - (1) The Municipal Commissioner may, subject *to* the provisions of this Act and the rules -

(a) acquire any land required for the purpose of opening, widening, extending, diverting or otherwise improving any public street, bridge or sub-way or of making any new public street, bridge or sub-way and the buildings, if any, standing upon such land;

(b) acquire in addition to the said land and the buildings, if any, standing thereon, all such land with the buildings, if any standing thereon, as it shall seem expedient in the public interest to acquire outside of the regular line, or of the intended regular line, of such streets;

(c) lease, sell or otherwise dispose of any land or building acquired under clause (b).

(2) The acquisition of land for providing, extending or improving a place for the parking of vehicles shall be deemed *to* be acquisition of land for the purpose of providing, extending or improving a public street.

(3) Any conveyance of land or of a building under clause *(c)* of sub-section (1) may comprise such conditions as the Municipal Commissioner thinks fit, as to the removal of the existing building, the description of new building *to* be erected, the period within which such new building shall be completed and other such matters.

279. **Power to prescribe street lines**.- (1) The Municipal Commissioner may prescribe a line on one or *both* sides of any public street:

Provided that every regular line of a public street operative under any law for the time being in force in any part of the City on the day immediately preceding the appointed day shall be deemed *to* be a line prescribed under this Act until a fresh line is prescribed by the Municipal Commissioner under this section:

Provided further that whenever it is proposed *to* prescribe a fresh line in substitution for any existing line or for any part thereof, previous approval of the Executive Committee shall be had.

(2) The line for the time being prescribed shall be called the regular line of the street.

(3) A register with plans attached shall be kept by the Municipal Commissioner showing all public streets in respect of which a regular line of the street has been prescribed and such register shall contain such particulars as *to* the Municipal Commissioner may appear *to* be necessary and shall be open *to* inspection by any person upon payment of such fee as may from time *to* time be prescribed by the Executive Committee.

(4) (a) Subject *to* the provisions of sub-section (5) no person shall construct or reconstruct any portion of any building on and within the regular line of the street except with the written permission of the Municipal Commissioner and in accordance with the conditions imposed therein and the Municipal Commissioner shall in every case in which he gives such permission, at the same time, report his reasons in writing *to* the Executive Committee.

(b) No person shall construct or reconstruct any boundary wall or a portion of a boundary wall within the regular line of the street except with the written permission of the Municipal Commissioner:

Provided that if, within sixty days after the receipt of an application from any person for permission to construct or reconstruct a boundary wall or a portion thereof, the Municipal Commissioner fails to acquire the land within the regular line of the street under Section 282, the person may, subject to any other provisions of this Act or the rules or bye-laws, proceed with the work of construction or reconstruction of such boundary wall or a portion thereof, as the case may be.

(5) (a) When the Municipal Commissioner grants permission under clause *(a)* of sub-section (4) for the construction or reconstruction of any building on land within the regular line of the street he may require the owner of the building to execute an agreement binding himself and his successors-in-title not to claim compensation in the event of the Municipal Commissioner at any time thereafter calling upon him or any of his successors by written notice to remove any work carried out in pursuance of such permission or any portion thereof and to pay the expenses of such removal if, in default, such removal is carried out by the Municipal Commissioner.

(b) The Municipal Commissioner may before granting such permission require the owner to deposit in the Corporation office an amount sufficient in his opinion to

cover the cost of removal and such compensation, if any, as may be payable to any successor-in-title or transferee of such building.

280. **Setting back buildings to the regular line of the street**. - (1) If any building or any part of a building abutting on a public street is within the regular line of the street, the Municipal Commissioner may, whenever it is proposed -

(a) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet; or

(b) to remove, reconstruct or make any addition to or structural alteration in any portion of such building which is within the regular line of the street,

require such building to be set back to the regular line of the street.

(2) When any building or any part thereof within the regular line of the street falls down or is burnt down or is taken down whether under the provisions of this Act or otherwise, the Municipal Commissioner may at once take possession on behalf of the Corporation of the portion of land within the regular line of the street, theretofore occupied by the said building and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such, in the Corporation.

281. **Additional power of Municipal Commissioner to order setting back of buildings to regular line of street**. - (l) Where any building or any part thereof is within the regular line of a public street and if, in the opinion of the Municipal Commissioner, it is necessary to set back the building to the regular line of the street he may, if the provisions of Section 280 do not apply, by written notice require the owner of such building to show cause within a period to be specified, why such building or any part thereof which is within the regular line of the street be not pulled down and the land within the said line acquired by the Municipal Commissioner. .

(2) If in pursuance of the notice under sub-section (1) the owner fails to show sufficient cause to the satisfaction of the Municipal Commissioner, the Municipal Commissioner may, with the approval of the Executive Committee, require the owner by a written notice to pull down the building or the part thereof which is within the regular line of the street within a period to be specified in the notice.

(3) If within the period specified in the notice under sub-section (2) the owner of such building fails to pull down the building or any part thereof coming within the said line, the Municipal Commissioner may pull down the same and recover all the expenses incurred in so doing from the owner.

(4) The Municipal Commissioner shall also take possession on behalf of the Corporation of the portion of the land within the said line theretofore occupied by the said building, and such land shall thenceforward be deemed a part of the public street and shall vest, as such, in the Corporation.

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(5) Nothing in this section shall be deemed to apply to buildings vesting in the State.

282. **Acquisition of open land or of land occupied by platforms, etc., within regular line of street.** - If any land not vesting in the Corporation whether open or closed, lies within the regular line of a public street and if not occupied, by a building, or if a platform, verandah, step, compound wall, hedge or fence or some other structure external to a building, abutting on a public street or a portion of a platform, verandah, step, compound wall, hedge, or fence or other such structure, is within the regular line of such street, the Municipal Commissioner may, after giving to the owner of the land or building not less than fourteen clear days, written notice of his intention to do so, as after hearing any objection which may be filed during this time take possession on behalf of the Corporation of the said land within its enclosing wall, hedge or fence, if any, or of the said platform, verandah. step or other such structure as aforesaid or of the portion of the said platform, verandah, step or other such structure as aforesaid which is within the regular line of the street and, if necessary, clear the same and the land so acquired. shall thenceforward be deemed a part of the public street:

Provided that when the land or building is vested in the State Government or the Central Government, possession shall not be taken as aforesaid, without the previous sanction of the Government concerned and, when the land or building is vested in any Corporation constituted by any law for the time being in force, possession shall not be taken as aforesaid, without the previous sanction of the State Government.

283. **Acquisition of the remaining parts of building and land after their portions within a regular line of the street are acquired.** - (1) If a building or land is partly within the regular line of a public street and if the Municipal Commissioner is satisfied that the land remaining after the exclusion of the portion within the said line will not be suitable or fit for any beneficial use, he may, at the request of the owner, acquire such land in addition to the land within the said line and such surplus land shall be deemed to be a part of the public street vesting in the Corporation.

(2) Such surplus land may thereafter be utilized for the purpose of setting forward of buildings under Section 284.

284. **Setting forward of buildings to the line of the street** .- (1) If any building which abuts on a public street is in rear of the regular line of such street, the Municipal Commissioner may, whenever it is proposed -

(a) to rebuild such building, or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street to an extent exceeding one-half of such building or portion thereof above the ground level, such half to be measured in cubic feet,

(c) in any order which he issues concerning the rebuilding, alteration or repair of such building, permit or with the approval of the Executive Committee, require such building to be set forward to the regular line of the street.

(2) For the purpose 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 a permission or requisition 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 Municipal Commissioner, is erected along the said line.

285. **Compensation to be paid and betterment charges to be levied**. - (1) Compensation shall be paid by the Municipal Commissioner to the owner of any building or land required for a public street under Sections 280, 281, 282 or 283 or 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 the order made by the Municipal Commissioner:

Provided that -

(i) any increase or decrease in the value of the remainder of the property of which the building or land so acquired formed part likely to accrue from the setback to the regular line of the street shall be taken into consideration and allowed for in determining the amount of such compensation;

(ii) if any such increase in value exceeds the amount of loss sustained or expenses incurred by the said owner, the Municipal Commissioner may recover from such owner half the amount of such excess as a betterment charge.

(2) If in consequence of an order to set forward a building made by the Municipal Commissioner under Section 284, the owner of such building sustains any loss or damage, compensation shall be paid to him by the Municipal Commissioner for such loss or damage after taking into account any increase in value likely to accrue from the set-forward.

(3) If the additional land which will be included in the premises of any person required or permitted under Section 284 to set-forward a building belongs to the Corporation, the order or permission of the Municipal Commissioner to set-forward the building shall be sufficient conveyance to the said owner of the said land and the price to be paid to the Corporation by the said owner for such additional land and the other terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the Municipal Commissioner requires a building to be set-forward, the owner of the building is dissatisfied with the price fixed to be paid to the Corporation or any of the other terms or conditions of the conveyance, the Municipal Commissioner, shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Judge.

Provisions regarding Private Streets

286. **Owner's obligation to make a street when disposing of land as building sites**. - If the owner of any land utilizes, sells, leases or otherwise disposes of such land or any portion or portions of the same as site for the construction of buildings, he shall save in such cases as the site or sites may abut on an existing public or private street, lay down and make a street or streets or road or roads giving access to the site or sites and connecting with an existing public or private street.

287. **Notice of laying out lands for building and for private streets**. - (1) Every person who intends -

(a) to sell or let on lease any land subject to a covenant or agreement on the part of a purchaser or lessee to erect buildings thereon;

(b) to divide land (whether unbuilt or partly built) into building plots; or

(c) to use any land or a portion thereof or permit the same to be used for building purposes; or

(d) to make or layout a private street, whether it is intended to allow the public a right of passage or access over such street or not;

shall give written notice of his intention to the Municipal Commissioner in the manner laid down in the rules and bye-laws.

(2) The Municipal Commissioner shall proceed with the notice under sub-section (1) in the manner prescribed by rules and bye-laws and subject to such general directions as the Executive Committee may give in this behalf from time to time, determine the laying out of land for building, the dimensions and area of each building plot, the level, direction, width and means of drainage of every private street, the kind and number of trees to be planted and reared beside such streets and the height and means of drainage and ventilation of and access to all buildings to be erected on such land or on either side of such street:

Provided that if the Municipal Commissioner neglects or omits for sixty days after the receipt of the notice under sub-section (1) or of the plans, sections, descriptions, schemes or further information, if any, called for under the rules, to communicate to the person who gave the notice his disapproval with regard to any of the matters such person may, by a written communication call the attention of the Municipal Commissioner to the neglect or omission and if such neglect or omission continues for a further period of thirty days from the date of the receipt of the written communication by the Municipal Commissioner, the proposal of the said person shall be deemed to have been approved by the Municipal Commissioner:

Provided further that nothing contained herein shall be construed to authorize any person to act in contravention of any provisions of the Act or any bye-laws.

(3) When the Municipal Commissioner signifies in writing to the said person his approval of the said work under certain conditions or without any conditions or when the said work is deemed to have been approved by the Municipal Commissioner as aforesaid, the said person may at any time within one year from the date of the delivery of the notice under sub-section (1) to the Municipal Commissioner, proceed with the said work in accordance with the intention as described in the notice or in any of the documents aforesaid and in accordance with the conditions, if any, prescribed by the Municipal Commissioner, but not so as to contravene any of the provisions of this Act or any rule or bye-law.

288. **Land not to be appropriated for building and private street not to be laid out until expiration of notice**. - (1) No person shall sell, let, use or permit the use of any land whether undeveloped or partly developed for building or divide any such land into building plots, or make or lay out any private street -

(a) without complying with the provisions of Section 286;

(b) unless such person has given previous written notice of his intention as provided in Section 287 nor until the expiration of sixty days from delivery of such notice, nor otherwise than in accordance with such directions (if any), as may have been fixed and determined under sub-section (2) of Section 287;

(c) after the expiration of the period of one year specified in sub-section (3) of Section 287:

Provided that if a person who is entitled to proceed with any work under sub-section (3) of Section 287 fails so to do within the period of one year specified therein he may at any time give fresh notice of his intention to execute such work and such notice shall be treated as a new notice under sub-section (1) of Section 287;

(d) unless such person gives written notice to the Municipal Commissioner of the date on which he proposes to proceed with any work which he is entitled to carry out and commences such work within seven days of the date mentioned in the notice.

(2) If any act be done or permitted in contravention of this section, the Municipal Commissioner may by written notice require any person doing or permitting such act -

(a) to show cause on or before such day as shall be specified in such notice by statement in writing subscribed by him in that behalf and-addressed to the Municipal Commissioner, why the laying out, plotting, street or building contravening this section should not be altered to the satisfaction of the Municipal Commissioner, or, if that be in his

opinion impracticable, why such street or building should not be demolished or removed or why the land should not be restored to the condition in which it was prior to the execution of the unauthorized work, or

(b) to attend personally or by an agent duly authorized by him in that behalf on such day and at such time and place as shall be specified in such notice and show cause as aforesaid.

(3) If such person shall fail to show cause to the satisfaction of the Municipal Commissioner why such street or building should not be so altered, demolished or removed or why such land should not be so restored, the Municipal Commissioner may cause the work of alteration, demolition, removal or restoration to be carried out and the expenses thereof shall be paid by the said person.

(4) In a case of contravention of the provisions of Section 286, the Municipal Commissioner, may, instead of taking action as provided in sub-section (3), proceed to make a street or streets or road or roads giving access to the site or sites referred to in Section 286 and connecting with an existing public or private street and recover the amount of expenditure incurred in doing so from the owner or owners of the site or sites in such proportion or in such manner as may be prescribed.

289. **Levelling and drainage of private streets and means of access.** - (1) If any private street or any other means of access to a building be not levelled, metalled, flagged or paved, sewered, drained, channelled, lighted, or provided with trees for shade to the satisfaction of the Municipal Commissioner, he may, with the sanction of the Executive Committee, by written notice, require the owner or owners of the several premises fronting or adjoining the said street or other means of access or abutting thereon or to which access is obtained through such street or other means of access or which will benefit by works executed under this section to carry out any one or more of the aforesaid requirements in such manner as he shall direct.

(2) If the requirement or requirements is or are not carried out within the time and in the manner specified in the notice, the Municipal Commissioner may, if he thinks fit, carry out the same and the expenses incurred shall be recovered from the owner or owners in default under Chapter XXI.

(3) Where the recovery is to be made from two or more owners in default, it shall be made according to the frontage of their respective premises and in such proportion as may be settled by the Executive Committee.

290. **Powers to declare private streets as public streets**. - (l) When any private street has been levelled, metalled, flagged or paved, sewered, drained, channelled and made good to the satisfaction of the Municipal Commissioner he may and, upon the request of the owners or of any of the owners of such street, shall, if lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction, declare the same to be a public street by notice in writing put up in

any part of such street, and thereupon the same shall become a public street and vest in the Corporation as such:

Provided that no such street shall become a public street, if, within one month after such notice has been put up, the owner of such street or the greater part thereof shall by notice in writing to the Municipal Commissioner, object thereto.

(2) The Municipal Commissioner may, by public notice in writing put up in any part of a street which is not a public street and is not covered by sub-section (1), give intimation of his intention to declare the same a public street. Within two months after such notice has been so posted up the owner or owners of such street may lodge objections at the office of the Corporation against the notice. The Executive Committee shall consider the objections lodged and if it rejects them the Municipal Commissioner shall by further public notice posted up in such street or such part, declare the same to be a public street.

291. **Applicability of Sections 289 and 290 when a street is in part public and in part private**. - If a portion only of any street is a public street, the other portion of such street may for all purposes of Sections 289 and 290 be deemed to be a private street.

Projections and Obstructions

292. **Prohibition of projection upon streets, etc.** - (1) Except as provided in Section 293, no person shall erect, set up, add to, or place against or in front of any premises any structure or fixture, which will -

(a) overhang, jut or project into, or in any way encroach upon or obstruct in any way the safe or convenient passage of the public along, any street, or

(b) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The Municipal Commissioner may, by written notice, require the owner or occupier of any premises to remove or to take such other order as he may direct with any structure or fixture which has been erected, set up, added to or placed against, or in front of, the said premises in contravention of this section or of any law in force in the City on the day immediately preceding the appointed day.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

(4) If any such structure or fixture as is described in sub-section (1) has been erected, set up, added to, or placed against or in front of any premises at any time

before the first day of April, 1901, the Municipal Commissioner may give notice as aforesaid to the owner or occupier of the said premises:

Provided that if in any such case the structure or fixture was lawfully erected, set up, added to or placed, compensation shall be paid by the Municipal Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

293. **Projections over streets may be permitted in certain cases**. - (1) The Municipal Commissioner may give a written permission, on such terms as he shall in each case think fit, to the owner or occupier of any building abutting on any street -

(a) to erect an arcade over such street or any portion thereof, or

(b) to put up a verandah, balcony, arch, connecting passage, sun-shade, weather-frame, canopy, awning or other such structure or thing projecting from any storey over or across any street or portion thereof:

Provided that no permission shall be given by the Municipal Commissioner for the erection of an arcade in any public street in which the construction of arcade has not been generally sanctioned by the Corporation or where the width of the street between kerbs is less than sixty feet.

(2) The provisions of Section 292 shall not be deemed to apply to any arcade, verandah, balcony, arch, connecting passage, sun-shade, weather-frame, canopy, awning or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

(3) The Municipal Commissioner may at any time, by written notice, require the owner or occupier of any building to remove a verandah, balcony, sun-shade, weather-frame or the like put up in accordance with the provisions of sub-section (1) and such owner or occupier shall be bound to take action accordingly but shall be entitled to compensation for the loss caused to him by such removal and the cost incurred thereon.

294. **Ground floor doors, etc., not *to* open outwards on streets**. - (1) No door, gate, bar or ground floor window shall without a licence from the Municipal Commissioner, be hung, or placed so as to open outwards upon any street.

(2) The Municipal Commissioner may at any time, by written notice, require the owner of any premises on the ground floor of which any door, gate, bar *or* window opens outwards of a street or upon any land required for the improvement of a street, in such manner as, in the opinion of the Municipal Commissioner, to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

295. **Other prohibitions relating to streets**. - (1) No person shall, except with the permission of the Municipal Commissioner under Section 293 or 300 erect or set up any wall, fence, rail, post, step, booth or other structure whether fixed or

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movable and whether of a permanent *or* a temporary nature, or any fixture in or upon any street or upon or over any open channel, drain, well or tank in any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain, well or tank:

Provided that nothing in this section shall be deemed to apply to any erection *or* thing to which clause *(c)* of sub-section (l) of Section 302 applies.

(2) No person shall except with the written permission of the Municipal Commissioner -

(a) place or deposit upon any street, or upon any open channel, drain or well in any street or in any public place any stall, chair, bench, box, ladder, bale or other thing whatever, so as to form an obstruction thereto or encroachment thereon;

(b) project, at a height of less than twelve feet from the surface of the street, any board or chair, beyond the line of the plinth of any building over any street, or over any open channel, drain, well or tank in any street;

(c) attach to, or suspend from, any wall or portion of a building abutting on a street, at a lower height than aforesaid anything whatever:

Provided that nothing in clause *(a)* applies to building materials. (3) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household, in any public street and any animal tethered as aforesaid may be removed by the Municipal Commissioner, or by any Corporation officer or servant, who shall deal therewith as with an animal found straying.

296. **Municipal Commissioner may, without notice, remove anything erected, deposited or hawked or exposed for sale in contravention of Act**. - The Municipal Commissioner may, without notice, cause to be removed -

(a) any wall, fence, rail, post, step, booth or other structure whether fixed or movable and whether of a permanent or a temporary nature or any fixture which shall be erected, or set up in or upon or over any street or upon or over any open channel, drain, well or tank contrary to the provisions of this Act after the appointed day;

(b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended in, upon from or to any place in contravention of this Act;

(c) any article whatsoever hawked or exposed for sale in a public place or in any public street in contravention of the provisions of this Act and any vehicle, package, box or any other thing in or on which such article is placed.

297. **Power to require trimming of hedges and trees**. - The Municipal Commissioner may, by notice, require the owner or occupier of any land to cut or trim the hedges growing thereon and bordering on a street, or any branches of trees growing thereon which overhang a street and obstruct the same or cause danger.

298. **Power to remove accidental obstructions**. - When a private house, wall or other erection or anything fixed thereto or a tree shall fall down and obstruct a public drain or encumber a street, the Municipal Commissioner may remove such obstruction or encumbrance at the expense of the owner of the same and may recover such expense in the manner provided by Chapter XXI, or may, by notice, require the owner to remove the same within a time to be specified in the notice.

299. **Power to require removal of any structure or fixture erected or set up before the appointed day**. - (1) The Municipal Commissioner may, by written notice, require the owner or occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, booth or other structure or fixture which it would be unlawful to erect or set up under this Act, has been erected or set up before the appointed day, to remove the said wall, fence, rail, post, step, stall or other structure or thing.

(2) If the owner or occupier of the premises proves that any such projection, encroachment or obstruction has existed for a period sufficient under the law of limitation to give him a prescriptive title (or where such period is less than thirty years a period of thirty years), or that it was erected with the consent of any Corporation authority duly empowered in that behalf, and that the period, if any, for which the consent is valid has not expired, the Corporation shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

300. **Municipal Commissioner may permit booths, etc., to be erected on streets on festivals**. - With the concurrence of the District Magistrate or such other officer as the District Magistrate may nominate in this behalf from time to time the Municipal Commissioner may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals.

Provisions concerning execution of works* in *or near to streets

301. **Execution of works in or near to streets**. - Whenever there is any work in execution in or near to any street on behalf of the Corporation the Municipal Commissioner shall take such steps in regard to safety and convenience as he may be required to take under the rules. Whilst any such work as aforesaid or any work which may lawfully be executed in a street is in progress the Municipal Commissioner may in the manner laid down in rules close the street wholly or partly for traffic or for traffic of any such description as he may deem fit.

302. **Streets not to be opened or broken up and building materials not to be deposited thereon without permission**. - (1) No person other than the Municipal

Commissioner or a Corporation officer or servant as such shall, without the written permission of the Municipal Commissioner or without other lawful authority -

(a) open, break up, displace, take up or make any alteration, in or cause any injury to, the soil or pavement, or any wall, fence, post, chain or other material or thing forming part of any street or in any open space vested in the Corporation;

(b) deposit any building materials in any street or open space vested in the Corporation;

(c) set up in any street or open space vested in the Corporation any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause *(b)* or *(c)* of sub-section (1) shall be terminable at the discretion of the Municipal Commissioner, on his giving not less than twenty-four hours' written notice of the termination thereof to the person to whom such permission was granted.

(3) The Municipal Commissioner may, without notice -

(a) cause the soil or pavement or any wall, fence, post, bar or other material or thing forming part of the street to be restored to the condition it was in before any opening, breaking up, displacement or alteration or injury made or done without the permission of the Municipal Commissioner under sub-section (1);

(b) except in cases in which permission has been applied for under clause (b) of sub-section (1) for the deposit of building materials in any street and no reply has been sent to the applicant within seven days from the date of the application, cause to be removed any building materials, or any scaffold, or any temporary erection, or any posts, bars, rails, boards or other things by way of enclosure, which have been deposited or set up in any street without the permission or authority specified in sub-section (1), or which, having been deposited or set up with such permission or authority, have not been removed within the period specified in the notice issued under sub-section (2).

303. **Precautions for public safety to be taken by person to whom permission is granted under Section 302**. - (1) Every person to whom any permission is granted under Section 302 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building materials, or set up any scaffold, erection or other thing, to be properly fenced and guarded, and, in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

(2) Every person to whom permission is granted under Section 302 to open or break up the soil or pavement of any street, or who, under other lawful authority, opens or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the same shall be opened or broken up, and fill in the ground and reinstate and make good the street or pavement so opened or broken up without delay to the satisfaction of the Municipal Commissioner:

Provided that if the said person shall fail to reinstate and make good the street or pavement as aforesaid, the Municipal Commissioner may restore such street or pavement, and the expenses incurred by the Municipal Commissioner in so doing shall be paid by the said person.

(3) The Municipal Commissioner may, by written notice, require any person to whom permission is granted under Section 302 to open or break up the soil or pavement of any street, or who under any other lawful authority, opens or breaks up the soil or pavement of any street for the purpose of executing any work, to make provisions to his satisfaction for the passage or diversion of traffic for securing access to the premises approached from such street and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the said work.

304. **Buildings at corners of streets**. - (1) The Municipal Commissioner may, with the approval of the Executive Committee, require by written order the corner of any building which has already been erected or which is to be newly erected or which is to be reconstructed or repaired and which is situated at the junction of two or more streets to be rounded or splayed off to such height and in such manner as he may determine and may also in such order impose such conditions as he deems necessary as to the construction of a compound wall or fence or hedge or any other structure whatsoever or the planting or retention of any tree on the premises appurtenant to such building.

(2) Compensation shall be paid by the Municipal Commissioner for the loss or damage caused by the issue of an order under sub-section (1).

(3) In determining such compensation, allowance shall be made for any benefit accruing to the same premises from the improvement of the streets.

Sky-signs and Advertisements

305. **Regulation as to sky-signs**. - (1) No person shall, without the written permission of the Municipal Commissioner, erect, fix or retain any sky-sign of the kind prescribed by rules whether existing on the appointed day or not. Such written permission shall be granted, or renewed, for any period not exceeding two years from the date of each such permission or renewal, subject to the condition that such permission shall be deemed to be void if -

(a) any addition is made to the sky-sign except for the purpose of making it secure under the direction of the Municipal Commissioner;

(b) any change is made in the sky-sign or any part thereof;

(c) the sky-sign or any part thereof fall either through accident, decay or any other cause;

(d) any addition or alteration is made, to or in, the building or structure upon or over which the sky-sign is erected, fixed or retained, involving the disturbance of the sky-sign or any part thereof;

(e) the building or structure upon or over which the sky-sign is erected, fixed or retained becomes unoccupied or be demolished or destroyed.

(2) Where any sky-sign shall be erected, fixed or retained after the appointed day upon or over any land, building or structure, save and except as permitted as hereinbefore provided the owner or person in occupation of such land, building or structure shall be deemed to be the person who has erected, fixed or retained such sky-sign in contravention of the provisions of this section, unless he proves that such contravention was committed by a person not in his employment or under his control, or was committed without his connivance.

(3) If any sky-sign be erected, fixed or retained contrary to the provisions of this section, or after permission for the erection, fixing or retention thereof for any period shall have expired or become void, the Municipal Commissioner may, by written notice, require the owner or occupier of the land, building or structure upon or over which the sky-sign is erected, fixed or retained, to take down and remove such sky-sign.

306. **Regulation and control of advertisements**. - (1) The Municipal Commissioner may, by notice in writing, require the owner or the person in occupation of any land, building, wall, hoarding or structure to take down or remove within such period as is specified in the notice, any advertisement upon such land, building. wall, hoarding or structure.

(2) If the advertisement is not taken down or removed within such period, the Municipal Commissioner may cause it to be taken down or removed, and the expenses reasonably incurred on taking down or removal thereof shall be paid by such owner or person.

(3) The provisions of this section shall not apply to any advertisement which -

(a) is exhibited within the window of any building;

(b) relates to the trade or business carried on within the land or building upon which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein, or to any sale, entertainment or meeting to be held upon or in the same;

(c) relates to the business of any railway administration;

(d) is exhibited within any railway station or upon any wall or other property of a railway administration, except any portion of the surface of such wall or property fronting any street.

Dangerous places and places where some work affecting human safety or convenience is carried on

307. **Hoards to be set up during work on any building adjacent to street**. - (1) No person who proposes to build, take down or rebuild any building or wall, or to alter or repair any part of any building or wall, shall in any case in which the footway, in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and hand-rail if there be room enough for the same and the Municipal Commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the Municipal Commissioner and every such hoard or fence, put up with such permission, with such platform and hand-rail as aforesaid, shall be continued standing and maintained in good condition, to the satisfaction of the Municipal Commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience and. in all cases in which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The Municipal Commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

308. **Municipal Commissioner to take proceedings for repairing or enclosing dangerous places or places where some work affecting safety or convenience is carried on**. - (1) If any place is, in the opinion of the Municipal Commissioner, from want of sufficient repair, protection or enclosure or owing to some work being carried on thereupon dangerous to passengers along a street, or to the neighbourhood thereof or if any such work, in the opinion of the Municipal Commissioner, affects the safety or convenience of such persons, he may by notice in writing require the owner or occupier thereof to repair, protect or enclose the said place or take such other step as shall appear to the Municipal Commissioner necessary in order to prevent danger therefrom or to ensure safety or convenience of such persons.

(2) The Municipal Commissioner may. before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place or to ensure safety or convenience at such work, and any expense incurred by the Municipal Commissioner in taking such temporary measure shall be paid by the owner or occupier of the place to which the said notice refers.

309. **Protective measures during demolition work**. - (1) No person who proposes to take down a building or a part thereof, shall commence doing so without providing in addition to such hoard or fence which he may be required to provide under Section 307, screens extending to the full height of such building on all sides thereof so as to prevent pollution of the surrounding air with dust or injury or damage caused by the falling of any debris, bricks, wood and other material.

(2) If any such work is commenced in contravention of sub-section (1) the Municipal Commissioner may cause it to be stopped forthwith and any person carrying it out to be removed from the premises by a police officer.

Lighting of Streets

310. **Public streets to be lighted**. - (1) The Municipal Commissioner shall -

(a) take measures for lighting in a suitable manner the public streets, Corporation gardens and open spaces and Corporation markets and all buildings vesting in the Corporation;

(b) procure, erect and maintain such number of lamps, lamp-posts and other appurtenances as may be necessary for the said purpose; and

(c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the Corporation shall from time to time determine.

(2) The Municipal Commissioner may place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, stays, struts, brackets, and other contrivances for carrying, suspending or supporting lamps or electric wires in or upon any immovable property without being liable to any claim for compensation therefor:

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

Watering of Streets

311. **Measures for watering streets**. - The Municipal Commissioner may -

(a) take measures for having the public streets watered at such time and seasons and in such manner as he shall think fit;

(b) procure and maintain such vehicles, animals and apparatus as he shall think fit for the said purpose.

Miscellaneous

312. **Prohibition of removal, etc., of lamps or any Corporation property on streets**.- (1) No person shall, without lawful authority, take away, or wilfully break, throw down or damage -

(a) any lamp, lamp-post or lamps-iron set up in any public street or in any Corporation garden, open space or market or building vesting in the Corporation;

(b) any electric wire for lighting any such lamps;

(c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp;

(d) any property of the Corporation on any street;

and no person shall wilfully extinguish the light or damage any appurtenance of any such lamp.

(2) If any person shall, through negligence or accident or otherwise break any lamp set up in any public street or Corporation market, garden or public place or building vesting in the Corporation or shall break or damage any property of the Corporation on any street, he shall pay the expenses of repairing the damage so done by him.

313. **State Government may extend provisions of Chapter outside limits of City**. - The State Government may, by order which shall be published in the official Gazette, apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter and of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission, as it may deem to be necessary and expedient and thereupon the provisions and rules so applied shall have effect in that area as if it were within the City.

314. **Power to make rules**. - (1l) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for -

(a) manner in which the Corporation shall sanction the closing of any public street and the disposal of the site of such street under Section 273;

(b) manner in which the sanction of the Executive Committee to prescribe a fresh street line in place of any existing line shall be given under Section 279;

(c) manner in which a person shall give notice of his intention to sell, let, etc. land for building purposes or to lay out a private street under Section 287 and the procedure to be adopted by the Municipal Commissioner in dealing with such notice including, asking for more information or authenticated plan, etc.;

(d) steps to be taken under Section 301 by the Municipal Commissioner for safety and convenience of the public when any work in or near to streets is in execution.

CHAPTER XIII[49]

BUILDING REGULATIONS

Notice regarding Erection, etc. of Buildings

315. **Definition**. - In this Chapter the expression "to erect building" shall include -

(a) subject as may be prescribed by rules the re-erection of a substantial portion of any existing building,

(b) the conversion into a dwelling house of any building or part of a building not originally intended or already used for human habitation,

(c) the conversion by any structural alteration of a single tenement or two or more tenements in a building into a greater or lesser number of dwelling houses so as to affect its drainage or sanitary arrangement or its stability,

(d) the conversion by any structural alteration of any building into a place of religious worship or into a sacred building not originally meant or constructed for such purpose,

(e) the covering or roofing of an open space between walls or buildings as regards the structure which is formed by roofing or covering such space,

(f) the conversion into a stall, shop, warehouse or godown of a building not originally constructed for any such use,

(g) the construction in a wall adjoining any street or land not vested in the owner of the wall, a door opening on such street or land, and

(h) any other operation declared by a bye-law made in this behalf to be deemed to be erection of a building.

[50]316. **Notice of erection of building**. - Every person intending to erect a building shall give to the Municipal Commissioner a notice in writing of his intention

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49 The operation of this chapter is, in respect of a regulated area, to remain suspended under Section 3(2) of the U.P. (Regulation of Building Operations) Act, 1958. But, in respect of a development area, the provisions of the said Act of 1958 as well as of Sections 316 to 329, 333, clause (a) and (b) of Section 334(1), 335, 336 and certain other provisions of the U.P. Nagar Mahapalika Adhiniyam, 1959 shall, under Section 59 of the U.P. Urban Planning and Development Act, 1973 (President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974), remain suspended with effect from the date of constitution of the Authority for that area and until the dissolution of such Authority.

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to do so in such form and manner and containing such particulars as may be prescribed by bye-laws.

[51]317. **Notice of repairs, alteration, etc., in building**. - Every person intending -

(a) to make any addition to a building,

(b) to make any alteration or repairs to a building, not being a frame building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof to an extent exceeding one-half of such wall above the plinth level, such half to be measured in superficial feet,

(c) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts or beams in any such wall thereof as aforesaid, or involving the removal or re-erection of any such wall thereof as aforesaid, to an extent exceeding one-half of such wall above plinth level, such half to be measured in superficial feet,

(d) to make any alteration in a building involving -

(i) the sub-division of any room in such building so as to convert the same into two or more separate rooms,

(ii) the conversion of any passage or space in such building into a room or rooms,

(iii) to repair, remove, construct, re-construct or add to any portion of a building abutting on a street which stands within the regular line of such street,

(e) to carry out any work in a building involving -

(i) the construction or re-construction of a roof,

(ii) the conversion of a roof into a terrace,

(iii) the conversion of a terrace into a roof, or

(iv) the construction of a lift shaft,

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[50] Operation of Section 316 and certain other provisions of this Adhiniyam shall, in respect of a development area, remain suspended under Section 59 of President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974.

[51] Operation of Section 203 7 and certain other provisions of this Adhiniyam shall, in respect of a development area, remain suspended under Section 59 of President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974.

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(f) to carry out any repairs to a building involving the construction of a floor of a room (excluding the ground floor),

(g) to permanently close any door or window in an external wall, or

(h) to remove or re-construct the principal staircase or to alter its position,

shall give notice in writing to the Municipal Commissioner in such form and containing such information as may be required to be furnished under the bye-laws framed therefor and accompanied by such documents and plans as may be prescribed.

[52]318**. Rejection of plan, etc., if not drawn in the prescribed manner or where the applicant fails to supply the particulars called for by the Municipal Commissioner**. -Any plan, section, description, structural drawings or structural calculations and any notice not fulfilling the conditions prescribed therefor or in respect of which the further particulars or details are not supplied to the Municipal Commissioner within such period as may be fixed by him, shall not be treated as sufficient and valid for the purposes of this Act.

[53]319. **Period within which Municipal Commissioner is to grant or refuse to grant permission to execute work**. - Within thirty days after the receipt of any application made under Section 316 or Section 317 or of any information or of documents or further information or documents required under rules or bye-laws the Municipal Commissioner shall by written order either grant such permission or refuse on one or more of the grounds mentioned in Section 321 or Section 322 to grant it.

[54]320. **Reference to Executive Committee if Municipal Commissioner delays grant or refusal of approval or permission**. - (1) If, within the period laid down in Section 318 or Section 319, as the case may be, the Municipal Commissioner has neither given nor refused his permission to erect building or to execute work referred to in Section 317 as may have been applied for, the Executive Committee shall be bound, on the written request of the applicant, to determine by written order whether such approval or permission should be given or not.

(2) If the Executive Committee does not, within one month from the receipt of such written request, determine whether such permission should be given or not, such permission shall be deemed to have been given and the applicant may proceed to

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52 Operation of Section 318 and certain other provisions of this Adhiniyam shall, in respect of a development area, remain suspended under Section 59 of President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974.

53 Operation of Section 319 and certain other provisions of this Adhiniyam shall, in respect of a development area, remain suspended under Section 59 of President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974.

54 Operation of Section 204 0 and certain other provisions of this Adhiniyam shall, in respect of a development area, remain suspended under Section 59 of President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974.

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execute the work, but not so as to contravene any of the provisions of this Act or any rules or bye-laws made under this Act.

[55]**321. Grounds on which approval of site for or permission to construct or reconstruct building may be refused**. - (1) The only grounds on which permission to erect a building or to execute any work referred to in Section 317 may be refused, are the following, namely:

(a) that the work or the use of the site for the work or any of the particulars comprised in the site-plan, ground-plan, elevations, sections, or specifications would contravene some specified provision of any law or some specified order, rule, declaration or bye-law made under any law;

(b) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or bye-laws or is not signed as required under rules or bye-laws;

(c) that any information or documents required by the Municipal Commissioner under the rules or bye-laws has or have not been duly furnished;

(d) that the proposed building would be an encroachment upon Government or Corporation land;

(e) that the site of such building does not about on a street or a projected street, and there is no access to such building from any such street by a passage or pathway appertaining to such site and not less than 12 feet wide at any part;

(f) that the site of the proposed building is of the nature specified in Section 323;

(g) that the site for the work forms a part of the areas, layout plan of which has not been sanctioned as provided in Section 287;

(h) that the use of the proposed building or plan is not in conformity with the Master Plan of the City framed under Section 383.

(2) Whenever the Municipal Commissioner or the Executive Committee refuses to grant permission to erect a building or to execute any work referred to in Section 317 the reasons for such refusal shall be specifically stated in the order.

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[55] Operation of Section 316 to 329, 333, clause (a) and (b) of 334(1), 335 and 336 and certain other provisions of this Adhiniyam shall, in respect of a development area, remain suspended under Section 59 of President's Act 11 of 1973 as re-enacted by U.P. Act 30 of 1974.

[56]322. **Special powers for suspending permission to construct buildings**. - Notwithstanding anything contained in Section 321 if any street shown in the site-plan is an intended private street the Municipal Commissioner may at his discretion refuse to grant permission to construct a building, until the street is commenced or completed.

[57]323. **Restriction of the power to sanction construction of a place of entertainment in certain cases**. - Notwithstanding anything contained in this Act or any rule or bye-law made thereunder, the construction of, or any addition to, any building of public entertainment or any addition thereto, shall not except with the previous approval of the State Government, be sanctioned by the Municipal Commissioner or the Executive Committee, if the site of, or proposed for such building is -

(a) within a radius of one furlong from

(i) any residential institution attached to a recognized educational institution such as a college, high school or girls school; or

(ii) a public hospital with a large indoor patient ward; or

(iii) an orphanage containing one hundred or more inmates; or

(b) in any thickly populated residential area which is either exclusively residential or reserved or used generally for residential as distinguished from business purposes; or

(c) in any area reserved for residential purposes by any housing or planning scheme or otherwise under any enactment:

Provided that no permission to construct any building intended to be used for cinematograph exhibition shall be given unless the Executive Committee is satisfied that sanction to the plans and specifications have been obtained in accordance with the rules framed under the Cinematograph Act, 1918.

Commencement of work

[58]324. **Erection of building or execution of work-how to be carried out** - - Every person intending to erect a new building or to execute any work referred to in Section 317 shall erect the building or execute the work in such manner, under such supervision, through such qualified agency and subject to such conditions and restrictions as may be provided therefor by the bye-laws.

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56 See foot note 55 on p. 157
57 See foot note 55 on p. 157
58 See foot note 55 on p. 157

[59]325. **Inspection by Municipal Commissioner of buildings in course of erection, alteration, etc.** - The Municipal Commissioner or any officer or servant of the Corporation authorized in this behalf may, at any time during the erection of the building or the execution of any work referred to in Section 317, or within three months of the completion of such building or work, make an inspection thereof and if he has reasonable ground to suspect that in the erection of any such building or in the execution of any such work anything has been done contrary to any provisions of this Act or of any rule or bye-law framed thereunder, he may after 15 days' prior notice in writing to the person erecting such building or executing such work, cut into or lay open or pull down such portion, if any, of the building as prevents the discovery of facts sufficient to confirm or dispel the suspicion:

Provided that the person whose building or construction has been cut into or laid open shall be paid compensation by the Municipal Commissioner for the damage caused to his building or work be abuse of the aforesaid act, where it is found that in the erection of the building or the execution of such work nothing was done by him contrary to the provisions of this Act.

[60]326. **Enforcement of provisions concerning buildings and works**. - Where the Municipal Commissioner at any time during the erection of the building or the execution of such work as aforesaid or at any time within three months after the completion thereof, whether as a result of his inspection or otherwise comes to know of any matter in respect of which the erection of such building or the execution of such work is in contravention of any provision of this Act or of any rule or bye-law framed thereunder, he may require the owner erecting or executing or who has erected or executed the said building or work, to cause, anything done contrary to any such provision, rule or bye-law, to be amended or to do anything which, by any such provision, rule or bye-law, may be required to be done but which has been omitted to be done.

[61]327. **Proceedings to be taken in respect of building or work commenced contrary to Act, rules or bye-laws**. - (1) If the erection of any building or the execution of any such work as is referred to in Section 317 is commenced or carried out contrary to the provisions of the rules or bye-laws, the Municipal Commissioner, unless he deems it necessary to take proceedings in respect of such building or work under Section 328 shall -

(a) by written notice, require the person who is erecting such building or executing such work or has erected such building or executed such work on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorized by him in that behalf and addressed to the Municipal Commissioner, to show sufficient cause, why such building or work shall not be removed, altered or pulled down, or .

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59 See foot note 55 on p. 157

60 See foot note 55 on p. 157

61 See foot note 55 on p. 157

(b) require the said person on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorized by him in that behalf, and show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause, to the satisfaction of the Municipal Commissioner, why such building or work shall not be removed, altered or pulled down the Municipal Commissioner may remove, alter or pull down the building or work and the expenses thereof shall be paid by the said person.

[62]328. **Power of Municipal Commissioner to cancel permission on ground of material misrepresentation by applicant**. - If at any time after permission to proceed with any building or work has been given under this Act, the Municipal Commissioner is satisfied that such permission was granted in consequence of any material misrepresentation or fraudulent statement contained in the notice given or information furnished under Section 316 or 317, or further information, if any, furnished, he may cancel such permission and any work done thereunder shall be deemed to have been done without his permission.

[63]329. **Completion certificates; permission to occupy or use**. - (1) Every person shall, within one month after the completion of the erection of a building or the execution of any such work as is referred to in Section 317, deliver or send or cause to be delivered or sent to the Municipal Commissioner at his office, notice in writing of such completion, accompanied by a certificate in the form prescribed in the bye-laws signed and subscribed in the manner so prescribed, and shall give to the Municipal Commissioner all necessary facilities for the inspection of such building or of such work and shall apply for permission to occupy the building.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used the building or part thereof affected by any work, until -

(a) permission has been received from the Municipal Commissioner in this behalf, or

(b) the Municipal Commissioner has failed for twenty-one days after receipt of the notice of completion to intimate his refusal of the said permission:

Provided that an application under sub-section (1) may be made and permission of the Municipal Commissioner to occupy given in respect of part of a building also where the Municipal Commissioner is satisfied that part has become habitable.

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62 See foot note 55 on p. 157

63 See foot note 55 on p. 157

Dangerous structures

330. **Periodic inspection of buildings**. - (1) It shall be incumbent on the owner of every building to maintain every part thereof and everything appurtenant thereto in such repair as to prevent its becoming dangerous.

(2) The Municipal Commissioner may by written notice require the owner of any building to get the building inspected at such intervals and in such manner as may be prescribed in the bye-laws.

(3) The owner shall within two months of the inspection under sub-section (2) undertake such repairs as the inspection shall show to be necessary for the purpose of securing the stability of structure within the meaning of Section 331, after complying with all the provisions of this Act and the rules and bye-laws in regard to such repairs and shall, on completion of such repairs, submit to the Municipal Commissioner a certificate signed by the person who made the inspection, of his having carried out the repairs satisfactorily.

(4) A report of every inspection made under sub-section (2) shall forthwith be submitted to the Municipal Commissioner by the person who carried it out and the Municipal Commissioner may take such action in respect of such building as he deems fit under this section or under any other provision of this Act if the owner fails to comply with the requirements of sub-section (3).

(5) The expenses incurred by the Municipal Commissioner under sub-section (4) shall be paid by the owner.

331. **Removal of structures, etc., which are in ruins or likely to fall**. - (l) If it shall at any time appear to the Municipal Commissioner that any structure (including under this expression any building, wall, parapet, pavement, floor, steps, railing, door or window frames or shutters or roof, or other structure and anything affixed to or projecting from or resting on, any building, wall, parapet or other structure) is in a ruinous condition or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structure or place in the neighbourhood thereof, the Municipal Commissioner may, by written notice, require the owner or occupier of such structure to pull down, secure, remove or repair, such structure or thing or do one or more of such things and to prevent all cause of danger therefrom.

(2) The Municipal Commissioner may also, if he thinks fit, require the said owner or occupier by the said notice, either forthwith or before proceeding to pull down, secure, remove or repair the said structure or thing, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and hand-rail, if there be room enough for the same and the Municipal Commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

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(3) If it appears to the Municipal Commissioner that the danger from a structure which is ruinous or about to fall is imminent he may, before giving notice as aforesaid or before the period of notice expires, fence off, take down, secure or repair the said structure or take such steps or cause such work to be executed as may be required to arrest the danger.

(4) Any expenses incurred by the Municipal Commissioner under sub-section (3) shall be paid by the owner or occupier of the structure.

(5) *(a)* Where the Municipal Commissioner is of opinion whether on receipt of an application or otherwise that the only or the most convenient means by which the owner or occupier of a structure such as is referred to in sub-section (1) can pull down, secure, remove or repair such structure, is by entering any of the adjoining premises belonging to some other person the Municipal Commissioner after giving such person a reasonable opportunity of stating any objection may, if no such objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorize the said owner or occupier to enter such adjoining premises.

(b) Every such order bearing the signature of the Municipal Commissioner shall be a sufficient authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the premises reasonable written notice of his intention so to do, to enter upon the said premises with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(c) In executing any work under this section as little damage as can be, shall be done to the adjoining owner's property, and the owner or occupier of premises for the benefit of which the work is done, shall-

(i) cause the work to be executed with the least practicable delay;

(ii) pay compensation to any person who sustains damage by the execution of the said work.

332. **Dangerous opening in buildings**. - If it shall at any time appear to the Municipal Commissioner that any opening in any part of a building is so situated as to constitute a danger to human life, he may, by written notice, require that such opening shall be enclosed or protected by bars, grills or such other device to his satisfaction.

Works unlawfully carried on

[64]333. **Power of Municipal Commissioner to direct removal of person directing unlawful work**. - (1) If the Municipal Commissioner is satisfied that the erection of any building or the execution of any such work as is referred to in Section 317 has been unlawfully commenced or is being unlawfully carried on upon any

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[210] See foot note 55 on p. 157

premises he may, by written notice, require the person directing or carrying on such erection or execution to stop the same forthwith.

(2) If such erection or execution is not stopped forthwith the Municipal Commissioner may direct that any person directing or carrying on such erection or execution shall be removed from such premises by any police officer and may cause such steps to be taken as he may consider necessary to prevent the re-entry of such person on the premises without his permission.

(3) The cost of any measures taken under sub-section (2) shall be paid by the said person.

Power to vacate premises

[65]334**. Power of the Municipal Commissioner to vacate any building in certain circumstances**. - (1) Notwithstanding the provisions of any other law to the contrary, the Municipal Commissioner may, by notice in writing specifying the grounds therefor, order any building or any portion thereof to be vacated forthwith or within such time as may be specified in the notice

(a) if such building or portion thereof has been unlawfully occupied in contravention of Section 329;

(b) if a notice has been issued in respect of such building or part thereof requiring the alteration or reconstruction of any existing staircase, lobby, passage or landing, and the works specified in such notice have not been commenced or completed;

(c) if the building or part thereof is in a ruinous or dangerous condition within the meaning of Section 331.

(2) The affixing of such written notice on any part of such premises shall be deemed a sufficient intimation to the occupiers of such building or portion thereof.

(3) On the issue of a notice under sub-section (1) every person in occupation of the building or portion thereof to which the notice relates shall vacate such building or portion as directed in the notice and *no* person shall so long as the notice is not withdrawn enter the building or portion thereof except for the purpose of carrying out any work which he may lawfully carry out.

(4) The Municipal Commissioner may direct that any person who acts in contravention *of* sub-section (3) shall be removed from such building or part thereof by any police officer.

(5) The Municipal Commissioner shall, on the application of any person who has vacated any premises in pursuance of a notice under sub-section (l), reinstate such person in the premises on the withdrawal of such notice, unless it is in his opinion

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[211] See foot note 55 on p. 157

impracticable *to* restore substantially the same terms of occupation by reason of any structural alteration or demolition.

(6) The Municipal Commissioner may direct the removal from the said premises by any police officer of any person who obstructs him in any action taken under sub-section (5) and may also use such force as is reasonably necessary to effect entry in the said premises.

Regulation of certain classes of buildings in particular streets or localities

[66]335. **Power to regulate future construction of certain classes of buildings in particular streets or localities.** - (1) The Municipal Commissioner may give public notice of his intention to declare subject to any valid objection that may be preferred within a period of three months:

(a) that in any streets or portions of streets specified in such notice the elevation and construction of the frontage of all buildings or any classes of buildings thereafter erected or re-erected shall in respect of their architectural features be such as the Corporation may consider suitable to the locality;

(b) that in any localities specified in the notice there shall be allowed the construction of only detached or semi-detached buildings or both and that the land appurtenant to each such building shall be of an area not less than that specified in such notice;

(c) that the minimum size of building plots in particular localities shall be of a specified area;

(d) that in any localities specified in the notice the construction of more than a specified number of building on each acre of land shall not be allowed; or

(e) that in any streets, portions of streets or localities specified in such notice the construction of shops, warehouses, factories, huts or buildings designed for particular uses shall not be allowed, without the special permission of the Municipal Commissioner granted in accordance with general regulations framed by the Executive Committee in this behalf and subject to the terms of such permission only.

(2) The Executive Committee shall consider all objections received within a period of three months from the publication of such notice, and shall then submit the notice with a statement of objections received and of its opinion thereon to the Corporation.

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[212] See foot note 55 on p. 157

(3) No objection received after the said period of three months shall be considered.

(4) Within a period of two months after the receipt of the same the Corporation shall submit all the documents referred to in sub-section (2) with a statement of its opinion thereon to the State Government.

(5) The State Government may pass such orders with respect to such declaration as it may think fit:

Provided that such declaration shall not thereby be made applicable to any street, portion of a street or locality not specified in the notice issued under subsection (1).

(6) The declaration as confirmed or modified by the State Government shall be published in the official Gazette and shall take effect from the date of such publication.

(7) No person shall erect or re-erect any building in contravention of any such declaration.

[67]336. **Power of Municipal Commissioner in cases of contravention of provisions of Section 335. -** The Municipal Commissioner shall have power to take such action against the persons contravening the provisions of Section 335 as may be prescribed by bye-laws or rules.

337. **Abandoned or unoccupied premises**. - If it appears to the Municipal Commissioner that any building or structure has been abandoned or is unoccupied and has become a resort of disorderly persons or is by reason of its condition seriously detrimental to the amenities of the neighbourhood, the Municipal Commissioner may give a written notice to the owner of such building or structure if he is known and found to be a resident within the limits of the Corporation, or to any person who is known or believed to claim to be the owner, if such person is resident within the limits of the Corporation, and shall also affix a copy of the notice on some conspicuous part of the building or structure requiring all persons having any right or interest therein to take such order with the said building or structure as may, in the opinion of the Municipal Commissioner, be necessary to prevent the same from being resorted to as aforesaid or from being seriously detrimental to the amenities in the neighbourhood.

338. **Power to prohibit re-erection of building on inaccessible sites**. - (1) If any building so situated as to be inaccessible to a fire-engine or as to cause obstruction to a fire-engine from reaching other buildings is demolished or destroyed by fire or otherwise, the Municipal Commissioner may by a notice in writing addressed to the owner of the building demolished or destroyed as aforesaid direct

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[213] See foot note 55 on p. 157

that no building shall be erected which would be inaccessible to a fire-engine or which would cause obstruction to a fire-engine from reaching other buildings.

(2) No person shall erect or re-erect any building in contravention of a notice, *vide* sub-section (1).

339. **Removal of building materials from any premises in certain cases. -** If it appears to the Municipal Commissioner that any stones, rafters, building materials or debris of building materials are stored or collected in or upon any premises in such quantity or bulk or in such a way as to constitute a harborage or breeding place for rats or other vermin or is otherwise a source of danger or nuisance to the occupiers of the said premises or to persons residing in the neighbourhood thereof the Municipal Commissioner may by a written notice require the owner of such premises, or the owner of the materials or debris so stored or collected therein, within a reasonable time to be specified in the notice, to remove or dispose of the same or to take such order with the same as may, in the opinion of the Municipal Commissioner, be necessary or expedient to abate the nuisance or prevent a recurrence thereof.

340. **Power of Municipal Commissioner to call for statement of accommodation**. - (1) The owner of a building shall, within a period of seven days of the receipt of a written notice from the Municipal Commissioner, supply such information with respect to such building or its occupants as the Corporation may prescribe.

(2) The occupier of a building occupied as a separate tenement shall on like notice and within the like period supply such information as may be prescribed with respect to such building as aforesaid which is in his occupation.

341. **State Government may extend provisions of chapter outside limits of City. -** The State Government may, by order which shall be published in the official Gazette, apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter and of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission as it may deem to be necessary and expedient and thereupon the provisions and rules so applied shall have effect in that area as if it were within the City.

342. **Power to make rules.** - (1) The State Government may make rules to carry out the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the manner of giving permission to the erection of buildings;

(b) the manner of effecting repairs in and pulling down, securing and removing of dangerous buildings and recovery of expenses of such repairs, pulling down, securing or removal;

(c) the restrictions under which alterations may be made in the use of buildings;

(d) the inspection of newly constructed buildings;

(e) the conditions on which loans may be granted out of the Corporation Fund for building and the form of application for such loans.

CHAPTER XIV

IMPROVEMENT SCHEMES

Suspension of Chapter XIV. - This Chapter shall in respect of an area declared as a development area under Section 3 of the U.P. Urban Planning and Development Act, 1973, remain suspended and shall revive on dissolution of the Authority under Section 58 of that Act. *(See* Section 59 of the said Act.)

343. **Types of Improvement Schemes**. - For the purposes of effecting improvement in the City, an improvement scheme may be of one of the following types, or may combine any two or more of such types or special features thereof, that is to say -

(a) a Samanya Vikas Yojana (General Improvement Scheme);

(b) a Basti Sudhar Yojana (Slum Clearance and Re-building Scheme);

(c) a Grih Punarnirman Yojana (Re-housing Scheme)

(d) a Sarak Yojana (Street Scheme);

(e) a Bhavi Sarak Yojana (Deferred Street Scheme);

(f) a Grih Sthan Yojana (Housing Accommodation Scheme); and

(g) a Nagar Prasar Yojana (City Expansion Scheme).

344. **Samanya Vikas Yojana (General Improvement Scheme). -** Whenever it appears to the Development Committee -

(a) that any buildings in any area which are used or are intended or likely to be used as dwelling places are unfit for human habitation; or

(b) that danger to the health of the inhabitants of buildings in any area or in any neighbouring buildings is caused by-

(i) the narrowness, closeness or bad arrangement and condition of streets or buildings or groups of buildings in such area, or

(ii) the want of light, air, ventilation or proper conveniences in such area, or

(iii) any other sanitary defects in such area,

the Development Committee may pass a resolution to the effect that such an area is an insanitary area, and that a Samanya Vikas Yojana (General Improvement Scheme) be framed in respect of such area.

345. **Basti Sudhar Yojana (Slum Clearance and Re-building Scheme). -** (1) When it appears to the Development Committee that any area is an insanitary area within the meaning of the preceding section and that, regard being hadto the comparative value of the buildings in such area and of the sites on which they are erected, the most satisfactory method of dealing with the area or any part thereof is clearance of the insanitary area of existing buildings and erecting new buildings, it may by resolution direct that a Basti Sudhar Yojana (Slum Clearance and Rebuilding Scheme) in accordance with the provisions of this Section be framed.

(2) A Basti Sudhar Yojana (Slum Clearance and Re-building Scheme) may provide for -

(a) the reservation of streets, back lanes and open spaces and the enlargement of existing streets, back lanes and open spaces to such an extent as may be necessary for the purposes of the scheme;

(b) the re-laying out of the sites of the area upon such streets, back lanes, or open spaces so reserved or enlarged;

(c) the payment of compensation in respect of any such reservation or enlargement, and the construction of the streets, back lanes and open spaces so reserved or enlarged;

(d) the demolition of the existing buildings and their appurtenances by the owners, or by the Corporation in default of the owners, and the erection of buildings in accordance with the scheme by the said owners or by the Corporation in default of owners upon the sites as defined under the scheme;

(e) the advance to the owners, upon such terms and conditions as to interest and sinking fund and otherwise as may be prescribed under the scheme, of such sums as may be necessary to assist them to erect new buildings in accordance with the scheme;

(f) the acquisition by the Corporation of any site or building comprised in the area included in the scheme:

Provided that the Corporation may exclude any building from demolition if it is satisfied that the particular building is not unfit for human habitation or dangerous or injurious to health or is capable of being so improved as to render it healthy and fit for human habitation and does not obstruct the clearance of the area or its re-development.

346. **Grih Punarnirman Yojana (Re-housing Scheme).** - The Development Committee when it resolves that an improvement scheme which is likely to displace persons be framed, shall also by resolution, require the Municipal Commissioner to frame a scheme (herein called Housing Scheme) for construction, maintenance and re-management of such and so many dwellings and shops as it may consider ought to be provided for persons who -

(a) are displaced by the execution of any improvement scheme sanctioned under this Act, or

(b) are likely to be displaced by the execution of any improvement scheme which it is intended to frame, or to submit to the State Government for sanction under this Act:

Provided that the State Government may for reasons to be recorded in writing exempt a Development Committee from the liability under this section.

347. **Sarak Yojana (Street Scheme).** - (1) Whenever the Development Committee is of the opinion that, for the purpose of -

(a) providing buildings sites, or

(b) remedying defective ventilation, or

(c) creating new or improving existing means of communication and facilities for traffic, or

(d) affording better facilities for conservancy, it is expedient

to layout new streets or alter existing streets (including bridges, causeways and culverts) and that this object cannot be achieved by taking action under Chapter XII, the Development Committee may by resolution require the Municipal Commissioner to frame a scheme to be called a "Sarak Yojana" (Street Scheme).

(2) A Sarak Yojana (Street Scheme) may within the limits of the area comprised in the Scheme provide for -

(a) the acquisition of any land which will, in the opinion of the Development Committee, be necessary for its execution;

(b) the re-laying out of all or any of the lands so acquired, including the construction of buildings by the Corporation or by any other person and the laying out, construction and alteration of streets;

(c) the drainage, water-supply and lighting of streets so constructed or altered;

(d) the raising, lowering or reclamation of any land vested in, or to be acquired by, the Corporation for the purposes of the scheme;

(e) the formation of open spaces for the better ventilation of the area comprised in the scheme;

(f) the acquisition of any land adjoining any street or open space included in the scheme.

348. **Bhavi Sarak Yojana (Deferred Street Scheme).** - (1) *(a)* Whenever the Development Committee is of opinion that it is expedient for any purpose mentioned in Section 347 to provide for the ultimate widening of any street by altering the existing alignment of such street to improve alignments to be prescribed by the Municipal Commissioner but that it is not expedient immediately to acquire all or any of the properties lying within the proposed improved alignments, the Development Committee, if satisfied of the sufficiency of the resources of the Corporation by a resolution require the Municipal Commissioner to make a scheme to be called a Bhavi Sarak Yojana (Deferred Street Scheme) prescribing an alignment on each side of such street.

[68][(aa) The said resolution shall specify the time-limit for the execution of the scheme, which may be extended by the Development Committee by resolution from time to time:

Provided that in the case of scheme notified before the commencement of the Uttar Pradesh Nagar Corporation (Amendment) Act, 1972, such time limit if not already specified shall be specified by a fresh resolution of the Development Committee not later than one year after the commencement of the said Act:

Provided further that such time-limit, including extensions, if any, shall in no case exceed twenty years from the date of notification of the scheme under Section 363;]

(b) [69][After the scheme has been notified under Section 363 no person shall, within the time-limit for its execution] erect, re-erect, add to, or alter any building or wall so as to make the same project beyond the prescribed alignment of the street except with the written permission of the Corporation.

(2) The Bhavi Sarak Yojana (Deferred Street Scheme) shall provide for -

(a) the acquisition of the whole or any part of any property lying within the prescribed street alignment;

(b) the re-laying out of all or any such property including the construction and re-construction of buildings by the Corporation or by any other person, and the formation and alteration of the street;

(c) the drainage and lighting of the street so formed and altered.

[70][(3) The owner of any property included in a Bhavi Sarak Yojana (Deferred Street Scheme) may, at any time after the Scheme has been notified under Section 363 but within the time-limit for its execution or within three years thereafter give the

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68 Ins. by U.P. Act 24 of 1972.
69 Subs. by U.P. Act 24 of 1972.
70 Subs. by U.P. Act 24 of 1972.

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Corporation notice requiring it to acquire such property before the expiration of six months from the date of such notice. The Corporation shall thereupon acquire the property accordingly, and if it fails to do so it shall pay such compensation as may be determined by the Tribunal referred to in Section 372 in accordance with the provisions of this Act and the rules.]

(4) Before proceeding to acquire any property within the limit to the scheme other than the property regarding which it has received a notice under sub-section (3) the Corporation shall give six months' notice to the owner of its intention to acquire the property.

349. **Grih Sthan Yojana (Housing Accommodation Scheme). -** Whenever the Development Committee is of opinion that it is expedient and for the public advantage to provide house accommodation for any class of the inhabitants of the City, [71][it may by resolution require the Municipal Commissioner] to frame a scheme to be called a "Grih Sthan Yojana" (Housing Accommodation Scheme) for the purpose aforesaid.

350. **Nagar Prasar Yojana (City Expansion Scheme). -** (1) Whenever the Development Committee is of opinion that it is expedite and for the public advantage to control and provide for the future expansion of the City, [72][it may by resolution require] the Municipal Commissioner to frame a scheme to be called "Nagar Prasar Yojana" the (City Expansion Scheme).

[73][(1-A) The said resolution shall specify the time-limit for the execution of the schemes, which may be extended by the Development Committee by resolution from time to time:

Provided that in the case of a scheme notified before the commencement of the Uttar Pradesh Nagar Mahapalika (Amendment) Act, 1972, such time-limit, if not already specified shall be specified by a fresh resolution of the Development Committee not later than one year after the commencement of the said Act:

Provided further that such time-limit, including extensions, if any, shall in no case exceed twenty years from the date of notification of the scheme under Section 360.]

(2) Such scheme shall show the method in which it is proposed to lay out the area to be developed and the purposes for which particular areas are to be utilized.

(3) For the purposes of a Nagar Prasar Yojana (City Expansion Scheme) the provisions of clause *(a)* of sub-section (2) of Section 360 shall not be applicable but the Corporation shall be required to supply such details as the State Government may consider necessary.

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71 Subs. by U.P. Act 24 of 1972.
72 Subs. by U.P. Act 24 of 1972.
73 Ins. by U.P. Act 24 of 1972.

(4) [74][At any time after such scheme has been notified under Section 363, but within the time-limit for its execution,] if any person desires to erect, re-erect, add to or alter any building or wall within the area comprised in the said scheme, he shall apply to the Corporation for permission to do so.

(5) If the Corporation refuses to grant permission to any person to erect, re-erect, add to or alter any building or wall on his land in the area aforesaid, and if it does not proceed to acquire such land within one year from the date of such refusal, it shall pay reasonable compensation to such person for any damage sustained by him in consequence of such refusal.

Scope.- This section deals with a direction to frame a scheme and not with the formation of the same, which is done under Section 351 and other subsequent provisions. *Mahabir Singh* v. *Lucknow Municipality,* 1978 ALJ 230 (DB).

351. **Framing of Scheme. -** (1) Whenever an improvement scheme is required to be framed under any of the preceding sections, it shall be the duty of the Municipal Commissioner to prepare a draft scheme and to lay it for consideration before the Development Committee.

(2) With the previous approval of the Development Committee, the Municipal Commissioner may, for the purpose of making an improvement scheme, cause surveys to be made in areas either inside or outside the limits of the area or areas comprised in the scheme to be made.

352. **Combination of Improvement Schemes**. - Any number of areas in respect of which improvement schemes have been or are proposed to be framed, may at any time be included in one combined scheme.

353. **Matters to be provided for by Improvement Scheme. -** (1) An improvement scheme may provide for all or any of the following matters as the nature of the scheme may demand:

(a) The acquisition by purchase, exchange, or otherwise of any property necessary for or affected by the execution of the scheme.

(b) The re-laying out of any land comprised in the scheme.

(c) The re-distribution of sites belonging to owners of property comprised in the scheme.

(d) The closure or demolition of dwellings or portions of dwellings unfit for human habitation.

(e) The demolition of obstructive buildings or portions of buildings.

(f) The construction and re-construction of buildings.

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[74] Subs. by U.P. Act 24 of 1972.

(f) The sale, letting, or exchange of any property comprised in the scheme.

(h) The construction and alteration of streets and back lanes and the provision of side-walks for pedestrians.

(i) The drainage, water-supply, and lighting of streets so constructed or altered.

(j) The provision of open spaces for the benefit of any area comprised in the scheme or any adjoining area, and for the enlargement of existing open space and approaches.

(k) The sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of injury or contamination to rivers or other sources and means of water supply.

(l) The provision of accommodation for any class of the inhabitants.

(m) The advance of money for the purposes of the scheme.

(n) The provision of facilities for communication.

(o) The reclamation or reservation of land for market, gardens, afforestation, the provision of fuel and grass-supply and other needs of the population.

(p) The provision for preventing over-crowding in the area covered by the scheme.

(q) Any other matter for which, in the opinion of the State Government, it is expedient to make provision with a view to the improvement of any area in question or the general efficiency of the scheme.

(2) The Corporation may from time to time lay down by resolution what shall constitute over-crowding for the purposes of this section and may in such resolution specify the minimum space to be allowed for each person according to age in premises used exclusively as a dwelling and in premises used as a dwelling as well as for some other purpose.

354. **Inclusion of areas outside City in certain Improvement Schemes.** - An improvement scheme mentioned in clause *(a)* or *(b)* or *(g)* of Section 343 may include within it in whole or in part any such area lying within two miles outside the limits of the City as the State Government may by notification in the official Gazette specify and such area shall, for the purposes of this Chapter, be deemed to be area lying within the City.

355. Matters to be considered when framing Improvement Schemes. - When framing an Improvement Scheme in respect of any area, regard shall be had to -

(a) the nature and the conditions of neighbouring areas and of the City as a whole;

(b) the several directions in which the expansion of the City appears likely to take place; and

(c) the likelihood of improvement schemes being required for other parts of the City.

356. **Consideration by Development Committee. -** (l) The Development Committee shall consider the scheme placed before it by the Municipal Commissioner and accept it with or without modification or require the Municipal Commissioner to make alterations in it and to re-submit it for consideration.

(2) The Development Committee shall record in writing its acceptance of the scheme and direct that the scheme be notified.

357. **Notice of Improvement Scheme. -** (1) Upon the approval of the draft improvement scheme by the Development Committee the Municipal Commissioner shall prepare a notice stating -

(a) the fact that the scheme has been framed,

(b) the boundaries of the area comprised in the scheme, and

(c) the place at which particulars of the scheme, a map of the area comprised in the scheme and a statement of the land which it is proposed to acquire may be seen.

(2) The Municipal Commissioner shall cause the said notice to be published for three consecutive weeks in the official Gazette and the Bulletin of the Corporation, if any, and also in one or more local newspaper or newspapers as the Municipal Commissioner thinks fit, with a statement of the period within which objections will be received. A copy of the notice shall be sent to the President of the Cantonment Board if there is a Cantonment adjoining the City.

(3) The Municipal Commissioner shall cause copies of all documents referred to in clause *(c)* of sub-section (1) to be delivered to any applicant on payment of such fee as may be prescribed.

358. **Notice of proposed acquisition of land. -** (1) During the thirty days next following the first day on which any notice is published under Section 357 in respect of any improvement scheme, the Municipal Commissioner shall serve a notice on

(a) every person whose name appears in the Corporation assessment list as being primarily liable to pay any tax assessed upon the annual value of any building or land which it is proposed to acquire in executing the scheme, and

(b) the occupier (who need not be named) of each premises, entered in the Corporation assessment list which the Corporation proposes to acquire in executing the scheme.

(2) Such notice shall -

(a) state that the Corporation proposes to acquire such land for the proposes of carrying out an improvement scheme, and

(b) require such person, if he dissents from such acquisition, to state his reasons in writing within a period of sixty days from the service of the notice.

359. **Consideration of the scheme by the Corporation. -** After the expiry of the periods respectively prescribed under Sections 357 and 358 in respect of any improvement scheme, the Development Committee shall consider any objection or representation received thereunder and after hearing all persons making any such objection or representation who may desire to be heard, and after inserting in the scheme such modifications, if any, as it thinks fit, submit to the Corporation the scheme together with any objection or representation with its recommendation either that the scheme be abandoned or sanctioned.

360. **Abandonment or sanction of scheme by Corporation. -** (1) The Corporation shall on receipt of scheme from the Development Committee proceed to take such scheme into consideration together with any objection or representation received or made under Sections 357 and 358 and the recommendation of the Development Committee under Section 359 and shall either abandon the scheme or sanction the scheme with such modifications, if any, as it may consider necessary:

Provided that in the case of a scheme of the estimated cost of over Rs. *10,000,00* the sanction of the State Government shall also be obtained.

(2) Every scheme submitted to the State Government under proviso to sub section (1) shall contain the following:

(a) a description of, and full particulars relating to, the scheme, and complete plans and estimates of the cost of executing the scheme;

(b) a statement of the reasons for any modifications made in the scheme as originally framed;

(c) a statement of objections (if any), received under Section 357;

(d) a list of names of all persons (if any), who have dissented, under clause (b) of sub-section (2) of Section 358 from the proposed acquisition of their land and a statement of the reasons given for such dissent, and

(e) a statement of the arrangements made or proposed by the Corporation for the re-housing of persons likely to be displaced by the execution of the scheme, for whose re-housing provision is required.

(3) When a scheme has been submitted to the State Government under the proviso to sub-section (1), the Municipal Commissioner shall cause notice of the fact to be published for two consecutive weeks in the official Gazette and in the Bulletin of the Corporation, if any, and in the manner provided in Section 357.

(4) If the Corporation declines to approve the scheme the Municipal Commissioner shall forthwith draw up and publish in the manner provided in Section 357 a notice stating that the Corporation has resolved not to proceed with the making of the scheme, and on such publication the notification relating to the scheme published under Section 357 shall be deemed to be cancelled.

361. **State Government's power in respect of the scheme. -** (1) The State Government may sanction either with or without modification, or may refuse to sanction, or may return for reconsideration, any improvement scheme submitted to it under Section 360.

(2) If a scheme returned for reconsideration under sub-section (1) is modified by the Corporation, it shall be re-published in accordance with Section 357 -

(a) in every case in which the modification affects the boundaries of the area comprised in the scheme, or involves the acquisition of any land not previously proposed to be acquired, and

(b) in every other case, unless the modification is, in the opinion of the State Government, not of sufficient importance to require re-publication.

362. **Procedure on a scheme being modified by the Corporation. -** The provisions of Section 357 shall apply *mutatis mutandis* to any scheme that the Corporation on its own authority is entitled to sanction, if after the consideration of objections and representations under Section 360 any modification in the original scheme is made which gives rise to the conditions mentioned in sub-section (2) of Section 361.

363. **Notification of sanction of Improvement Scheme.** - Whenever a scheme is sanctioned whether by the Corporation on its own authority or with the sanction of the State Government under the proviso to sub-section (1) of Section 360, the fact shall be announced by notification in the official Gazette and it shall be incumbent on the Corporation, when it sanctions the scheme under its own authority, immediately to inform the State Government and to submit for the information of the State Government the details required by sub-section (2) of Section 360.

364. **Alteration of Improvement Scheme after sanction. -** At any time after an improvement scheme has been sanctioned by the State Government or by the

Corporation on its own authority and before it has been completed, the Corporation may alter it:

Provided that -

(a) in the case of a scheme sanctioned by the State Government if any alteration is estimated to increase the estimated net cost of executing the scheme by more than rupees one lac, such alteration, shall not be made without the previous sanction of the State Government,

(b) in the case of a scheme sanctioned by the Corporation on its own authority the alteration shall be sent to the State Government for information,

(c) if any alteration involves the acquisition, otherwise than by agreement, of any land the acquisition of which has not been sanctioned by the State Government, the procedure prescribed in the foregoing sections of this Chapter shall, so far as applicable, be followed as if the alteration were a separate scheme.

365. **Acquisition of land acquired for Improvement Scheme. -** (1) Upon the sanction of an improvement scheme [under this Chapter][75] the Municipal Commissioner may enter into an agreement with any person for the purchase, leasing or exchange by the Corporation from such person of any land which the Corporation is authorized to acquire for an improvement scheme or any interest in such land.

(2) The Corporation may for the purposes of an improvement scheme sanctioned [under this Chapter][76] acquire land or interest in land under the provisions of the Land Acquisition Act, 1894, as modified by the provisions of this Chapter.

(3) The Municipal Commissioner may for the purposes of an improvement scheme exercise any of the powers conferred upon him under sub-section (2) of Section 273 and Section 290.

(4) All acquisition of land and interest in land for an improvement scheme authorised under this Chapter [77][other than a Bhavi Sarak Yojana or a Nagar Prasar Yojana] shall be completed at least up to the stage of making of awards within a period of five years from the date of the notification of the scheme under Section 363 and any land in respect of which the acquisition is not so completed and the owner and occupier thereof shall cease to be subject to any liabilities under this Chapter:

[78][Provided that -

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75 Subs. by U.P. Act 21 of 1964.
76 Subs. by U.P. Act 21 of 1964.
77 Ins. by U.P. Act 24 of 1972, and deemed always to have been inserted.
78 Subs. by U.P. Act 24 of 1972, and deemed always to have been substituted

(a) in relation to any improvement scheme (other than a deferred street scheme or a town expansion scheme) notified under Section 42 of the United Provinces Town Improvement Act, 1919 (U.P. Act 8 of 1919), or Section 60 of the Cawnpore Urban Area Development Act, 1945 (U.P. Act 6 of 1945), which by virtue of clause (c) of Section 577 may be continued as if it had been initiated under this Act, this sub-section shall be so construed as if for the words and figures 'within a period of five years from the date of the notification of the scheme under Section 363' the words and figures 'on or before the thirty-first day of December 1973' were substituted;

(b) in relation to any improvement scheme notified under Section 363 before the commencement of the Uttar Pradesh Nagar Mahapalika (Amendment) Act, 1972, this sub-section shall be so construed as if for the words 'five years' the words 'ten years' were substituted:

Provided further that the State Government by general or special order made before the expiry of the said period of five years or of ten years, or, as the case may be, the said period ending on the thirty-first day of December, 1973 may, for reasons to be recorded in writing, extend the said period by one year.]

366. **Restrictions against building, etc**. - When a notice has been published under Section 357 in respect of a slum clearance and re-building scheme, no person shall erect, re-erect, add to or alter any building or otherwise develop any land comprised in the insanitary and re-building area except in accordance with the re-building plan for the area covered by the scheme and subject to such restrictions and conditions as the Municipal Commissioner may think fit to impose:

Provided that an owner who is aggrieved by a restriction or condition so imposed on the use of his land, or by a subsequent refusal of the Municipal Commissioner to cancel or modify any such restriction or condition, may within thirty days appeal to the Judge. The Judge shall make such order in the matter as he thinks proper, and the decision of the Judge shall be final.

367. **Clearance orders. -** The Municipal Commissioner with the sanction of the Development Committee may at any time after the notification of sanction has been published under Section 363 require the occupiers of any building or buildings comprised in the insanitary area to be vacated for purposes of demolition within three months of the notice; and require the owner or owners of such building or buildings to demolish the same within a further period of one month and if the building is not demolished before the expiration of that period the Municipal Commissioner shall take measures to demolish the building}or buildings at the risk and cost of the owner, sell materials thereof and clear the site:

Provided that the vacation and demolition of buildings may proceed simultaneously.

[79][367-A. **Abandonment of Scheme.** - The Corporation may at any time with the prior approval of, and in accordance with such conditions as may be imposed by the State Government, abandon any scheme notified under Section 42 of the U.P. Town Improvement Act, 1919, Section 60 of the Cawnpore Urban Area Development Act, 1945 or Section 363 of this Act, and upon such abandonment, any land in respect of which the acquisition is not complete up to the stage of making of award, and the owner and occupier of such land, shall cease to be subject to any liabilities under this Chapter.]

368. **Power to dispose of land.** - Subject to the rules made under this Act the Corporation may retain, lease, sell, exchange or otherwise dispose of any land vested in or acquired by it under this Chapter:

Provided that in leasing, selling, exchanging or otherwise disposing of land acquired for any scheme under this Chapter preference to such extent and in such manner as may be prescribed shall be given to the persons whose land was acquired for such schemes.

369. **Power to make surveys. -** The Municipal Commissioner may cause a survey of any land to be made whenever it considers that a survey is necessary for carrying out any of the purposes of this Chapter.

370. **Power of entry. -** (1) The Municipal Commissioner may, subject to the provisions of Section 562 with or without assistants or workmen, enter into or upon any land, in order -

(a) to make any inspection, survey, measurement, valuation or inquiry.

(b) to take levels,

(c) to dig or bore into the sub-soil,

(d) to set out boundaries and intended lines of work,

(e) to mark such levels, boundaries and lines by marks and cutting trenches, or

(f) to do any other thing,

whenever it is necessary to do so for any of the purposes of this Chapter, any rule or bye-law made, or scheme sanctioned under this Chapter.

(2) Whenever the Municipal Commissioner enters into or upon any land in pursuance of sub-section (1), the Corporation shall pay for any damage that may be caused.

(3) The Municipal Commissioner may make an entry for the purpose of inspection or search and may open or cause to be opened a door, gate or other barrier -

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79 Ins. by U.P. Act 21 of 1964.

(a) if he considers the opening thereof necessary for the purpose of such entry, inspection or search, and

(b) if the owner or occupier is absent, or being present refuses to open such door or gate or barrier.

371. **Tribunal to be constituted. -** (1) A Tribunal shall be constituted for the City by the State Government with the powers and duties specified hereinafter.

(2) The Tribunal constituted under Section 57 of the United Provinces Town Improvement Act, 1919, or the Cawnpore Urban Area Development Act, 1945, as the case may be, shall from the appointed day be dissolved.

(3) All suits and proceedings pending before the Tribunal constituted under the United Provinces Town Improvement Act, 1919, or the Cawnpore Urban Area Development Act, 1945, as the case may be, shall be tried and proceeded with by the Tribunal constituted under sub-section (1) as if they had been filed before such Tribunal and the provisions of this Act and any rules made thereunder shall apply to all such suits and proceedings.

372. **Duties of Tribunal. -** The Tribunal shall perform the functions of the Court with reference to all acquisition of land for the Corporation for the purposes of this Act under the Land Acquisition Act, 1894:

Provided that no such claim shall be entertained by the Tribunal, unless the claimant has deposited in Court such sum not exceeding Rs. 7000, as the Tribunal may fix, as security, for the costs, which in the event of the claimant's failure may be awarded against him.

[80][(2) * * *]

373. **Personnel of Tribunal. -** (1) The Tribunal shall consist of [81][a single member, to be referred to as its presiding officer.]

(2) [82][The said member] shall be a Civil Judicial Officer not below the rank of a District Judge.

[83][* * *]

(3) [84][The said member] shall be appointed by the State Government.

[85][(4) If for any reason a vacancy occurs in the office of the presiding officer of the Tribunal the State Government shall appoint another person in accordance with

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80 Ins. by U.P. Act 30 of 1970 and repealed by U.P. Act 22 of 1972.
81 Subs. by U.P. Act 24 of 1972.
82 Subs. by U.P. Act 24 of 1972.
83 Proviso omitted by U.P. Act 24 of 1972.
84 Subs. by U.P. Act 24 of 1972.

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this section to fill the vacancy, and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(5) Any proceeding pending before the Tribunal (consisting of a Chairman and two assessors) immediately before the commencement of the Uttar Pradesh Nagar Mahapalika (Amendment) Act, 1972, may after such commencement be continued before the Tribunal consisting of the said Chairman as its presiding officer from the stage at which the constitution of the Tribunal is so changed.]

374. **Remuneration.** - [86][The presiding officer] of the Tribunal shall be paid from the Corporation such fixed remuneration, if any, as the State Government may prescribe.

375. **Staff of Tribunal. -** (1) [87][The Tribunal] shall from time to time prepare a statement showing

(a) the number and grades of the members of the staff necessary for the Tribunal,

(b) the salary to be paid to each member of the staff.

(2) The terms and conditions of service of the members of the staff of the Tribunal shall be determined by [88][* * *] the State Government.

376. **Modification of the Land Acquisition Act, 1894**. - For the purpose of the acquisition of land for the Corporation under the Land Acquisition Act, 1894- whether"under this Chapter or any other chapter of this Act

(a) the said Act shall be subject to the modifications specified in the Schedule to this Act;

(b) the award of the Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, 1894.

377. **Law applicable to the Tribunal.** - In so far as they are not inconsistent with the provisions of this Act the provisions of the Code of Civil Procedure, 1908, and the Indian Evidence Act, 1872, shall apply to all proceedings before the Tribunal.

378. [89][* * *]

379. Decision of the Tribunal to be final. - Subject to the provisions of Section 381 the decision of the Tribunal shall be final, and shall not be questioned in any Court **of law.**

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85 Subs. by U.P. Act 24 of 1972.
86 Subs. by U.P. Act 24 of 1972.
87 Subs. by U.P. Act 24 of 1972.
88 Omitted by U.P. Act 24 of 1972.
89 Omitted by U.P. Act 24 of 1972.

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380. **Enforcement of orders of the Tribunal**. - Every order made by the Tribunal for the payment of money shall be enforced, on application, by the Court of Small Causes of the City, as if it were a decree of that Court.

381. **Appeals. -** (1) An appeal to the High Court shall lie from a decision of the Tribunal, if -

(a) [90][the Tribunal] grants a certificate that the case is a fit one for appeal, or

(b) the High Court grants special leave to appeal, provided that the High Court shall not grant such special leave unless [91][the Tribunal] has refused to grant a certificate under clause *(a)*

(2) An appeal under sub-section (1) shall lie only on one or more of the following grounds, namely

(a) the decision being contrary to law or to some usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect which may have produced an error or defect in the decision of the case upon merits either on a point of fact or of law.

(3) Notwithstanding anything contained in the foregoing provisions, no appeal shall lie under this section unless the appellant has deposited the money which he is liable to pay under the order from which the appeal is filed.

(4) Subject to the provisions of sub-section 0), the provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees, shall, so far as may be, apply to appeals under this Act.

[92][(5) (i) An application for the grant of a certificate under clause *(a)* of sub-section (1) may be made within thirty days from the date of decision of the Tribunal.

(ii) An appeal against the decision of the Tribunal may be preferred within sixty days from the date of the grant of the said certificate.

(iii) An application to the High Court for special leave to appeal under clause *(b)* of sub-section (1) may be made within sixty days from the date of the order of refusal of the said certificate.

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90 Subs. by U.P. Act 24 of 1972.
91 Subs. by U.P. Act 24 of 1972.
92 Subs. by U.P. Act 24 of 1972.

(5-A). The provisions of Sections 5 and 12 of the Limitation Act, 1963 shall *mutatis mutandis* apply to an appeal or application under sub-section (5).]

(6) An order passed by the High Court on appeal under this Act shall be enforced, on application, by the Court of Small Causes of the City, as if it were a decree of that Court.

382. **Preservation of trees and woodland. -** (1) If it appears to the Development Committee that it is expedient in the interest of amenity to make provision for the preservation of any trees or woodlands in the City it may authorize the Municipal Commissioner to make an order

(a) prohibiting, except with his permission, the cutting down, topping, lopping or wilful destruction of any tree or group of trees to be specified in the order;

(b) securing the replanting in such a manner as may be specified in the order of any part of a woodland of which trees have been felled in the course of forestry operations whether with or without the permission of the Municipal Commissioner.

(2) Any person aggrieved by an order of the Municipal Commissioner under sub-section (1) may appeal to the State Government within 30 days from the service of the order upon him and the State Government may confirm any such order without modification or subject to such modification as it considers fit or revoke the order.

383. **Master Plan for the City. -** (1) A Corporation may, and if so required by the State Government shall, prepare in the manner and subject to the conditions prescribed by rules made in this behalf a Master Plan for the City.

Explanation. - In this section "Master Plan" means a comprehensive plan showing therein the existing and proposed location and general layout of -

(a) arterial streets and transportation lines;

(b) residential sections;

(c) business areas;

(d) industrial area;

(e) educational institutions;

(f) public parks, play-grounds and other recreational facilities;

(g) public and semi-public buildings;

(h) other land uses which are necessary;

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(2) A Master Plan shall be revised at the, end of every 10 years and may be revised earlier if the Corporation so thinks fit.

(3) Notwithstanding anything in this Act, the improvement schemes and the layout of new streets, drains, parks, factories and building shall, as far as may be, be in conformity with the Master Plan:

Provided that nothing in this section shall apply to the improvement schemes already sanctioned under the U.P. Town Improvement Act, 1919, or the Cawnpore Urban Area Development Act, 1945.

[93][383-A. **Preparation of development plan for the City**. - (1) A Corporation shall prepare every year a development plan for the City.

(2) The Plan referred to in sub-section (1) shall be prepared by the Development Committee of the Corporation in the manner prescribed by rules.

(3) The plan shall be laid before the Corporation which may approve it with or without modifications in such form as it may think fit, and the Municipal Commissioner shall submit it to the District Planning Committee referred to in Article 243-ZD of the Constitution by such date as may be prescribed by rules.]

384. **Power to make rules**. - (1) The State Government may make rules to carry out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for -

(a) the conduct of the business of the Tribunal, not being rules repugnant to the Code of Civil Procedure;

(b) the manner of giving of public and personal notices in respect of improvement schemes;

(c) submission by Corporation to the State Government progress reports about improvement schemes;

(d) all matters relating to the preparation and revision of Master Plan for the City;

(e) regulation of changes in land uses.

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93 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

CHAPTER XV

SANITARY PROVISIONS

Scavenging and Cleansing

385. **Municipal Commissioner to provide for cleansing of streets and removal of** refuse. - For the purpose of securing the efficient scavenging and cleansing of all streets and premises the Municipal Commissioner shall -

(1) provide for the surface cleansing of all streets in the City and removal of the sweeping therefrom;

(2) provide or appoint in proper and convenient situations, public receptacles, depots and places for the temporary deposit of -

(a) dust, ashes, refuse and rubbish;

(b) trade refuse;

(c) carcasses of dead animals;

(d) excrementitious and polluted matters;

(3) provide for the removal of the contents of all receptacles and deposits and of the accumulations at all places provided or appointed by him under the provisions of this Act for the temporary deposit of dust, ashes, refuse, rubbish, trade refuse, carcasses of dead animals and excrementitious and polluted matter:

Provided that the final disposal of the matters referred to in clauses *(a)* to *(d)* of sub-section (2) shall be subject to any general or special directions of the Corporation or the State Government.

386. **Regulation of the disposal of rubbish, etc. removed through private agency**. - (1) The Municipal Commissioner may, with the previous sanction of the Executive Committee by public notice to be given in the manner prescribed by rule, issue directions as to the time, manner and conditions etc., in and subject to which any matters specified **in** sub-section (2) of Section 385 may be removed along a street, deposited or otherwise disposed of.

(2) Without prejudice to the generality of the foregoing power, a direction issued under sub-section (1) may require that all matters specified in sub-section (2) of Section 385 collected by scavengers by private scavenging shall be deposited in the public receptacles, depots, and places provided or appointed under the said sub-section.

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(3) Where any direction has been issued under sub-section (1), no person shall remove along a street, deposit or otherwise dispose of any matters specified in sub section (2) of Section 385 in contravention of such direction.

387. **Refuse, etc., to be the property of the Corporation. -** All matters deposited in public receptacles, depots and places provided or appointed under Section 385 and all matters collected by Corporation servants or contractors in pursuance of that section and Section 386 shall be the property of the Corporation.

388. **Provision may be made by Municipal Commissioner for collection, etc., of excrementitious and polluted matter.** - (l) The Municipal Commissioner may give public notice of his intention to provide in such portion of the City as he may specify, for the collection, removal and disposal by Corporation agency, of all excrementitious and polluted matter from privies, urinals, and cess-pools, and thereupon it shall be the duty of the Municipal Commissioner to take measures for the daily collection, removal and disposal of such matter from all premises situated in such portion of the City.

(2) In any such portion as is mentioned in sub-section (1) and in any premises, wherever situated, in which there is a water-closet or privy connected with a Corporation drain, it shall not be lawful, except with the written permission of the Municipal Commissioner, for any person who is not employed by or on behalf of the Municipal Commissioner to discharge any of the duties of scavengers.

389. **Special sanitary arrangements at certain places. -** (1) The Municipal Commissioner may make such special arrangements, as he considers adequate for maintaining sanitation in the vicinity of any temple, math, mosque, tomb or any place of religious worship or instruction or entertainment to which large numbers of persons resort on particular occasions or in any place which is used for holding fairs, festivals or other public gatherings.

(2) The Municipal Commissioner may require any person having control over any such place as aforesaid to pay to the Corporation such contribution towards the cost of the special measures taken under sub-section (1) as the Executive Committee may from time to time fix, and such person shall be bound to pay the same out of the funds relating to such place.

Inspection and Sanitary Regulation of Premises

390. **Power to inspect premises for sanitary purpose. -** (1) The Municipal Commissioner may inspect any building or other premises for the purposes of ascertaining the sanitary condition thereof.

(2) If it shall appear to the Municipal Commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building to cause the same or any portion thereof to be lime washed, disinfected or otherwise cleansed.

391. **Building or rooms in buildings unfit for human habitation. -** (1) If the Municipal Commissioner is of the opinion that any building or portion of a building intended for or used as a dwelling is unfit for human habitation, he may, with the previous approval of the Executive Committee and, unless there is in his opinion imminent danger to the occupier, after the owner or occupier of such building has been given an opportunity in the manner prescribed to show cause, by order in writing prohibit the use of such building or portion as a dwelling till such time as the same has been rendered fit for habitation.

Explanation. - The expression "unfit for human habitation" in this section means unfit for human habitation by reason of sanitary defects, that is, lack of air, space or ventilation, darkness, dampness, absence of adequate and readily accessible water-supply or sanitary accommodation or of other convenience and inadequate drainage of courtyard or passages.

(2) Where any order as is referred to in sub-section (1) has been made the owner or occupier of the building shall not use or suffer the same to be used for human habitation until the Municipal Commissioner certifies that the same has been so rendered fit.

(3) Where the Municipal Commissioner has made any order under sub-section (1) he shall give written instructions to the owner or occupier as to what modifications, or alterations are required to be made for rendering such building or portion of building fit for human habitation.

(4) The Municipal Commissioner may cause any person using any building or room in contravention of sub-section (2) to be removed from such building or portion by any police officer or Corporation servant.

(5) The provisions of sub-sections (5) and (6) of Section 334 shall apply on the issue by the Municipal Commissioner of a certificate that the building or portion of building, as the case may be, has been rendered fit for habitation as if such certificate were the withdrawal of notice issued under sub-section (1) of the said section.

392. **Power to require repairs of insanitary buildings. -** (1) If it shall appear to the Municipal Commissioner that any building intended for or used as a dwelling is in any respect unfit for human habitation the Municipal Commissioner may, by written notice, require the owner of the building to show cause why an order be not made to execute such works or carry out such alterations as would render the building fit for human habitation.

(2) In addition to serving a notice under this section on the owner of the building the Municipal Commissioner may serve a copy of the notice on any other person having an interest in the building or in the land on which such building has been erected, whether as mortgagee, lessee or otherwise.

(3) If the owner and any person referred to in sub-section (2) fail to file any objection or the Municipal Commissioner upon hearing of any objections filed is

satisfied that the execution of works or carrying out of alteration is necessary to render the building fit for human habitation he shall by written notice require the owner of the building within a reasonable time, not being less than 21 days as may be specified in the notice, to execute such works or carry out such alterations.

(4) Where it appears to the Municipal Commissioner that immediate action is necessary for the purpose of preventing imminent danger to any person or property by the continuance of a dwelling in a state unfit for human habitation, he may dispense with the issue of a notice under sub-section (1) and forthwith issue the notice referred to in sub-section (3) and serve a copy thereof on any other person referred to in sub-section (2).

393. **Power to order demolition of insanitary buildings. -** (1) If it shall appear to the Municipal Commissioner that any building intended for or used as a dwelling is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, he shall serve upon the occupier of the building and the owner thereof a notice stating the date, not being less than twenty-one days after the service of the notice, and place at which the condition of the building and any offer with respect to the carrying out of works or the future use of the building will be considered by the Executive Committee, and every person upon whom such notice is served shall be entitled to be heard when the matter is so taken into consideration.

(2) A person upon whom notice is served under sub-section (1) shall, if he intends to submit an offer with respect to the carrying out of works, within twentyone days from the date of the service of the notice upon him, serve upon the Municipal Commissioner notice in writing of his intention of make the offer and shall, within such reasonable period as the Municipal Commissioner may allow submit to him a list of the works which he offers to carry out.

(3) The Municipal Commissioner may, with the previous approval of the Executive Committee, accept from any owner or any other person interested, an undertaking either that he will within a specified period carry out such works as will in the opinion of the Municipal Commissioner render the building fit for human habitation, or that it shall not be used for human habitation until the Municipal Commissioner on being satisfied that it has been rendered fit for that purpose and with the previous approval of the Executive Committee cancels the undertaking.

(4) If no such undertaking as is mentioned in sub-section (3) is accepted by the Municipal Commissioner or if, in a case where the Municipal Commissioner has accepted such an undertaking, any work to which the undertaking relates is not carried out within the specified period, or the building is at any time used in contravention of the terms of the undertaking, the Municipal Commissioner may, with the previous approval of the Executive Committee, make a demolition order requiring that the building shall be vacated within a period to be specified in the order, not being less than twenty-eight days from the date on which the order becomes operative, and that it shall within such further period be demolished as the Municipal Commissioner deems reasonable and shall serve a copy of the order upon every person upon whom the notice under sub-section (1) was served.

(5) Where it appears to the Municipal Commissioner that immediate action is necessary for the purpose of preventing imminent danger to any person or property or a building of the nature specified in sub-section (1) and that the object of taking action under this section would be defeated by the delay in giving notice under that sub-section, he may with the previous approval of the Executive Committee make an order for demolition in the manner, as far as may be, provided in sub-section (4) but with the minimum period for compliance with the order reduced to seven days.

394. **Procedure where demolition order made.** - (1) As soon as a demolition order under Section 393 has become operative, the owner of the building shall demolish it within the time limited in that behalf by the order, and if the building is not demolished within that time the Municipal Commissioner may take measures to demolish the building and sell the materials thereof.

(2) Any expenses incurred by the Municipal Commissioner under sub-section (1), after giving credit for the amount realized by sale of the materials, shall be payable by the owner of the building, and any surplus in the hands of the Municipal Commissioner after payment of such expenses shall be refunded to the owner.

(3) Any person aggrieved by the decision of the Municipal Commissioner under sub-section (2) may, within a period of one month, appeal to the Judge.

395. **Appeal against demolition orders**. - Any person aggrieved by –

(i) an order under sub-section (1) of Section 391; or
(ii) an order under sub-section (3) or sub-section (4) of Section 392; or
(iii) a demolition order made under Section 393, but not being an order made under sub-section (5) thereof;

may within twenty-one days after the date of the service of a copy of the order appeal to the Judge, and no proceedings shall be taken by the Municipal Commissioner to enforce any order in relation to which an appeal is brought before the appeal is finally determined.

Disposal of Carcasses of Animals

396. **Removal of Carcasses of dead animals. -** (l) It shall be the duty of -the Municipal Commissioner to provide for the removal of the carcasses of all animals dying within the City.

2) The occupier of any premises in or upon which any animal shall die or in or upon which the carcass of any animal shall be found, and the person having the charge of any animal which dies in the street or in any open place, shall, within three hours after the death of such animal or, if the death occurs at night within three hours after sunrise, report the death of such animal at the nearest office of the Corporation health department.

(3) For every carcass removed by Corporation agency, whether from any private premises or from public street or place, a fee for the removal of such amount as shall be fixed by the Municipal Commissioner shall be paid by the owner of the

animal, or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the said animal died.

397. **Prohibition of cultivation, use of manure, or irrigation injurious to health.** - If the Director of Medical [94][Health and Family Welfare, Uttar Pradesh or the Chief Medical Officer] or the Nagar Swasthya Adhikari certifies that the cultivation of any description of crops or the use of any kind of manure or the irrigation of land in any specified manner

(a) in a place within the limits of a City is injurious or facilitates practices which are injurious to the health of persons dwelling in the neighbourhood, or

(b) in a place within or beyond the limits of a City is likely to contaminate the water-supply of such City or otherwise render it unfit for drinking purposes,

the Municipal Commissioner may by public notice prohibit the cultivation of such crop, the use of such manure or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent the injury or contamination:

Provided that when, on any land in respect of which such notice is issued, the act prohibited has been practised in the ordinary course of husbandry for the five successive years next preceding the date of prohibition, compensation shall be paid from the Corporation Fund to all persons interested therein for damage caused to them by such prohibition.

398. **Power to require owners to clear away noxious vegetation. -** The Municipal Commissioner may, by notice, require the owner or occupier of any land to clear away and remove any vegetation or undergrowth which may be injurious to health or offensive to the neighbourhood.

Regulation of Public Bathing, Washing, etc.

399. **Places for public bathing, etc., to be fixed by Municipal Commissioner, and regulation of use of such places. -** (l) The Municipal Commissioner may from time to time by public notice -

(a) set apart portions of a river or other suitable places vesting in the Corporation for use by the public for bathing or for washing animals, or for washing or for drying clothes; .

(b) specify the times at which and the sex of persons by whom, such places may be used;

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[94] Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

(c) prohibit the use by the public for any of the said purposes of any place not so set apart;

(d) prohibit the use by the public of any portion of a river or place not vesting in the Corporation for any of the said purposes;

(e) regulate the use by the public of any portion of a river or other place vesting in the Corporation and set apart by him for any of the said purposes; and

(f) regulate the use by the public of any portion of river or other place not vesting in the Corporation for any of the said purposes, and of any work, and of the water in any work, assigned and set apart under this Act for any particular purpose.

(2) The Municipal Commissioner may charge such fees as the Executive Committee may fix for the use of any place set apart under clause *(a)* of sub-section (1) by any specified class or classes of persons or by the public generally.

400. **Prohibition of bathing, contrary to order.** - Except as may be permitted by any order made by the Municipal Commissioner in that behalf no person shall -

(a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well or on any part of a river or other place vesting in the Corporation;

(b) introduce in any tank, reservoir, stream, well or ditch, any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;

(c) whilst suffering from any contagious, infectious, or loathsome disease, bathe on, in or near any bathing platform, lake, tank, reservoir, fountain, cistern, duct, stand-pipe, stream or well;

(d) wash or cause to be washed in or near any such place or work, any animal, clothes or other articles;

(e) throw, put or cause to enter into the water in any such place or work any animal or other thing;

(f) cause or suffer to drain into or upon any such place or work, or to be brought thereinto or thereupon, anything, or do anything, whereby the water shall be in any degree fouled or corrupted;

(g) dry clothes in or upon any such place;

(h) in contravention of any order made by the Municipal Commissioner under Section 399 use any portion of a river or any place not vesting in the Corporation for any purpose mentioned in the said section;

(i) contravene the provisions of any notice given by the Municipal Commissioner under Section 399 for the use of any such portion of a river or place for any such purpose.

Regulation of Factories, Trades, etc.

401. **Factory, etc., not to be newly established without permission of Municipal Commissioner.** - No person shall -

(i) newly establish in any premises,

(ii) remove from one place to another,

(iii) re-open or renew after discontinuance for a period of not less than three years, or

(iv) enlarge or extend the area or dimensions of,

any factory, workshop or workplace in which it is intended to employ steam, water, electrical or other mechanical power or any bakery except with the previous written permission of the Municipal Commissioner nor shall any person work or allow to be worked in any such factory, workshop, workplace or bakery without such permission:

Provided that for the purpose of clause *(iii)* no such permission shall be required if during the period of discontinuance the machinery has not been removed from the place where the factory, workshop or bakery was originally established.

402. **Prohibition of pollution or contamination of water by chemical, etc.**- No person engaged in any trade or manufacture specified in Section 438 or the rules shall -

(a) wilfully cause or suffer to be brought or to flow into any lake, tank, reservoir, cistern, well, duct or other place for water belonging to the Corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid;

(b) wilfully do any act connected with any such trade or manufacture as aforesaid, whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for water is fouled, polluted or contaminated.

403. **Power to require private water-course, etc., to be cleaned or closed.** - (1) The Municipal Commissioner may, by notice, require the owner of, or the person having control over, a private water-course, spring, tank, well or other place, the water of which is used for drinking, to keep and maintain the same in good repair and to

clean the same, from time to time, of silt, refuse or decaying vegetation, and may also require him to protect the same from pollution in such manner as the Corporation may think fit.

(2) When the water of any such water-course, spring, tank, well or other place is proved to the satisfaction of the Municipal Commissioner to be unfit for drinking the Municipal Commissioner may, by notice, require the owner or person having control thereof to desist from so using such water or permitting others to so use it, and if, after such notice, such water is used by any person for drinking, the Municipal Commissioner, may by notice require the owner or person having control thereof to close such well, either temporarily or permanently, or to enclose or fence such water-course, spring, tank, well or other place in such manner as he may direct, so that the water thereof may not be so used.

404. **Latrines for factories, schools and places of public resort. -** The Municipal Commissioner may require by notice any person employing more than twenty workmen or labourers or owning, managing or having control of a market, school or theatre or other place of public resort to provide such latrines and urinals as it may deem fit, and to cause the same to be kept in proper order and to be daily cleansed:

Provided that nothing in this section shall apply to a factory regulated by the [95][Factories Act, 1948.]

405. **Power to require removal of nuisance arising from tanks, etc. -** The Municipal Commissioner may by notice require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off a private well, tank, reservoir, pool, depression or excavation therein which may appear to the Municipal Commissioner to be injurious to health or offensive to the neighbourhood:

Provided that the owner or occupier may require the Municipal Commissioner to acquire at the expense of the Corporation or otherwise provide, any land or rights in land necessary for the purpose of effecting drainage ordered under this section.

Prevention and Checking of Dangerous Diseases

406. **Power of Municipal Commissioner, Nagar Swasthya Adhikari, etc., in case of dangerous diseases. -** Where a person attacked with a dangerous disease or suffering from such disease, is -

(a) found lying in any vehicle or any public place, or

(b) without proper lodging or accommodation, or

(c) living in a room or house which he neither owns nor is otherwise entitled to occupy, or

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[95] Subs. by U.P. Act 14 of 1959.

(d) lodged in a room or set of apartments occupied by more than one family and any of the occupiers objects to his continuing to lodge therein,

the Municipal Commissioner may, on the advice of a medical officer of rank not inferior to that of an Assistant Surgeon, remove the patient to the hospital or a place at which persons suffering from such disease are received for medical treatment and may do anything necessary for such removal.

407. **Any place may at any time be inspected for purpose of preventing spread of dangerous disease.** - The Municipal Commissioner may at any time, by day or by night, without notice or after giving such notice of his intention as shall in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to prevent the spread of the said disease beyond such place.

408. **Information of dangerous disease to be given.** - Every person –

(a) being a medical practitioner and in the course of such practice becoming cognizant of the existence of any dangerous disease in any dwelling other than a public hospital in the city, or

(b) in default of such medical practitioner, being the owner or occupier of such dwelling, and being cognizant of the existence of any such dangerous disease therein, or

(c) in default of such owner or occupier, being the person in charge of, or in attendance on, a person suffering from any such dangerous disease in such dwelling and being cognizant of the existence of the disease therein,

shall give information to such officer as the Municipal Commissioner may appoint in this behalf respecting the existence of such disease.

409. **Closure of lodging and eating houses.** - The Municipal Commissioner may on being satisfied that it is in the public interest so to do, by written order direct that any lodging house or any place where articles of food and drink are sold or prepared, stored or exposed for sale, being a lodging house or place in which a case of dangerous disease exists or has recently occurred, shall be closed for such period as may be specified in the order:

Provided that such lodging house or place may be declared to be open if the Nagar Swasthya Adhikari certifies that it has been disinfected or is free from infection.

410. **Persons suffering from dangerous disease, etc., not to do certain things.** - No person while suffering from any dangerous disease or loathsome disorder shall -

(a) make or offer for sale an article of food or drink for human consumption or a medicine or drug, or

(b) wilfully touch any such article, medicine or drug when exposed for sale by others, or

(c) take any part in the business of washing or carrying soiled clothes.

411. **Municipal Commissioner may take special measures on outbreak of any dangerous disease.** - (1) In the event of the City being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into the City, the Municipal Commissioner if he thinks the ordinary provisions of this Act and any rules thereunder or of any other law at the time in force are insufficient for the purpose, may, with the sanction of the State Government -

(a) take such special measures, and

(b) by public notice prescribe such temporary orders to be observed by the public or by any person or class of persons, as are specified in any rules in this behalf and as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) The Municipal Commissioner shall forthwith report to the Corporation any measures taken and any orders made by him under sub-section (1).

Disposal of the Dead

412. **Places for disposal of the dead to be registered.** - (1) Every owner or person having the control of any place already used for burying, burning or otherwise disposing of the dead, shall apply to the Municipal Commissioner within a period of six months from the appointed day to register the same and the Municipal Commissioner shall cause the same to be registered.

(2) Such applications shall be accompanied by a plan bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor, of the place to be registered, showing the locality, boundaries and extent of the same. The application shall also contain information as regards the name of the owner or person or community interested therein, the system of management and such further particulars as the Municipal Commissioner may require.

(3) The Municipal Commissioner may, on receipt of such application and plan, register the said place in a register which shall be kept for this purpose.

(4) The Municipal Commissioner shall cause to be deposited in the Corporation office at the time of registration the plan referred to in sub-section (2).

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(5) If the Municipal Commissioner is not satisfied with the plan or statement of particulars he may refuse or postpone registration, until his objections have been removed.

(6) Every place vesting in the Corporation used for burying, burning or otherwise disposing of the dead shall be registered in the register kept under sub-section (3), and a plan showing the locality, extent and boundaries thereof and bearing the signature of the Municipal Commissioner shall be deposited in the Corporation office.

413. **New places for disposal of the dead not to be opened without permission of Municipal Commissioner.** - No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person for the said purpose without the written permission of the Municipal Commissioner who, with the approval of the Corporation, may grant or withhold such permission.

414. **Provisions of new places for disposal of the dead. -** (1) If the existing places for the disposal of the dead shall at any time appear to be insufficient or if any place is closed under the provisions of Section 415 the Municipal Commissioner shall, with the sanction of the Corporation, provide other fit and convenient places for the said purpose, either within or without the City, and shall cause the same to be registered in the register kept under Section 412 and shall deposit in the Corporation office, at the time of registration of each place so provided, a plan thereof showing the locality, extent and boundaries of the same.

(2) All the provisions of this Act and the rules and bye-laws shall apply to any place provided under sub-section (1) without the City and vesting in the Corporation as if such place were situate within the City.

415. **Closing of place for burial of the dead.**-(l) If after personal inspection the Municipal Commissioner is at any time of opinion –

(a) that any place of public worship is or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any churchyard or burial ground adjacent thereto, or

(b) that any other place used for the disposal of the dead is or is likely to become injurious to public health, he may submit his considered opinion with the reasons therefor to the Corporation, and the Corporation shall forward the same with its opinion, for the consideration of the State Government.

(2) Upon receipt of the opinion mentioned in sub-section (1) the State Government after such further inquiry as it deems fit to make, may, by notification published in the official Gazette and in such newspapers as it may deem necessary,

direct that such place of public worship or other place shall no longer be used for the disposal of the dead.

(3) On the expiration of three months from the date of any such notification, the place to which it relates shall no longer be used for the disposal of the dead.

(4) Private space set apart for burial may be exempted from any such direction subject to such conditions as the Municipal Commissioner may impose in this behalf, provided that the limits of such space are sufficiently defined and that it shall only be used for the burial of members of the family of the owners thereof.

416. **Re-opening of place for burial of the dead.** - (1) If, after personal inspection, the Municipal Commissioner is of opinion that any place which had been closed under the provisions of Section 415 has, by lapse of time, become no longer injurious to health and may without risk or danger be again used for the said purpose, he may submit his opinion with the reasons therefor to the Corporation, which shall forward the same, with its opinion for the consideration of the State Government.

(2) Upon receipt of such opinion the State Government, after such further enquiry as it deems fit to make, may, by notification in the official Gazette, direct that such place be re-opened for the disposal of the dead.

417. **Burials within places of worship and exhumations not to be made without permission of Municipal Commissioner.** - (1) No person shall, without the written permission of the Municipal Commissioner under sub-section (2) –

[96][(a) make any vault or grave or internment within any wall of any place of worship or underneath any passage, porch, portico, plinth or verandah of any such place;]

(b) make any internment or otherwise dispose of any corpse in any place which is closed for the dead under Section 415;

(c) 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 registered in the register kept under Section 412;

(d) exhume any body, except under the provisions of Section 176 of the Code of Criminal Procedure, 1898, or of any other law for the time being in force from any place for the disposal of the dead.

(2) The Municipal Commissioner may in special cases grant permission for any of the purposes aforesaid, subject to such general or special orders as the State Government may from time to time make in this behalf.

418. **Acts prohibited in connection with disposal of dead**. - No person shall -

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[96] Subs. by U.P. Act 21 of 1964.

(a) retain a corpse on any premises without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Municipal Commissioner may by public notice, from time to time, think fit to require;

(c) except where no other route is available, carry a corpse or part of a corpse along any street along which the carrying of corpse is prohibited by a public notice issued by the Municipal Commissioner in this behalf;

(d) remove a corpse or part of a corpse, which has been kept or used for purpose of dissection, otherwise than in a closed receptacle or vehicle;

(e) whilst conveying a corpse or part of a corpse place or leave the same on or near any street without urgent necessity;

(f) bury or cause to be buried any corpse or part of a corpse in a grave or vault or otherwise in such manner as that the surface of the coffin, or, when no coffin is used, the corpse or part of a corpse shall be at a less depth than six feet from the surface of the ground;

(g) build or dig, or cause to be built or dug, any grave or vault in any burial ground at a less distance than two feet from the margin of any other grave or vault;

(h) build or dig, or cause to be built or dug, a grave or vault in any burial ground in any line not marked out for this purpose by or under the order of the Municipal Commissioner;

(i) without the written permission of the Municipal Commissioner re-open for the internment of a corpse or of any part of a corpse, a grave or vault already occupied;

(j) after bringing or causing to be brought to a burning ground any corpse or part of a corpse, fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(k) when burning or causing to be burnt any corpse, or part of a corpse permit the same or any portion thereof to remain without being completely reduced to ashes or permit any cloth or other article used for the conveyance or burning of such corpse or part of a corpse to be removed or to remain on or near the place of burning without its being completely reduced to ashes.

419. **State Government may extend provisions of Chapter outside limits of City.** - The State Government may, by order which shall be published in the official Gazette, apply to any area to be specified in the order but not lying beyond a distance of two miles from the limits of the City, the provisions of any section in this Chapter of rules made thereunder, subject to such adaptations whether by way of modification, addition or omission, as it may deem to be necessary and expedient and thereupon the provisions and rules so applied shall have effect in that area as if it were within the city.

420. **Power to make rules.** – (1) The State Government may make rules for the purposes of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generally of the foregoing powers such rules may be provided for –

(i) liability of owners and occupiers to collect and deposit dust, etc.;

(ii) liability of occupiers in areas not covered by Section 388 to have collected and conveyed to receptacles, etc, provided under Section 385 excrementitious and polluted matter accumulating upon their premises;

(iii) removal of rubbish and filth accumulating in large quantities on premises;

(iv) removal of nuisance caused by –

(a) accumulating of building materials on premises;

(b) defective roofs or other insanitary condition of premises;

(c) smoke of kitchens in dwelling houses and other smoke, dust, etc;

(d) pools, swamp, ditch, tank, well, pond, quarry holes, drain, water course or any collection of water;

(e) dangerous tanks, wells, holes, etc.;

(f) dangerous quarrying;

(g) collection of offensive matter in premises;

(v) cleansing of insanitary private water course, spring, tank, well, etc., used for drinking;

(vi) regulation of keeping and tethering of animals in the City;

(vii) sanitary regulation of factories or workshops, work place, etc. subject to the provisions of the Indian Boilers Act, 1923 and supplying of information connected therewith;

(viii) regulation of washing of clothes by washermen and provision of washing places;

(ix) giving of information of animals suffering from contagious and private places to prevent spread or infectious diseases;

(x) disinfection of houses and other public and private places to prevent spread of dangerous diseases;

(xi) prohibition and regulation of the use of whistles, trumpets, loudspeakers and other noise-producing instrument operated by any mechanical means;

(x) the removal, trimming and cutting of trees and hedges.

CHAPTER XVI

REGULATION OF MARKETS, SLAUGHTER-HOUSES, CERTAIN TRADES AND ACTS, ETC.

421. **What to be deemed private markets and slaughter-houses.** – For the purposes of this Chapter all markets and slaughter-houses other than Corporation markets and slaughter-houses shall be deemed to be private markets and slaughter-houses.

422. **Municipal Commissioner's powers in respect of Corporation markets and slaughter-houses, etc.** - Subject to the provisions of this Act and the rule and bye-laws framed thereunder the Municipal Commissioner shall have the power -

(a) upon being authorized by the Corporation in that behalf, to construct purchase, take on lease or otherwise acquire any building or land for the purpose of establishing a Corporation market or a Corporation slaughterhouse or stockyard within, and with the prior sanction of the State Government, without the limits of the Corporation and of extending or improving any existing Corporation market or slaughter-house;

(b) from time to time, to build and maintain such Corporation markets, slaughter-houses and stockyards and such stalls, shops, sheds, pens and other buildings or conveniences as may be deemed necessary for the use of the persons carrying on trade or business in, or frequenting, such Corporation markets, slaughter-houses or stockyards;

(c) to provide for maintaining in any such Corporation markets such buildings, places, machines, weights, scales and measures for weighing and measuring goods, sold therein as he shall think fit;

(d) upon being authorized by the Corporation in that behalf, to close any Corporation market or laughter-house or stockyard or any portion thereof and to dispose of as the property of the Corporation the premises occupied for any market or slaughter-house or stockyard or any portion thereof so closed;

(e) with the previous sanction of the Corporation, to prohibit by public notice from time to time within a distance of fifty yards of any Corporation market the sale or exposure for sale of the commodities or of any of the commodities specified in the notice ordinarily sold in the said Corporation market and with like sanction to cancel or modify any such notice at any time;

(f) to charge for the occupation or use of any stall, shop, standing, shed or pen or other building in a Corporation market, slaughter-house or stockyard, and for the right to expose goods for sale in a Corporation

market, and for weighing and measuring goods sold in any such market and for the right to slaughter animals in any Corporation slaughter-houses, such stall ages, rents and fees as shall, from time to time be fixed by him, with the approval of the Executive Committee, in that behalf;

(g) with the approval of the Executive Committee, farm the stall ages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time, or

(h) to put up to public auction, or, with the approval of the Executive Committee, dispose of, by private sale, for privilege of occupying or using any stall, shop, standing, shed or pen or other building in a Corporation market, slaughter-house or stockyard for such term and on such conditions as he shall think fit.

423. **Opening of private markets and of private slaughter-houses**. - (1**)** The Corporation shall from time to time determine whether the establishment of new private markets or the establishment or maintenance of private slaughter-houses shall be permitted in the City or in any specified portion of the City.

(2) No person shall establish a private market for the sale of, or for the purpose of exposing for sale, animals intended for human food, or any article of human food or livestock or articles of food for livestock or shall establish or maintain a private slaughter-house except with the sanction of and after obtaining a licence from the Municipal Commissioner who shall be guided in giving such sanction and licence by the decisions of the Corporation at the time in force under sub-section (1):

Provided that the Municipal Commissioner shall not refuse to give sanction or to grant licence for running a private market or a slaughter-house already lawfully established on the appointed day if application for such sanction and licence is made within two months of the appointed day, except on the ground that the place where the market or slaughter-house is established fails to comply with any requirements of this Act or of any rule or bye-law framed thereunder.

(3) When the establishment of a private market or a slaughter-house has been so sanctioned, the Municipal Commissioner shall cause a notice of such sanction to be affixed in Hindi and such other language or languages as the Corporation may from time to time specify on some conspicuous spot on or near the building or place where such market is to be held.

Explanation .- For the purpose of sub-section (2) the owner or occupier of a place in which a private market or slaughter-house is established shall be deemed to have established such market.

(4) The Municipal Commissioner shall not cancel or suspend or refuse to renew any licence for keeping open a private market for any cause other than the

failure of the owner thereof to comply with some provision of this Act, or with some regulation or with some bye-law.

(5) The Municipal Commissioner may cancel or suspend any licence for failure of the owner of a private market to give in accordance with the conditions of his licence a written receipt for any stallage, rent, fee, or other payment received by him or his agent from any person for the occupation or use of any stall, shop,standing, shed, pen or other place therein.

(6) When the Municipal Commissioner has refused, cancelled or suspended any licence to keep open a private market, he shall cause a notice of his having so done to be affixed in such language or languages as the Corporation may from time to time specify on some conspicuous spot on or near the building or place where such market has been held.

424. **Removal of live cattle, sheep, goats or swine from any Corporation slaughter-house, stock-yard, market or premises**. - No person shall, without the written permission of the Municipal Commissioner and without the payment of such fees as may be prescribed by him, remove any live cattle, sheep, goats or swine from any Corporation slaughter-house or stockyard or from any Corporation market or premises used or intended to be used for or in connection with such slaughter house or stockyard:

Provided that such permission shall not be required for the removal of any animal which has not been sold within such slaughter-house, stockyard, market or premises and which has not been within such slaughter-house, stockyard, market or premises for a period longer than that prescribed under orders made by the Municipal Commissioner in this behalf, or which has, in accordance with any byelaws, been rejected as unfit for slaughter at such slaughter-house, market or premises.

425. **Power to expel persons contravening rules, bye-laws or regulations.** - (1) The Municipal Commissioner may expel from any Corporation market, slaughter-house or stockyard any person, who or whose servant has been convicted of contravening any rule, bye-law or regulation in force in such market, slaughter-house or stockyard and may prevent such person, by himself or his servants, from further carrying on any trade or business in such market, slaughterhouse or stockyard or occupying any stall, shop, standing, shed, pen or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(2) If the owner of any private market or slaughter-house licensed under this Act or the lessee of such market or slaughter-house or any stall therein or any agent or servant of such owner or lessee has been convicted for contravention of any rule, bye-law or regulation the Municipal Commissioner may require such owner, lessee, agent or servant to remove himself from any such market or slaughter-house within such time as may be mentioned in the requisition and if he fails to comply with such requisition, he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises.

(3) If it appears to the Municipal Commissioner that in any such case the owner or lessee is acting in collusion with a servant or agent convicted as aforesaid who fails to comply with a requisition under sub-section (2), the Municipal Commissioner may, if he thinks fit, cancel the licence of such owner or lessee in respect of such premises.

426. **Prohibition of sale in Corporation markets without licence.** - (1) No person shall, without licence from the Municipal Commissioner, sell or expose for sale any animal or article in any Corporation market.

(2) Any person contravening this section may be summarily removed by any Corporation officer or servant.

427. **Prohibition of sale in unauthorized private markets.** - No person who knows that any private market has been established without the sanction of the Municipal Commissioner, or is kept open after a licence for keeping the same open has been refused, cancelled or suspended by the Municipal Commissioner, shall sell or expose for sale therein any animal or articles of human food or any livestock or food for livestock.

428. **Prohibition of sale of animals, etc., except in markets**. - No person shall, without a licence from the Municipal Commissioner, sell or expose for sale

(a) any four-footed animal or any meat or fish intended for human food, in any place other than a Corporation or private market;

(b) ices and syrups or aerated waters, kulfi, sugarcane juice, cut or peeled fruit and vegetables, any confectionery or sweetmeats whatsoever or such other cooked food or other articles intended for human consumption as may from time to time by public notice be specified by the Municipal Commissioner in any place other than a Corporation or private market or licensed eating house or sweetmeat shop.

429. **Restriction on slaughter of animals for sale**. - No person shall without the permission of the Municipal Commissioner slaughter or cause to be slaughtered any animal for sale in the City except in a Corporation slaughter-house or a licensed private slaughter-house.

430. **Places for slaughter of animals not intended for sale or slaughtered for religious purpose. -** The Municipal Commissioner may, by public notice, and with the previous sanction of the Corporation, fix premises within the City in which the slaughter of animals of any particular kind not for sale or the cutting up of carcass of any such animal shall be permitted, and prohibit, except in case of necessity, such slaughter elsewhere within the City:

Provided that the provisions of this section shall not apply to animals slaughtered for any religious purpose.

431. **Powers of District Magistrate in respect of animals not slaughtered for sale.** - Whenever it appears to the District Magistrate to be necessary for the preservation of the public peace or order, he may, subject to the control of the Prescribed Authority, prohibit or regulate, by public notice the slaughter, within the limits of a City, of animal or animals of any specified description for purposes other than sale and prescribe the mode and route in and by which such animals shall be brought to and meat shall be conveyed from, the place of slaughter.

432. **Prohibition of import of cattle, etc., into City without permission.** - (1) No person shall without the written permission of the Municipal Commissioner bring into the City any cattle, sheep, goats or swine intended for human consumption, or the flesh of any such animal which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any police officer may arrest without warrant any person bringing into the City any animal or flesh in contravention of sub-section (1).

(3) Any animal brought into the City in contravention of this section may be seized by the Municipal Commissioner or by any Corporation officer or servant or by any Police Officer or in or upon Railway premises by the Railway servant and any animal or flesh so seized may be sold or otherwise disposed of as the Municipal Commissioner shall direct and the proceeds, if any, shall belong to the Corporation.

(4) Nothing in this section shall be deemed to apply to cured or preserved meat.

433. **Municipal Commissioner may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act suspected.** - (1) If the Municipal Commissioner shall have reason to believe that any animal intended for human consumption has been or is being or is likely to be slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under the provisions of this Act, the Municipal Commissioner may at any time, by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any bye-law is being contravened thereat and may seize any such animal or the carcass of such animal or such flesh found therein.

(2) The Municipal Commissioner may remove and sell by auction or otherwise dispose of any animal or the carcass of any animal or any flesh seized under subsection (1).

(3) If within one month of such seizure the owner of the animal, carcass or flesh fails to appear and prove his claim to the satisfaction of the Municipal Commissioner or if such owner is convicted of an offence under this Act in respect of such animal or carcass or flesh the proceeds of any sale under sub-section (1) shall vest in the Corporation.

(4) No claim shall lie against any person for compensation for any damage necessarily caused by any entry made under sub-section (1) or by the use of any force necessary for effecting such entry.

434. **Municipal Commissioner to provide for inspection of articles exposed for sale for human food.** - It shall be the duty of the Municipal Commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetable, corn, bread, flour, dairy produce and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

435. **Unwholesome articles, etc., to be seized. -** (1) The Municipal Commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

(2) If any such animal or article appears to the Municipal Commissioner to be diseased or unsound or unwholesome or unfit for human consumption, as the case may be, 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 article prepared, manufactured or contained therein unwholesome or unfit for human consumption, he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided and he may arrest and take to the nearest police station any person in charge of any such animal or article.

436. **Disposal of perishable articles seized under Section 435.** - If any meat, fish, vegetable or other article of a perishable nature be seized under Section 435 and the same is, in the opinion of the Municipal Commissioner, diseased, unsound, unwholesome or unfit for human consumption, as the case may be, the Municipal Commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human consumption and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

437. **Regulation of offensive trade. -** (1) If it is shown to the satisfaction of the Municipal Commissioner that any building or place within the limits of the City which any person uses or intends to use as a factory or other place of business for the manufacture, storage, treatment or disposal of any article, by reason of such use, or by reason of such intended use, occasions or is likely to occasion a public nuisance, the Municipal Commissioner may at his option require by notice the owner or occupier of the building or place -

(a) to desist or refrain, as the case may be, from using or allowing to be used, the building or place for such purpose, or

(b) only to use, or allow to be used, the building or place for such purpose under such conditions or after such structural alterations as the Corporation imposes or prescribes in the notice with the object of rendering the use of the building or place for such purpose free from objection.

(2) Whoever, after receiving a notice given under sub-section (1), uses or allows to be used any building or place in contravention of the notice shall be liable on conviction to a fine which may extend to two hundred rupees and to a further fine which may extend to forty rupees for every day on which he so uses or allows to be used the place or building after the date of the first conviction.

438. **Certain things not to be kept, and certain trades and operations not to be carried on without Licence.** - (1) Except under and in conformity with the terms and conditions of a licence granted by the Municipal Commissioner, no person shall –

(a) keep in or upon any premises any article specified in the bye-laws in any quantity or in excess of the quantity specified in the bye-laws as the maximum quantity of such article which may at one time be kept in or upon the same premises without a licence; and

(b) keep in or upon any building intended for or used as a dwelling or within fifteen feet of such building cotton, in pressed bales or boras or loose, in quantity exceeding four hundred-weight;

(c) keep, or allow to be kept, in or upon any premises horses, cattle or other four-footed animals -

(i) for sale,

(ii) for letting out on hire,

(iii) for any purposes for which any charge is made or any remuneration is received, or

(iv) for sale of any produce thereof;

(d) carry on or allow to be carried on, in or upon any premises -

(i) any trade or operations connected with any trade specified in the bye-laws,

(ii) any trade or operation which is dangerous to life or health or property, or likely to create a nuisance either from its nature or by reason of the manner in which or the conditions under which. the same, is or is proposed to be carried on;

(e) carry on within the City, or use any premises, for the trade or operation of a farrier.

(2) A person shall be deemed to have known that a trade or operation is dangerous or likely to create a nuisance within the meaning of paragraph (ii) of clause *(d)* of sub-section (1), if written notice to that effect, signed by the Municipal Commissioner, has been served upon such person or affixed to the premises to which it relates.

(3) A person shall be deemed to carry on or to allow to be carried on a trade or; operation within the meaning of clause *(d)* of sub-section (1) if he does any act in furtherance of such trade or is in any way engaged or concerned therein whether as principal, agent, clerk, master, servant, workman, handicraftsman or otherwise.

(4) When any premises are used in the manner described in clause *(c)* or *(d)* of sub-section (1) it shall be presumed, until the contrary is proved, that the owner or occupier of such premises, or both have permitted such use.

(5) It shall be lawful for the Municipal Commissioner -

(a) to grant any licence referred to in sub-section (1) subject to such further restriction or conditions, if any, as he shall think fit in the circumstances of the case, or

(b) to withhold any such licence.

(6) Every person to whom a licence is granted by the Municipal Commissioner under sub-section (1) shall keep such licence in or upon the premises, if any, to which it relates.

(7) The Municipal Commissioner may at any time by day or night enter or inspect any premises for the use of which a licence has been granted under this section.

(8) Nothing in sub-sections (6) and (7) shall be deemed to apply to mills for spinning or weaving cotton, jute, wool or silk to any other large mill or factory which the Municipal Commissioner may from time to time with the approval of the Executive Committee, specially exempt from the operation thereof.

(9) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry: provided that force shall not be used for effecting an entry, unless when there is reason to believe that an offence is being committed against some provision of this Act or some bye-law made under this Act.

439. **Butchers and persons who sell flesh of animals to be licensed.** - No person shall, without or otherwise than in conformity with the terms of a licence granted by the Municipal Commissioner in this behalf -

(a) carry on within the City, or at any Corporation slaughter-house, the trade of a butcher;

(b) use any place in the City for the sale of the flesh of any animal intended for human consumption or any place without the City for the sale of such flesh for consumption in the City.

440. **Licence required for dealing in dairy produce.** - No person shall without, or otherwise than in conformity with the terms of a licence granted by the Municipal Commissioner in this behalf -

(a) carryon within the City the trade or business of a dairyman;

(b) use any place in the City as a dairy or for the sale of any dairy produce.

441. **Conditions under which architects, engineers, structural designers, surveyors, or plumbers, can carryon their respective professions in the City.** - (1) Every architect, engineer, structural designer, surveyor or plumber carrying on his profession in the City shall take out a licence in that behalf from the Municipal Commissioner.

(2) The licence shall be for a term to be fixed by bye-laws, but may be renewed as often as may be necessary for further terms on payment of the prescribed fee.

(3) No licence shall be granted under sub-section (1) unless the person applying therefor possesses the qualifications prescribed in that behalf and no application for a licence shall be refused if the applicant possesses those qualifications except on the ground that there is a reasonable apprehension that he is incompetent or has been found guilty of gross misconduct in the discharge of his duty as architect, engineer, structural designer, surveyor, or plumber, as the case may be.

442. **Licensed plumbers to be bound to execute work properly.** - No licensed plumber shall execute any work under this Act carelessly or negligently or make use of bad material, appliance or fitting for the purpose of such work.

443. **Executive Committee to fix fees for plumbers. -** The Executive Committee shall fix the fees or charges to be paid to licensed plumbers for any work done by them for all or any purpose under this Act, and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

444. **Loitering and soliciting for immoral purpose. -** Whoever, in a street or public place within the limits of the City loiters for the purpose of prostitution or importunes a person to the commission of sexual immorality, shall be liable on conviction to a fine which may extend to fifty rupees:

Provided that no court shall take cognizance of an offence under this section except on the complaint of the person importuned or on the complaint of a Corporation or a

police officer not below the rank of a sub-inspector respectively authorized in this behalf in writing by the Corporation and the District Magistrate.

445. **Brothels, etc.** - (1) When a Magistrate of the first class receives information -

(a) that a house in the vicinity of a place of worship or an educational institution or a boarding house, hostel or mess used or occupied by students is used as a brothel or for the purpose of habitual prostitution or by disorderly persons of any description, or

(b) that any house is used as aforesaid to the annoyance of respectable inhabitants in the vicinity, or

(c) that a house in the immediate neighbourhood of a Cantonment is used as a brothel or for the purpose of habitual prostitution,

he may summon the owner, tenant, manager or occupier of the house to appear before him either in person or by agent; and if satisfied that the house is used as described in clause *(a),* clause *(b),* or clause *(c),* may by a written order, direct such owner, tenant, manager, or occupier, within a period to be stated in such order, not less than five days from the date thereof, to discontinue such use:

Provided that action under this sub-section shall be taken only -

(i) with the sanction or by the order of the District Magistrate, or

(ii) on the complaint of three or more persons residing in the immediate vicinity of the house to which the complaint refers, or

(iii) on the complaint of the Corporation.

(2) If a person against whom an order has been passed by a Magistrate under sub-section (1) fails to comply with such order within the period stated therein, the Magistrate may impose on him a fine which may extend to one hundred rupees for every day after the expiration of that period during which the house is so used.

446. **Begging, etc.** - Whoever, in a street or public place within the City, begs importunately for alms, or exposes or exhibits with the object of exciting charity a deformity or disease or an offensive sore or wound, shall be liable on conviction to imprisonment which may extend to one month or to a fine which may extend to fifty rupees or to both.

447. **Improper feeding of animals kept for dairy purposes or used for food.** - No person shall feed or allow to be fed animal which is kept for dairy purposes, or may be used for food, on filthy or deleterious substances.

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448. **Stacking, etc., of inflammable materials. -** The Municipal Commissioner may, where it appears to be necessary for the prevention of danger to life or property, by public notice prohibit all persons from stacking or collecting wood, dry grass, straw or other inflammable materials, or from placing mats or thatched huts or lighting fires in a place or within limits specified in the notice.

449. **Displacing pavements, etc. -** (1) No person shall displace, take up or make an alteration in, or otherwise interfere with, the pavement, gutter, flags or other materials of public street, or the fences, walls or posts thereof, or a Corporation lamp, lamp-post, bracket, direction-post, stand-post, hydrant or other such Corporation property therein without the written consent of the Municipal Commissioner or other lawful authority, and no person shall extinguish a Corporation light.

(2) Any expense incurred by the Corporation by reason of the doing of any such thing as is mentioned in sub-section (1) may be recovered from the offender in the manner provided by Chapter XXI.

450. **Discharging fire-arms, etc.** - No one shall discharge fire-arms or let off fire-works or fire-balloons or engage in a game, in such a manner as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property.

451. **General provisions regarding grant, suspension or revocation of licenses and written permissions and levy of fees, etc.** - (1) Whenever it is provided by or under this Act that a licence or a written permission may be given for any purpose, such licence or written permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted and the date by which application for the renewal of the same shall be made and shall be given under the signature of the Municipal Commissioner or of a Corporation Officer empowered under Section 119 to grant the same.

(2) Except as may otherwise be provided by or under this Act, for every such licence or written permission a fee may be charged at such rate as shall from time to time be fixed by the Municipal Commissioner, with the sanction of the Corporation.

(3) Subject to the provisions of the proviso to sub-section (2) of Section 423 any licence or written permission granted under this Act may at any time be suspended or revoked by the Municipal Commissioner, if he is satisfied that it has been secured by the holder through misrepresentation or fraud or if any of its restriction or condition is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any rule, bye-law or regulation in any matter to which such licence or permission relates.

(4) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act be deemed to be without a licence or written permission, until the Municipal Commissioner's order for suspending or

revoking the licence or written permission is cancelled by him or until the licence or written permission is renewed, as the case may be:

Provided that when an application has been made for the renewal of a licence or permission by the date specified therein the applicant shall be entitled to act as if it has been renewed pending the receipt of orders.

(5) Every person to whom any such licence or written permission has been granted shall, at all reasonable times, while such written permission or licence remains in force, if so required by the Municipal Commissioner, produce such licence or written permission.

(6) Every application for a licence or permission shall be addressed to the Municipal Commissioner.

(7) The acceptance by or on behalf of the Municipal Commissioner of the fee for a licence or permission shall not in itself entitle the person paying the fee to the licence or permission.

452. **Licence fees, etc. -** The Municipal Commissioner may charge a fee to be fixed by bye-law for any licence, sanction or permission which he is entitled or required to grant by or under this Act.

453. **Power to make rules.** - (1) The State Government may make rules to carry out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power such rules may provide for -

(a) the regulation of sales within or outside Corporation or private markets;

(b) defining or determining the limits of private markets;

(c) proper approaches and environs and ventilation for private markets;

(d) proper pavement and drainage of private markets and slaughter-houses;

(e) issue of orders for the guidance of licensed surveyors, architects or engineers, structural designers, clerks, clerks of works and plumbers, respectively.

CHAPTER XVII

VITAL STATISTICS

454. **Registration of births and deaths. -** The Municipal Commissioner shall cause to be maintained a register of births and deaths in which shall be entered, in the manner prescribed, every birth or death taking place in the City.

455. **Power to make rules. -** The State Government may frame rules to provide for -

(a) the procedure for securing information regarding births and deaths in the City;

(b) the particulars to be entered in any register of births and deaths;

(c) the powers to be exercised by officers and servants of the Corporation for collecting the information regarding births and deaths;

(d) giving of information of each birth and death in the City by the father, mother, or other relation of the new born or the deceased, as the case may be, or by any other person, to officers and servants of the Corporation. and correction of errors in registers of births and deaths;

(e) registration of the name of the child or of alteration of the names; and

(f) such other incidental and consequential matters as may be necessary for the purpose of carrying out the provisions of this Chapter.

CHAPTER XVIII

COMPENSATION

456. **General Power of Municipal Commissioner to pay compensation. -** In any case not otherwise expressly provided for in this Act, or in any rule or byelaw made thereunder, the Municipal Commissioner may, with the previous approval of the Executive Committee, pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act or by any such rule or bye-laws in the Municipal Commissioner, or in any Corporation officer or servant.

457. **Compensation to the owner for value of immovable property deteriorated.** – (1) In any case in which immovable property has deteriorated in value owing to the exercise of any power conferred by Sections 231, 232, 249, 250, 251 and 284, the Corporation may offer to the owner of the property reasonable compensation.

(2) If the owner of the property which has deteriorated in value accepts the compensation, he shall be deemed to have granted to the Corporation a perpetual right to continue the exercise of its powers under any of the said sections in such manner as not to create greater nuisance or to cause greater damage than was being created, or caused at the time when compensation was received.

458. **Principle on which and manner in which compensation should be determined.** - (1) In determining the amount of compensation to be paid under sub-section (1) of Section 457 the Municipal Commissioner or the Corporation, as the case may be, shall be guided as far as may be, by the provisions of Sections 23 and 24 of the Land Acquisition Act, 1894 as amended by this Act and as to matters which cannot be dealt with under these provisions by such provisions as may be prescribed by rules.

(2) Any person aggrieved by the decision of the Municipal Commissioner or the Corporation in the matter of award of compensation under Section 456 or Section 457, as the case may be, may, within a period of one month, appeal to the Judge in accordance with the provisions of Chapter XX.

459. **Power to make rules. -** (1) The State Government may make rules to carry out the purposes of this Chapter.

(2) Without prejudice to the generality of the foregoing power such rules may provide for -

(a) the principles on the basis of which the compensation shall be determined;

(b) assessment of compensation by the Municipal Commissioner;

(c) filing and disposal of objections to tentative assessments.

CHAPTER XIX

PENALTIES

460. **Certain offences punishable with fine**. - (1) Whoever -

(a) contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of Part I of the table in Schedule III or of any order made thereunder, or

(b) fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses,

shall be punished for each such offence, with fine which may extend to the amount mentioned in that behalf in the second column of the said Part.

(2) Whoever, after having been convicted of -

(a) contravening any provision of any of the sections, sub-sections or clauses mentioned in the first column of Part II of the table in Schedule III or of any order made thereunder, or

(b) failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses,

continues to contravene the said provision or to neglect to comply with -the said requisition or fails to remove or rectify any work or thing done in contravention of the said provision, as the case may be, or fails to vacate any premises shall be punished, for each day that he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the second column of the said Part.

461. **Offences punishable under the Penal Code.** - (1) Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act mentioned in the first column of the following table or of any order made thereunder, and whoever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be deemed to have committed an offence punishable under the section of the Indian Penal Code respectively specified in the second column of the said table as the section of the said Code under which such person shall be punishable, namely:

Sections of this Act	Sections of the Indian Penal Code under which offenders are punishable
[97][267(3)], 400, clauses *(a), (b), (c), (d), (e)* and *(f)*	*277*
411	188
556	177

[97] Subs. by U.P. Act 23 of 1961.

(2) Whoever fails to comply with a lawful requisition, notice or order of the Municipal Commissioner for information or a written return relative to the determination of the annual value of any building or to the levy or assessment of any Corporation tax or whoever furnishes information or makes a return which he knows to be false, incorrect or misleading shall be deemed to have committed an offence punishable under Section 176 or Section 177 of the Indian Penal Code, as the case may be.

462. [98][* * *]

463. **Penalty on member or Mayor acquiring interest in contract, etc**. - A member or Mayor of a Corporation who, otherwise than with the permission in writing of the Prescribed Authority, knowingly acquires or continues to have, directly or indirectly, by himself or his partner, any share or interest in any contract or employment, with, by, or on behalf of the Corporation, shall be deemed to have committed an offence under Section 168 of the Indian Penal Code:

Provided that a person shall not be deemed for the purposes of this section to acquire, or continue to have, any share or interest in a contract or employment by reason only of his

(a) having a share or interest in any lease, sale, or purchase of land or buildings, or in any agreement for the same, provided that such share or interest was acquired before he became a member or Mayor, or

(b) having a share in a joint stock company which shall contract with, or be employed by, or on behalf of, the Corporation, or

(c) having a share or interest in a newspaper in which an advertisement relating to the affairs of the Corporation is inserted, or

(d) holding a debenture or otherwise being interested in a loan raised by. or on behalf of, the Corporation, or

(e) being retained by the Corporation as a legal practitioner, or

(f) having a share or interest in the occasional sale of an article in which he regularly trades to the Corporation to a value not exceeding, in anyone year, such amount as the Corporation, with the sanction of the State Government, fixes in this behalf, or

(g) being a party to an agreement made with the Corporation for the supply of water for charges.

464**. Provision against servants being interested in contract, etc**.- (1) A person who has directly or indirectly, by himself or his partner, a share or interest in a contract with, by, or on behalf of, a Corporation or in any employment with, under,

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98 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

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by, or on behalf of, a Corporation other than as a Corporation servant, shall be disqualified for being a servant of such Corporation.

(2) A Corporation servant who shall acquire or continue to have, directly or indirectly, by himself or his partner, a share or interest in any such contract or employment as aforesaid shall cease to be a Corporation servant, and his office shall become vacant.

(3) A Corporation servant who knowingly acquires or continues to have, directly or indirectly, a share or interest in a contract or, except in so far as concerns his employment as a Corporation servant, in any employment with, under, by or on behalf of, a Corporation of which he is a servant, shall be deemed to have committed an offence under Section 168 of the Indian Penal Code.

(4) Nothing in this section shall apply to any such share or interest in a contract or employment with, under, by, or on behalf of, the Corporation as is referred to in clauses *(b), (d)* and *(g)* of proviso to Section 463, or to any share or interest acquired or retained with the permission of the Prescribed Authority, in any lease, sale or purchase of land or buildings, or in any agreement for the same.

[1][464-A. **Punishment for contravention of Sections 112-C and 112-D.** - Whoever acts or abets the commission of an act which is in contravention of the provisions of Section 112-C or Section 112-D shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.]

465. **Punishment for offences against Section 267. -** (1) Whoever contravenes any provision of [sub-section (2)][2] of Section 267 shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both.

(2) When any person is convicted under sub-section (1) the Magistrate who convicts him may order the immediate removal of any building, or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall, on conviction, be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees or with both.

466. [* * *][3]

467. **General Penalty.** - Whoever contravenes any provision of this Act or rule, bye-law, regulation, licence, permission or notice issued thereunder or fails to

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1 Added by U.P. Act 21 of 1964.
2 Subs. by U.P. Act 28 of 1961.
3 S. 466 omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

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comply with any requisition lawfully made under any such provision shall, if no penalty is provided in any other provision of this Act for such contravention or failure, be punished, for each such offence, with fine which may extend to one hundred rupees and with further fine which may extend to twenty rupees for every day on which such contravention or failure continues after the first conviction.

468. **Extent of penal responsibility of agents and trustees of owners. -** No person who receives the rent of any premises in any capacity described in paragraphs *(i), (ii),* or *(iii)* of sub-clause *(a)* of clause (52) of Section 2 shall be liable to any penalty under this Act for omitting to do any act as the owner of such premises, if he shall prove that his default was caused by his not having funds of, or due to, the owner sufficient to defray the cost of doing the act required.

469. **Offence by companies, etc. -** Where a person committing an offence under this Act or any rule, bye-law or regulation is a company or a body corporate, or an association of persons (whether incorporated or not), or a firm, every director, manager, secretary, agent or other officer or person, concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

470. **Compensation payable by offenders against this Act for damage caused by them. -** (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or against any rule, regulation or bye-law, and, by reason of such act or omission of the said person, damage has occurred to any property of the Corporation, compensation shall be paid by the said person for the said damage notwithstanding any punishment *to* which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefor.

CHAPTER XX

PROCEEDINGS BEFORE JUDGE, DISTRICT JUDGE, MAGISTRATE AND OTHERS

471. References to the Judge.-In the following cases a reference shall be made to the Judge –

(1) whether the Municipal Commissioner may be directed *to* remove a shaft or pipe on the application of the owner of a building or hut under Section 249;

(2) regarding the amount of the price for the land required for setting forward a building under Section 284;

(3) regarding the amount or payment of expenses for any work executed or any measure taken or things done under the orders of the Municipal Commissioner or any Corporation Officer under Section 522;

(4) regarding the amount or payment of expenses or compensation and the apportionment thereof falling under any of the provisions of this Act or any rule or bye-law thereunder not otherwise specifically provided for.

Appeals against Valuations and Taxes

472. **Appeals when and to whom to lie. -** (1) Subject to the provisions hereinafter contained, appeals against any annual value or tax fixed or charged under this Act shall be heard and determined by the Judge:

[4][Provided that any such appeal pending at any stage before the Judge may be transferred by the District Judge for hearing and disposal, *to* any Additional Judge of the Court of Small Causes or Civil Judge or Additional Civil Judge having jurisdiction in the City.]

(2) *No* such appeal shall be heard unless -

(a) it is brought within fifteen days after the accrual of the cause of complaint;

(b) in the case of an appeal against an annual value an objection has previously been made [5][and has been disposed of under Section 209];

(c) in the case of an appeal against any tax in respect of which provision exists under this Act for an objection to be made to the Municipal Commissioner against the demand, such objection has previously been made and disposed of;

[6][(d) in the case of an appeal against any amendment or alteration made in the assessment list for property taxes under sub-section (1) of Section

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4 Ins. by U.P. Act 35 of 1978 (w.e.f. 12-10-1978).

5 Subs by U.P. Act 21 of 1964.

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213, an objection has been made in pursuance of a notice issued under the proviso to the said sub-section and such objection has been disposed of;]

(e) in the case of an appeal against a tax, or in the case of an appeal made against an annual value after a bill for any property tax assessed upon such value has been presented to the appellant, the amount claimed from the appellant has been deposited by him with the Municipal Commissioner.

473. **Cause of complaint when to be deemed to have accrued.** - For the purposes of Section 472, cause of complaint shall be deemed to have accrued as follows, namely

(a) in the case of an appeal against an annual value, on the day when the objection made [against such value under Section 209][7] is disposed of;

(b) in the case of an appeal against any tax referred to in clause (c) of sub section (2) of [Section 472][8] on the day when the objection against the tax is disposed of by the authority concerned;

[9][(c) in the case of an appeal against any amendment or alteration made in the assessment list for property taxes under sub-section (1) of Section 213, on the day when the objection made in pursuance of a notice issued under the proviso to the said sub-section is disposed of;]

(d) in the case of an appeal against a tax not covered by clause *(b)* above on the day when payment thereof is demanded or when a bill therefor is served.

474. **Arbitration. -** Where any appeal against the annual value or tax fixed or charged under this Act is pending and all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before a decision is given in such appeal, apply in writing to the Judge for an order of reference on such matter and on such application being made the provisions of the Arbitration Act, 1940, relating to arbitration in suits shall, so far as they can be made applicable, apply to such application and the proceedings to follow thereon, as if the said Judge were a Court within the meaning of the Act and the application were an application made in a suit.

475. **Appointment of expert valuer**. - (1) If any party to an appeal against an annual value makes an application to the Judge either before the hearing of the appeal or at any time during the hearing of the appeal, but before evidence as to value has

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6 Ibid.
7 Subs. by U.P. Act 21 of 1964.
8 Subs. by U.P. Act 21 of 1964.
9 Subs. by U.P. Act 21 of 1964.

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been adduced, to direct a valuation of any premises in relation to which the appeal is made, the Judge may, in his discretion, appoint a competent person to make the valuation and any person so appointed shall have power to enter on, survey and value the premises in respect of which the direction is given:

Provided that. except when the application is made by the Municipal Commissioner no such direction shall be made by the Judge unless the applicant gives such security as the Judge thinks proper for the payment of the costs of valuation under this sub-section.

(2) The costs incurred for valuation under sub-section (1) shall be costs in the appeal, but shall be payable in the first instance by the applicant.

(3) The Judge may, and on the application of any party to the appeal shall, call as a witness the person under sub-section (1) for making the valuation and, when he is so called any party to the appeal shall be entitled to cross-examine him.

476. **Appeal to the District Judge.** - An appeal shall lie to the District Judge--

(a) from any decision of the Judge in an appeal under Section 472 by which an annual value in excess of twelve thousand rupees is fixed, and

(b) from any other decision of the Judge in an appeal under the said section, upon a question of law or usage having the force of law or the construction of a document:

Provided that no such appeal shall be heard by the District Judge unless it is filed within one month from the date of the decision of the Judge.

477. **Costs of proceedings in appeal. -** The costs of all proceedings in appeal under Section 472 before the Judge including those of arbitration under Section 474 and of valuation under Section 475 shall be payable by such parties in such proportion as the Judge shall direct and the amount thereof shall, if necessary, be recoverable, as if the same were due under a decree of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887.

478. **Unappealed values and taxes and decisions on appeal to be final.** - (1) Every annual value fixed under this Act against which no complaint is made as hereinbefore provided and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Judge aforesaid upon any appeal against any such value or tax if no appeal is made therefrom under Section 476 and if such appeal is made the decision of the District Judge in such appeal shall be final.

(2) Effect shall be given by the Municipal Commissioner to every decision of the said Judge or District Judge on any appeal against any such value or tax.

Appeals to the Judge and the District Judge

479. **Appeals to the Judge.** - In addition to any other appeals to the Judge provided under this Act, appeals shall lie to the Judge against the orders of the Municipal Commissioner in the following cases, namely:

(1) an order declining to remove a shaft or pipe under Section 249;

(2) an order requiring a building to be set forward under Section 284;

(3) an order requiring the owner or occupier to repair, protect or enclose a place found to be dangerous under Section 308:

Provided that no such appeal shall lie unless it is filed within one month from the date of the order of the Municipal Commissioner.

480. **Appeal against demolition orders. -** (1) On an appeal being made under Section 395 against a demolition order made under Section 393 the Judge may make such order either confirming or quashing or varying the order as he thinks fit, and he may if he thinks fit, accept from an appellant any such undertaking as might have been accepted by the Municipal Commissioner and any undertaking so accepted by the Judge shall have the like effect as if it had been given to and accepted by the Municipal Commissioner under Section 393:

Provided that the Judge shall not accept from an appellant upon whom such a notice as is mentioned in sub-section (1) of Section 393 was served, an undertaking to carry out any work unless the appellant complied with the requirements of subsection (2) of that section.

(2) An appeal shall lie to the District Judge from a decision of the Judge on an appeal under this section, within one month of such decision, when the annual value entered in the Municipal Commissioner's assessment book in accordance with the provisions of this Act, of the premises to which the demolition order appealed against wholly or partially relates, exceeds two thousand rupees.

(3) A decision passed by the Judge under this section if an appeal does not lie therefrom under sub-section (2), or if no appeal is filed, and if an appeal is filed, the decision of the District Judge in appeal, shall be final.

(4) Any order against which an appeal might be brought under this section shall, if no such appeal is brought, become operative on the expiration of the period of twenty-one days mentioned in Section 395, and shall be final and conclusive as to any matters which could have been raised on such an appeal, and any such order against which an appeal is brought shall if and so far as it is confirmed by the Judge, or the District Judge become operative as from the date of the final determination of the appeal.

(5) For the purposes of this section, the withdrawal of an appeal shall be deemed to be the final determination thereof, having the like effect as decision

confirming the order, appealed against and, subject as aforesaid, an appeal shall be deemed to be finally determined on the date when the decision of the District Judge is given, or in a case where no appeal is brought to the District Judge, upon the expiration of the period within which such an appeal might have been brought, or in a case where no appeal lies to the District Judge on the date when the decision of the Judge is given.

481. **Appeals against decision of the Judge regarding payment of expenses for works executed. -** (1) An appeal shall lie to the District Judge from a decision of the Judge, regarding the amount or payment of expenses for any work executed, when the amount of the claim in respect of which the decision is given exceeds two thousand rupees:

Provided that no such appeal shall be heard by the District Judge unless it is filed within one month from the date of the decision of the Judge.

(2) The decision of the Judge regarding the amount of payment of expenses for any work executed, if no appeal is filed under this section and, if an appeal is filed, the decision of the District Judge in such appeal shall be final.

(3) When an appeal is filed under sub-section (1) in respect of a decision regarding the amount or payment of expenses for any work executed, the Municipal Commissioner shall defer proceedings for the recovery of the amount determined under the said section to be due pending the decision of the District Judge and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby determined to be due.

Proceedings before Judge

482. **Remedy of owner of building or land against occupier who prevents his complying with any provisions of this Act. -** (1) If the owner of any building or land is prevented by the occupier thereof from complying with any provision of this Act or of any rule, regulation or bye-law or with any requisition made under this Act, or under any such rule, regulation or bye-law in respect of such building or land, the owner may apply to the Judge.

(2) The Judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition, or to vacate the premises temporarily if the said provision or requisition relates to any action under Section 331, involving the safety or convenience of such occupier, and may also, if he thinks fit, direct that the cost of such application and order be paid by the occupier.

(3) After eight days from the date of such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid or to vacate the premises temporarily as shall be prescribed in the said order; and in the event of his continued refusal so to do the owner shall be discharged,

during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

(4) Nothing in this section shall affect the powers of the Municipal Commissioner under any provision of this Act to cause any premises to be vacated.

483. **Power to summon witnesses and compel production of documents. -** The Judge shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses and any proceeding before Judge under this Chapter shall be deemed a "Judicial proceeding" within the meaning of Sections 193 and 228 and for the purposes of Section 196 of the Indian Penal Code.

484. **Fees in proceedings before the Judge. -** (1) The State Government may, from time to time by notification in the official Gazette, prescribe what fee, if any, shall be paid -

(a) on any application, appeal or reference made under this Act to the Judge, and

(b) previous to the issue, in any inquiry or proceeding of the Judge under this Act, of any summons or other process:

Provided that the fees, if any, prescribed under clause *(a)* shall not, in cases in which the value of claim or subject-matter is capable of being estimated in money, exceed the fees for the time being levied, under the provisions of the [Court Fees Act, 1870][10] in cases in which the value of the claim or subject-matter is of like amount.

(2) The State Government may from time to time by a like notification determine by what person any fees prescribed under clause *(a)* of sub-section (1) shall be payable.

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

485. **Exemption of poor persons from fees. -** The Judge may, whenever he thinks fit, receive an application, appeal or reference made under this Act, by or on behalf of a poor person, and may issue process on behalf of any such person without payment or on a part payment of the fees prescribed under Section 484.

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[10] Subs. by U.P. Act 22 of 1961.

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

Appointment of Magistrates

487. **Appointment of a Magistrate of the First Class. -** (1) The State Government may with the consent of the Corporation create one or more posts of Magistrates of the First Class for the trial of offences against this Act, or may appoint any person to such post and may also appoint such ministerial officers of the court of any such Magistrate as it may think necessary:

Provided that notwithstanding the appointment of one or more Magistrates of the First Class under this section, it shall be open to the District Magistrate subject to the rules for the time being in force under Section 17 of the Code of Criminal Procedure, 1898, regulating the distribution of business in the Courts of Magistrates of the First Class to make such distribution of the work of trial of such offences and of all other work before the courts of the Magistrates (including any appointed under this section) as may appear to him most conducive to efficiency.

(2) Such Magistrate or Magistrates and their establishments shall be paid such salary, pension, leave allowances and other allowances as may, from time to time, be fixed by the State Government.

(3) The amounts of the salary and other allowances as fixed under sub-section (2), together with all other incidental charges shall be reimbursed to the State Government by the Corporation which shall also pay to the State Government such contribution towards the pension, leave and other allowances of such Magistrate or Magistrates and their establishment as may from time to time be fixed by the State Government:

Provided that the State Government may, with the concurrence of the Corporation, direct that in lieu of the amounts payable under this section the Corporation shall pay to the State Government annually on such date as may be fixed by the State Government in this behalf such fixed sum as may be determined by the State Government in this behalf.

References to Magistrates

488. **Reference to Magistrates. -** A reference shall be made to a Magistrate of the First Class having jurisdiction within the limits of the City in the matter of the detention of a person suffering from a dangerous disease in a public hospital under the rules.

489. **Disposal of animals and articles of non-perishable nature seized under Section 431. -** (1) Any animal and any article not of a perishable nature and

any utensil or vessels seized under Section 435 shall be taken before a Magistrate of the First Class.

(2) If it shall appear to such Magistrate that any such animal or article is diseased, unsound or unwholesome or unfit for human consumption, as the case may be, or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human consumption, he may, and, if it is diseased, unsound, unwholesome or unfit for human consumption, he shall cause the same to be destroyed, at the charge of the person in whose possession it was at the time of its seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human consumption, or for the preparation or manufacture of, or for containing any such article as aforesaid.

490. **Penalty for possessing food which appears to be diseased, unsound or unwholesome or unfit for human food. -** In every case in which food, on being dealt with under Section 489, appears to the Magistrate to be diseased, unsound or unwholesome or unfit for human consumption, the owner thereof or the person in whose possession it was found, not being merely bailee or carrier thereof, shall on conviction, if in such case the provisions of Section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to five hundred rupees.

491. **Application for summons to be refused if not applied for within a reasonable time. -** In all prosecutions under Section 490 the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

Proceedings before Magistrates and the Sessions Court

492. **Cognizance of offences. -** (1) An offence for the contravention of Section [1l2-C, Section 112-D or Section][11] 417 shall be cognizable.

(2) Notwithstanding anything contained in the Code of Criminal Procedure. 1898, all offences against this Act, or against any rule, regulation or bye-law, whether committed within or without the City, shall be cognizable by Magistrate of the First Class having jurisdiction in the City and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any Corporation tax or of his being benefited by the Corporation Fund.

(3) Notwithstanding anything contained in Section 200 of the said Code, it shall not be necessary in respect of any offence against this Act or any rule, regulation or bye-law made thereunder, to examine the complainant when the complaint is presented in writing.

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[11] Subs. by U.P. Act 21 of 1964.

493. **Limitation of time within which complaints of offences punishable under this Act shall be entertained. -** No Magistrate shall take cognizance *of* any offence punishable under this Act, or any rule, regulation or bye-law, unless complaint of such offence is made before him -

(a) within six months next after the date of the commission of such offence; or

(b) if such date is not known or the offence is a continuing one within six months next after the commission or discovery of such offence.

494. **Power of Magistrate to hear cases in absence of accused. -** If any person summoned to appear before a Magistrate to answer a charge of an offence punishable under this Act or any rule, regulation or bye-law, fails to appear at the time and place mentioned in the summons, and if service of summons is proved to the satisfaction of the Magistrate and no sufficient cause is shown for the nonappearance of such person the Magistrate may hear and determine the case in his absence.

495. **Report of Public Analyst to Government. -** Any document purporting to be a report under the hand of the Public Analyst to the Government of Uttar Pradesh upon any article duly submitted to him for analysis may be used as evidence of the facts therein stated in any inquiry or prosecution under this Act without proof thereof.

496. **Complaint concerning nuisances. -** (1) Any person who resides in the City may complain to a Magistrate of the First Class having jurisdiction therein of the existence of any nuisance or that in the exercise of any power conferred by Sections 231, 232, 249, 250, 251, 310 or 385 more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, direct the Municipal Commissioner-

(a) to put in force any of the provisions of this Act or of any rule, regulation or bye-law or to take such measures as to such Magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;

(b) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

(3) Subject to the provisions of Section 497 it shall be incumbent on the Municipal Commissioner to obey every such order.

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done

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in the exercise of any power conferred by Sections 231, 232, 249, 250, 251, 310 or 385 to recover the damages for the same.

497. Appeal to the Sessions Court from order passed under Section 496. - (1) An appeal shall lie to the Sessions Court from an order passed by a Magistrate under Section 496 within one month of the date thereof.

(2) The Sessions Court may, when disposing of an appeal under sub-section (1), direct by whom and in what proportions, if any, the costs of the appeal are to be paid, and costs so directed to be paid may, on application to a Magistrate of the First Class having jurisdiction in the City, be recovered by him, in accordance with the direction of the Sessions Court, as if there were a fine imposed by himself.

(3) When an appeal has been preferred to the Sessions Court under thissection, the Municipal Commissioner shall defer action upon the order of the Magistrate until such appeal has been disposed of and shall thereupon forthwith give effect to the order passed in such appeal by the Sessions Court, or if the order of the Magistrate has not been disturbed by the Sessions Court, then to his order.

(4) The State Government may, after consulting the High Court, from time to time, make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

Arrest of Offenders

498. **Offenders against this Act may in certain cases be arrested by police officers. -** (1) Any police officer may arrest any person who commits in his view any offence against this Act or against any rule, regulation or bye-law, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a Magistrate, for any longer time, not exceeding twenty-four hours from the arrest, than is necessary for bringing him before a Magistrate competent to take cognizance of his offence.

Miscellaneous

499. **Code of Civil Procedure to apply. -** (1) Save as expressly provided by this Chapter, the provisions of the Code of Civil Procedure, 1908, relating to appeals from original decrees shall *mutatis mutandis* apply to appeals to the District Judge.

(2) All other matters for which no specific provision has been made under this Act shall be governed by such rules as the State Government may from time to time make after consultation with the High Court.

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500. **Limitation.** - (1) In computing the period of limitation prescribed for an appeal or application referred to in this Chapter, the provisions of Sections 5, 12 and 14 of the Limitation Act, 1908[12], shall so far as may be, apply.

(2) When no time is prescribed by this Act for the presentation of an appeal, application or reference, such appeal or application shall be presented or reference shall be made within thirty days from the date of the order in respect of or against which the appeal, application or reference is presented or made.

501. **Execution of order of the Judge and District Judge. -** (1) All orders of the Judge shall be executed in the same manner as if they were decrees of the Court of Small Causes passed under the Provincial Small Cause Courts Act, 1887.

(2) All orders of the District Judge shall be executed as if they were the decrees of his Court.

502. **Criminal Procedure Code to apply to all inquiries and proceedings before Magistrate. -** The provisions of the Code of Criminal Procedure, 1898[13], shall, so far as may be, apply to all inquiries and proceedings under this Act before the Magistrate.

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[12] See now corresponding provisions of Limitation Act, 1963.

[13] See now provisions of Cr.PC, 1973.

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CHAPTER XXI

RECOVERY OF TAXES AND OTHER CORPORATION DUES

503. **Manner of recovering Corporation taxes. -** A Corporation tax may be recovered by the following processes in the manner prescribed by rules -

(1) by presenting a bill,

(2) by serving a written notice of demand,

(3) by distraint and sale of a defaulter's movable property,

(4) by the attachment and sale of a defaulter's immovable property,

(5) [* * *][14]

(6) in the case of property tax by the attachment of rent due in respect of the property [15][if such tax is payable by a person entitled to such rent], and

(7) by a suit.

504. **Presentation of bill. -** (1) As soon as a person becomes liable for the payment of any sum on account of a tax, other than [any tax][16] payable upon immediate demand, the Municipal Commissioner shall. with all convenient speed, cause a bill to be presented to the person so liable.

(2) Unless otherwise provided by rule, a person shall be deemed to become liable for the payment of every tax and licence fee upon the commencement of the period in respect of which such tax or fees is payable.

505. **Contents of bill. -** Every such bill shall specify

(a) the period for which and the property, occupation, circumstances or thing in respect of which the sum is claimed, and

(b) the liability or penalty enforceable in default of payment, and

(c) the time (if any), within which an appeal may be preferred as provided in Section 472.

506. **Notice of demand. -** If the sum for which a bill has been presented as aforesaid is not paid into the office of the Corporation, or to a person empowered by a regulation to receive such payments, within fifteen days from the presentation

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14 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

15 Ins. by U.P. Act 17 of 1999, S.10.

16 Subs. by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

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thereof, the Municipal Commissioner may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form prescribed by rule.

507. **Issue of warrant. -** (1) If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand either -

(a) pay the sum demanded in the notice, or

(b) show cause to the satisfaction of the Municipal Commissioner or of such officer as the Corporation by regulation may appoint in this behalf, why he should not pay the same,

such sum with all costs of the recovery may be recovered under a warrant caused to be issued by the Corporation in the form prescribed by rule, or to like effect, by distress and sale of the movable property of the defaulter.

(2) Every warrant issued under this section shall be signed by the Municipal Commissioner, or by the officer referred to in clause *(b)* of sub-section (1).

508. **Forcible entry for purpose of executing warrant. -** It shall be lawful for a Corporation Officer to whom a warrant issued under Section 507 is addressed, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building in order to make the distress directed in the warrant in the following circumstances and not otherwise:

(a) if the warrant contains a special order authorizing him in this behalf;

(b) if he has reasonable grounds for believing that the building contains property which is liable to seizure under the warrant, and

(c) if, after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance:

Provided that such officer shall not enter or break open the door of an apartment appropriated for women, until he has given any women therein an opportunity to withdraw.

509. **Manner of executing warrant. -** (1) It shall also be lawful for such officer to distrain, wherever it may be found, any movable property of the person therein named as defaulter, subject to the provisions-of sub-sections (2) and (3).

(2) The following property shall not be distrained:

(a) the necessary wearing apparel and bedding of the defaulter, his wife and children;

(b) the tools of artisans;

(c) books of account;

(d) when the defaulter is an agriculturist, his implements of husbandry, seed grain. and such cattle as may be necessary to enable him to earn his livelihood.

(3) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which in the opinion of the person authorized under sub-section (2) of Section 507 to sign a warrant, should not have been so distrained they shall forthwith be returned.

(4) The officer shall on seizing the property, forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure a written notice in the form prescribed by rule that the said property will be sold as shall be specified in such notice.

510. **Sale of goods under warrant and application of proceeds. -** (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be recovered is likely to exceed its value, the Municipal Commissioner or other officer by whom the warrant was signed, shall at once give notice to the person in whose possession the property was seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

(2) If not sold at once under sub-section (1) the property seized or a sufficient portion thereof may, on the expiration of the time specified in the notice served by the officer executing the warrant, be sold by public auction under the orders of the Corporation unless the warrant is suspended by the person who signed it or the sum due from the defaulter is paid together with all costs incidental to the notice, warrant of distress and detention of the property.

(3) The surplus, if any, shall be forthwith credited to the Corporation Fund, notice of such credit being given at the same time to the person from whose possession the property was taken; but if the same be claimed by written application made to the Municipal Commissioner within one year from the date of the notice, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice shall be the property of the Corporation.

511. **Procedure in case of execution against property outside the City.-** (1) If no sufficient movable property belonging to a defaulter, or being upon the premises in respect of which he is assessed, can be found within the City, the District Magistrate may, on the application of the Corporation, issue his warrant to an officer of his Court -

(a) for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the District Magistrate, or

(b) for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other District Magistrate exercising jurisdiction within Uttar Pradesh.

(2) In the case of action being taken under clause *(b)* of sub-section (1), the other District Magistrate shall endorse the warrant so issued, and cause it to be executed, and any amount recovered to be remitted to the District Magistrate issuing the warrant, who shall remit the same to the Corporation.

512. Recovery by attachment and sale of defaulter's immovable property. - In the circumstances mentioned in sub-section (1) of Section 507, the Municipal Commissioner or the officer referred to in clause *(b)* of sub-section (1) of Section 507, may in lieu of issuing a warrant for distress and sale of movable property or where such warrant has been issued but the amount recoverable has not been recovered in whole or part issue a warrant for the attachment and sale of the defaulter's immovable property.

513. **Warrant how to be executed in the case of immovable property. -** (1) When a warrant is issued under Section 512 for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, and declaring that the property will be sold unless the amount due, with the costs of recovery, are paid into the Corporation office within five days.

(2) Such order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and upon a conspicuous part of the office of the Corporation and also, when the property is land paying revenue to the State Government, in the office of the Collector of the district in which the land is situate.

(3) Any transfer of a charge on the property attached or of any interest therein made without the written permission of the Municipal Commissioner shall be void as against all claims of the Corporation enforceable under the attachment.

514. **Sale of immovable property. -** (1) If the amount due is not paid within the period stated in sub-section (1) of Section 513 the immovable property or a sufficient portion thereof may be sold by public auction by order of the Municipal Commissioner unless the warrant is suspended by him, or the sum due and the cost of recovery are paid by the defaulter and the Municipal Commissioner shall apply the proceeds or such part thereof as shall be requisite in discharge of the sum due and of the costs of recovery.

(2) The surplus, if any, shall be forthwith credited to the Corporation Fund, but if the same be claimed by written application to the Municipal Commissioner within six months from the date of the sale, a refund thereof shall be made to the defaulter and any surplus not claimed within six months as aforesaid shall be the property of the Corporation.

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(3) Where the sum due and the costs of recovery are paid by the defaulter before a sale is effected, the attachment of immovable property shall be deemed to have been removed.

(4) Sales of immovable property under this section shall be held in the manner laid down in the rules.

(5) After sale of the immovable property as aforesaid, the Municipal Commissioner shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(6) It shall be lawful for the Municipal Commissioner on behalf of the Corporation to offer a nominal bid in the case of any immovable property put up for sale, provided the previous approval of the Executive Committee is obtained to such bidding.

(7) The Municipal Commissioner may direct the removal from the immovable property by any police officer of any person who obstructs him in any action taken in pursuance of sub-section (5) and may also use such force as is reasonably necessary to effect entry on the said property.

515. [17][* * *]

516. **Attachment of rent due**. - (1) Where a bill for any sum due on account of any property tax is served upon an occupier of premises pursuant to sub-section (1) of Section 504, the Municipal Commissioner may at the time of service or at any subsequent time cause to be served upon the occupier a notice requiring him to pay to the Corporation any rent due or falling due from him to the person primarily liable for the payment of the said tax to the extent necessary to satisfy the said sum due.

(2) Such notice shall operate as an attachment of the said rent until the said sum due on account of property-tax shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom the said rent is due for any sum paid by him to the Corporation in pursuance of such notice.

(3) If the occupier shall fail to pay to the Corporation any rent due or falling due which he has been required to pay in pursuance of a notice served upon him as aforesaid the amount of such rent may be recovered from him by the Municipal Commissioner as if it were an arrear of property tax under Section 504.

517. **Defaulters may be sued for arrears, if necessary.** - Instead of proceeding against a defaulter by distress, attachment and sale as hereinbefore provided, or after a defaulter shall have been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, by such defaulter, on account of a tax may be recovered from him by a suit in any Court of competent jurisdiction.

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17 Omitted by U.P. Act 9 of 1991 (w.e.f. 01-08-1990).

518. **Fees and costs. -** Fees for-

(a) every notice issued under Section 506,

(b) every distress made under Section 509,

(c) the costs of maintaining any livestock seized under the said section,

shall be chargeable at the rates respectively specified in such behalf in rules made *by* the State Government, and shall be included in the costs of recovery to be levied under Section 507.

519. No distress, attachment or sale made under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of an error, defect or want of form in the bill, notice, warrant of distress, inventory or other proceeding relating thereto.

520. **Recovery of dues declared recoverable as tax. -** Any Corporation dues declared by this Act or by rules or bye-law to be recoverable in the manner provided by this Chapter may be recovered by the Municipal Commissioner in accordance as far as may be with the provisions of Sections 504 to 514 and 516 to 519 as if the amount due were a tax.

521. **Recovery of expenses of removals by the Municipal Commissioner under certain sections**. - (1) The expenses incurred by the Municipal Commissioner in effecting any removal under Section 296 or sub-section (3) of Section 302, or in the event of a written notice issued under sub-section (2) of Section 292 or sub-section (3) of Section 293 or Section 303 or sub-section (3) of Section 305 or sub-section (1) of Section 306, or Section 331 not being complied with under Section 558, and all other expenses and charges specified in sub-section (2), if any shall, subject to the provisions of sub-section (2), be recoverable by the sale of the materials removed, and if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) If the expenses of removal are in any case paid before the materials are sold, the Municipal Commissioner shall restore the materials to the owner thereof, on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any, incurred by the Municipal Commissioner in respect thereof or in respect of the intended sale or disposal thereof and all such charges. if any, as the Municipal Commissioner may fix for the storage of the materials.

(3) If the materials are not restored to the owner thereof under sub-section(2), they shall be sold by auction or otherwise disposed of as the Municipal Commissioner thinks fit:

Provided that, if the materials are perishable, they may be sold or disposed of forthwith, and, if other than perishable, they shall be sold or disposed of as soon as conveniently may be after one month from the date of their removal whether the

expenses of the removal and the charges, if any, for storage have in the meantime been paid or not and the proceeds, if any, of the sale or other disposal, shall after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal and the charges for storage be paid to the credit of the Corporation Fund, and shall be the property of the Corporation.

522. **Expenses recoverable under the Act to be payable on demand, and if not paid on demand may be recovered as arrears of property-tax. -** (1) Whenever under this Act, or any rule, regulation or bye-law, the expenses of any work executed or of any measure taken or thing done by or under the order of the Municipal Commissioner or of any Corporation officer empowered under Section 119 in this behalf are payable by any person, the same shall be payable on demand.

(2) If not paid on demand, the said expenses shall be recoverable by the Municipal Commissioner subject to the provisions of sub-section (4) of this section and sub-section (3) of Section 481 by distress and sale of the movable property or attachment and sale of the immovable property of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.

(3) If, when the Municipal Commissioner demands payments of any expenses under sub-section (1), his right to demand the same or the amount of the demand is disputed, or if, in the case of expenses incurred by the Municipal Commissioner in taking temporary measures under sub-section (2) of Section 308, the necessity for such temporary measures is disputed, the Municipal Commissioner shall refer the case for the determination of the Judge.

(4) Pending the Judge's decision the Municipal Commissioner shall defer further proceedings for the recovery of the sum claimed by him, and after decision, shall, subject to the provisions of Section 481, proceed to recover only such amount, if any, as shall be thereby determined to be due.

523. **If defaulter is owner of premises in respect of which expenses are payable, occupier to be also liable for payment thereof.** - If the expenses referred to in Section 522 are due in respect of some work executed or thing done to, upon or in connection with, some building or land or of some measure taken with respect to some building or land in respect of a private street and the defaulter is the owner of such building or land or of the premises fronting or adjoining such street or abutting thereon, as the case may be, the amount thereof may be demanded from any person who at any time, before the said expenses have been paid, occupied the said building, land or premises under the said owner and in the event of the said person failing to pay the same, they may be recovered by distress and sale of the movable property or the attachment and sale of the immovable property of the said person, as if the amount thereof were a property-tax due by him:

Provided that--

(a) unless the said person neglects or refuses at the request of the Municipal Commissioner truly to disclose the amount of the rent

payable by him in respect of the said building or premises and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, up to the time of demand, is payable by him to the owner on account of rent of the said building, land or premises; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner;

(b) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;

(c) nothing in this section shall affect any agreement made between the said person and the owner of the building, land or premises in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

524. **Municipal Commissioner may agree to receive payment of expenses in instalments. -** Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the Municipal Commissioner may, if he thinks fit and with the approval of the Executive Committee, take an agreement from the person liable for payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon, at such rate not exceeding nine per cent per annum as the Executive Committee may fix from time to time, within a period of not more than five years.

525. **Certain expenses may be declared to be improvement expenses. -** (1) Any expenses incurred by the Municipal Commissioner under any provision of this Act in respect of any material or fittings supplied or work executed or thing done to, upon or in connection with some building or land which are recoverable from the owner or occupier of such building or land may, subject to the regulations, be declared to be improvement expenses if the Municipal Commissioner with the approval of the Corporation, thinks fit so to declare them, and on such declaration being made, such expenses, together with interest thereon payable under sub-section (2), shall be a charge on the premises in respect of which, or for the benefit of which the expenses have been incurred.

(2) Improvement expenses shall be recoverable in instalments of such amount not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at such rate not exceeding six per cent per annum as the Executive Committee may fix from time to time, within such period not exceeding thirty years as the Municipal Commissioner with the approval of the Corporation may in each case determine.

(3) The said instalments shall be payable by the occupier of the premises on which the expenses and interest thereon are so charged or, in the event of tbe said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the sum, with interest as aforesaid, are

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fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

526. Proportion of improvement expenses may be deducted from rent. - (1) Where the occupier by whom any improvement expenses are paid holds the premises on which the expenses together with interest thereon are charged on rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses and interest thereon as aforesaid from the rent payable by him to his landlord.

(2) If the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the same deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof:

Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

527. **Redemption of charge for improvement expenses. -** At any time before the expiration of the period for the payment of any improvement expenses together with interest thereon, the owner or occupier of the premises on which they are charged may redeem such charge by paying to the Municipal Commissioner such part of the said expenses and such interest due, if any, as may not have been already paid or recovered.

528. **Recovery of instalments due under Sections 524 and 525.** - Any instalment payable under Section 524 or 525 which is not paid when the same becomes due, may be recovered by the Municipal Commissioner by distress and sale of the movable property or the attachment and sale of immovable property of the person by whom it is due as if it were a property-tax due to by the said person.

529. **In default of owner the occupier of any premises may execute required work and recover expenses from the owner.** - Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any rule, regulation or bye-law, the occupier, if any, of such building or land may with the approval of the Municipal Commissioner execute the said work, and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may without prejudice to any other right of recovery deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

530. **Persons liable for expenses or compensation may be sued for recovery thereof.** - Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation of which the amount due has been ascertained as

hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due, or the balance of the sum due, as the case may be, may be recovered by a suit brought against the person liable for the same in any court of competent jurisdiction.

CHAPTER XXII

CONTROL

531. Power of State Government to call for extracts from proceedings, etc. - (1) The State Government may at any time call upon the Corporation to furnish it with any extract from any proceedings of the Corporation, the Executive Committee, or any other Committee constituted under this Act or from any record under the control of the Corporation and with any statistics concerning or connected with the administration of this Act; and the Corporation shall furnish the same without unreasonable delay.

(2) The State Government may at any time call upon the Municipal Commissioner to furnish it with any information, report, explanation or statistics concerning or connected with the executive administration of this Act and the Municipal Commissioner shall furnish the same without unreasonable delay.

532. **State Government's power to cause inspection to be made. -** The State Government may depute any officer to inspect or examine any Corporation department, office, service, work or thing and to report thereon and any officer so deputed may, for the purposes of such inspection or examination, exercise all the powers conferred by Section 531 upon the State Government.

533. **State Government's power to direct the taking of action. -** If on receipt of any information or report obtained under Section 531 or 532 or otherwise the State Government are of opinion

(a) that any duty imposed on any Corporation authority by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner, or

(b) that adequate financial provision has not been made for the performance of any such duty,

the State Government may, by an order, direct the Corporation or the Municipal Commissioner with a period to be specified in the order to make arrangements to their satisfaction for the proper performance of the duty, or to make financial provision to their satisfaction for the performance of the duty, as the case may be:

Provided that, unless in the opinion of the State Government the immediate execution of such order is for reasons to be recorded in writing necessary, the State Government shall, before making an order under this section, give the Corporation an opportunity of showing cause why such order should not be made.

534. **State Government's power to appoint a person to take action in default at expense of Corporation. -** (1) If within the period fixed by an order issued under Section 533, any action directed under that section has not been duly taken, the State Government may by order -

(a) appoint some person to take the action so directed;

(b) fix the remuneration to be paid to him; and

(c) direct that such remuneration and the cost of taking such action shall be defrayed out of the Corporation Fund, and, if necessary, that any one or more of the taxes authorised under Chapter IX shall be levied or increased, but not so as to exceed any maximum prescribed by that Chapter.

(2) For the purpose of taking the action directed as aforesaid the person appointed under sub-section (1) shall have power to make such contracts as are necessary, and may exercise any of the powers conferred on any Corporation authority by or under this Act and specified in this behalf in the order issued under sub-section (1), and shall be entitled to protection under this Act as if he were a Corporation authority.

(3) The State Government may, in addition to or instead of directing the levy or increase of any of the said taxes, direct by notification that any sum of money which may in their opinion be required for giving effect to their orders be borrowed by debenture on the security of all or any of the said taxes at such rate of interest and upon such terms as to the time of repayment and otherwise as may be specified in the notification.

(4) The provisions of Sections 156 to 170 shall, as far as may be, apply to any loan raised in pursuance of this section.

535. **Powers of State Government in case of emergency.** - (1) In case of emergency the State Government may provide for the execution through such agency and in such manner as it may specify in its order of any work or the doing of any act which the Corporation or the Municipal Commissioner with or without the sanction of the Corporation or the Executive Committee is empowered to execute or do and of which the immediate execution or doing is, in its opinion, necessary for the safety or protection of the public and may direct that the expenses of executing the work or doing the act shall be forthwith paid by the Corporation.

(2) If the expense is not so paid the State Government may make an order directing the person having the custody of the Corporation fund to pay the expense from such fund.

536. **Submission of copies of resolutions to State Government. -** The Municipal Commissioner shall submit to the State Government, and if so directed by the State Government, the Prescribed Authority, copies of all resolutions of the Corporation, the Executive Committee, the Development Committee and of other committees, and joint committees and sub-committees of the Corporation.

537. **Power of State Government to suspend action under this Act. -** If the State Government is of opinion that the execution of any resolution or order of the Corporation or of any other Corporation authority or of any committee or joint

committee or sub-committee or of any officer or servant of the Corporation or the doing of any act which is about to be done or is being done by or on behalf of the Corporation is in contravention of or in excess of the powers conferred by this Act or of any other law for the time being in force or has been passed or made in abuse of any such power or is likely to lead to a breach of the peace or to cause obstruction, injury or annoyance to the public or to any class or body of persons or danger to human life, health or safety or is prejudicial to public interest, the State Government may, by order in writing, suspend the execution of such resolution or order, or prohibit the doing of any such act.

(2) A copy of such order shall forthwith be sent to the Corporation by the State Government.

(3) The State Government may at any time, on representation by the Corporation or otherwise, revise, modify or revoke an order passed under sub-section (1).

538. **Power of State Government to dissolve Corporation in case of incompetency, persistent default or excess or abuse of power. -** (1) If at any time upon representation made it appears to the State Government that the Corporation is not competent to perform or persistently makes default in the performance of the duties imposed upon it by or under this Act or any other law for the time being in force or exceeds or abuses more than once its powers, the State Government may, after having given the Corporation an opportunity to show cause why such order should not be made, by an order published with the reasons therefor in the Official Gazette to dissolve the Corporation.

(2) A copy of the order under sub-section (1) shall be laid, as soon as may be, before each House of the Uttar Pradesh Legislature.

[18][(3) When a Corporation is dissolved under sub-section (1), the following consequences shall ensue -

(a) the Mayor, the *[Deputy Mayor]* and all Corporators shall, on a date to be specified in the order, vacate their respective offices but without prejudice to the eligibility for re-election.

(b) till the constitution of the Corporation under clause *(b)* of sub-section (2) of Section 8, the Municipal Commissioner shall carry on the routine work of the Corporation and the Committees mentioned in Section 5.]

[19][539. [* * *]]

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18 Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

291 Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

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CHAPTER XXIII

RULES, BYE-LAWS AND REGULATIONS

540. **Making of rules by State Government. -** (1) In addition to the power conferred upon the State Government under the preceding Chapters of this Act to make rules the State Government may make rules to carry out the purposes of the Act and may also make model rules for the guidance of a Corporation in any matter connected with the carrying out of the provisions of this or any other enactment.

Explanation. - The power conferred by this sub-section includes the power to make rules regulating the holding of meetings of the Corporation and its Committees and the conduct of business at such meetings till bye-laws are framed under the Act for the purpose.

(2) The power of the State Government to make rules under this Act shall be subject to the condition of the rules being made after previous publication and of not taking effect until they have been published in the Official Gazette.

(3) Any rule made by the State Government may be general for all Corporations or may be special for any one or more Corporations to be specified.

(4) [* * *][20]

541. **Bye-laws for what purpose to be made. -** The Corporation may from time to time make bye-laws, not inconsistent with this Act and the rules, with respect to the following matters, namely:

(1) regulating, in any particular not specifically provided for in this Act or the rules, the construction, maintenance, protecting, flushing, cleansing and control of drains, ventilation-shafts or pipes, cesspools, water-closets, privies, latrines, urinals, washing places, drainage works of every description, whether belonging to the Corporation or other persons, Corporation waterworks, private communication pipes, private streets and public streets;

(2) regulating all matters and things connected with supply and use of water;

(3) regulating the maintenance, supervision and use of public and private cart-stands and the levy of fees for the use of such of them as belong to the Corporation;

(4) prescribing the forms of notice under Sections 316 and 317, the information documents and plans to be furnished therewith in respect of different classes of structures of works, the manner in which and the persons by whom notices shall be signed and the manner in which

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[292] Omitted by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

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plans, sections, descriptions, structural drawings or structural calculations shall be drawn, given, prepared and signed;

(5) regulating the manner in which, the supervision under which, the agency through which, the conditions and restrictions under which the work of erecting or re-erecting buildings of particular classes and any work such as is described in Section 317 shall be carried out;

(6) the structure of walls, foundations, roofs and chimneys, the number, width and position of staircases, the width of corridors and passages, the materials, dimensions and strength of floors and staircases and of all scantlings, girders, posts and columns of buildings, for securing stability and prevention of fire and the safety of the inmates in the event of fire and for purposes of health, either generally or with reference to the type of the structure and the use to which it is intended to be put;

(7) the construction of scaffolding for building operations to secure the safety of the operatives and of the general public;

(8) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air, and of other means for the adequate ventilation of buildings;

(9) the provision and maintenance of suitable means of access to buildings and preventing encroachment thereon;

(10) the provision and maintenance of house-gullies and service-passages;

(11) regulating the conditions on which frame buildings may be constructed;

(12) regulating the use of land as building sites, prescribing the minimum size of such sites, either generally or for specified areas and prescribing setbacks from the street margin for all or particular classes of buildings on specified streets or classes of streets of specified localities;

(13) regulating the height of structures generally or with reference to the materials of which they are constructed or the width of the streets on which they front or the areas in which they are situated or the purposes for which they are intended to be used;

(14) regulating the number and height above the ground or above the next lower storey or the storeys of which a building may consist;

(15) prescribing the form of the completion certificates required under Section 329 and the manner in which and the person by whom it shall be signed and subscribed;

(16) regulating the intervals at which, the manner in which, the persons by whom buildings shall be periodically inspected under Section 330;

(17) regulating the management, maintenance, control and use of dwellings intended for the poorer sections of the community vesting in the Corporation;

(18) prescribing the qualifications and experience of licensed surveyors architects, engineers, structural designers, clerks of works and plumbers;

(19) regulating in any particular not specifically provided for in this Act conservancy and sanitation, the destruction of rodents and other vermin, preventive and remedial measures against mosquitoes, flies and other insect pests;

(20) the control and supervision of all premises used for any of the purposes mentioned in Section 438 and of all trades and manufactures carried thereon and the prescribing and regulating of the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of any such premises;

(21) the inspection of milch-cattle, and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of cattle-sheds and dairies;

(22) securing the cleanliness of milk-stores, milk-shops, milk-vessels used by dairymen or milk-sellers for containing milk;

(23) regulating the sale of milk in the City, the protection of milk against contamination and the prevention of the sale of contaminated milk;

(24) requiring notice to be given whenever any milch animal is affected with .any contagious disease and prescribing precautions to be taken for protecting milch-cattle and milk against infection or contamination;

(25) regulating the measures to be taken in the event of the outbreak of any disease among animals, which is communicable to man and the supply of information which will facilitate the taking of such measures;

(26) securing the efficient inspection of the markets and slaughter-houses and of shops in which articles intended for human food are kept or sold;

(27) the control and supervision of butchers carrying on business within the City or at a Corporation slaughter-house without the City;

(28) regulating the use of any Corporation market building, market place or laughter-houses or any part thereof;

(29) controlling and regulating the sanitary condition of markets and slaughter-houses and preventing the exercise of cruelty therein;

(30) the licensing of hand-carts, other than those exempted from taxation under Section 183, and the seizure and detention of any such hand-cart that has not been duly licensed;

(31) requiring notice to be given of the occurrence of cases of any infectious, epidemic or endemic disease, not being a dangerous disease, which may be specified and prescribing the precautions to be taken by persons suffering from, or exposed to infection from, any such disease;

(32) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the several classes of the community;

(33) regulating the use of any place for the skinning and cutting up of the carcasses of animals;

(34) facilitating and securing complete and accurate registration of births and deaths;

(35) the registration of marriages;

(36) securing the protection of public markets, gardens, public parking places and open spaces vested in or under the control of the Corporation from injury, or misuse, regulating their management and the manner in which they may be used by the public and providing for the proper behaviour of persons in them;

(37) regulating the use of barbed-wire or other material for the fencing of land or premises abutting on any street, pathway or place which the public are entitled to use or frequent;

(38) regulating trade in rags, bones, or second-hand clothing, bedding or other similar articles including measures for disinfecting on import or before removal, sale or exposure for sale or use in any manufacturing process of any such article;

(39) regulating the holding of fairs and industrial exhibitions in the City;

(40) regulating and prohibiting the stocking of inflammable materials and of the lighting of fires in any specified portion of the City;

(41) fixing of fees for any licence, sanction or permission to be granted by or under this Act;

(42) regulating the charges for services rendered by any municipal authority;

(43) regulating admission to and use by members of the public of, Corporation hospitals, dispensaries, infirmaries, homes and similar institutions and the levy of fees therein;

(44) the protection of the property of the Corporation;

(45) regulating the inspection by members of the public of Corporation records and the fees to be charged before such inspection is allowed;

(46) regulating the grant of certified copies of extracts from Corporation records, and the fees chargeable for such copies of extracts;

(47) regulating the appointment by owners of buildings or lands in the City who are not resident therein of agents residing in or near the City to act for such owners for all or any of the purposes of this Act or the rules, regulations or bye-laws;

(48) prohibition and regulation of advertisements; and

[21][(48-A)the provision and the manner for allotment of land to the person engaged traditionally in the vocation of making earthen pottery.

Explanation .- *A* person shall be deemed to be engaged traditionally in such vocation if he belongs to such class of persons as may be notified by the State Government.]

(49) carrying out generally the provisions and intentions of this Act.

542. **Municipal Commissioner to lay draft bye-laws before the Corporation for its consideration. -** It shall be the duty of the Municipal Commissioner from time to time to lay before the Corporation for its consideration a draft of any bye-law which he shall think necessary or desirable for the furtherance of any purpose of this Act.

543. **Hearing by Corporation of objections to proposed bye-laws**. - No bye-law shall be made by the Corporation unless -

(a) a notice of the intention of the Corporation to take such bye-law into consideration on or after a date to be specified in the notice shall have been given in the Official Gazette and in the Bulletin of the Corporation, if any, before such date;

(b) a printed copy of such bye-law shall have been kept at the chief Corporation office and made available for public inspection free of

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[21] Ins. by U.P. Act 26 of 1995, 5.21 (w.e.f. 30-05-1994).

charge by any person desiring to peruse the same at any reasonable time from the date of the notice given under clause (a);

(c) printed copies of such bye-law shall have been delivered to any person requiring the same on payment of such fee for each copy as shall be fixed by the Municipal Commissioner;

(d) all objections and suggestions which may be made in writing by any person with respect thereto before the date of the notice given under clause (a) shall have been considered by the Corporation.

[22][544. **Bye-laws to be published. -** The bye-laws made under Section 541 shall be published in the Official Gazette.]

545. **Printed copies of bye-laws to be kept on sale. -** (1) The Municipal Commissioner shall cause all bye-laws from time to time in force to be printed, and shall cause printed copies thereof to be delivered to any person requiring the same, on payment of such fee for each copy, as he may fix.

(2) Printed copies of the bye-laws for the time being in force shall be kept for public inspection in some part of the municipal office to which the general public has access and in such other places, if any, like places of public resort, markets, slaughter-houses and other works or places affected thereby, as the Municipal Commissioner thinks fit, and the said copies shall from time to time be renewed by the Municipal Commissioner.

546. **Modification and rescission of bye-laws by Corporation. -** (1) A Corporation may modify or rescind any bye-law made by it.

(2) The provisions of Sections 542, 543 and 544 *shall mutantis mutandis* apply to the modifications or rescission of a bye-law under sub-section (1).

547. **State Government may modify or repeal bye-laws. -** (1) If it shall at any time appear to the State Government that any bye-law should be modified or repealed either wholly or in part, it shall cause its reasons for such opinion to be communicated to the Corporation and prescribe a reasonable period within which the Corporation may make any representation with regard thereto which it shall think fit.

(2) After receipt and consideration of any such representation or, if in the meantime no such representation is received, after the expiry of the prescribed period, the State Government may at any time, by notification in the Official Gazette, modify or repeal such bye-law either wholly or in part.

(3) The modification or repeal of a bye-law under sub-section (2) shall take effect from such date as the State Government shall in the said notification direct or, if no such date is specified, from the date of the publication of the said notification in

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22 Subs. by U.P. Act 26 of 1995, 5.21 (w.e.f. 30-05-1994).

the Official Gazette, except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the Bulletin of the Corporation, if any.

548. **Regulations**. - (1) The Executive Committee shall from time to time frame regulations not inconsistent with this Act and the rules and bye-laws but in consonance with any resolution that may be passed by the Corporation -

(a) fixing the amount and the nature of the security to be furnished by any Corporation officer or servant from whom it may be deemed expedient to require security;

(b) regulating the grant of leave to Corporation officers and servants;

(c) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave;

(d) authorizing the payment of traveling or conveyance allowance to the said officers and servants;

(e) regulating the period of service of all the said officers and servants;

(f) determining the conditions under which the said officers and servants, or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances, and under which the surviving spouse or children and in the absence of the surviving spouse or children, the parents, brothers and sisters, if any, dependent on any of the said officers and servants, shall after their death, receive compassionate allowances and the amounts of such pensions, gratuities or compassionate allowances;

(g) authorising the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of the Executive Committee be established by the said officers and servants or to such provident fund, if any, as may be established by the Corporation for the benefit of the said officers and servants;

(h) prescribing the conditions under which and, the authority by whom, any officer or servant, may be permitted while on duty or during leave to perform a specified service or series of services for a private person or body or for a public body, including a local authority, or for the Government and to receive remuneration therefor;

(i) in general, prescribing any other conditions of service of the said officers and servants.

(2) The Executive Committee may also from time to time frame regulations not inconsistent with the provisions of this Act and the rules -

(a) determining the standards of fitness of buildings for human habitation;

(b) regulating the declaration of expenses incurred by the Municipal Commissioner under the provisions of this Act and the rules in respect of any materials or fittings supplied or work executed or thing done to, upon or in connection with some building or land which are recoverable from the owner or occupier to be improvement expenses;

(c) regulating the grant of permission by the Municipal Commissioner for the construction of shops, ware-house, factories, huts or buildings designed for particular uses in any streets, portion of streets or localities specified in a declaration in force under Section 335.

(3) No regulation under sub-section (1) or under clause *(a)* of sub-section (2) shall have effect until it has been confirmed by the Corporation and, if made under clause *(h)* of sub-section (1), until it has in addition been confirmed by the State Government and in either case, has been published in the Official Gazette.

(4) The Corporation or the State Government may decline to confirm a regulation when placed before it under sub-section (3) or confirm it without modification or after making such modifications as it may think fit.

549. **State Government's power to make bye-laws and regulations. -** (1) If in respect of any matters specified in Section 541 the Corporation has failed to make any bye-law or if the bye-laws made by the Corporation are not, in the opinion of the State Government, adequate, the State Government may make bye-laws, providing for such matter to such extent as it may think fit.

(2) The provisions of Section 543 shall apply to the making of bye-laws under this section with the substitution of the words "State Government" for the words "Mahapalika" and the bye-laws shall have force of law upon their publication in the Official Gazette.

(3) If any provision of a bye-law made under this section is repugnant to any provision of a bye-law made by the Corporation the bye-law under this section-shall prevail and the bye-law made under Section 541 shall, to the extent of the repugnancy, be void.

(4) The State Government may, if it thinks fit by publication in the Official Gazette, make regulations consistent with this Act and the rules and bye-laws in respect of matter referred to in clause (f) of sub-section (1) of Section 548.

550. **Penalty for breach of rules, bye-laws or regulations. -** In making rules, bye-laws or regulations, the Corporation or the Executive Committee, or the State Government, as the case may be, may provide that for any breach thereof the offender shall on conviction -

(a) be punished with fine which may extend to five hundred rupees, and in the case of a continuing breach with fine which may extend to twenty rupees for every day during which the breach continues, after conviction for first breach;

(b) be punished with fine which may extend to twenty rupees for every day during which the breach continues, after receipt of written notice from the Municipal Commissioner or any Corporation officer duly authorised in that behalf to discontinue the breach;

(c) in addition to the imposition of such fine be required to remedy the mischief so far as lies, in his power.

CHAPTER XXIV

MISCELLANEOUS

Public Notices and Advertisements

551. **Public notices how to be made known. -** Whenever it is provided by or under this Act that public notice shall or may be given of anything, such public notice shall, in the absence of special provision to the contrary, be in writing under the signature of the Municipal Commissioner or of a Corporation officer empowered under the Act to give the same, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing same by beat of drum, or by advertisement in the local newspapers, or by publication in the Bulletin of the Corporation or by any two or more of these means and by any other means that the Municipal Commissioner shall think fit.

552. **Advertisement how to be made. -** Whenever it is provided by or under this Act that notice shall be given by advertisement in the local newspapers, or that a notification or any information shall be published in the local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two newspapers in such language or languages as the Corporation may from time to time specify in this behalf published or circulating in the City:

Provided that where the Corporation has its own Bulletin the publication of the said notice in two consecutive issues of the Bulletin of the Corporation shall be deemed sufficient for the purposes of this section.

553. **Consent, etc., of Corporation, etc. may be provided by written document. -** (1) Whenever under this Act or any rule, bye-law, regulation or order, the doing or the omitting to do anything or the validity of anything depends upon the consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction of -

(a) the Corporation, the Executive Committee, or any other Committee; or

(b) the Municipal Commissioner or any Corporation officer,

a written document signed as provided in sub-section (2) purporting to conveyor set forth such consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction shall be sufficient evidence of such consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction.

(2) The written document referred to in sub-section (1) shall unless otherwise provided by or under this Act be signed -

(a) when the authority concerned is the Corporation or the Executive Committee or any other Committee by the Municipal Commissioner on behalf of such authority;

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(b) when the authority concerned is the Municipal Commissioner or any Corporation officer, the Municipal Commissioner, or such Corporation officer, as the case may be.

Service of Notices, etc.

554. **Notices and their service. -** (1) Notices, bills, schedules, summons and other such documents required by this Act or by any rule, regulation or bye-law to be served upon or issued or presented or given to any person, shall be served, issued, presented or given by Corporation Officers or servants or by other persons authorised by the Municipal Commissioner in this behalf.

(2) When any notice, bill, schedule, summons or other such document is required by this Act, or by any rule, regulation or bye-law to be served upon or issued or presented to any person, such service, issue or presentation shall, except in the cases otherwise expressly provided for in sub-section (3), be effected -

(a) by giving or tendering to such person the said notice, bill, schedule, summons or other document; or

(b) if such person is not found, by leaving the said notice, bill, schedule, summons, or other document at his last known place of abode in the City, or by giving or tendering the same to some adult member or servant of his family, or by leaving the same at his usual place of business, if any, by giving or tendering in the same to some adult employee, if any, of his at such place; or

(c) if such person does not reside in the City and his address elsewhere is known to the Municipal Commissioner, by forwarding the said notice, bill, schedule, summons or other document to him by post under cover, bearing the said address; or

(d) if none of the means aforesaid be available, by causing the said notice, bills, schedule, summons or other document to be affixed on some conspicuous part of the building of land, if any, to which the same relates.

(3) When any notice, bill, schedule, summons or other such document is required by this Act, or by any rule, regulation or bye-law, to be served upon or issued or presented to the owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service, issue or presentation thereof shall be effected, not in accordance with the provisions of the last preceding sub-section, but as follows, namely:

(a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land;

(b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some adult member or servant of the family of the owner or occupier or of any of the owners or occupiers. or

(c) if none of the means aforesaid be available by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

(4) Whenever the person on whom any notice, bill, schedule, summons or other such document is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

(5) Nothing in this section applies to any summons issued under this Act by a Magistrate.

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

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

556. **Power of Municipal Commissioner to call for information as to ownership of premises. –** (1) The Municipal Commissioner may, in order to facilitate the service, issue, presentation or giving of any notice, bill, schedule, summons or other such document upon or to any person by written notice require the owner or occupier of any premises, or of any portion thereof to state in writing, within such period as the Municipal Commissioner may specify in the notice, the nature of his interest therein and name and address of any other person having an interest therein, whether as freeholder, mortgagee, lessee or otherwise; so far as such name and address is known to him.

(2) Any person required by the Municipal Commissioner in pursuance of sub-section (1) to give the Municipal Commissioner any information shall be bound to comply with the same and to give true information to the best of his knowledge and belief.

Unauthorised Works

557. **Work or thing done without written permission of the Municipal Commissioner to be deemed unauthorised. -** (1) If any work or thing requiring the written permission of the Municipal Commissioner under any provision of this Act or any rule, regulation or bye-law is done by any person without obtaining such written permission or if such written permission is subsequently suspended or revoked for any

reason by the Municipal Commissioner, such work or thing shall be deemed to be unauthorised and, subject to any other provision of this Act, the Municipal Commissioner may at any time, by written notice, require that the same shall be removed, pulled down or undone, as the case may be, by the person so carrying out or doing. If the person carrying out such work or doing such thing is not the owner at the time of such notice then the owner at the time of giving such notice shall be liable for carrying out the requisitions of the Municipal Commissioner.

(2) If within the period specified in such written notice the requisitions contained therein are not carried out by the person or owner, as the case may be, the Municipal Commissioner may remove or alter such work or undo such thing and the expenses thereof shall be paid by such person or owner, as the case may be.

Enforcement of Orders to Execution of Work, etc.

558. **Works, etc., which any person is required to execute may in certain cases be executed by the Municipal Commissioner at such person's cost. -** (1) Subject to the provisions of this Act, and of the rules, bye-laws and regulations, when any requisition is made under any provision of this Act or of any rule, bye-law or regulation by written notice by the Municipal Commissioner, or by any Corporation officer duly empowered in this behalf, a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect, and if, within the period so prescribed, such requisition or order or any portion of such requisition or order is not complied with, the Municipal Commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made; and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The Municipal Commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

559. **Supply of materials**. - On the written request of any person who is required under any of the provisions of this Act, or of any rule, regulation or byelaw to supply any materials or fittings the Municipal Commissioner may, on such person's behalf, supply the necessary materials and fittings and cause the work to be done:

Provided that, where the provisions of Section 524 or 525 will not apply, a deposit shall first of all be made by the said person of a sum which will, in the opinion of the Municipal Commissioner, suffice to cover the cost of the said materials, fittings and work.

Power of Entry and Inspection

560. **Power of entry and inspection. -** (1) The Municipal Commissioner or any Corporation officer or servant authorised by him in this behalf may enter into or

upon any premises, with or without assistants or workmen, which he is empowered by or under the provisions of this Act or the rules to enter or inspect or in order to make any inspection, search, survey, measurement, valuation or inquiry or to execute any work which is authorised by or under this Act or which it is necessary for any of the purposes, or in pursuance of any of the provisions, of this Act, or of any rules, bye-laws or regulations thereunder to make or execute.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Municipal Commissioner or any Corporation officer or servant authorised by him in this behalf shall have power to enter and inspect any place or article in following cases, namely -

(a) any stable, garage, coach-house or any place where any vehicle, boat or animal liable to tax is kept;

(b) any land whereon any Corporation drain has been or is proposed to be constructed-under Section 230;

(c) any land belonging to any person for the purpose of emptying his own drain into a Corporation drain-under Sections 234, 236, 241 and 242;

(d) any land whereon shafts or pipes for ventilating drains are required to be fixed-under Section 249;

(e) drains, ventilators, shafts, pipes, cesspools, latrines, urinals, bathing and washing places-under Section 255;

(f) any land which provides access to any Corporation waterworks-under Section 264;

(g) any premises which are suspected to have been used for any trade or keeping any article in contravention of Section 438;

(h) any premises for the use of which a licence is required and has been granted under the provisions of this Act;

(i) any building during its erection or any work during its execution;

(j) any premises which are provided by the Corporation for the residence of Corporation Officers and servants.

(3) The Municipal Commissioner or such authorised person shall not use any force for the purpose of effecting any entry under sub-section (1), unless -

(i) such entry cannot otherwise be effected, and

(ii) there is reason to believe that an offence is being or has been committed against any provisions of this Act or rule or bye-law made thereunder.

561. **Power of Municipal Commissioner to enter on lands adjacent to works. -** (1) The Municipal Commissioner may enter upon any land adjoining or within one hundred yards of any works authorised by this Act or by any rule or bye-law made thereunder for the purpose of depositing upon such land any soil. gravel, sand, lime, bricks, stone or other materials, or of obtaining access of such works, or for any other purpose connected with the carrying on of such works.

(2) The Municipal Commissioner shall, before entering upon any land under sub-section (1) unless otherwise provided in this Act or any rule or bye-law made thereunder, give the owner and occupier (if any) three days' previous written notice of his intention to make such entry, and of the purpose thereof, and shall, if so required by the owner or occupier, set apart by sufficient fences so much of the land as may be required for the purpose mentioned in the said sub-section.

(3) The Municipal Commissioner shall not be bound to make any payment, tender or deposit before entering upon any land under sub-section (1), but shall do as little damage as may be, and shall pay compensation to the owner and occupier (if any) of the land for such entry and for any temporary damage that may be done in consequence thereof, and shall also pay compensation to the said owner for any permanent damage resulting therefrom.

562. **Time of making entry. -** (1) No such entry shall be made after sunset and before sunrise:

Provided that in any case in which it has been expressly provided by or under this Act such entry may be made by day or night.

(2) Except as otherwise expressly provided by or under this Act, no building used as a human dwelling shall be entered except with the consent of the occupier thereof or without giving him at least six hours' notice in writing of the intended entry and, except when it is deemed inexpedient to mention the purpose thereof, of such purpose.

(3) When such premises may otherwise be entered without notice, sufficient notice shall be given in every instance to enable the inmates of any apartment appropriated to females to remove themselves.

(4) Due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

(5) No claim shall be against any person for compensation for any damage necessarily caused by an entry under sub-section (7) of Section 438 or by the use of any force necessary for effecting such entry.

563. **Prohibition of obstructing entry under Section 560 or Section 561**.- No person shall, in any way, obstruct the Municipal Commissioner in making any entry under Section 560, or Section 561 or any Corporation officer or other person

accompanying the Municipal Commissioner at his request of acting under his orders for the purposes of such entry.

Legal Proceedings

564. **Provisions respecting institution, etc., of civil and criminal actions and obtaining legal advice. -** (1) The Municipal Commissioner may-

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

(i) any offence against this Act or any rule, regulation or bye-law;

(ii) any offence which affects or is likely to affect any property or interest of the Corporation or the due administration of this Act;

(iii) committing any nuisance whatever;

[23][(b) subject to any general or special orders of the State Government in this behalf, compound any offence punishable under this Act, or rules, bye-laws or regulations made thereunder, either before or after the institution of the, prosecution, on realisation of such amount of composition fee as he thinks fit, not exceeding the maximum amount of fine fixed for the offence; and where the offence is so compounded -

(i) before the institution of the prosecution; the offender shall not be liable to prosecution for such offence and shall, if in custody, be set at liberty;

(ii) after the institution of the prosecution the composition shall amount to acquittal of the offender];

(c) defend any election petition brought under the Act or any other proceeding relating to elections under the Act if he or the Corporation or any other Corporation authority is sued; or

(d) defend, admit or compromise any appeal against an annual value or tax brought under Section 472;

(e) take, withdraw from or compromise, proceedings under sub-section (2) of Section 470, sub-sections (3) and (4) of Section 522 and Section 481 and for the recovery of expenses of compensation claimed to be due to the Corporation;

(f) withdraw from or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable

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[23] Subs. by U.P. Act 35 of 1979.

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under a contract entered into with such person by the Municipal Commissioner or, with the approval of the Executive Committee, any such claim for any sum exceeding five hundred rupees;

(g) defend any suit or other legal proceedings brought against the Corporation or against the Municipal Commissioner or a Corporation officer or servant in respect of anything done or omitted to be done by them, respectively, in their official capacity;

(h) with the approval of the Executive Committee admit or compromise any claim, suit or legal proceeding brought against the Corporation or against the Municipal Commissioner or a Corporation officer or servant in respect of anything done or omitted to be done as aforesaid;

(i) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the Corporation or the Municipal Commissioner;

(j) obtain and pay for such legal advice and assistance as he may, from time to time, think it necessary or expedient to obtain or as he may be desired by the Corporation or the Executive Committee to obtain, for any of the purposes mentioned in the foregoing clauses of this sub-section or for securing the exercise or discharge of any power or duty vesting in or imposed upon any Corporation authority or any Corporation officer or servant:

Provided that the Municipal Commissioner shall not defend any suit or legal proceeding under clause *(g)* without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the Corporation shall determine to have instituted and prosecuted.

General

565. **Corporators, etc. to be deemed to be public servants**. - (1) The Municipal Commissioner and every Corporator [24][* * *] and every Corporation officer or servant appointed under this Act, and every contractor or agent for the collection of any Corporation tax, fee or other sum due to the Corporation and every servant or other person employed by any such contractor or agent shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

(2) For the purposes of sub-section (1) the word "Government" in the definition of "Legal remuneration" in Section 161 of the Indian Penal Code shall be deemed to include the Corporation.

566. **Duties of police officers**. - It shall be the duty of every police officer --

[24] Omitted by U.P. Act 12 of 1977.

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

(b) to assist the Municipal Commissioner or any Corporation officer or servant, or any person to whom the Municipal Commissioner has lawfully delegated powers reasonably demanding his aid for the lawful exercise of any power vesting in the Municipal Commissioner or in such Corporation officer or servant or person under this Act, or any such rule, bye-law or regulation;

and for all such purposes he shall have the same powers which he has in the exercise of his ordinary police duties.

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

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

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

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

568. **Exercise of powers of police by Corporation servants**. - The State Government may empower any Corporation officer or servant or any class of Corporation officers or servants to exercise the powers of a police officer for the purposes of this Act.

569. **Informalities and errors in assessments, etc., not to be deemed to invalidate such assessment, etc. -** (1) Any informality, clerical error, omission or other defects in any assessment made or any distress levied or attachment made or in any notice, bill, schedule, summons or other documents issued under this Act or under any rule, regulation or bye-law may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, attachment, notice, bill, schedule, summons or other document invalid or illegal if the provisions of this Act and of the rules, regulations or bye-laws have in substance and effect been complied with, but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a court of competent jurisdiction.

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570. **Indemnity for acts done in good faith. -** No suit, prosecution or other legal proceeding shall lie in respect of anything in good faith done or purported or intended to be done under this Act against the State Government, any Corporator, [25][* * *] Mayor or against the Municipal Commissioner, or any Corporation officer or servant or against person acting under and in accordance with the directions under this Act of the State Government, the Corporation, any Committee constituted under this Act, the Municipal Commissioner, any Corporation officer or servant or of a Magistrate.

571. **Protection of persons acting under this Act against suits. -** (1) No suit shall be instituted against the Corporation or against the Municipal Commissioner, or against any Corporation officer or servant, in respect of any act done or purported to be done in pursuance or execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act -

(a) until the expiration of two months next after notice in writing has been, in the case of the Corporation, left at the Corporation office and, in the case of the Municipal Commissioner or of a Corporation officer or servant delivered to him or left at his office, stating with reasonable particularity the cause of action, the nature of the relief sought, the amount of compensation claimed, if any, and the name and place of abode of the intending plaintiff and of his attorney, advocate, pleader or agent, if any, for the purpose of such suit, nor

(b) unless it is commenced within six months next after the accrual of the cause of action:

Provided that nothing in this sub-section shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the commencement of the suit or proceeding.

(2) At the trial of any such suit -

(a) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid;

(b) the claim, if it be for damages, shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into Court with cost.

(3) When the defendant in any such suit is a Corporation officer or servant, payment of sum or of any part of any sum payable by him in, or in consequence of the suit, whether in respect of costs, charges, expenses, compensation for damages or

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[25] Omitted by U.P. Act 12 of 1977.

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otherwise, may be made, with the previous sanction of the Executive Committee from the Corporation Fund.

[26][57l-A. **Mode of proof of Corporation records. -** A copy of any receipt, application, plan, notice, order, entry in a register or other document in the possession of a Corporation shall, if duly certified by the legal keeper thereof or a person authorised by the Municipal Commissioner in this behalf, be received as *prima facie* evidence of the existence of the entry or document and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent as, the original entry or document would, if produced, have been admissible to prove such matters.

57l-B. **Restriction on summoning of Corporation officers or servants to produce documents. -** No Corporation officer or servant shall in any legal proceedings to which a Corporation is not a party be required to produce any register or document the contents of which can be proved under the last preceding section by it certified copy or to appear as a witness to prove the matter and transactions recorded therein unless by order of the Court made for special cause.]

572. **Civil Court not to grant temporary injunction in certain cases. -** No Civil Court shall in the course of any suit grant any temporary injunction or make any interim order--

(a) restraining any person from exercising the powers or performing the functions or duties of a Corporator, [27][* * *] officer or servant of a Corporation or of a committee or sub-committee of a Corporation on the ground that such person has not been duly elected, or appointed, as the case may be; or

(b) restraining any person or persons or any Corporation committee or subcommittee of a Corporation from holding any election, or from holding any election in any particular manner.

573. **Limitation of liability of agent or trustee of owner. -** (1) No person who receives the rent of any premises in any capacity described in paragraph (i), (ii) or (iii) of sub-clause *(a)* of clause (52) of Section 2 shall be liable to do anything which is by this Act required to be done by the owner unless he has or, but for his own improper act or default, might have had sufficient funds of or due to the owner to pay for the same.

(2) The burden of proving the facts entitling any person to relief under sub section (1) shall rest on such person.

(3) When any person has secured relief under sub-section (1) the Municipal Commissioner may, by written notice, require such person to apply to the discharge of

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26 Added by U.P. Act 21 of 1964.

27 Omitted by U.P. Act 12 of 1977.

any obligation which he would, but for such relief, be bound to discharge, the first moneys which shall come to his hand on behalf of or for the use of the owner, and any person who fails to comply with such notice shall be deemed to be personally liable to discharge such obligation.

(4) Nothing in this section shall be deemed to prevent the Municipal Commissioner from carrying out the necessary work and recovering the expenses from the actual owner.

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CHAPTER XXV

TRANSITORY PROVISIONS, REPEALS AND AMENDMENTS

574. **Constructions of references in other enactments. -** (1) In any enactment other than the U.P. Municipalities Act, 1916, the U.P. Town Improvement Act, 1919 and the Cawnpore Urban Area Development Act, 1945, in force on the date immediately preceding the appointed day in a City or any rule, order or notification made or issued thereunder and in force on such date in the said City unless a different intention appears--

(a) references to [28][municipality or municipal area and Municipal Board or Municipal Council, as the case may be,] constituted under the U.P. Municipalities Act, 1916, shall be construed as references to the City [29][and] to the Corporation of the said City, as the case may be, and such enactment, rule, order or notification shall apply to the said City or Corporation;

(b) references to the President or the Vice-President of the Municipal Board [30][or, as the case may be, of the Municipal Council] constituted under the U.P. Municipalities Act, 1916, shall be construed in respect of the City as references to the Municipal Commissioner, appointed under this Act;

(c) references to the Improvement Trust or Development Board constituted under the U.P. Town Improvement Act, 1919 or the Cawnpore Urban Area Development Act, 1945, and to the Chairman or President of such Trust or Board shall in respect of the City be construed as references respectively to the Development Committee constituted under this Act and to the Municipal Commissioner;

(d) references to the members of a Municipal Board [31][or, as the case may be, of the Municipal Council] constituted under the U.P. Municipalities Act, 1916, shall in respect of the City be construed as references to the members of the Corporation constituted under this Act for the City; and

(e) references to any chapter or section of the U.P. Municipalities Act, 1916, the U.P. Town Improvement Act, 1919, and the Cawnpore Urban Area Development Act, 1945, shall as far as possible be construed in respect of the City as references to this Act or its corresponding chapter or section.

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28 Subs. for "Municipalities and municipal boards" by U.P. Act 26 of 1995, S.22 (w.e.f. 30-05-1994).

29 Subs for "or" by U.P. Act 26 of 1999, S. 22 (w.e.f. 30-05-1994).

30 Ins. by U.P. Act 26 of 1995, S. 22 (w.e.f. 30-05-1994).

31 Ins. by U.P. Act 26 of 1995, S. 22 (w.e.f. 30-05-1994).

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[32][(2) On and from the date of commencement of the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994, any reference to the Nagar Mahapalika or Mahapalika in any rules, regulations, bye-laws, statutory instruments or in any other law for the time being in force, or in any document or proceedings shall be construed as references respectively to the Municipal Corporation or the Corporation.]

575. **Sums due. -** All sums due to [33][Municipal Board or, as the case may be, the Municipal Council] or local authority for the area which has been constituted a City, whether on account of any tax or any other account, shall be recoverable by the Municipal Commissioner for the City and for the purpose of such recovery he shall be competent to take any measure or institute any proceeding which it would have been open to the authority of [33][Municipal Board or, as the case may be, the Municipal Council] or local authority to take or institute, if this Act had not come into operation and the said area had not been constituted to be a City.

576. **Debts, obligations, contract and pending proceedings. -** (1) All debts and obligations incurred and all contracts made by or on behalf of the [33][Municipal Board or, as the case may be, the Municipal Council] or local authority immediately before the appointed day and subsisting on the said day shall be deemed to have been incurred and made by the Municipal Commissioner for the said City in exercise of the powers conferred on him by this Act and shall continue in operation accordingly.

(2) All proceedings pending before any authority of the [33][Municipal Board or, as the case may be, the Municipal Council] or local authority on the said day which under the provisions of this Act are required to be instituted before or undertaken by the Municipal Commissioner shall be transferred to and continued by him and all other such proceedings shall, so far as may be, be transferred to and continued by such authority before or by whom they have to be instituted or undertaken under the provisions of this Act.

(3) All appeals pending before any authority of the [33][Municipal Board or, as the case may be, the Municipal Council] or local authority on the said date shall, so far as may be practicable, be disposed of as if the area was constituted to be a City when they were filed.

(4) All prosecutions instituted by or on behalf of the [33][Municipal Board or, as the case may be, the Municipal Council] or local authority and all suits and other legal proceedings instituted by or against the [33][Municipal Board or, as the case may be, the Municipal Council] or local authority or any officer of the [33][Municipal Board or, as the case may be, the Municipal Council], local authority pending on the said date shall be continued by or against the Municipal Commissioner or the Corporation for said City, as the case may be, as if the area was constituted to be a City when such prosecution, suit or proceeding was instituted.

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32 Ins. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

33 Subs. for "the said municipality" by U.P. Act 26 of 1995, S. 23 (w.e.f.30-05-1994).

577. **Continuation of appointments, taxes, budget estimates, assessments, etc. -** Save as expressly provided by the provisions of this Chapter or by a notification issued under Section 579 -

(a) any appointment, delegation, notification, notice, tax, order, direction, scheme, licence, permission, registration rule, bye-law, regulation, form made, issued, imposed or granted under the U.P. Municipalities Act, 1916, or the Cawnpore Urban Area Development Act, 1945, or the U.P. Town Improvement Act, 1919, or any other law in force in any local area constituted to be a City immediately before the appointed day shall, in so far as it is not inconsistent with the provisions of this Act, continue in force until it is superseded by any appointment, delegation, notification, notice, tax, order, direction, scheme, licence, permission, registration, rule, bye-law, or form made, issued, imposed or granted under this Act or any other law as aforesaid, as the case may be;

(b) any notice or notification or sanction of any improvement scheme for the area included in the City issued under the U.P. Town Improvement Act, 1919 or the Cawnpore Urban Area Development Act, 1945, shall be deemed to have been issued under this Act and all further proceedings in furtherance of such scheme may be taken accordingly;

(c) all proceedings for acquisition of land whether in pursuance of any scheme of improvement or otherwise initiated under the UP. Town Improvement Act, 1919, the Cawnpore Urban Area Development Act, 1945, or the UP. Municipalities Act, 1916, or any other enactment applicable to the area included in the City may be continued as if they had been initiated under this Act;

(d) all budget estimates, assessments, valuations, measurements, and divisions made under the UP. Municipalities Act, 1916, or the U.P. Town Improvement Act, 1919, or the Cawnpore Urban Area Development Act, 1945, or any other law in force in any area constituted to be a City immediately before the appointed day shall, in so far as they are consistent with the provisions of this Act, be deemed to have been made under this Act;

(e) all officers and servants in the employ of the [34][Municipal Board or, as the case may be, the Municipal Council] Improvement Trust, Development Board or local authority immediately before the appointed day shall, notwithstanding anything in Sections 106 and 107, be officers and servants employed by the Corporation in a temporary capacity under this Act and [35][for so long as they are not appointed to

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[34] Subs. for "said Municipality" by U.P. Act 26 of 1995, S. 315 (w.e.f. 30-05-1994).

[35] Subs. by U.P. Act 29 of 1966.

posts created under this Act or finally absorbed in any centralised service created by rules made under Section 112-A or their services do not stand determined in accordance with such rules, they shall draw the same salaries and allowances and, except as otherwise provided in such rules, be subject to the same conditions of service to which they were entitled or were subject immediately before the appointed day];

[36][(ee) For so long as the posts mentioned in Section 106 are not created by the Corporation and formal appointments are not made thereto as provided in this Act-

(1) the Municipal Commissioner shall be competent to make such changes in the designations of the existing officers and servants mentioned in clause *(e)* as may be necessary having regard to the provisions of this Act and the rules made thereunder, and the officers and servants so designated shall be competent to exercise and perform the powers, duties, and functions assigned to them under the Act and the said rules:

Provided that a copy of every order of the Municipal Commissioner made under this sub-clause shall be sent to the State Government which may make such modifications therein as may be necessary or desirable;

(2) such officer or officers of the State Health Service as the State Government may nominate or designate in this behalf shall function as Nagar Swasthya Adhikari or as Nagar Swasthya Adhikaris under this Act;

(3) servants of the State Government who are on deputation with the [37][Municipal Board or, as the case may be, the Municipal Council], Improvement Trust, Development Board or local authority immediately before the appointed day shall, notwithstanding anything contained in Sections 106 and 107, be deemed to be on deputation with the Municipal Corporation:

Provided that the State Government may, at any time, of its own accord or on a request being made by the Corporation withdraw any such officer or substitute any such officer by a new officer.]

(f) [38][subject to the provisions of any rules made under Section 112-A, the following procedure shall be followed] in appointing the officers and

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36 Ins. by U.P. Act 21 of 1964 and shall be deemed always to have been inserted.

37 Subs. for "said Municipality" by U.P. Act 26 of 1995, S. 316 (w.e.f. 30-05-1994).

38 Subs. by U.P. Act 29 of 1966.

servants referred to in clause *(e)* to the posts created by the Corporation under Section 106

(l) appointments to posts for which consultation of the State Public Service Commission is necessary under Section 107 shall be made according to the provisions of that section;

(2) appointments to other posts shall be made by the Municipal Commissioner in consultation with the Mayor and in accordance with any general or special directions of the State Government in this behalf;

(3) if for any post suitable person out of the temporary officers and servants aforesaid is not available, appointment to such post shall be made otherwise under the provisions of this Act;

(4) if any temporary officer or servant as aforesaid is found not to be suitable for any post created by the Corporation or he declines to accept the post to which he is appointed on the ground that its pay or time scale of the pay is less than his present pay or time scale, his service shall be terminated after giving him necessary notice as required under the terms of his service but each such officer or servant whose services have been terminated in this manner shall be entitled to such leave, pension or gratuity as he would have been entitled to take or receive on termination of his service if this Act had not been passed;

(g) the service rendered by the officers and servants referred to in clause *(e)* before the appointed day shall be deemed to be service rendered in the service of the Corporation.

[39][577-A. **Continuation of Service**. - All officers and servants in the employment of a Nagar Mahapalika as it stood immediately before the commencement of the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994, shall, on such commencement, be the officers and servants of the Corporation under this Act and shall draw the same salaries and allowances and be subject to the same conditions of service to which they were entitled or subjected to immediately before such commencement.]

578. **Provision for municipality or local authority which is [40][* * *] dissolved. -** Any reference in the foregoing sections to a municipality or local authority shall, in case such municipality or local authority has been [40][* * *] dissolved or placed under the charge of an administrator under any enactment made

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39 Ins. by U.P. Act 26 of 1995, S.26 (w.e.f 30-05-1994).

40 The words "suspended or" omitted by U.P. Act 26 of 1995, S.27 (w.e.f30-05-1994).

for that purpose be deemed to be a reference to the person or persons appointed to exercise the powers or to perform the functions of such municipality or local authority under any law relating to such municipality or local authority.

579. **Special provisions -** (1) [41][Where any area is specified to be a larger urban area under clause (2) of Article 243-Q of the Constitution] the State Government may, notwithstanding anything in this Act, or any other enactment for the time being in force in such area -

(a) by notification in the Official Gazette appoint an interim Municipal Commissioner to exercise the powers and perform the functions of a Municipal Commissioner under this Act [42][* * *];

(b) requisition the services of any officer or servant of the Municipal [43][Council], Improvement Trust or Development Board or other local authority functioning in relation to the area included in such City for the purposes of all works relating to the establishment of the Corporation of such City;

(c) by order provide for such other matters as may be necessary for facilitating the establishment of the Corporation for such City.

(2) The salary and allowances of the officers and servants referred to in clause *(b)* of sub-section (1) shall be paid out of the funds of the respective local authority of which they were officers or servants at the time of requisition of their services and the salary and allowances of the interim Municipal Commissioner shall be paid out of the fund of such local authority as the State Government may direct.

[44][579-A. **Provision until the constitution of Municipal Corporation. -** (1) Notwithstanding anything in this Act, during the period between the commencement of the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994, and the [45][first] constitution of the Municipal Corporation under this Act [46][as amended by the said Act], the Nagar Mahapalika and its Mayor, ♣[Deputy Mayor] and members shall respectively exercise, perform and discharge the powers, functions and duties of the Municipal Corporation, its Mayor, ♣[Deputy Mayor] and members and shall be deemed respectively to be the Municipal Corporation, its Mayor, ♣[Deputy Mayor] and members.

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41 Subs. by U.P. Act 26 of 1995, S.28 (w.e.f 30-05-1994).
42 Omitted by U.P. Act 26 of 1995, S.28 (w.e.f 30-05-1994).
43 Subs. for "Board" by U.P. Act 26 of 1995, S.28 (w.e.f 30-05-1994).
44 Ins. by U.P. Act 12 of 1994, (w.e.f 30-05-1994).
45 Ins. by U.P. Act 26 of 1995, S.29 (w.e.f 30-05-1994).
46 Ins. by U.P. Act 26 of 1995, S.29 (w.e.f 30-05-1994).
♣ The word "Deputy Mayor" omitted by U.P. Act 49 of 2007, S.8.

(2) Where the term or the extended term of [47][the Nagar Mahapalika as it stood immediately before the commencement of, the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994, expires after such commencement and a new Corporation is not constituted under the provisions of this Act as amended by the said Act then on such expiry and until the constitution of new Corporation]

(a) [48][* * *]

(b) all powers, functions and duties of the Corporation, its Mayor, ♣[Deputy Mayor], Executive Committee, Development Committee and other Committees appointed under clause *(e)* of Section 5 and of the Municipal Commissioner shall [49][continue to vest in and be exercised, performed and discharged by the Administrator who shall] be deemed in law to be the Corporation, the Mayor, the ♣[Deputy Mayor], Executive Committee, Development Committee, other Committees or the Municipal Commissioner as the occasion may require;

(c) subject to any general or special orders of the State Government, the Administrator may, in respect of all or any of the powers conferred on him by clause *(b),*-

(i) consult such Committee or other body, if any, constituted in such manner as may be specified by him in that behalf; or

(ii) delegate, subject to such conditions as he may think fit to impose, the powers so conferred, to any person or to any committee or other body constituted under sub-clause (i), to be specified by him in that behalf;

(d) such salary and allowances of the Administrator as may be fixed by general or special order of the State Government in that behalf shall be paid out of the Corporation Fund.

[50][(3) Notwithstanding anything in sub-section (2), the election to constitute the Corporation shall be held within a period of one and a half years from the date of commencement of the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994 in accordance with the provisions of this Act as amended by the said Act and on the constitution of the Corporation the provisions of clauses *(b), (c)* and (d) of sub-section (2) shall cease to have effect.]

(4) [51][* * *]

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47 Subs. by U.P. Act 26 of 1995, S.29 (w.e.f 30-05-1994).
48 Omitted by U.P. Act 26 of 1995, S.29 (w.e.f 28-12-1994).
49 Subs. by U.P. Act 26 of 1995, S.29 (w.e.f 28-12-1994).
50 Subs. by U.P. Act 26 of 1995, S.29 (w.e.f 30-05-1994).
51 Omitted by U.P. Act 26 of 1995, S.29 (w.e.f 28-12-1994).

[52][580. **Power to remove difficulties. -** (1) If any difficulty arises in giving effect to the provisions of this Act or, by reason of anything contained in this Act or any other enactment for the time being in force, the State Government may, as occasion requires, by a notified order, direct that this Act shall have effect subject to such adaptations, whether by way *of* modification, addition or omission, as it may deem to be necessary and expedient.

(2) No order under sub-section (1) shall be made after the expiration *of* the period *of* two years from the commencement *of* the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994.

(3) The provisions made by any order under sub-section (1) shall have effect as *if* enacted in this Act and any such order may be made so as to be retrospective to any date not earlier than the date *of* commencement *of* the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994.

(4) Every order made under sub-section (1), shall be laid, as soon as may be, before both the Houses *of* the State Legislature and the provisions *of* sub-section (1) *of* Section 23-A *of* the Uttar Pradesh General Clauses Act, 1904 shall apply as they apply in respect *of* rules made by the State Government under any Uttar Pradesh Act.

580-A. **Succession to property, assets, rights, liabilities and obligations in certain cases. -** (1) On and from the date *of* commencement *of* the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994 and subject *to* the provisions *of* Section 140--

(a) all property, interest in property and assets, including cash balances wherever situate, which immediately before such date were vested in the Nagar Mahapalika shall vest in and be held by the Corporation for the purposes of this Act; and

(b) all rights, liabilities and obligations *of* the aforesaid Nagar Mahapalika whether arising out *of* any contract or otherwise existing immediately before such date, shall be the rights, liabilities and obligations *of* the Corporation.

(2) Where any doubt or dispute arises as *to* whether any property, interest or asset has vested in Corporation under sub-section (1), or any rights, liability or obligation has become the right, liability or obligation *of* Corporation such doubt or dispute shall be referred by the Municipal Commissioner *to* the State Government whose decision shall unless superseded by any decision *of* a court *of* law be final.

580-B**. Sums due [53][to the Mahapalika]. -** All sums due to the Nagar Mahapalika whether on account *of* any tax, or any other account, shall be recoverable

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52 Ss. 580, 580-A, 580-B and 580-C subs. for "S.580" by U.P. Act 12 of 1994 (w.e.f.30-05-1994).

53 Ins. by U.P. Act 26 of 1995, S.30 (w.e.f 30-05-1994).

by the Corporation and for the purpose *of* such recovery, it shall be competent *to* the Corporation to take any measure or institute any proceeding which it would have been open to the Nagar Mahapalika *to* take or institute, *if* the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994 had not *come* into force.

580-C. **Debts, obligations, contracts and pending proceedings [54][of the Mahapalika]**. - (1) All debts and obligations incurred and all contracts made by or on behalf *of* the Nagar Mahapalika before the date referred to in sub-section (1) *of* Section 580-A and subsisting on the said date shall be deemed to have been incurred and made by the Corporation in exercise of the powers conferred on it by this Act and shall continue in operation accordingly.

(2) All proceedings pending before any authority of the said Nagar Mahapalika on the said date which under the provisions of this Act, are required to be instituted before or undertaken by the Corporation, shall be transferred to and continued by the Corporation and all other such proceedings shall, so far as may be, be transferred to and continued by such authority before or by whom they have to be instituted or undertaken under the provisions of this Act.

(3) All appeals pending before any authority of the said Nagar Mahapalika on the said date shall, so far as may be practicable, be disposed of, as if there was a Corporation, when they were filed.

(4) All prosecutions instituted by or on behalf of the said Nagar Mahapalika and all suits and other legal proceedings by or against the said Nagar Mahapalika or any officer of the said Nagar Mahapalika pending on the said date, shall be continued by or against the Corporation or the officer, as the case may be, as if there was a Corporation constituted when such prosecution, suit or proceeding was instituted.]

581. **Repeal. -** The U.P. Municipalities Act, 1916, the U.P. Town Areas Act, 1914, the U.P. Town Improvement Act, 1919, the U.P. Town Improvement (Appeals) Act, 1920, the U.P. Town Improvement (Adaptation) Act, 1948, [55][the U.P. District Boards Act, 1922, the U.P. Local Bodies (Appointment of Administrator) Act, 1953] and the Cawnpore Urban Area Development Act, 1945, shall, with effect from the appointed day, stand repealed in so far as they may be applicable to any area included in the City.

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54 Ins. by U.P. Act 26 of 1995, S.31 (w.e.f 30-05-1994).

55 Added by S. 9 of U.P. Act 14 of 1959.

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SCHEDULE I

[See Section 119]

NON-DELEGABLE FUNCTIONS OF CORPORATION AUTHORITIES

PART A

FUNCTIONS OF CORPORATION WHICH MAY NOT BE DELEGATED

Chapter	Section	Function
III	95(1)	To constitute Special Committees or Joint Committee.
	96(1)	To join with a Cantonment authority or any other local authority or with a combination of such authorities.
VI	127	To sanction the acceptance, or acquisition of immovable property if the value of the property which it is proposed to accept, acquire or give in exchange exceeds rupees five thousand.
		To sanction the taking of any property on lease for a term exceeding three years.
		To sanction the acceptance of any gift or bequest of property burdened by an obligation if the value exceeds five thousand rupees.
VII	139	To constitute special fund.
	146(4)	To adopt the budget.
	148	To determine the rates of taxes.
	151	To vary or alter the budget estimates adopted by it.
VIII	154 & 155	To borrow money.
	157	To constitute sinking fund
IX	172	To impose a tax.
	204	To abolish or alter a tax.
	216	To consolidate taxes.
	225	To have recourse to supplementary taxation.
XIV	360	To abandon or sanction the scheme with or without modifications submitted to it by the Development Committee.

	364	To alter a scheme after it has been passed either by the Corporation or by the State Government.
XVI	423	To determine whether the establishment of new private markets or maintenance of private slaughter-houses shall be permitted in the City or in any specified portion of the City.

PART B

FUNCTIONS OF EXECUTIVE COMMITTEE WHICH MAY NOT BE DELEGATED

VI	127	(i) To fix terms, rates or maximum prices for the acquisition of property; *(ii)* to sanction compulsory acquisition of any property and the exchange of any immovable property; and *(iii)* to sanction the taking of any property on lease for a term exceeding twelve months.
	135	To sanction estimates of projects costing more than ten thousand rupees.
IX	213	To alter or amend the assessment list.
XVI	443	To fix fees for plumbers.

PART C

FUNCTIONS OF DEVELOPMENT COMMITTEE WHICH MAY NOT BE DELEGATED

XIV	344	To declare an area to be insanitary area.
	345	To direct the framing of a Basti Sudhar Yojana (Slum Clearance and Re-building Scheme).
	351	To give permission for surveys to be made
	356	To accept with or without modification a scheme prepared by the Municipal Commissioner.
	359	To consider objections or representations in regard to an improvement scheme.

PART D

FUNCTION OF THE MUNICIPAL COMMISSIONER WHICH MAY NOT BE DELEGATED TO OTHER OFFICERS OR SERV ANTS

IV	107(2)	To make appointment to posts [56][not included in the posts referred to in sub-section (1) of Section 107].
VI	127	To acquire any movable or immovable property within or without the City or any interest in such property.
	129	To dispose of any property on behalf of the Corporation.
X	229	To declare that any drain or part thereof or any drainage or sewage disposal works shall vest in the Corporation.
	250	To appoint places for emptying of drains and disposal of sewage.
XII	277	To prohibit use of public streets for certain kinds of traffic.
	278	To acquire premises for improvement of public streets.
	279	To prescribe a street line.
	280 & 281	To order setting back of buildings to regular line of the street and pulling down buildings or any part thereof in case of default.
	282	To acquire open land or land occupied by platforms 284within regular line of street
	283	
	284	
	290	To declare a private street to be a public street.
	293	To permit projections over streets.
	299	To require removal of any structure or fixture erected or set up before the appointed day.
	305	To permit erection, *etc.,* of sky-signs.
XIII	322	To refuse to grant permission to construct a building

[56] Subs. by U.P. Act 12 of 1994 (w.e.f. 30-05-1994).

		until the street is commenced or completed.
	328	To cancel permission to proceed with any building or work on ground of material misrepresentation by applicant.
	333	To direct removal of persons directing unlawful work.
	334	To issue notice for the vacation of any building in certain circumstances.
	335	To regulate future construction of buildings in particular streets or localities.
	338	To prohibit re-erection of buildings on inaccessible sites.
	340	To call for statement of accommodation.
XVI	430	To fix with the permission of the Corporation premises within the City for the slaughter of animals.
XXI	525	To declare with the approval of the Corporation certain expenses to be improvement expenses

Lease deed executed by Assistant Municipal Commissioner.-Municipal Commissioner's functions under Section 129 being non-delegable, a lease deed executed by Assistant Municipal Commissioner was invalid *(Bhagwanti* v. *Jiuti,* AIR 1975 All 341).

SCHEDULE II

***[See* Section 376]**

MODIFICATIONS IN THE LAND ACQUISITION ACT, 1894

(HEREINAFTER CALLED "THE SAID ACT")

***1.* Amendment of Section 3. -** After clause *(e)* of Section 3 of the said Act, the following shall be deemed to be inserted, namely -

"(ee) the expression 'local authority' includes a Mahapalika constituted under the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959."

2. Notification under Section 4 and Section 6 to be replaced in the case of improvement schemes by notifications under Sections 357 and 363 of this Act. - (1l) The first publication of a notice of an improvement scheme under Section 357 of this Act shall be substituted for and have the same effect as publication, in the Official Gazette, and in the locality, of a notification under subsection (1) of Section 4 of the said Act, except where a declaration under Section 4 or Section 6 of the said Act has previously been made and is still in force.

(2) Subject to the provisions of paragraphs 10 and 11 of this Schedule, the issue of a notice under sub-section (4) of Section 348 of this Act in the case of land acquired under that sub-section and the publication of a notification under Section 363 of this Act in the case of land acquired under any other improvement scheme under this Act shall be substituted for and have the same effect as a declaration by the State Government under Section 6 of the said Act, unless a declaration under the last-mentioned section has previously been made and is still in force.

3. Amendment of Section 11. - The full stop at the end of Section 11 of the said Act shall be deemed to be changed to a semi-colon, and the following shall be deemed to be added, namely

"and"

"(iv) the cost which, in his opinion, should be allowed to any person, who is found to be entitled to compensation, [* * *][57] as having been actually and reasonably incurred by such person in preparing his claim and putting his case before the Collector.

The Collector may disallow, wholly or in part, costs incurred by any person, if he considers that the claim made by such person for compensation is extravagant. "

4. Amendment of Section 15. - In Section 15 of the said Act, for the word and figures "and 24" the figures, word and letters "24 and 24-A" preceded by a comma, shall be deemed to be substituted.

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[57] Certain words deleted by U.P. Act 23 of 1961.

5. Amendment of Section 17. - (1) In sub-section (3) of Section 17 of the said Act, after the figures "24" the words, figures and letters "or Section 24-A" shall be deemed to be inserted.

(2) To the said Section 17 the following shall be deemed to be added, namely–

"(5) Sub-sections (1) and (3) shall apply also in the case of any area which is stated in a certificate granted by the District Magistrate or a Magistrate of the first class to be unhealthy.

(6) Before granting any such certificate, the Magistrate shall cause notice to be served as promptly as may be on the persons referred to in sub-section (3) of Section 9 and shall hear without any avoidable delay any objection which may' be urged by them.

(7) When proceedings have been taken under this section, for the acquisition of any land, and any person sustains damage in consequence of being suddenly dispossessed of such land, compensation shall be paid to such person for such dispossession."

6. Transfer of land to Corporation. - After Section 17 of the said Act, the following shall be deemed to be inserted, namely:

"17-A. In every case referred to in Section 16 or Section 17, the Collector shall, upon payment of the cost of acquisition, make over charge of the land to the Municipal Commissioner; and the land shall thereupon vest in the Corporation, subject to the liability of the Corporation to pay any further costs which may be incurred on account of its acquisition."

7. Amendment of Section 18. - The full stop at the end of sub-section (1) of Section 18 of the said Act shall be deemed to be changed to a comma, and the words "or the amount of the costs allowed" shall be deemed to be added.

8. Amendment of Section 19. - After the words "amount of compensation" in clause *(c)* of Section 19 of the said Act, the words "and of costs (if any)", shall be deemed to be inserted.

9. Amendment of Section 20. - After the words "amount of the compensation" in clause *(c)* of Section 20 of the said Act, the words "or costs" shall be deemed to be inserted.

10. Amendment of Section 23. - (1) In clause first and clause sixth of sub-section (1) of Section 23 of the said Act. after the words "publication of the notification under Section 4, sub-section (1)", and words "publication of the declaration, under Section 6" shall be deemed to be added-

(a) if the land is being acquired under sub-section (3) of Section 348 of this Act, the words "or in the case of acquisition under sub-section (3) of Section 348 of the U.P. Nagar Mahapalika Adhiniyam, 1959 of the

issue of the notice under sub-section (3) of Section 348 of that Act", and

(c) in any other case, the words "or in the case of acquisition of land under any improvement scheme other than a deferred street scheme under Chapter XIV of the U.P. Nagar Mahapalika Adhiniyam, 1959, of the first publication of the notification under Section 357 of that Act".

[58][(2) * * *]

(3) At the end of Section 23 of the said Act, the following shall be deemed to be added, namely:-

"(2) for the purposes of clause first of sub-section (1) of this section –

(a) the market value of the land shall be the market value according to the use to which the land was put at the date with reference to which the market-value is to be determined under that clause;

(b) if it be shown that before such date that the owner of the land had in good faith taken active steps and incurred expenditure to secure a more profitable use of the same, further compensation based on his actual loss may be paid to him;

(c) if any person without the permission of the Municipal Commissioner required by clause (b) of sub-section (1) of Section 348 or by sub-section (4) of Section 350 of the Nagar Mahapalika Adhiniyam, 1959, has erected; re-erected, added or altered any building or wall so as to make the same project beyond the street alignment prescribed under the said Section 348 or within the area specified in sub-section (4) of the said Section 350, as the case may be, then any increase in the market-value resulting from such erection, re-erection, addition or alteration shall be disregarded;

(d) if the market-value has been increased by means of any improvement made by the owner or his predecessor-in-interest within two years before the aforesaid date, such increase shall be disregarded unless it be proved that the improvement so made was made in good faith and not in contemplation of proceedings for the acquisition of the land being taken under this Act;

(e) if the market-value is specially high in consequence of the land being put to a use which is unlawful or contrary to public

[58] Sub-para (2) which was added by U.P. Act 14 of 1959 has been deleted by U.P. Act 23 of 1961.

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policy, that use shall be disregarded and the market-value shall be deemed to be the market-value of the land if put to ordinary uses;

(f) if the market-value of any building is specially high in consequence of the building being so overcrowded as to be dangerous to the health of the inmates such overcrowding shall be disregarded, and the market-value shall be deemed to be the market-value of the building if occupied by such number of persons only as could be accommodated in it without risk of danger from overcrowding;

(g) when the owner of the land or building has after the passing of the U.P. Nagar Mahapalika Adhiniyam, 1959, and within two years preceding the date with reference to which the market-value is to be determined, made a return under Section 158 of the United Provinces Municipalities Act, 1916, of the rent of the land or building, the rent of the land or building shall not in any case be deemed to be greater than the rent shown in the latest return so made, save as the court may otherwise direct, and the market-value may be determined on the basis of such rent:

Provided that where any addition to, or improvement of, the land or building has been made after the date of such latest return and previous to the date with reference to which the market-value is to be determined, the Court may take into consideration any increase in the letting value of the land due to such addition or improvement.

NOTES

Analogous law.-Para 10. clause (3) of the Schedule. U.P. Town Improvement Act. 1919.

Compensation. - In *Secretary of State* v. *Makhan Das*[59], the Full Bench held that –

(1) The correct interpretation of Section 23, Land Acquisition Act, as amended by U.P Town Improvement Act, 1919 is that the market value of the land to be acquired is to be calculated exclusively in accordance with the use to which the land is being put on the date on which notice is issued under Section 29 or Section 36 of the U.P. Town Improvement Act, 1919.

(2) Where on such date the land to be acquired is not being put to any use its market-value may be nil.

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[59] AIR 1928 All 147 (FB) : 50 All 470 : 107 IC 587 (FB).

Point No.2. mentioned above, did not find support with the Privy Council decision in *Kailash Chandra Jain* v. *Secretary of State,* AIR 1946 PC 132. It was observed, "It would appear that, in the view of the Full Bench *[Secretary of State* v. *Makhan Das,* AIR 1928 All 147: 50 All 470: 107 IC 587 (FB)], neither a plot of land used by its owner as a garden at the relevant date, nor a plot of agricultural land lying fallow at the relevant date. is being put to any 'use' within the meaning of Section 23, because the owner is deriving no profit therefrom; consequently, in the view of the Full Bench, the owner is not entitled to any compensation on its compulsory acquisition. Their Lordships are unable to assent to this view. On the true construction of Section 23, the former plot ought to be valued as a garden and the latter plot ought to be valued as agricultural land. The effect of Section *23(3)(a)* of the Act of 1894 as so amended is that the possibility of the garden or agricultural plot being used (e.g.) for building purposes in the future must be disregarded. It is significant that sub-clause *(b)* of that subsection makes provision for the case of the owner having taken active steps and incurred expenditure to secure a more profitable use of the land. In such a case, the owner may be paid further compensation based on actual loss' . Apart from such a case, only the present use of the land can be considered for the purpose of arriving at the market-value."

In view of the above Privy Council decision, *Debi Din* v. *Secretary* of *State for India,* AIR 1942 All 186, which followed AIR 1928 All 147 (FB) carries no weight.

Where the land sought to be acquired is a vacant piece of land used for the purpose of storing building materials for the occasional repairs of houses belonging to the owner in the vicinity, the market-value of the land which is put to such use can be no other than the market-value of a vacant piece of land in that locality on the date of notification irrespective of whether the owner was making any profit from the land. *Kahadhyalal Bhargava* v. *U.P. Government,* 1958 ALJ 738: AIR 1959 All 236.

Para 10(3): Validity. - In *Prabhu Lal* v. *Special Land Acquisition officer,* a Division Bench of the Allahabad High Court held that sub-section *(a),* added to Section 23(3) of the Land Acquisition Act by paragraph 10(3) was hit by Article 14 of the Constitution. AIR 1973 All 647 (DB); relying on *Nagpur Improvement Trust* v. *Vithal Rao,* (1973) 1 SCC 500: AIR 1973 SC 689.

The Supreme Court held the modifications in Section 23 of the Land Acquisition Act, 1894 made by this sub-para unconstitutional, for violation of Article 14. *Om Prakash* v. *State of UP.,* (1974) 1 SCC 628: AIR 1974 SC 1202: (1974) 2 SCR 731. *See* also *Sukh Rani* v. *State* of *UP.,* 1983 ALJ 803.

11. Amendment of Section 24. - For clause "seventhly" of Section 24 of the said Act, the following shall be deemed to be substituted, namely:

> "seventhly, any outlay on additions or improvements to land acquired, which was incurred after the date with reference to which the market-value is to be determined, unless such additions or improvements were necessary for the maintenance of any building in a proper state of repair."

12. New Section 24-A. - After Section 24 of the said Act, the following shall be deemed to be inserted, namely:

"24-A. Further provision for determining compensation.-In determining the amount of compensation to be awarded for any land acquired under this Act for a Corporation established under the U.P. Municipal Corporation Adhiniyam, 1959, the Court shall also have regard to the following provisions, namely -

(1) when any interest in any land acquired under this Act has been acquired after the date with reference to which the market-value is to be determined, no separate estimate of the value of such interest shall be made so as to increase the amount of compensation to be paid for such land;

(2) if, in the opinion of the Court any building is in a defective state, from a sanitary point of view, or is not in a reasonably good state of repair, the amount of compensation for such building shall not exceed the sum which the Court considers the building would be worth if it were put into a sanitary condition or into a reasonably good state of repair, as the case may be, minus the estimated cost of putting it into such condition or state;

(3) if, in the opinion of the Court, any building which is used or is intended or likely to be used, for human habitation, is not reasonably capable of being made fit for human habitation, the amount of compensation for such building shall not exceed the value of the materials of the building, minus the cost of demolishing the building."

13. Amendment of Section 31. - (1) After the words "the compensation" in sub-section (1) of Section 31 of the said Act, and after the words "the amount of the compensation" in sub-section (2) of that section, the words "and costs (if any)" shall be deemed to be inserted.

(2) After the words "any compensation" in the concluding proviso to sub-section (2) of Section 31 of the said Act, the words "or costs" shall be deemed to be inserted.

14. New Section 48-A. - After Section 48 of the said Act the following shall be deemed to be inserted namely: -

"48-A. Compensation to be awarded when land not acquired within two years.-(1) If within a period of two years from the date of the publication of the declaration under Section 6 in respect of any land, the Collector has not made an award under Section 11, with respect to such land, the owner of the land shall, unless he has been to a material extent responsible for the delay, be entitled to receive compensation for the damage suffered by him in consequence of the delay.

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(2) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section."

15. Amendment of Section 49. - After sub-section (1) of Section 49 of the said Act, the following shall be deemed to be inserted, namely:-

"(1-a). For the purposes of sub-section (1) land which is held with and attached to a house and is reasonably required for the enjoyment and use of the house shall be deemed to be part of the house."

SCHEDULE III

***[See* Section 460]**

TABLE OF PENALITIES

PART I

Sections, sub-sections and clauses	*Fine which may be imposed*
396(2), 397, 398, *400(g), 400(h),* 400(i), 403, 404, 405	Ten rupees.
388(2), 408, 425(2), 438(6), 442, 443, 447, 448, 449	Twenty rupees.
246, 277, [* * *][60], 294, 303(1), 307, *422(e),* 424, 426(1), 428, 451(5)	Fifty rupees.
238, 239, *242(1)(b), 243(b),* 248, 257, 258, 259(1), 259(2), 270, 281(2), 289, 293(3), 295(1),295(2)	One hundred rupees.

PART II

Sections, sub-sections & clauses	*Daily fine which may be imposed*
293(3), 294, 427, 428, 438(6)	Five rupees
236, 238, 239, 242(1)(b), 243(b), 246, 248, 257, 258, 259(1), 259(2), 267(1), 270, 289, 292(2), (4), 295(1), 295(2), 299, 303(2), 305(1), 305(3), 308(1), 309(1), 330(4), 422(e), 439, 451(5)	Ten rupees
Sections, sub-sections & clauses	*Daily fine which may be imposed*
304(1), 307, 330(2), 330(3), 333(1), 334(3), 440	Twenty rupees
245(1), 281(2), 302(1), 303(1), 332, 391(2), 392(3), 394(1), 423(2), 438(1), [61][482(3)]	Fifty rupees
279(4), 324, 329, 331(1), 331(2), 335(7)	One hundred rupees
401,402	Five hundred rupees

[60] The figure "293(3)" deleted by U.P. Act 23 of 1961.
[61] Subs. by U.P. Act 23 of 1961, S.2.

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