

ASSAM ACT XV OF 1957

ASSAM MUNICIPAL ACT, 1956

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ASSAM MUNICIPAL ACT, 1956

WHEREAS it is expedient to make better provision for the organisation and administration of municipalities in Assam;

It is hereby enacted in the Seventh Year of the Republic of India as follows:—

CHAPTER I

Preliminary

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Municipal Act, 1956.

(2) It extends to the whole of Assam provided that the State Government may by Notification direct that the Act shall apply to any particular area with such exceptions or modifications as may be specified.

(3) It shall come into force on such date as the State Government may, by notification, direct.

Repeal and
Savings.

2. On and from the date on which this Act comes into force, the Assam Municipal Act, 1923, shall be repealed:

Act I of
1923.

Provided that—

(a) the said repeal shall not affect the validity or invalidity of anything already done under the said enactment;

(b) all municipalities constituted, limits defined, regulations and divisions made, licenses and notices issued, taxes, tolls, rates and fees imposed or assessed, budgets passed, assessments made, plans approved, permissions or sanctions granted under the Assam Municipal Act, 1923, shall so far as they are in force at the commencement of this Act, be deemed to have been respectively constituted, defined, issued, imposed, assessed, passed, made, approved or granted under this Act, and shall (unless previously altered, modified, cancelled, suspended, surrendered or withdrawn, as the case may be, under this Act) remain in force for the period, if any, for which they were so constituted, defined, issued, imposed, assessed, passed, made, approved or granted.

Act I of
1923.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

"Board".

(1) "Board" means a Municipal Board.

"Building".

(2) "Building" means a house, hut, shed or other roofed structure, for whatsoever purpose and of whatsoever material constructed, and every part thereof, but shall not include a tent, or other merely temporary shelter including any kind of temporary shed erected on ceremonial or festive occasions;

"Carriage".

(3) "Carriage" means any wheeled vehicle with springs or other appliances acting as springs, of a kind ordinarily used for conveyance of human beings and includes jin-rickshaws, cycle-rickshaws, bicycles and tricycles but does not include

- perambulators and in particular does not include any motor vehicle as defined in the Assam Motor Vehicles Taxation Act, 1936 ; Act I of 1936.
- "Cart". (4) "Cart" means any cart, hackney, or wheeled vehicle with or without springs, which is not a carriage as defined in sub-section (3) ;
- "Commissioners". (5) "the Commissioners" mean the persons for the time being appointed or elected to conduct the affairs of any municipality under this Act ;
- "Compost-manure". (6) "Compost-manure" means the produce prepared from offensive matter, rubbish and sewage by subjecting them to the process of compost making in the manner prescribed by rules ;
- "Conservancy". (7) "Conservancy" means the removal and disposal of sewage, offensive matter and rubbish ;
- "Cubical extent". (8) "Cubical extent" 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 or only storey ;
- "Domestic purposes". (9) A supply of water for domestic purposes shall not be deemed to include a supply :—
- (a) for animals or for washing carriages where such animals or carriages are kept for sale or hire,
 - (b) for any trade, manufacture or business other than those concerned with the manufacture or supply of articles of food and drink for human beings,
 - (c) for fountains,
 - (d) for watering gardens, roads or paths,
 - (e) for any ornamental or mechanical purpose,
 - (f) for building purposes ;
- "Drain". (10) "Drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain water or sub-soil water ;
- "Financial year". (11) "Financial year" means the year commencing on the first day of April, or on such other date as the State Government may, by notification, appoint ;
- "Food". (12) "Food" notwithstanding anything contained in the Prevention of Food Adulteration Act, 1954, Act 37 of 1954. 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 the composition or preparation of human food, and also includes confectionary, flavouring and colouring matter and spices and condiments ;

"Half-year". (13) "Half-year" means a half-year commencing on the first day of April or the first day of October, or on such other dates as the State Government may by notification appoint ;

"Holding". (14) "Holding" means land held under one title or agreement and surrounded by one set of boundaries ,

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling-house, manufactory, warehouse, or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act ;

Explanation.—Holdings separated by a road or other means of communication shall be deemed to be adjoining within the meaning of this proviso.

Provided also that where land has been let out to occupants in separate parcels paying rents separately, each such parcel shall be treated as a distinct holding in spite of such parcels of land being held under one title.

"Vacant land". (15) Any plot of land having clear boundaries and lying entirely vacant, if fit for building purposes or if yielding any income, shall, when not appurtenant to any buildings and not used for any agricultural purposes, be regarded as a 'holding'.

"House". (16) "House" means any hut, shop, warehouse, workshop, a masonry or framed building ;

"House-gully". (17) "House-gully" means a passage or strip of land constructed, set apart, or utilised, for the purpose of serving as a drain or affording access to a latrine, urinal, cess-pool or other receptacle for filthy or polluted matter by municipal servants or by persons employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air-space above such passage or land ;

"Hut". (18) "Hut" means any building, which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size, or any small building of whatever material made ;

"Infectious or contagious disease". (19) "Infectious or contagious disease" means cholera, plague, small-pox, *kala-azar*, tuberculosis, diphtheria and typhoid or enteric fever or such other dangerous disease as the State Government may notify in this behalf ;

"Inhabitant". (20) "Inhabitant" used with reference to a local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein ;

- "Joint family". (21) "Joint family" means a family of which the members live together, have a common mess and are descendants from a common ancestor and shall include wives or husbands, as the case may be, of its members but shall exclude married daughters and their children ;
- "Land". (22) "Land" includes (besides land) benefits arising out of land, houses and things attached to the earth, or permanently fastened to anything attached to the earth and also land covered by water ;
- "Local authority". (23) "Local authority" includes Local Boards, Municipal Boards, Town Committees and Panchayats ;
- "Lodging house". (24) "Lodging house" means a house in which visitors or other persons are lodged for hire for a night or more and where there is community of eating or sleeping accommodation ;
- "Magistrate". (25) "Magistrate" includes the District Magistrate, the Subdivisional Magistrate and any Magistrate to whom either such Magistrate, has made over any duties under this Act ;
- "Market". (26) "Market" means any place where persons assemble for the sale of articles intended for food or drink or of livestock or other merchandise ;
- "Municipal Board". (27) "Municipal Board" means the Body of persons for the time being elected or appointed to conduct the affairs of any municipality under this Act ;
- "Municipal Market". (28) "Municipal Market" means a market belonging to or maintained by the Board ;
- "Municipality". (29) "Municipality" means any local area declared by or under this Act to be a municipality ;
- "Nuisance". (30) "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, smelling or hearing or which is, or may be, dangerous to life or injurious to health or property ;
- "Occupier". (31) "Occupier" means the person for the time being in actual occupation of, or paying, or liable to pay to the owner, the rent or any portion of the rent of the land or building in respect of which the word is used, and includes a person occupying a holding or part of a holding rent-free, and an owner living in his own house ;
- "Offensive matter". (32) "Offensive matter" means dirt, dung, kitchen and stable refuse, putrid or putrefying substances, and filth of any kind not included in the term "sewage" ;

- (b) the conversion of one or more huts or temporary structures into a masonry or framed building,
- (c) the conversion into a place for human habitation of any building not originally constructed for such habitation; and
- (d) the extension of a building;
- "Rubbish". (40) "Rubbish" means broken brick, mortar, broken glass, or refuse of any kind whatsoever not included in the term "offensive matter";
- "Salaried servant". (41) "Salaried servant of Government" means a wholetime servant of the Government who receives his salary direct from any Government and includes a manager of an estate under the Court of Wards and an officer whose services have been lent by any Government to a local authority but does not include a retired servant of Government in receipt of a pension;
- "Sewage". (42) "Sewage" means night-soil and other contents of latrines, urinals, cess-pools and drains, and includes polluted water from sinks, bath-rooms, stables, cattle-sheds and other like places and also discharges from manufactories of all kinds;
- "Water works". (43) "Water works" includes all tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, sluices, mains, pipes, hydrants, stand-pipes, conduits, and all engines, machinery, lands, buildings and things for supplying or used for supplying water.

CHAPTER II

Constitution of Municipalities

Notification of intention to create, alter limits of, or abolish municipality.

4. (1) The State Government may, by notification, in the official Gazette and by such other means as it may determine, declare its intention—

- (a) to constitute any town together with or exclusive of any railway station, village, building or land contiguous to any such town, a municipality under this Act;
- (b) to include within a municipality any local area contiguous to the same;
- (c) to exclude from a municipality any local area comprised therein; or
- (d) to withdraw the whole area comprised in any municipality from the operation of this Act;

Provided that no municipality under this Act shall include any military cantonment or part of a military cantonment.

(2) Every notification published under sub-section (1) shall define the limits of the local area to which it relates.

(3) A copy, both in English and the Vernacular of the district, of every notification issued under sub-section (1) shall be posted up in a conspicuous place in the office of the Municipal Board, or, in the case of a notification under

clause (a) of that sub-section, in the office of the District Magistrate and in such other public place, as the Board or the District Magistrate, as the case may be, may direct; and a public proclamation shall be made by beat of drum throughout the municipality or local area concerned that such copy has been so posted up, and is open to inspection in such office.

Objection to the creation, alteration of limits, or abolition of municipality.

5. (1) Any inhabitant of any part of a local area defined in a notification published under section 4 or any rate-payer of the municipality, may, if he objects to anything therein contained, submit his objection in writing through the Deputy Commissioner to the State Government within forty-two days from the date of the publication, and the State Government shall take his objection into consideration.

(2) When sixty days from the date of the publication of the notification have expired, and after considering any objection which may be submitted, the State Government may by notification,—

- (a) constitute the local area or any specified part thereof to be a municipality under this Act, or
- (b) include the local area or any part thereof in the municipality or exclude it therefrom, or
- (c) withdraw the whole area comprised in the municipality from the operation of this Act, as the case may be.

Effect of including local area in municipality.

6. When a local area is included in a municipality by a notification published under section 5, sub-section (2), all the provisions of this Act and all rules and bye-laws made, orders, directions and notices issued and powers conferred thereunder and in force throughout the municipality at the time when the local area is so included, shall apply thereto unless the State Government, by notification, otherwise direct.

Effect of excluding local area from municipality or withdrawing the whole area of municipality from Act.

7. (1) When a local area is excluded from a municipality by a notification published under section 5, sub-section (2),—

- (a) this Act and all rules and bye-laws made, orders, directions and notices issued, and powers conferred thereunder shall cease to apply thereto;
- (b) the State Government shall, after consulting the Board, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the Board shall vest in

the State Government and in what manner the liabilities of the Board shall be apportioned between the Board and the State Government; and, on the publication of such scheme in the gazette, such property and liabilities shall vest and be apportioned accordingly.

(2) When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification published under section 5, sub-section (2), this Act and all rules and bye-laws made, orders, directions and notices issued and powers conferred thereunder, shall cease to apply thereto; and the balance of the municipal fund and all other property at the time of the issue of the notification vested in the Board shall vest in the State Government and the liabilities of the Board shall be transferred to the State Government.

Power to except municipality from provisions of Act unsuited thereto.

8. (1) Should the circumstances of any municipality be such that any of the provisions of this Act are unsuited thereto, the State Government may, by notification, either of their own motion after consultation with the Board or on the recommendation of the Board at a meeting specially convened for the purpose except the municipality or any part of it from the operation of those provisions; and thereupon the said provisions shall not apply to the municipality until applied thereto by notification after consultation with the Board.

(2) While such exception as aforesaid remains in force, the State Government may make rules for the guidance of the Board and public officers in respect of the matters excepted from the operation of the said provisions.

Erection and maintenance of boundary marks

9. Every Municipal Board already existing and every municipality newly constituted under this Act and every municipality whose local limits are altered, shall cause to be erected and set up and thereafter maintain substantial boundary marks defining the limits or the altered limits of the area subject to its authority, as set out in any notification published under this Act.

CHAPTER III

Municipal Boards

Constitution of Municipal Boards

Constitution of Municipal Board.

10. There shall be established for each municipality a body of Commissioners designated as the Municipal Board having authority over the municipality. Such a Board shall be a body corporate by the name of the Municipal Board of....., having perpetual succession and a common seal, and by that name shall sue and be sued.

Number of
Commissioners.

11. (1) The number of Commissioners of each Municipal Board shall be such as the State Government may by notification determine in this behalf:

Provided that the number of Commissioners shall in no case be more than thirty or less than ten.

(2) The State Government may appoint Government servants as expert advisers who shall have the right to attend and speak at all meetings of the Board but not the right to vote. Such expert advisers shall not be deemed to be Commissioners for the purposes of this Act.

(3) Of the total number of Commissioners as determined under sub-section (1), not more than two may be appointed by the State Government to represent Scheduled Castes, Scheduled Tribes and other socially and educationally Backward Classes, and the remainder shall be elected. The State Government may, at any time, direct that all the Commissioners of any Municipal Board shall be elected.

(4) The Scheduled Castes and Scheduled Tribes specified under Articles 341 and 342 of the Constitution of India and the socially and educationally Backward Classes as notified from time to time by the State Government shall be deemed to be the Scheduled Castes, Scheduled Tribes and the socially and educationally Backward Classes respectively within the meaning of this Act.

Election
of Commissioners.

12. The election of Commissioners shall be conducted in accordance with rules prescribed under this Act.

Power to
divide
municipality
into
wards and
to fix the
number of
Commissioners
of
each ward.

Qualifica-
tions
of
voters.

13. The State Government may, in case of new municipalities of its own motion, and in case of municipalities already in existence at the time the notification is made after consideration of the views of the Board at a meeting, by notification, divide a municipality into wards for the purpose of the election of Commissioners and determine the number of Commissioners to be elected from each such ward.

14. Every person of the full age of twenty-one years, being a citizen of India, who has been for a period of not less than twelve months immediately before the 1st of January of the year for which the municipal electoral roll is being prepared, hereinafter referred to as "the prescribed date", resident within the limits of a municipality and occupies a holding assessed to tax under Section 68 of the Act or an inhabitant thereof, and who—

- (i) has, during the twelve months immediately preceding the prescribed date, paid in respect of any rates an aggregate amount of not less than one rupee, or
- (ii) is a member of joint family of which any member is a voter under item (i), or

- (iii) being a graduate of any University, or having passed the Intermediate or Matriculation Examinations of the Gauhati, or any other University, or the corresponding standard of the same or any other University, or Middle English or Middle Vernacular or an equivalent examination or senior or junior Madrassa Examination under the old or reformed scheme, or the Sanskrit Title Examination of the Calcutta/Assam Sanskrit Association, or having read up to Class VII of a High School or being a registered medical practitioner under the Assam Medical Act, 1916, or being an Advocate or holding a certificate authorising a person to practise as a Pleader or as a Mukhtar or as a revenue agent, occupies a holding or part of a holding, in respect of which there has been paid, during the twelve months aforesaid in respect of any rates an aggregate amount of not less than one rupee, or
- (iv) is a manager or person in charge of a company, firm, society or business owning or occupying any land or building within the limits of the municipality if the company, firm, society or business possesses the qualifications set forth in clause (i) ;

shall on registration in the prescribed manner be qualified to vote at the election of the Commissioners of such municipality.

Explanation.—'Tax' for the purpose of this Section shall not include service charges.

- In eligibility or election. 15. No person shall be eligible for election as Commissioner of a Municipal Board if such person—
- (i) is not entitled to vote at the election of Commissioners of the Municipal Board, or
 - (ii) has been adjudged by a competent Court to be of unsound mind, or
 - (iii) is an uncertificated bankrupt or an undischarged insolvent, or
 - (iv) has during the four years immediately preceding the date of the election been convicted by a Criminal Court of an offence involving a sentence of transportation or imprisonment for an offence involving moral turpitude, or of an offence under Chapter IXA of the Indian Penal Code, or served any portion of a sentence on such conviction, or has been ordered by a Criminal Court to furnish security for good behaviour under the Code of Criminal Procedure unless such conviction or order has been set aside, or such offences pardoned by competent authority, or

Act 1 of 1916.

Act XLV of 1860.

Act V of 1893.

- (e) has been declared by notification to be disqualified for employment in the public service, or
- (vi) has during the four years immediately preceding the date of election been debarred from practising as a legal practitioner by order of any competent authority, or
- (vii) is a salaried servant of Government or is an employce of any Local Authority, or
- (viii) is in arrear for more than three months on the date of submission of nomination paper of any dues to the municipality including the dues in respect of the holding of which he is a resident or occupant.

Proceedings
to set aside
an election.

16. If the validity of an election of a Commissioner is brought in question by an unsuccessful candidate or person qualified to vote at the election to which such question refers, such person may, at any time within twenty-one days after the date of the declaration of the result of the election, file a petition in the prescribed manner before the District Judge of the district within which the election has been or should have been held and in the case of the Shillong Municipality to the District Judge, Lower Assam Districts, and shall at the same time deposit one hundred rupees in Court as security for the costs likely to be incurred:

Provided that the Deputy Commissioner or the Subdivisional Officer, as the case may be, may be authorised by the State Government to receive election petitions on behalf of the District Judge for transmission to him:

Provided further that the validity of such election shall not be questioned in any such petition—

- (a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll; or
- (b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll; or
- (c) on the ground of acceptance or refusal of nomination of candidates provided further that an appeal in the manner prescribed shall lie to the District Judge against such acceptance or refusal of nomination.

Procedure
and powers
of Judge
holding en-
quiry.

17. (1) Where a petition has been filed under section 16 the District Judge, or any judicial officer subordinate to him and not below the rank of a Subordinate Judge other than an officer exercising the powers of a Subordinate Judge *ex-officio* (hereinafter referred to in this chapter as the Judge) to whom the District Judge may transfer the petition, may after holding such inquiry as he deems necessary, in accordance with the prescribed procedure and subject to the provisions of sections 18 and 19, pass an order confirming or amending the declared result of the election or setting the election aside.

(2) For the purposes of the said inquiry the Judge may summon and enforce the attendance of witnesses and compel them to produce documents or articles in their possession and to give evidence as if he were a Civil Court, and may also direct by whom the whole or any part of the costs of such inquiry shall be paid and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

(3) The Judge may, at any stage of the proceedings, require the petitioner to deposit in Court a further sum as the costs incurred or likely to be incurred by any respondent, or to give security, or further security, for the payment of the same, and if, within the time fixed by him, or within such further time as he may allow, such costs are not deposited or such security is not furnished, as the case may be, may dismiss the petition.

(4) An appeal shall lie to the District Judge from any decision or order of a Subordinate Judge, and a decision or order of the District Judge, either when he has himself made the enquiry or an appeal, shall be final.

Setting aside
of election.

18. (1) If the Judge after holding an enquiry is satisfied that—

(a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or

(b) the election has not been a free election by reason of the general employment of bribery or undue influence as defined in Chapter IXA of the Indian Penal Code, or by reason of any form of general intimidation, including any form of social boycott, or

(c) the result of the election has been materially affected by any noncompliance with the provisions of this Act or the rules made thereunder or by any mistake in the use of any form prescribed for an election or by any error, irregularity or informality on the part of any officer charged with or carrying out any duty under this Act or rules made thereunder,

Act V of
1908.

Act XI of
1860.

he shall declare the election of such candidate to be void and if the election is set aside for any cause which is the result of acts of a candidate or his agents may declare that candidate to be disqualified for the purpose of such fresh election as may be held under section 22.

(2) If, after any such inquiry, the Judge is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Judge is also of opinion that the candidate has satisfied him that—

- (a) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practices which were found by the Judge to have been committed were of a trivial, unimportant and limited character and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and
- (b) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

then the Judge may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-section “treating” means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

Scrutiny of votes and declaration in other cases.

19. If, in any case to which section 18 does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

Disqualification of persons from being candidates who commit corrupt practices.

20. If the Judge sets aside an election under section 18, he may, if he thinks fit, declare any person by whom a corrupt practice has in his opinion been committed to be disqualified from being a candidate for election in that or any other municipality for a period not exceeding five years, from the date of decision, and the Judge's decision shall be final.

Saving of acts done by a Commissioner before his election is set aside.

21. Where a candidate, who has been elected to be a Commissioner, is declared by the Judge not to have been duly elected, acts done by him in execution of the office before the time when the decision is communicated to the Board shall not be invalidated by reason of that declaration.

Fresh election when election set aside.

22. If an election is set aside by the Judge, a date shall forthwith be fixed and the necessary steps taken for holding a fresh election for filling up the vacancy, as though it had been a casual vacancy.

Bar to interference by courts in election matters.

23. No election of a Commissioner shall be called in question in any Court except under the procedure provided by this Act, and no order passed in any proceeding under sections 16 to 20 (both inclusive), shall be called in question in any Court and no Court shall grant an injunction—

- (i) to postpone an election, or
- (ii) to prohibit a person, declared to have been duly elected under this Act, from taking part in the proceedings of a Municipal Board of which he has been elected a Commissioner, or
- (iii) to prohibit the Commissioners formally elected or appointed to a Municipal Board from entering upon their duties.

Appointed Commissioners in newly created municipalities.

24. Notwithstanding anything in the foregoing sections of this chapter, the State Government, while constituting any new Municipality after the passing of this Act, may appoint all the Commissioners of that Municipality until the general election is held.

Taking of oath.

25. (1) Every person who is elected or appointed to be a Commissioner of a Board, shall before taking his seat make at a meeting of the Board an oath or affirmation of his allegiance to the Union of India in the following form, namely:—

I, A. B., having been ^{elected} ~~appointed~~ a Commissioner of this Board do swear in the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established, and will faithfully discharge the duty upon which I am about to enter.

(2) Any person having been elected or appointed a Commissioner fails to make, within three months from the date of the first meeting of the Board the oath or affirmation laid down in sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant.

General election and terms of office of Commissioners.

26. (1) Except as otherwise provided in this Act, all the elected and appointed Commissioners shall hold office for four years commencing from the date of the first meeting of the newly constituted Board after a general election at which a quorum is present. Election shall be held every four years but before the expiry of the fourth year and not earlier than three months prior to such expiry.

(2) The Commissioner of Division shall cause the results of the general election to be published in the Gazette and the date of the Gazette containing the publication shall be deemed to be the date of completion of the general election.

(3) The term of four years referred to in sub-section (1) shall be held to include any period which may elapse between the expiry of the said four years and the date of the first meeting of the newly constituted board at which a quorum is present.

(4) The State Government may, by notification, for sufficient cause to be stated therein, direct, from time to time, that the term of office of the Commissioners be extended by such period not exceeding one year at a time, as may be specified in the notification, provided that the total period of such extension shall not exceed two years.

Resignation
of Chair-
man, Vice-
Chairman
or Commis-
sioners.

27. (1) An appointed Chairman of a municipality may resign by notifying in writing his intention to do so to the State Government, through the Commissioner of Division and on such resignation being accepted shall be deemed to have vacated his office.

(2) An elected Chairman may resign by laying notice in writing of his intention to do so before the Board at a meeting with intimation to the District Magistrate and the Commissioner of Division.

(3) A Vice-Chairman or a Commissioner may resign by notifying his intention to do so to the Chairman who shall forthwith lay such notice before the Board at a meeting.

(4) On a resignation under sub-section (2) or sub-section (3), being accepted by the Board at a meeting, the Chairman, the Vice-Chairman or Commissioner, as the case may be, shall be deemed to have vacated his office.

Removal of
Chairman
and Vice-
Chairman.

28. (1) The State Government may at any time remove a Chairman appointed by it.

(2) An elected Chairman or Vice-Chairman may be removed from his office by a resolution of the Board in favour of which not less than two-thirds of the whole number of Commissioners shall have given their votes at a meeting specially convened for the purpose. 2.16

(3) The State Government after giving an opportunity to explain, may remove the Chairman or Vice-Chairman from his office if he is persistently omitting or refusing to carry out or disobeying the provisions of this Act and the rules thereunder or any lawful orders issued thereunder or he becomes incapable of so acting or is declared insolvent or is convicted by a Criminal Court for any offence involving moral turpitude.

Removal of
Commissioners.

29. (1) The State Government may remove any elected Commissioner on the ground of his misconduct in the discharge of his duties if the removal is recommended by a resolution of the Board passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the whole number of Commissioners of the municipality.

(2) The State Government may remove any Commissioner—

- (a) if he ceases to reside within the municipality continuously for a period of twelve months, or
- (b) if he refuses to act or becomes incapable of acting as a Commissioner, or if he has been declared by the State Government by notification to have violated his oath or affirmation of allegiance, or
- (c) if without an excuse sufficient in the opinion of the State Government he absents himself from four consecutive meetings of the Board, or
- (d) if, being a legal practitioner, he appears against the Board before any Court in his professional capacity in any case instituted by or against the Board, or
- (e) if he becomes subject to any of the disabilities stated in clauses (ii), (iii), (iv), (v) and (vi) of section 15, or
- (f) if he has, within the meaning of section 55 knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly, or by a partner, any share or interest in any contract or employment with, by, or on behalf of the Board, or
- (g) if he is in arrears of any kind of dues to the municipality for more than six months after a bill or a notice has been duly served upon him.

(3) The State Government may, after consultation with the Board, remove any Commissioner if his continuance in office is, in its opinion, dangerous to the public peace or order or likely to bring the administration of the Board into contempt:

Provided that no Commissioner shall be removed under sub-section (1) or sub-section (2) or sub-section (3) unless he has been given an opportunity of showing cause against such order of removal.

Eligibility
for election
or re-election
of
Commissioners
removed from
office.

30. No Commissioner of a Board who has been removed from his office under sub-section (1) or under clauses (b), (c), (d), (e), (f) or (g) of sub-section (2) or under sub-section (3) of section 29 shall be eligible for election or re-election as a Commissioner without the consent of the State Government.

Filling up of casual vacancies of Commissioners. 31. If any Commissioner, appointed or elected, shall be unable to enter upon or complete his term of office the vacancy shall be filled by appointment or election as the case may be for the remainder of the term.

Power to appoint Commissioners if prescribed number not duly elected. 32. If the electorate in any municipality fails within the prescribed time to elect the number of Commissioners to be elected in accordance with the provision of section 11, a date shall be fixed by the Commissioner of Division for another election and in case the electorate still fails to elect the number of Commissioners at such second election the State Government may appoint Commissioners to complete that number. Any person so appointed shall be deemed to be duly elected Commissioner.

Chairman and Vice-Chairman

Appointment or election of Chairman and Vice-Chairman. 33. (1) The State Government shall appoint the Chairman of the Board of every municipality mentioned in the first Schedule of this Act. It shall be lawful for the State Government by notification to include in or remove from the said schedule the name of any municipality, provided that the name of any municipality, not included in the said schedule, existing on the date on which this Act comes into force shall not be included in the same. If a Chairman is appointed by official designation, the person for the time being holding the office shall be Chairman.

(2) At the first meeting of the Municipal Board after a general election, called at the instance of the Deputy Commissioner, the Commissioners shall elect one of their own number other than an officer of Government appointed under sub-section (2) of section 11, to be Chairman subject to the approval of Government. The Chairman so elected pending approval of the Government shall be competent to discharge the duties of his office.

(3) The said Commissioners shall at the said meeting or at a subsequent meeting elect one of their own number, other than an officer appointed under sub-section (2) of section 11, to be Vice-Chairman.

(4) When the Commissioners fail to elect a Chairman or a Vice-Chairman under the two preceding sub-sections the State Government shall appoint by name one of the Commissioners to be Chairman or Vice-Chairman as the case may be.

The Commissioner so appointed shall ordinarily be a non-official except when the State Government is of opinion that it is necessary to appoint a Government official.

Status and tenure of office of Chairman and Vice-Chairman.

34. (1) Notwithstanding anything contained in section 11, every Chairman or Vice-Chairman appointed under the preceding section, if not already a Commissioner of the Municipal Board of which he shall have been appointed Chairman or Vice-Chairman, shall, from the date of

appointment, during the term of his office, enjoy subject to the provisions of section 45 all the rights and privileges and be subject to all liabilities and disabilities of a Commissioner of the Municipal Board to which such appointment relates.

(2) Except as otherwise provided in this Act, every Chairman and every Vice-Chairman whether appointed or elected, shall hold office from the date of his appointment or election, to the date of the election or appointment of the Chairman of the Board after the next general election, including the former but excluding the latter of these dates, and shall be eligible for re-appointment or re-election.

When Chairman and Vice-Chairman cease to hold office as such. 35. When a Commissioner who holds the office of Chairman or Vice-Chairman ceases for any reason whatever to be a Commissioner, he shall at the same time cease to hold the office of Chairman or Vice-Chairman.

When Government may appoint Chairman. 36. Whenever for any cause the offices, of both the Chairman and the Vice-Chairman are vacant in any Board, the State Government shall appoint any one from amongst the Commissioners as the Chairman to hold office as such temporarily till a Chairman is elected.

Powers of Chairman. 37. (1) The Chairman shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorised thereby, exercise all the powers vested by this Act in the Board:

Provided that the Chairman shall not act in opposition to, or in contravention of, any order of the Board at a meeting, or exercise any power which is directed to be exercised by the Board at a meeting.

(2) Notwithstanding anything contained in sub-section (1) the Chairman may, in cases of emergency, direct the execution of any work or the doing of any act which the Board at a meeting is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act incurred as the emergency may require shall be paid for from the municipal fund:

Provided that he shall forthwith report the action taken under this sub-section and the reasons therefor to the Board at a meeting.

Delegation of duties and powers by Chairman to Vice-Chairman. 38. (1) The Chairman may delegate to the Vice-Chairman all or any of the duties and powers of a Chairman as defined in this Act, and may at any time withdraw or modify the same:

Provided that nothing done by the Vice-Chairman which might have been done under the authority of a delegation from the Chairman, shall be invalid for want of or defect in such delegation if it be done with the express or implied consent of the Chairman.

(2) During the vacancy in the office of Vice-Chairman, or the absence of Vice-Chairman on leave or otherwise, the Chairman may by an order in writing, delegate any of his functions to any Commissioner of the municipality till the Vice-Chairman resumes office or a new Vice-Chairman is elected or appointed as the case may be:

Provided that every such order shall be communicated to the Municipal Board at the next meeting.

Duties of
Vice-Chairman.

39. The Vice-Chairman shall—

(a) during a vacancy in the office of the Chairman or temporary absence of the Chairman perform any of the duties and, when occasion arises, exercise any of the powers of the Chairman and

(b) at any time, perform any duty and exercise; when occasion arises, any power delegated to him under section 38.

Grant of
leave to
Chairman
or Vice-
Chairman.

40. The Board at a meeting may grant leave of absence to its Chairman or Vice-Chairman for any period not exceeding three months in any one year:

Provided that if a Chairman or Vice-Chairman who has been granted leave for the maximum period of three months overstays his leave, he shall be deemed to have vacated his office and the acting Chairman or Vice-Chairman, as the case may be, shall continue to act for him till the vacancy has been filled up by appointment or by a fresh election at the next meeting of the Board.

Filling
of casual
vacancies of
Chairman
and Vice-
Chairman.

41. If any Chairman or Vice-Chairman of a Board be unable to complete his full term of office or avail himself of leave granted under section 40, the vacancy caused by his resignation, removal, death or absence on leave shall subject to the provisions of sections 33 and 36 be filled by appointment or election, as the case may be, and the person so appointed or elected shall fill such vacancy for the unexpired portion of the term for which such Chairman or Vice-Chairman would otherwise have continued in office or during his absence on leave, as the case may be.

Allowances
of Chairman,
Vice-Chairman
and Commis-
sioners.

42. (1) The Chairman and Vice-Chairman of any municipality may, if the Board thinks fit, receive such conveyance allowances out of the municipal fund as shall from time to time be fixed by the Board at a meeting:

Provided that the grant of such allowances to a Chairman or Vice-Chairman shall be subject to the approval of the State Government.

(2) No Commissioners shall receive or be paid from the municipal fund, any salary or remuneration for services rendered by him in any capacity whatsoever but may be allowed travelling allowance when admissible.

Conduct of business

Ordinary
and special
meetings.

43. (1) The Commissioners shall meet for the transaction of business at their office, at least once in every month, and as often as a meeting shall be called by the Chairman or, in his absence, by the Vice-Chairman.

If there be no business to be laid before the Commissioners at any monthly meeting, the Chairman shall instead of calling the meeting, give notice of the fact to each Commissioner three days before the date which is appointed for the monthly meeting.

(2) The Chairman, or, in his absence, the Vice-Chairman, may call a special meeting whenever he thinks fit and shall call one on a requisition signed by not less than three of the Commissioners.

(3) If the Chairman or the Vice-Chairman fails to call a special meeting within fifteen days after any such requisition has been made, the meeting may be called by the persons who signed the requisition.

President
of meetings

44. (1) The Chairman, or in his absence, the Vice-Chairman, shall preside at every meeting, and, in the absence of both the Chairman and Vice-Chairman, the Commissioners shall choose some one of their number to preside:

Provided that no candidate for election to the office of Chairman or Vice-Chairman shall preside at the election.

(2) When a meeting under section 28 is held for the removal of the Chairman or the Vice-Chairman or both—

- (a) the Vice-Chairman or in his absence a member duly elected at the meeting shall preside if the resolution relates to the removal of the Chairman;
- (b) the Chairman or in his absence a member duly elected at the meeting shall preside if the resolution relates to the removal of the Vice-Chairman;
- (c) a member duly elected at the meeting shall preside if the resolution relates to the simultaneous removal of both the Chairman and the Vice-Chairman.

Manner of
deciding
questions

45. Save as otherwise provided in or under this Act,—
- (a) all questions at a meeting of the Board shall be determined by a majority of votes of the Commissioners present.
 - (b) In the case of equality of votes, on any question other than the election of the Chairman or the Vice-Chairman, the President, if there is one, shall have a second or casting vote.
 - (c) In the case of equality of votes in the election of Chairman, Vice-Chairman or President, the determination shall be by the drawal of lots:

Provided that an official appointed as Chairman under section 33 shall not have the right to vote save for the purpose of giving a casting vote under this section.

Quorum.

46. No business shall be transacted at any meeting of the Board unless such meeting has been called by the Chairman or Vice-Chairman, or, under section 43, subsection (3), by persons signing a requisition, nor unless a quorum shall be present. The quorum necessary for the transaction of business at a meeting shall be one-half of the total number of Commissioners of the Board when any of the following subjects are to be disposed of at such meeting—

- (i) scale of establishment and salaries,
- (ii) the framing of bye-laws under section 302 and of subsidiary rules under section 306 of the Act,
- (iii) the annual budget estimate,
- (iv) the appointment or the fixing of the pay or allowance of a paid Secretary, Engineer, Water Works Superintendent, Health Officer, Assessor or Executive Officer,
- (v) the election of Chairman or Vice-Chairman,
- (vi) the raising of a loan,
- (vii) the subject of a meeting specially convened as provided in section 8,
- (viii) any other subject prescribed by a subsidiary rule made in this behalf by the Board under the provisions of section 306(1).

For all other business the quorum shall be one-third of the total number of Commissioners:

Provided that in cases where the whole number of Commissioners is not evenly divisible by three, the one-third shall be ascertained by taking the number next above the whole number which is evenly divisible by three, as the number to be divided.

If at any meeting the prescribed quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the President and three days' notice of such adjourned meeting shall be given. The Commissioners present at such adjourned meeting shall form a quorum whatever their number may be.

Minutes of proceedings.

47. (1) Minutes of the proceedings of all meetings of the Board shall be entered in a book to be kept for the purpose, and shall be signed by the President of the meeting and shall be published in such manner as may be prescribed and shall, at all reasonable times and without charge, be open to the inspection of the tax-payers.

(2) A copy of the minutes of the proceedings of all meetings of the Board shall forthwith be forwarded by the Board to the Deputy Commissioner, and the Commissioner of Division and another copy submitted to the State Government.

(3) The minutes shall be laid before the next meeting of the Board for confirmation and shall also be signed at such meeting by the President if the same has been correctly entered.

Committees

Appointment
of Com-
mittees.

48. (1) The Board at a meeting may appoint, from time to time, committees to assist it in the discharge of any specific duties or class of duties devolving upon it under this Act, within the whole or any portion of the municipality, and may delegate to any such committee all or any of its powers which may be necessary for the purpose of rendering such assistance, or withdraw all or any of such powers.

(2) Each committee shall consist of Commissioners and, when necessary, of such residents with special qualifications whom the Board at a meeting desires to appoint, in such a case the number of Commissioners shall not be less than two-thirds of the whole number of the members of the committee.

(3) The Commissioners of such committees shall be liable to all the obligations imposed by this Act on the Commissioners of the Board in respect of such powers as may be delegated to them.

(4) All the proceedings of any such committee shall be subject to confirmation by the Board at a meeting.

(5) All questions connected with the removal or resignation of Commissioners of committees shall be settled by the Board at a meeting.

Joint-Committee

Formation
of Joint-
Committee.

49. (1) Any Municipal Board may join with any other Local Authority or with any cantonment authority, or with more than one such local authority or cantonment authority, in constituting out of their respective bodies a joint-committee, consisting of not more than two Commissioners/members from each of such bodies, for any purpose in which they are jointly interested, and in delegating to any such joint-committee any power which might be exercised and which can be lawfully delegated by either or any of the local authority or cantonment authorities concerned.

(2) Such joint-committee may from time to time make rules as to the proceedings of any such joint-committee and as to the conduct of correspondence relating to the purpose for which such joint-committee is constituted.

Establishment

Appointment
and pay of
establish-
ment

50. (1) The Board at a meeting may, from time to time, determine and appoint the establishment to be employed by it and may fix the salaries and allowances to be paid to such establishment:

Provided that subject to the scale of establishment approved by the Board, the Chairman may appoint such persons as he may think fit with the prescribed qualifications if the monthly salary of the office does not carry more than fifty rupees or a salary rising by periodical increments to more than fifty rupees. The Chairman may remove from time to time such persons for inefficiency, negligence of duty or misconduct:

Provided further that the appointment of any officer whose pay is wholly or partly contributed by the State Government shall not be created or abolished without the sanction of the State Government and that every nomination to, or dismissal from, any such appointment shall be subject to confirmation by the State Government.

Right of appeal.

(2) Consequent on disciplinary action against him every employee of a Municipal Board shall have the right of appeal to the Board from the orders of the Chairman or Vice-Chairman; and in the case of orders involving dismissal or removal of officers not liable to be so dismissed or removed by the Chairman or Vice-Chairman, an appeal to the Government in the Local Self-Government Department may be filed as may be prescribed by rules.

Gratuity or pension.

(3) A Municipal Board may at a meeting, from time to time, make rules for gratuities or pension to be granted and paid out of its Fund to its establishment subject to the approval of the State Government.

Provident Fund.

(4) A Municipal Board at a meeting may, with the sanction of the State Government, make rules:—

- (a) for the creation and management of a Contributory Provident Fund for its establishment;
- (b) for compelling members of its establishment to make contribution to such Fund;
- (c) for making contribution to the Fund by the Board at such rates and subject to such conditions, as may be prescribed, out of the Municipal Fund; and
- (d) for the payment of moneys out of such Provident Fund.

Power of Municipal Board to frame regulations for establishments.

51. The Board at a meeting specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the Commissioners present at such meeting shall have voted, may make regulations consistent with this Act and with any rules made thereunder, in respect of officers and employees on its staff for—

- (a) fixing the amount and nature of the security to be furnished;
- (b) regulating the grant of leave, leave allowances, acting allowances and travelling and other allowances; and
- (c) regulating conduct and generally laying down conditions of service;

Provided that—

(1) the amount of any leave, leave allowances, travelling allowances, or gratuity provided for in such regulations, shall in no case, without the special sanction of the State Government, exceed what would be admissible in the case of State Government officials of similar class and status;

(2) the conditions under which such allowances are granted or any leave, superannuation or retirement is sanctioned, shall not, without similar sanction, be more favourable than those for the time being in force for such State Government officials.

52. Notwithstanding anything contained in section 50, the State Government may require the Board, after considering any cause that it may show to the contrary,—

Appointment of Health Officers, Sanitary Inspectors and Water Works Superintendents, etc.

- (a) to appoint such Health Officers, Sanitary Inspectors, other public health establishments and Water-Works Superintendents as it may consider necessary on such terms as it may think fit ; or
- (b) to employ such officers of Government as Health Officers, Sanitary Inspectors and Water-Works Superintendents as it may consider necessary.

53. A Municipal Board may appoint an Executive Officer with the approval of the State Government. The State Government may, if it finds that any particular Board should have an Executive Officer and the said Board does not make such an appointment, appoint any person as such officer in respect of that particular Board. In either case the salary of the officer including allowances, etc., and other charges shall be charged on the Municipal Fund unless the State Government agree to bear the same or any portion thereof.

Appointment of Executive Officers.

The State Government shall make rules regarding the appointment, salaries, conditions of service, powers, duties and function of the Executive Officers and other relevant matters connected therewith and also providing that no disciplinary action shall be taken against the Executive Officer except with the approval of the State Government.

Liability of Commissioners of Boards and Committees

54. (1) Every Chairman, Vice-Chairman, Commissioner, officer or servant of a Municipal Board, including a Government servant whose services are lent to the Board, shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the Municipal Board, if such loss, waste or misapplication is a direct consequence of any illegal act, omission, neglect or misconduct on his part ; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the Board.

Liability for loss, waste or misapplication of funds and property.

(2) Every such suit shall be instituted within one year after the date on which cause of action arose.

Disqualification of Commissioners having share or interest in contracts.

55. No Commissioner of a Board or a committee shall have without the written permission of the State Government, directly or indirectly, any share or interest in any contract, lease, sale or purchase of land or any agreement for the same of any kind whatsoever to which the Board is a party, or shall hold any office of profit under it, and if any Commissioner shall have such share or interest or shall hold such office he shall thereby become disqualified to continue in office as a Commissioner, and shall be liable to a fine not exceeding five hundred rupees :

Provided that a Commissioner shall not be so disqualified or liable by reason only—

- (a) of his having a share or interest in—
 - (i) a contract entered into between the Board

- and any incorporated or registered company or any registered Co-operative Society of which such Commissioner is a member or share-holder ; or
- (ii) any agreement for the loan of money, or any security for the payment of money only ; or
- (iii) any newspaper in which any advertisement relating to the affairs of the municipality is inserted ; or
- (b) of his being professionally engaged on behalf of the Board as a legal or medical practitioner and receiving a fee for services rendered in his professional capacity.

But no Commissioner shall act as a Commissioner of a Board or committee in any proceedings relating to any matter in which he is so interested or take any part therein. Provided that the State Government may by an order in that behalf remove any disqualification or liability mentioned in this section.

Commissioners disqualified from voting on certain questions.

56. No Commissioner of a Board or a committee shall vote on any matter affecting his own conduct or pecuniary interest, or on any question which regards exclusively the assessment of himself, or the valuation of any property in respect of which he is directly or indirectly in any way interested, or of any property of or for which he is a manager or agent, for his liability to any tax.

Validity of Acts and Proceedings

Presumptions and savings.

57. (1) No disqualification, or defect in the election or appointment, of a person acting as a Commissioner of a Board or a committee or a joint-committee appointed under this Act or as the President of a meeting of the Board or of such committee or joint committee, shall be deemed to vitiate any act or proceeding of the Board or of the committee or the joint committee, if the majority of the persons present at the time of the act being done or proceeding being taken were qualified and duly elected or appointed Commissioners of the Board or the committee or the joint-committee.

(2) Until the contrary is proved, any document or minutes which purport to be the record of the proceedings of the Board or committee or joint-committee shall if substantially made and signed in the manner prescribed for the making and signing of the record of such proceedings, be deemed to be a correct record of the proceedings of a duly convened meeting held by a duly constituted Municipal Board or committee or joint-committee, whereof all the Commissioners were duly qualified.

(3) The powers of the Board or of any committee or joint-committee may be exercised notwithstanding any vacancy in their number.

(4) Accidental omission to serve notice of a meeting on any Commissioner of a Board or committee or joint-committee shall not affect the validity of a meeting of the Board or of the committee or joint-committee.

CHAPTER IV

MUNICIPAL FINANCE AND PROPERTY

Municipal Fund

Constitution and custody of Municipal Fund. 58. (1) There shall be formed, for each Municipal Board a fund, to be called the "Municipal Fund".

(2) There shall be placed to the credit thereof :—

- (a) the balance, if any, standing at the credit of the Board at the commencement of this Act ;
- (b) all sums received by, or on behalf of, the Board under this Act or otherwise ;
- (c) all sums received under any loan raised by the Board.

(3) The Municipal Fund shall be vested in the Board.

(4) Unless the State Government shall otherwise direct, the Municipal Fund shall be paid into a Government treasury or into any bank or branch thereof used as a Government treasury in or near the municipality, and shall be credited to an account called the account of the Municipal Board to which it belongs :

Provided that the Board may invest any money not required for immediate use either in Government securities or in any other form of security which may be approved of by the State Government.

Municipal Board may raise loans and may form a sinking fund. 59. It shall be lawful for a Municipal Board, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, from time to time, to raise loans for the purposes of carrying out any of the provisions of this Act and to form a sinking fund.

Application of fund. 60. (1) Except as otherwise provided in this Act, the Board shall set apart and apply annually out of the Municipal Fund—

- (a) firstly, such sum as may be required for the payment of, and the payment of interest on, any loan incurred under the provisions of any law ;
- (b) secondly, such sum as may be required to meet the charges of its own establishment, including, in the case of Government officers whose services are wholly or partly employed by the Board, the payment of such contribution to the pensions, gratuities, provident fund and leave allowances as may be required by the conditions of their services under the Government, to be made by them or on their behalf ;
- (c) thirdly, the liabilities and obligations arising from a trust legally imposed upon or accepted by the Municipal Board ; and
- (d) fourthly, such sum as may be required to pay the expenses of paupers, lunatics and lepers who are inhabitants of the municipality and are sent to public asylums, which in the opinion of the State Government, to be paid by the Board.

(2) Subject to the charges specified in sub-section (1), the Board at a meeting shall, as far as the Municipal Fund permits, from time to time cause roads, bridges, tanks, ghats, wells, channels, drains, latrines and urinals being the property of the Board, to be maintained and repaired, and the municipality to be cleaned and may apply the Municipal Fund to any of the following purposes within the municipality, and with the sanction of the Commissioner of Division outside the municipality, that is to say—

- (i) construction, maintenance and improvement of roads, tramways, bridges, squares, gardens, tanks, ghats, wells, drains, latrines and urinals ;
- (ii) planting and reservation and felling of trees and bamboos ;
- (iii) supply of water, and the lighting and watering of roads ;
- (iv) erection and maintenance of town halls, offices and other buildings required for municipal purposes ;
- (v) payment of a gratuity to any officer or servant in its employ, or to any member of the family of such officer or servant who has died from disease or injury contracted in the discharge of the duties of his office ;
- (vi) establishment and maintenance of a municipal market, or the taking of a market on lease ;
- (vii) establishment and maintenance of schools, and of hostels to be used in connection with such schools, either wholly or by means of grants-in-aid ;
- (viii) establishment and maintenance of poor houses, hospitals and dispensaries and, at the discretion of the Board, the payment of allowances to medical practitioners for professional services rendered to the establishments employed by it ;
- (ix) payment of the expenses of any of the poorer inhabitants of the municipality for journeys to and from any hospital established in any part of India for the treatment of special diseases and of their subsistence thereat according to such scale as may be fixed by the Board at a meeting ;
- (x) employment of public vaccinators and the promotion of free vaccination ;
- (xi) acquiring, keeping and equipping of open spaces for purposes of ventilation, or for the promotion of physical exercise and public recreation ;
- (xii) industrial and other technical training and the employment of medical and veterinary practitioners ;

- (xiii) establishment and maintenance of veterinary dispensaries for the reception and treatment of horses, cattle and other animals ;
- (xiv) payment of contributions towards any public fund raised for the relief of human suffering within or without the municipality ;
- (xv) appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals ;
- (xvi) improvement of the breed of horses and cattle and the breeding of mules ;
- (xvii) establishment and maintenance of, or the granting of aid to public libraries and reading rooms, amateur theatrical institutions and music schools ;
- (xviii) payment for fire brigade services ;
- (xix) provision of burial and burning grounds and the burial or burning of paupers ;
- (xx) taking of a census other than a census ordered by the Central Government ;
- (xxi) holding of fairs and industrial exhibitions ;
- (xxii) payment of rewards for the destruction of noxious animals or diseased or unclaimed dogs ;
- (xxiii) preparation of compost manure ;
- (xxiv) prevention of the spread of dangerous diseases ;
- (xxv) establishment and maintenance of dairies ;
- (xxvi) other work of public utility calculated to promote the health, comfort or convenience of the inhabitants ;
- (xxvii) payment of contributions by the Board to any other local authority ;
- (xxviii) payment for anti-malarial and other projects of social services for the improvement of Public Health within the Municipal area ;
- (xxix) payment of advances to members of the establishment employed by the Board or on their behalf for the purpose of enabling them to acquire or construct residences for themselves and to purchase means of conveyance required for the performance of their duties ;
- (xxx) any expenditure not provided for in the items quoted above which may be declared by the Board at a meeting, with the sanction of the State Government, to be an appropriate charge on the municipal fund ;

Provided that the net proceeds of the taxes or fees, as the case may be, imposed under Section 68, sub-section (1) (b) and Section 212, Section 68, sub-section (1) (c), Section 68, sub-section (1) (d) and Section 212, Section 68, sub-section (1) (e), Section 68, sub-section (1) (f) and Section 68, sub-section (1) (m) after deducting a proportionate share, to be fixed by the Board in meeting, of the cost of the staff employed in collecting and in supervising the collection of the taxes or fees and in keeping and in auditing the accounts thereof, shall be applied in defraying the expenses respectively, of making, extending, improving or maintaining the water supply; of making, extending, improving or maintaining the lighting system; of cleansing latrines, urinals, cess-pools, establishing, maintaining and improving closed sanitary water-flushed sewerage system; of constructing, extending, improving or maintaining the drainage system; in establishing, maintaining and improving fire brigade services; in establishing, maintaining and improving anti-malarial and other projects of social services for the improvement of public health:

Provided also that no money which has been received by the Board on account of any hospital or dispensary or directed by donor to be applied to the establishment or maintenance of any hospital or dispensary, shall be expended on any other object.

(3) The Board may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of sub-section (2).

Orders for payment of money from the municipal fund.

61. Unless otherwise authorised by the State Government, all orders for the payment of money from the municipal fund if for a sum not above five hundred rupees shall be signed by the Chairman or Vice-Chairman, and all orders for larger sums, by both of the said officers or by one of the said officers and another Commissioner of the Board.

No such order shall be issued otherwise than for the payment of money of which the expenditure has been authorised, subject to rule, by the Board at a meeting.

Municipal Property

Municipal property.

62. (1) Subject to any reservation made by the State Government, all property of the nature hereinafter in this section specified and situated within the municipality shall vest in and belong to the Board and shall with all other property of whatever nature or kind which may become vested in the Board, be under its direction, management and control, that is to say—

(a) all public roads including the soil, the pavements, stones and other materials thereof, and all drains, bridges, trees, erection, materials, implements and other things provided for such roads;

- (b) all public streams, channels, water-courses, springs, tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or created at the cost of the Board or otherwise and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land, not being private property, appertaining to any public tanks:

Provided that water-pipes and any water-works connected therewith or appertaining thereto which with the consent of the Board are laid or set up in any street by the owners of any mill, factory, workshop or the like primarily for the use of their employees shall not be deemed to be public water-works by reason of their use by the public:

- (c) all public sewers and drains, and all works, materials and things appertaining thereto and other conservancy works;
- (d) all sewage, rubbish and offensive matter collected by the Board from roads, latrines, sewers, cess-pools and other places;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto, and all public gates, markets, slaughter houses and public buildings of every description which have been constructed or are maintained out of the municipal fund;
- (f) all land or other property transferred to the Board by the Government or acquired (by the Board) by gift, purchase or otherwise for local public purposes.

(2) The State Government may, by notification in the official Gazette, direct that any property which has vested under sub-section (1) in the Board shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested and the State Government may pass such orders as it thinks fit regarding the disposal and management of such property:

Provided that in case the Board has already invested any money or made any commitment the State Government shall not pass any order divesting the Board in respect of the property without consulting the Board.

63. The Board at a meeting may decide to purchase or take on lease or by gift any land for the purposes of this Act, and may sell, let, exchange or otherwise dispose of any land not required for such purposes with the sanction of the State Government.

Power to
purchase,
lease and
sell land.

Execution of
contracts.

64. (1) The Board may enter into and perform any contract necessary for the purposes of this Act.

(2) Every contract made by or on behalf of a Municipal Board in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the Board at a meeting, and shall be in writing, and signed by at least two of the members one of whom shall be the Chairman or Vice-Chairman, and shall be sealed with the common seal of the Board.

Unless so executed, such contract shall not be binding on the Board.

Transfer of
certain
public
institutions
to Boards.

65. (1) Every hospital, dispensary, school, rest-house, ghat and market, not being private property or the property of a religious institution or society, and all medicines, furniture, and other articles appurtenant thereto, not being such property, which at and after the commencement of this Act shall be found within any municipality, may, by order of the State Government duly published on the spot, be vested in the Municipal Board of such municipality; and thereupon all endowments or funds belonging thereto shall be transferred to, and vested in, such Board as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the Gazette and within the Municipality.

(2) If the Board at the meeting shall, after publication of the aforesaid notice, object to the transfer to itself of any hospital, dispensary, school, rest-house, ghat or market, on the ground that its funds cannot bear the charge, then such transfer shall not be made save under such conditions as the Board at a meeting may agree to accept.

Transfer of
private
roads, etc.,
to Boards.

66. The Board at a meeting may agree with the person in whom the property in any road, bridge, tank, ghat, well, channel or drain is vested, to take over the property therein or the control thereof, and after such agreement may declare by notice in writing put up thereon or near thereto that such road, bridge, tank, ghat, well, channel or drain has been transferred to the Board. Thereupon, the property therein or the control thereof, as the case may be, shall vest in the Board and such road, bridge, tank, ghat, well, channel or drain shall thenceforth be repaired and maintained out of the municipal fund.

Acquisition
of land.

67. When any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the State Government may, at the request of the Board, proceed to acquire it under the provisions of the Land Acquisition Act, 1894; and on payment by the Board of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the Board.

Act 1 of
1894.

CHAPTER V
MUNICIPAL TAXATION

Imposition of taxes

Taxes.

68. (1) Subject to the provisions of this Act and the rules made thereunder the Board may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, impose within the limits of the municipality the following taxes, fees and tolls, or any of them:—

- (a) a tax on holdings situated within the municipality assessed on their annual value, payable by the owner;
- (b) a water-tax payable by the owner or occupier, on the annual value of holdings;
- (c) a lighting-tax, payable by the owner or occupier, on the annual value of holdings;
- (d) a latrine-tax, payable by the owner or occupier, on the annual value of holdings;
- (e) a drainage-tax, payable by the owner, where a system of drainage has been introduced;
- (f) a tax on private markets payable by the owner;
- (g) license fees on carts, carriages and animals used for riding, or burden;
- (h) a fee on the registration of dogs;
- (i) a fee, on such conditions and on such scale as may be prescribed by rule by the State Government for each municipality, on boats, including steam boats, and other vessels, mooring within the municipality;
- (j) tolls on bridges;
- (k) with the sanction of the State Government a betterment fee on holdings in any area of which value has increased due to Improvement Schemes completed at Board's cost;
- (l) fees, as sanctioned by the State Government, for setting up and maintenance of fire brigade;
- (m) with the sanction of the State Government fees for conducting anti-malarial services or any other schemes of social service for the improvement of public health;
- ✓(n) with the sanction of the State Government any other tax, toll, rate or fee; provided—
 - (i) that both the taxes mentioned in clauses (a) and (f) shall not be imposed in respect of the same premises;
 - (ii) that when the Board has taken a loan from or guaranteed by the State Government, the Board shall not, without the previous sanction of the State Government, make any alteration in respect of any tax which may have the effect of reducing the income of the Board; and

(iii) the State Government may, by order, exempt from the payment of any rate, tax, toll or fee payable under the provisions of this Act, any diplomatic or consular mission of a foreign State and the diplomatic and consular officers of such mission.

(2) The Board may, from time to time at a meeting convened as aforesaid, and in accordance with a scale of fees to be approved by the State Government charge a fee in respect of the issue and the renewal of any license which may be granted by the Board under the Act and in respect of which no fee is leviable under sub-section (1).

✓(3) Nothing in this section shall authorise the imposition of any tax or fee which the State Legislature has no power to impose in the State under the Constitution.

Taxes on Government holdings.

69. Notwithstanding any provision to the contrary, all municipal taxes in respect of Government holdings shall be payable by Government themselves to the Municipal Boards and not by occupiers.

Restriction regarding tax on holdings.

70. Where the aggregate annual value of all the holdings held by one owner within the Municipality does not exceed six rupees, the tax mentioned in section 68(1)(a) shall not be imposed on any of the holdings of the said owner, provided such owner is not assessed with any profession tax or income-tax.

Restriction regarding water-tax and lighting-tax.

71.(1) The imposition of a water-tax or a lighting-tax shall be subject to the following restrictions, namely:—

(a) that the tax shall be imposed only on holdings situated within an area for the supply of water to which or for the lighting of which, as the case may be, a scheme has been approved by the State Government:

Provided that where the Board—

- (i) distribute water by means of water carts or other like agency or provide a water supply by means of tanks or wells or other reservoirs, or
- (ii) provide acetylene lamps or such other means of lighting as may be approved by the State Government;

the Board at a meeting may impose in the case (i) a water rate and in the case (ii) a lighting-tax under such conditions and limitations as may be prescribed.

(b) that the tax shall not be imposed on land used exclusively for purposes of agriculture, or on any holding consisting only of tanks, or, in the case of the water-tax, on any holding no part of which is within a radius, to be fixed by the State Government, from the nearest stand-pipe or other supply of water available to the public;

- (c) that in fixing the rate, at which the tax is to be imposed, regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water or lighting as the case may be, supplied from the works under special contract or otherwise, shall not exceed the amount required for making, extending or maintaining the water-supply or lighting system, as the case may be, together with an amount sufficient to meet the proportionate share of the cost of supervision and collection and the repayment of and payment of interest on any loan incurred in connection with any such supply or system ;
- (d) that the tax shall not be leviable until a supply of water has been provided in the area to be so supplied or until the lamps in the area to be lighted have been lighted as the case may be, nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such water-supply or lighting :

Provided that nothing in this section shall prevent the Board from making any special arrangement consistent with this Act with persons residing beyond the radius fixed by the State Government.

(2) The amount of the tax may vary with the distance of holdings from the nearest stand-pipe or other sources of water-supply, and the amount may be higher in the case of premises to which communication pipes are attached than in the case of other premises.

(3) The Board, at its discretion, may compound for any period not exceeding one year with the person liable to pay the tax on any railway premises or any premises used as a factory, dockyard, workshop, mazdur depot, school, college, hospital, market, court-house, jail, reformatory, lunatic asylum, or other similar place, for a certain sum to be paid by such person in lieu of the tax.

(4) Subject as aforesaid in the preceding sub-sections additional water tax under section 212 shall be imposed only in the areas served by the closed sanitary water flushed sewerage system.

Restriction
regarding
latrine-tax.

72. (1) The imposition of a tax under section 68, sub-section (1) (d), shall be subject to the following restrictions, namely :—

- (a) that the tax shall be imposed only on holdings containing dwelling houses, shops, places of business, latrines, urinals or cess-pools ;
- (b) that the tax shall not be imposed on any jail, reformatory, lunatic asylum, school, college or hospital in which an establishment is maintained for the cleansing of latrines, urinals and cess-pools therein without making use of any place or receptacle maintained by the Board for the deposit of sewage or offensive matter ;

- (c) that in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for the cleansing of latrines, urinals and cess-pools together with the amount required to meet the proportionate share of the cost of supervision and the collection of the tax; and
- (d) that the tax shall not be leviable in any area until the Board has made provision for the cleansing of latrines, urinals and cess-pools, within such area; nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the making of such provision.

(2) (a) The Board at a meeting may compound for any period not exceeding one year with the person liable to pay the tax on any railway premises or any premises used as a factory, dockyard, workshop, mazdur depot, school, college, hospital, market, court-house or other similar place, for a certain sum to be paid by such person in lieu of the tax or, in the case of such premises or places may in lieu of levying the tax on the annual value of the holding levy it at a certain amount per head, to be fixed by the Board at a meeting, on the number of persons living within or habitually resorting to such premises or places.

(b) The Board may by a notice in writing, require the owner or occupier of any such premises or places to furnish within a time to be specified in the notice, a statement of the number of persons residing in or habitually resorting to, such premises or places.

(3) Subject as aforesaid in the preceding sub-sections additional latrine tax under section 212 shall be imposed only in the areas served by the closed sanitary water-flushed sewerage system.

(4) A rebate of not exceeding thirty-three and one-third per centum of the latrine-tax on a holding shall be allowed if the holding is provided with sanitary-type latrines and does not contain any service latrine.

Restriction
regarding
drainage-
tax.

73. The imposition of a tax under section 68, sub-section (1) (e), shall be subject to the following restrictions, namely:—

- (a) that the tax shall be imposed only in case of places situated within an area for which a scheme for construction of a drainage system has been approved by the State Government,
- (b) that in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for constructing, extending, improving or maintaining the system of drainage together with the amount required to meet the proportionate share of the cost of supervision and the collection of the tax, and

(c) that the tax shall not be leviable until a system of drainage shall have been made in the area to be so provided ; nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such a system of drainage.

Special provision regarding tax on private markets.

74. The tax mentioned in section 68, sub-section (1)(f), shall be determined by the Board at a meeting with the approval of the State Government, according to the size and importance of such markets.

Restriction regarding fire brigade and anti-malarial fees.

75. In fixing the rates of fees under section 68, sub-section (1) (l) and (m), regard shall be had to the principle that the total net proceed of the fees shall not exceed the amount required for making, extending, maintaining and improving the fire brigade services or the anti-malarial and other social services for improvement of public health, as the case may be, or for making contributions to the organisations running such services, together with the amount sufficient to meet the proportionate share of the cost of supervision and collection and the repayment of and payment of interest or any loan incurred in connection with such services.

Taxes upon annual value of holdings

Board to determine the valuation of holdings.

76. When it has been decided to impose any tax on the annual value of holdings, the assessor after making such enquiries as may be necessary, shall determine the valuation of all holdings within the municipality as hereinafter provided, and shall enter the same in a list called the valuation list, which shall be in the prescribed form :

Provided that valuations other than general valuations may be made by the Board through such person as may be authorised by the Board in this behalf.

Returns required for ascertaining annual value.

77. The assessor, in order to prepare the valuation list, may whenever he thinks fit, by notice require the owners or occupiers of all holdings to furnish him, within fifteen days, with returns of the rent or annual value thereof and a description of the holdings in such detail as the Board may direct ; and the assessor, at any time between sunrise and sunset, may enter, inspect and measure any such holding :

Provided that at least forty-eight hours' previous notice of the intention to enter, inspect and measure any holding shall be given to the owner or occupier thereof, unless he waives his right to such notice.

Penalty for default in furnishing return.

78. Whoever refuses or fails to furnish any such return for the space of a fortnight from the day on which he has been required to do so, or knowingly furnishes a false or incorrect return or description, shall be liable to a fine not exceeding twenty rupees, and to a further fine not exceeding five rupees for each day during which he omits to furnish a true and correct return ; and whoever obstructs, hinders or prevents the assessor appointed by the Board from entering or inspecting or measuring any such holding shall be liable to a fine not exceeding two hundred rupees.

Determina-
tion of
annual
value
of holding.

79. (1) The annual value of a holding shall be deemed to be the gross annual rental at which the holding may reasonably be expected to let.

(2) In the case of a holding with a building or buildings used or occupied for the residence by the owner himself, the annual value of such holding shall be deemed to be an amount which is less by twenty-five per cent than the valuation fixed on the letting basis under sub-section (1) above.

(3) In the case of a holding containing building or buildings, vested in Government the annual value shall be deemed to be an amount which may be equal to but not exceeding six per centum of the cost, of erection of the building or buildings in addition to a reasonable ground rent or the land comprised in the holding:

Provided that in estimating the annual value of a holding under this section, the value of any machinery and its foundation that may be on such holding, shall not be taken into consideration.

Explanation.—The "gross annual rent" shall not include the amount of municipal taxes when paid by the tenant.

Determina-
tion of rate
of tax on
holding.

80. Subject to the provisions of this Act, the Board at a meeting to be held before the close of the year preceding the year to which the tax will apply, shall determine the percentage on the valuation of holdings at which any tax on the annual value of holdings shall be levied, and the percentage so fixed shall remain in force until the Board at a meeting shall determine some other percentage at which the tax will be levied from the beginning of the next year:

Provided that, when this Act is first extended to any place the first tax shall be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Board at a meeting.

Preparation
of assessment
register.

81. As soon as possible after the percentage at which the tax is to be levied shall have been determined under the preceding section, the Board shall cause to be prepared an assessment register which shall contain the following particulars, and any others which the Board may think proper to include:—

- (a) number of the holding on the register with the name of the road, if any, in which the holding is situated;
- (b) annual value of the holding (as stated in the valuation list);
- (c) names of owner and occupier;
- (d) amount of tax payable for the financial year;
- (e) amount of taxes payable separately under section 68(1), (a), (b), (c) or (d);
- (f) amounts of quarterly instalments; and
- (g) if the holding is exempted from assessment, a note to that effect.

Power to assess consolidated tax for house and land on which it stands.

82. (1) If any house belongs to one owner and the land on which it stands and any adjacent land which is usually occupied therewith belongs to another, the Board may value such house and land together, and may impose thereon one consolidated tax.

(2) The total amount of the tax shall be payable by the owner of the house, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the tax so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

(3) In case of disputes, the Board shall determine what amount the owners of the house and of the land shall pay respectively.

Revision of valuation list and assessment register

Reduction of valuation, revision of valuation and assessment and revision of valuation list and assessment register.

83. (1) The Board at a meeting may, at any time, direct an alteration in, or amendment of, the assessment register —

- (a) by entering therein the name of any person or any property which in its opinion ought to have been entered, or any property which has become liable to taxation after the preparation of the assessment register, or
- (b) by substituting therein with effect from the date of succession or transfer, as the case may be, for the name of the owner of any holding the name of any other person who has succeeded by transfer or otherwise, to the ownership of the holding, or
- (c) by altering the valuation of or assessment on any holding which in its opinion has been incorrectly valued or assessed, or
- (d) by re-valuing or re-assessing any holding the value of which has been increased by additions, or alterations to buildings, or
- (e) by reducing, upon the application of the owner the valuation of any holding which has been wholly or partly demolished or destroyed, or the value of which has diminished from any cause beyond the control of the owner, or
- (f) by correcting any clerical or arithmetical error.

(2) The Board shall give at least one month's notice to any person interested in any alteration which the Board proposes to make under clauses (a), (b), (c) or (d) of sub-section (1) and of the date on which the alteration will be made.

(3) Every alteration made under sub-section (1) in the assessment register shall be signed by the Chairman or Vice-Chairman.

Notice to be given to Chairman of all transfers of title of persons liable to payment of tax.

84. (1) Whenever the title to any holding is transferred both the transferer and the transferee shall, for the purpose of section 83(1)(b), within three months after the execution of the instrument of transfer, or if no such instrument is executed, within three months after the transfer is effected, give notice in writing of such transfer to the Board.

(2) In the event of the death of the person in whom such title vests, the person to whom as heir or otherwise, the title of the deceased is transferred by descent or devise, shall within one year from the death of the deceased, give notice in writing of such succession to the Board.

(3) Every person liable for the payment of taxes on any holding, who transfers his title to or over such property, without giving notice of such transfer to the Board, as aforesaid, shall unless the Board at a meeting on the ground of hardship arising out of special circumstances, otherwise directs, continue to be liable for the payment of all such taxes from time to time payable in respect of the said property until he gives such notice, or until the transfer shall have been recorded in the municipal books.

(4) The Board may levy a fee not exceeding one rupee for every such transfer of title to holding.

Revision of valuation list.

85. (1) A new valuation list shall, unless otherwise ordered by the State Government, be prepared in the same manner as the original list, once in every five years.

(2) Subject to any alteration or amendment made under section 83 and to the result of any application under section 95, every valuation and assessment entered in the valuation list or the assessment register, shall be valid from the date on which the list or register takes effect in the municipality.

Appointment of assessor and power of State Government to direct the appointment of assessor.

86. (1) The Board at a meeting for the purpose of general valuation may, with the approval of the State Government, appoint an assessor who is neither an employee nor a Commissioner of the Board on such pay and with such establishment as it may determine.

(2) Notwithstanding anything contained in section 85, if at any time it appears to the State Government that the valuation in any municipality is insufficient, excessive or inequitable, the State Government may, by an order in writing, require the Board to revise the valuation or to show cause against revision within a specified time, and if the Board fails to comply with the order or in the opinion of the State Government the cause shown is inadequate or the revised valuation also is insufficient, excessive or inequitable, the State Government may by an order in writing require the Board to appoint with the approval of the State Government an assessor for the municipality within a time and for a period to be specified in the order. The order shall fix the pay of the assessor and the cost of his establishment and the pay and cost shall be paid monthly by the Board.

Revision of assessment register.

87. Whenever the valuation list is revised or altered wholly or in part or a new percentage is fixed under section 85 the assessment register also shall be revised and all consequential changes made therein.

Effect of revision of assessment register.

88. The first assessment register prepared for any municipality under the Act and any revision thereof or alteration therein made under the foregoing sections shall, subject to the provisions of sections 83 and 96, take effect from the beginning of the quarter following the publication of the notice mentioned in section 94.

Duty on transfers of property

- Method of assessment of duty on transfers of property. 8) In addition to the mutation fee as provided in sub-section (4), section 84, a duty on transfers of property shall be levied in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899, as in force for the time being in the State of Assam, on instruments of sale, gifts and mortgage with possession of immovable property situated within the limits of a municipality, at a rate of one per cent of the amount of the consideration, the value of the property, or the amount secured by the mortgage as the case may be. Act. II of 1899.
- Provisions applicable on the introduction of transfer duty. 90. On the introduction of the transfer duty—
 (a) section 27 of the Indian Stamp Act 1899, shall be read as if it specifically required the particulars to be set forth separately in respect of property situated within the limits of a municipality and outside such limits ;
 (b) section 64 of the same Act shall be read as if it referred to the Municipal Board concerned as well as the Government. Act II of 1899.
- Powers to make rules regarding assessment and collection of transfer duty. 91. The State Government may make rules not inconsistent with this Act for regulating the collection of the duty, the payment thereof to the Municipal Boards concerned and the deduction of any expenses incurred by the Government in the collection thereof.

General provisions regarding assessment

- Exemptions and remissions. 92. (1) The tax mentioned in section 68, sub-section (1)(a), (b) and (d), shall not be assessed or levied on any building or holding which is used exclusively as a place of public worship, or on any holding which is duly registered as a public burial or burning ground under this Act.
 (2) The Board at a meeting may exempt from assessment to the tax mentioned in section 68, sub-section (1)(a), any holding used for the purposes of a public charity.
 (3) The Board may, at a meeting, reduce the amount payable on account of any of the taxes mentioned in section 68, sub-section (1) (a), (b), (c) and (d), or remit the same, on the ground of excessive hardship to the person liable to pay the same:
 Provided that such reduction or remission shall not, unless renewed by the Board at a meeting, have effect for more than one financial year.
- Powers of assessor. 93. An assessor appointed by the Board under section 86 shall exercise all the powers of valuation the same being vested in the Board but shall not hear or determine applications for review made under section 95.
- Publishing of notice of assessments. 94. (1) When the valuation list mentioned in section 76 and the assessment register mentioned in section 81 shall have been prepared or revised, the Chairman shall sign the same and shall cause them to be deposited in the office of the Board, and shall cause a notice in the prescribed form to be published in the manner prescribed,

(2) In all cases in which any property is for the first time assessed or the assessment is increased, the Chairman shall also give notice thereof to the owner or occupier of the property.

Application for review. 95. (1) Any person who is dissatisfied with the amount assessed upon him or with the valuation or assessment of any holding or who disputes his occupation of any holding or his liability to be assessed, may apply to the Board to review the amount of assessment or valuation or to exempt him from the assessment of tax:

Provided that no application shall be entertained unless the applicant has paid all arrears of dues to the Board accrued up to the date of such application other than the sum which has been enhanced by the valuation or assessment against which the review application has been filed.

(2) When an assessor has been appointed under section 86, notice of every such application shall be given by the Board to the assessor.

Procedure for review.

96. (1) Every application presented under section 95 shall be heard and determined by a committee consisting of not more than five members or by an officer of Government not below such rank as the State Government may determine, whose services the Board obtains and to whom the Board at a meeting delegates the powers and functions of the committee in this behalf.

(2) The Chairman or the Vice-Chairman shall be one of the members of such Committee *ex-officio*, and the other members shall be appointed from among their numbers by the Board at a meeting:

Provided that no member so appointed shall take part in hearing or determining any application from the ward in which he resides, or in the case of an elected member, the ward which he represents, but nothing in this proviso shall prevent any such member from giving evidence with regard to the matter under enquiry.

(3) No such application shall be heard or determined by the committee unless at least three members including the Chairman or the Vice-Chairman are present.

(4) The Committee or the officer of Government shall give notice to the applicant of the time and place at which his application will be heard and after taking such evidence and making such inquiries as may be deemed necessary in the presence of the objector or his agent, if he appears, pass such orders as are thought fit in respect of such application.

(5) If the committee or the officer of Government order that any valuation to which the application relates shall be reduced, brief reasons for such reduction shall be recorded.

(6) The decision of the committee or of a majority of the members thereof, or of the officer of Government, in respect of any application referred to in this section shall be final.

Limitation
of time for
application
for review.

97. Unless good cause shall be shown to the satisfaction of the aforesaid committee or officer of Government for extending the time allowed, and save as is otherwise expressly provided in this Act, no such application shall be received after the expiration of one month from the date of publication of the notice required by section 94 relating to the list or register containing the assessment, in respect of which the application is made, or after the expiration of fifteen days from the date of service of the first notice of demand for payment at the rate in respect of which the application is made, whichever period shall last expire:

Provided that, if the Board has served a notice under section 94 on any person, no such application shall be received from him after the expiration of fifteen days from the date of such service.

Assessment
to be ques-
tioned only
under Act.

98. No objection shall be taken to any assessment or valuation in any other manner than in this Act is provided.

Tax not
invalid for
want of
form.

99. No assessment of tax on property and no charge or demand of any tax made under authority of this Act shall be invalid for error or defect of form, and it shall be enough in any valuation or assessment for the purpose if the property so valued or assessed is so described as to be generally known and it shall not be necessary to name the owner or occupier thereof.

Recovery of taxes

Recovery
from occu-
pier of tax
due from
non resident
owner.

100. If any tax payable under this Act by the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner be not resident within the municipality, or the place of abode of such owner be unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct, from the next and following payments of his rent the amount which may be so paid by or recovered from him:

Provided that no arrear of tax which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof:

Provided also that if any such holding is occupied by more than one person, the sum to be recovered from any one of such persons shall be proportionate to the value of the part of the holding in occupation of such persons.

Recovery from owner of occupier's tax in certain cases. 101. If any holding shall be occupied by more than one tenant holding severally, it shall be lawful for the Board, to recover from the owner of such holding, any taxes payable under this Act by the occupier also of the holding.

Recovery by owner of occupier's tax paid by owner. 102. Whenever any tax shall be recovered from any owner of any holding under the provisions of the preceding section, it shall be lawful for such owner, if there shall be but one occupying tenant of such entire holding, to recover from such tenant the entire amount of the tax which shall have been so paid by such owner, and, if there shall be one occupying tenant of a part of such holding or more than one occupying tenant of such holding, then to recover from such tenant or each of such tenants such sum as shall bear to the entire amount of tax which may have been so recovered from such owner the same proportion as the value of the portion of such holding in the occupation of such tenant bears to the entire value of such holding, subject, however, to the provisions of the next succeeding section.

Method of recovery by owner. 103. Every owner who, under the provisions of the preceding section, may be entitled to recover any sum from any occupying tenant of any holding or of any portion thereof, shall have for the recovery of such sum all such and the same remedies, powers, rights, and authorities as if such sum were rent payable to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

Taxes when payable. 104. (1) The amount due by any person on account of any tax on the annual value of holdings, shall be deemed to be the amount entered in the register, the notice relating to which is published under section 94, unless the amount entered in such register is subsequently altered as provided in this Act, in which case the amount to which the assessment is so altered shall be deemed to be the amount due.

(2) Such tax shall be payable in quarterly instalments, and every such instalment shall be deemed to be due on the first day of the quarter in respect of which it is payable.

Office hours for receipt of money. 105. (1) The Board shall, by notice to be posted up in their office, declare at what hours of each day (not being a Sunday or other recognised holiday) the office shall be open for the receipt of money and the transaction of business.

Receipts to be given. (2) For all sums paid on account of any tax, fee or other moneys due under this Act a receipt stating the amount and the tax, fee or other charge on account of which it is paid shall be given, signed by the tax Collector or by some other officer authorised by the Board to grant such receipts.

Bill and
notice of
demand.

106. (1) Within three months after any sum has become due on account of any tax, toll or fee, the Board shall cause to be presented to the person liable to the payment thereof a bill and a notice of demand for the said sum, which shall contain a statement of the period and of the tax, toll or fee on account of which the charge is made:

Provided that no charge shall be made in respect of the service of such bill or notice.

(2) Such bill and notice shall be signed by or stamped with a *facsimile* signature of, the Chairman, Vice-Chairman or an officer duly authorised in that behalf.

Issue of pro-
cess of at-
tachment.

107. (1) If any person, after service upon him of such bill and notice, do not, within fifteen days of the service of such notice or from the date of any order made on application for review under section 96, pay the sum due, either to the Board at their office or to some person authorised by them to receive the money, or show to the Board sufficient cause for not paying the same, the amount of the arrear due, with costs according to the prescribed scale of fees, may at any time within six months after the date of service of the said notice, or of the order made on an application for review as aforesaid, be levied by attachment and sale of any movable property belonging to the defaulter, except ploughs, plough cattle, tools or implements of agriculture or trade and articles required for worship or prayer, wherever found, or of any movable property belonging to any other person, subject to the same exceptions, which may be found within the holding in respect of which such defaulter is liable to such tax, toll or fee:

Provided that when the holding in respect of which the default is committed is a place of business, and the movable property attached is shown to the satisfaction of the Board to have been left there for repairs or safe custody in the ordinary course of business, it shall be released:

Provided also that, if the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such attachment, or by reason of any payment he may make to avoid such attachment or any sale under the same.

(2) Penalty at the rate of three and one-eighth per cent shall be charged on the arrears with effect from the sixteenth day following the date of the service of notice under section 106 (1) or of the order made on the application for review under section 96.

Attachment
how to be
made.

108. (1) Every warrant of attachment and sale under the preceding section shall be issued by the Board, and shall be in the prescribed form. Attachment shall be made by actual seizure of movable property, and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

(2) When a warrant of attachment is issued it shall not be discharged before it is executed except upon payment of the sum due together with one-fourth of the costs referred to in section 107.

(3) Such officer shall make in the presence of witnesses an inventory of all movable property seized under the warrant, and shall give not less than ten days' previous notice of the sale, and of the time and place thereof, by beat of drum, in the municipality or ward in which the property is situated, and by serving on the defaulter a notice in the prescribed form :

Provided that, if the property is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent, at any time after the expiry of six hours from the seizure.

Power of officer to break door. 109. The officer charged with the execution of the warrant may, under the special order of the Chairman or Vice-Chairman, between sunrise and sunset, break open any outer or inner door or window of a house in order to make the attachment, if he has reasonable ground for believing that such house contains any movable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance :

Provided that he shall not enter or break open the door of any room appropriated for the *zenana*, or residence of women, which by the usage of the country is considered private, without giving an opportunity and facilities for the retirement of the women.

Sale how to be conducted. 110. (1) If the sum due be not paid with costs before the time fixed for the sale, or the warrant be not discharged or suspended by the Board, the movable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs.

(2) The surplus sale-proceeds, if any, shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

(3) The tax collector or other officer authorised in that behalf shall make a return of all such sales to the Board in the prescribed form.

Certain person prohibited from purchasing at sales. 111. All Commissioners, officers and servants of the Board, and all chaukidars, constables and other officers of police are prohibited from purchasing any property at any such sale.

Board to keep account of attachments and sales. 112. The Board shall cause a regular account to be kept of all attachments and sales made for the recovery of taxes, tolls and fees under this Act.

Sale of property beyond limits of municipality.

113. If the Board is unable to recover under section 110 the sum due with costs, the Magistrate may, on the application of the Board, issue a warrant to any officer of his Court for the attachment and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the attachment and sale of any movable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction within the State of Assam, and such other Magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Board.

Attachment or sale not unlawful for want of form.

114. No attachment or sale made under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any error, defect or want of form in the bill, notice, summons, warrant of attachment, inventory or other proceeding relating thereto.

Board may bring suits instead of distraining on failure of attachment.

115. Instead of proceeding by attachment and sale or in case of failure to realize thereby the whole or any part of any tax, the Board may sue the person liable to pay the same in any Court of competent jurisdiction.

Liability of purchaser for vendor's share of tax.

116. The purchaser of any holding or part of a holding, in respect of which any sum is due at the time of purchase on account of any tax under this Act, shall subject to provision of sub-section (3) of section 84 be liable for the said sum.

License fees on carts, carriages and animals

License fees on carts, carriages and animals.

117. (1) When it has been determined that license fees on carts, carriages and animals shall be imposed under section 68, sub-section (1)(g), the Board at a meeting shall make an order that the owner of every cart, carriage and animal of the kind specified therein, which is kept or used within the municipality, shall take out a license and pay such fees as are fixed in the order, and shall cause such order to be published in the manner prescribed.

(2) Such order shall be published at least one month before the beginning of the half year in which it shall first take effect and shall specify the fees not exceeding such amounts as may be prescribed by rule, which shall be charged in respect of such licenses:

Provided that the Board may permit the owner of any such cart, carriage or animal which is casually brought within the municipality to keep or use the same within the municipality without a license for such period not exceeding 30 days in the half year as may be fixed by the Board.

(3) No license shall be required in respect of:—

- (a) horses or ponies belonging to officers doing regimental duty at the rate of one animal for each officer;

- (b) carts, carriages or animals belonging to Government, or to the Board or to any local authority or for keeping which for the execution of their duty an allowance is made by any Government or by the Board or by any local authority to any of their officers ;
- (c) animals used by, or exclusively for the purposes of, any regiment ;
- (d) horses or ponies used by police officers at the rate of not more than one for each officer ;
- (e) carts, carriages or animals kept for sale by any *bona fide* dealer in such carriages or animals, and not used for any other purpose.

Fees so fixed to continue until altered.

118. Any order of the Board imposing license fees under the preceding section shall continue in force until rescinded, and the fees shall be charged at the rates specified in the order published as aforesaid unless and until the Board at a meeting, held not less than one month before the end of the financial year, make and publish an order specifying any different fees which shall be charged for the ensuing financial year.

Licenses how to be obtained.

119. In any municipality in which license fees have been imposed under section 117, the owner of every cart, carriage and animal specified in the order under the aforesaid section shall, within the first month of each half year, forward to the Board, a statement in writing, signed by him, containing a description of the carts, carriages and animals for which he is bound to take out a license.

Such owner shall, at the same time, pay to the Board such sum as shall be payable by him for the current half-year for the carts, carriages and animals specified in such statement, according to the fees specified in any order for the time being in force under the two preceding sections.

Proportionate fee on carts, carriages, etc., acquired during half year.

120. If any person acquires possession, at any time after the commencement of any half-year, of any cart, carriage or animal specified in the order under section 117, in respect of which no license has been given for such half-year, he shall forward a statement as above required within one month of the date on which he may have acquired possession thereof, and shall pay such amount of fee as shall bear the same proportion to the whole fee for the half-year as the unexpired portion of the half-year bears to the half-year ; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

On payment of fee, Board to give a license.

121. On receiving the amount of the fees due as aforesaid, the Board, or some person authorised by them in that behalf, shall give to the person paying the same a license and a token of registration number for the several carts, carriages and animals for the period in respect of which the amount is received.

Such license shall be for the current half-year.

Cart, carriage, etc., liable to fee, although the owner be absent. 122. Whenever the owner of any cart, carriage or animal liable to pay the said fee is not resident within the limits of the municipality to which the fee is due, the person in whose immediate possession the cart, carriage or animal is for the time being kept shall take out a license for the same.

Penalty. 123. Whoever keeps or is in possession of, any cart, carriage or animal without the license required by any of the three preceding sections shall be liable to a fine not exceeding four times the amount payable by him in respect of such license, inclusive of the amount so payable.

Board may compound with livery stable-keepers. 124. The Board, at their discretion, may compound for any period not exceeding one year, with livery stable-keepers and other persons keeping carts, carriages or animals for hire, for a certain sum to be paid for the carts, carriages or animals so kept by such person in lieu of the license fees specified in any order made by the Board under sections 117 and 118.

List of licensed persons to be prepared. 125. The Board shall, from time to time, cause to be prepared and entered in a book, to be kept by them, and to be open to the inspection of any person interested therein, a list of persons to whom during the then current half-year a license has been given and of the carts, carriages and animals in respect of which they have paid the fees.

Power to inspect stables, etc., and to summon persons liable to the payment of the fee. 126. The Board, or any person authorised by them in that behalf, may at any time between sunrise and sunset enter and inspect any stable or coach-house, or any place wherein they may have reason to believe that there is any cart, carriage or animal liable to the license fee, for which a license has not been duly taken out.

And the Board may summon any person whom they have reason to believe to be liable to the payment of any such fee or any servant of such person, and may examine such person or servant as to the number and description of the carts, carriages and animals in respect of which such person is liable to pay license fees.

Refund of fee in certain cases. 127. On proof being given to the satisfaction of the Board that a cart, carriage or animal, for which a license has been taken out for any half-year, has ceased to be used or kept for use, within the municipality during the course of such half-year, the Board shall order a refund of so much of the license fee for the half-year as shall bear the same proportion to the whole fee for the half-year as the period during which such cart, carriage or animal has not been so kept or used in the municipality bears to the half-year; but no such refund shall be allowed unless notice be given to the Board within one month of the time when such cart, carriage or animal ceased to be so kept or used, and, except for special cause shown, the Board shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

Registration of Dogs

- Registration and numbering of dogs.** 128. When it has been determined that fees on the registration of dogs shall be imposed under section 68, sub-section (1)(h), the Board at a meeting shall make an order that every dog, which is kept within the municipality, shall be registered by the Board with the name and residence of the owner and shall bear the number of registration in such manner as the said Board shall direct. Such order shall be published at least one month before the beginning of the half-year in which it shall first take effect and shall specify the fee, not exceeding such amount as may be prescribed by rule, which shall be paid for each registration.
- Fees so fixed to continue until altered.** 129. Any order of the Board ordering registration fees to be paid under the preceding section shall continue in force until rescinded and the fees shall be charged at the rates specified in the order published as aforesaid.
- Period of registration.** 130. The registration of dogs shall be made, and the numbers assigned, yearly or half-yearly, upon such days as the Board shall notify.
- Proportionate payment of fee.** 131. If any person acquires possession, at any time after the commencement of any period of registration, of any dog which has not been registered for such period, he shall register the same within one month from the date on which he may have acquired possession thereof, and shall pay such amount of fee as shall bear the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period, and such fee shall be calculated from the date on which such person may have acquired possession as aforesaid.
- Transfer of ownership.** 132. When the ownership of any registered dog is transferred within any period of registration it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding four annas shall be paid for every such last mentioned registration.
- Penalty.** 133. Whoever keeps, a dog not duly registered as required by any of the three preceding sections, shall be liable to a fine not exceeding four times the amount payable by him in respect of such registration, inclusive of the amount so payable.
- Seizure and sale of unlicensed cart, carriage or animal.** 134. (1) If any person owns or keeps any cart, carriage or animal heretofore required to be licensed without a licence the Board, or any person authorised by them in that behalf, may seize and detain such cart, carriage or animal (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods); and all police officers are required, on the application of the Board, or of any servant of the Board duly authorised in that behalf, to assist in the said seizure.
- (2) After such seizure the Board shall forthwith issue a notice in writing that after the expiration of ten days they will sell such cart, carriage or animal by auction at such

place as they may state in the notice, and, if any license fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Board may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(3) The surplus sale-proceeds if any, shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction:

Provided that, if at any time before the sale is concluded, the person whose cart, carriage or animal has been seized shall tender to the Board, or to the person authorised by them to sell the cart, carriage or animal the amount of all the expenses incurred and the registration fee payable by him, the Board shall forthwith release the cart, carriage or animal so seized.

(4) Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a cart, carriage or animal seized under this section may be devoted to the payment of any fine imposed under the preceding section; and any cart, carriage or animal which has been seized under this section may be sold for the realization of any such fine.

Prohibition of double fees.

135. Nothing contained in this Act shall be deemed to authorise two or more local authorities to levy, between them, more than one fee for the same period in respect of any cart, carriage or animal and in the event of any dispute arising as to which of several local authorities is to levy the fee or as to how the fee levied is to be apportioned between several local authorities, the question shall be referred to the State Government and its decision shall be final, provided that, where one of the local authorities is a cantonment authority, the decision of the State Government shall be subject to the concurrence of the Central Government.

Tolls on bridges

Power of Board to establish toll-bars and levy tolls.

136. The Board at a meeting, with the previous sanction of the State Government, may establish a toll-bar on any bridge within the municipality which has, before or after the date of the commencement of this Act, been constructed or purchased out of the municipal fund, or to the cost of the construction or purchase of which contribution has, before or after the said date, been made out of the municipal fund and may levy tolls at such toll-bar on persons, vehicles and animals passing over such bridge:

Provided as follows:—

- (1) No toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—
- (a) the expenses incurred by the Board in constructing, purchasing, contributing to or widening such bridge;
 - (b) interest on such expenses, at the rate of six per centum per annum;

- (c) the capitalised value of the receipt in respect of any public ferry, the proceeds of which are under the orders of the State Government, placed at the disposal of the Board, which the Board will lose partially or completely owing to the construction of such bridge; and
 - (d) the capitalised value of the estimated cost to the Board of maintaining such bridge, and of renewing it, if it requires periodical renewal.
- (2) No toll-bar shall be established, or tolls levied, on, or in respect of any bridge, the cost or estimated cost of which, as indicated in clauses (a), (c) and (d) of proviso (1), was or is less than two lakhs twenty-five thousand rupees.

Lease of toll-bar. 137. The Board may grant a lease, for any period not exceeding three years of any toll-bar established under section 136.

Procedure where two or more local authorities have contributed towards cost of bridge. 138. When the Board with any other local authority having jointly constructed, purchased or contributed towards the cost of the construction or widening of a bridge, have received the sanction of the State Government to the establishment of a toll-bar, the toll shall be levied or granted in lease by such local authority as the State Government may, in its order according to the sanction, direct, and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the local authorities according to rules made in this behalf by the State Government, provided that where one of the local authorities concerned is a cantonment authority, the powers of the State Government under this section shall be exercisable only with the concurrence of the Central Government.

Exemptions from payment of toll. 139. (1) The following persons and things shall be exempted from payment of tolls at any toll-bar established under section 136, namely—

- (a) Government stores and persons in charge thereof;
- (b) in areas declared as "Operational Areas" by the Government of India;
- (i) stores, including animals and vehicles conveying such stores, meant for the Defence Services personnel, supplied through the Defence Services installations, e.g., military farms, officers shops, supply depots and canteens, etc., whether run by the Defence Department or through contractors, and
- (ii) the persons in charge of such stores;
- (c) police officers and other public officers and their servants travelling on duty, Commissioners of the Board and officers of the municipality and their servants so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the

officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such property ;

(d) conservancy carts and other vehicles and animals belonging to the Board, and persons in charge thereof ; and

(e) any other class of persons or things which may be exempted by order of the Board or State Government.

(2) Nothing in this section shall be deemed to affect the provisions of the Indian Tolls (Army and Air Force) Act, 1901. Act 11 of 1901.

Rates of tolls. 140. (1) When it has been determined that tolls shall be levied at any toll-bar established under section 136, the Board shall, from time to time, make and publish an order specifying the rates at which the tolls shall be levied.

(2) A table of such tolls, legibly printed or written in English and the Vernacular of the district, shall be affixed in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

(3) In default of compliance with sub-section (2), the toll-collector or the lessee of the toll-bar, as the case may be, shall be liable to a fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.

Power to compound for tolls. 141. The Board or the lessee of any toll-bar may compound with any person for a certain sum to be paid by such person for himself or for any vehicles or animals kept by him in lieu of the rates specified under section 140.

Power of toll-collector or lessee in case of refusal to pay toll. 142. Any toll-collector or lessee of a toll-bar established under section 136 may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

Penalty for refusing to pay toll. 143. Whoever having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to a fine which may extend to fifty rupees.

Police officers to assist 144. Where resistance is offered to any person authorised under this Act to collect tolls, any police officer whom he may call to his aid shall be bound to assist him ; and such police officer shall for that purpose, have the same powers as he has been in the exercise of his ordinary police duties.

Penalty for taking unauthorised tolls. 145. When any person, authorised to collect tolls, realises any tolls higher than the tolls authorised under this Act, he shall be punishable with fine which may extend to fifty rupees and in default of payment, to imprisonment for a term which may extend to one month.

Board to publish expenses of toll-bars. 146. (1) When a toll-bar has been established and tolls have been levied under section 136 in respect of any bridge, the Board shall, at the end of each financial year, publish by causing to be affixed at their office, an abstract account showing.—

- (a) the amount of the expenses incurred by the Board in constructing, purchasing, contributing to or widening the bridge ;
- (b) the amount of interest which has accrued or is due on such expenses ;
- (c) the capitalised value of the receipts in respect of any public ferry which the Board will lose partially or completely owing to the construction of such bridge ;
- (d) the capitalised value of the estimated cost of maintaining the bridge, and, where it requires periodical renewal, of renewing it ; and
- (e) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) When such expenses, interest and capitalised value have been recovered as aforesaid, such toll-bar shall forthwith be removed, and tolls shall no longer be levied on such bridge.

Pounds

Function in regard to pounds. 147. Every Municipal Board shall, in regard to the establishment, maintenance and management of pounds, perform such function as may be transferred to it by notification under section 31 of the Cattle Trespass Act, 1871, and lease out pounds, when so transferred, according to rules framed under this section. Act I of 1871.

Markets

Rents, tolls and fees. 148. (1) The Board at a meeting may use their own land or building or, purchase, take on lease or otherwise acquire any land or building for the purpose of establishing a municipal market or improving any existing municipal market.

(2) The Board at a meeting may levy rents, tolls and fees at such rates as it may think proper for the right to expose goods for sale in a municipal market and for the use of shops, stalls and standings therein and also may regulate such rates in respect of private markets or places used or declared by the Board as a market place by a public notice in the locality.

(3) The Board may grant a lease according to rules under this section for a period not exceeding three years for the collection of rents, tolls and fees in municipal markets at the rates prescribed by the Board under sub-section (2).

(4) A lessee of a municipal market appointed under sub-section (3) may refuse to allow any person to expose goods for sale in the market or to use shops, stalls and standings therein until the proper rents, tolls and fees have been paid.

(5) Whoever, having rendered himself liable to the payment of rents, tolls or fees refuses to pay the same shall be liable to a fine which may extend to fifty rupees,

(6) When resistance is offered to any person authorised to collect rents, tolls or fees, any police officer whom he may call to his aid, shall be bound to assist him; and such police officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

(7) Whoever realises rents, tolls or fees at rates higher than the rates fixed under sub-section (2) shall be liable to a fine not exceeding fifty rupees.

Recovery of miscellaneous demands

149. (1) All rents, tolls and fees and all costs, expenses, or other moneys due under this Act to the Board may be recovered in the manner provided in sections 106 to 115, both inclusive.

(2) Where any sum is due on account of rent from a person to a Board in respect of land vested in, or entrusted to the management of the Board, the Board may apply to the collector to recover any arrear of such rent as if it were an arrear of land revenue. This procedure will not apply in the case of rents mentioned in sub-section (2) of section 148 the realisation of which will be governed by the provisions contained in sub-section (1) of this section.

Supplemental provisions

150. If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner of such holding or his whereabouts are unknown or the ownership thereof is disputed, or when the owner lives outside the municipality and has failed to pay in spite of service of demand notices twice, the Board may publish twice, at an interval of three months, a notification of sale of such holding and after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit forthwith twenty-five per cent of the purchase money. The balance shall be paid within fifteen days of the date of sale; in default the money, if any, so deposited shall be forfeited and the holding shall be resold, and the shortage, if any, may be recovered by the Board from the defaulter as arrears of municipal tax in the manner provided in this Act. After deducting the amount due to the Board as aforesaid, the surplus sale-proceeds, if any, shall be credited to the municipal fund and may be paid on demand to any person who establishes his right to the satisfaction of such Board or in a Court of competent jurisdiction.

Any person may pay the amount due at any time before the completion of the sale and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

151. The Board may order to be struck off the books the amount of any tax or fee or other demand which may appear to them to be irrecoverable.

Recovery
of moneys
due to the
Board.

Power to
sell unclaim-
ed hold-
ings for
money due.

Irrecover-
able taxes,
etc.

CHAPTER VI

Power for Sanitary and other purposes

Power to close a public road.

152. (1) The Board may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the purpose of constructing or repairing any sewer, drain, culvert, or bridge, or for any other public purpose; or divert, discontinue or close permanently any such road:

Provided that the Board so closing any such road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road:

Provided also that the power to divert, discontinue or close permanently any road shall only be exercised by the Board at a meeting.

(2) Whenever, owing to such repairs or constructions, or from any other cause, any such road or part of such road shall be in a state which is dangerous to passers-by, the Board shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

(3) When any public road or part thereof is permanently closed, the Board at a meeting may sell or lease the site of so much of the road-way as is no longer required, making due compensation to, or providing means of access for, any person who may suffer damage by such closing. In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public road at or about the same time that the public road, on account of which the compensation is paid, is closed. Provided that the Board cannot sell or otherwise dispose of the site if it is vested in the Board under section 62 and is not of the nature specified in section 63.

Prohibition of use of public roads by a class of animals or vehicles.

153. (1) The Board may, by public notice prohibit or regulate the driving, riding or leading of animals or vehicles of any particular kind along any public road or part of any such road.

(2) Any person who disobeys an order passed by the Board under the provisions of sub-section (1) shall be liable to a fine not exceeding twenty rupees.

Power to acquire land for building sites adjoining new public roads.

154. Where any land is required for a new public road, or for the improvement of an existing public road, the Board may acquire, in addition to the land to be occupied by the road, the land necessary for the sites or the buildings to be erected on the sides of the road.

Power to
require repair
of roads and
drains and to
declare such
roads and
drains public

155. (1) When the Board considers that in any road or drain, not being a public road or drain whether or not previously levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds, or in any part of such road or drain, within the municipality, it is necessary, for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Board may by written notice require the respective owners of the lands or buildings, fronting, adjoining or abutting upon such road or drain or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

(2) If such notice is not complied with during the time specified, the Board may, if it thinks fit, execute the work mentioned or referred to therein, and may, if it thinks fit, recover under the provisions of section 149 the expenses incurred in doing so from the owners in default according to the frontage of their respective lands or buildings and in such proportion as may be decided by the Board.

(3) After such work has been carried out by such owners or, as provided in sub-section (2) by the Board at the expenses of such owners, the road or drain or part thereof in which such work has been done may, with the consent of the owners be declared to be a public road or drain, and shall on such declaration vest in the Board.

Permission
to deposit
movable
property on,
or to excavate
or enclose,
a public road
or land.

156. The Board may grant permission to any person, for such period and on such terms as it may think fit, to deposit any movable property on any public road or any land vested in the Board, or to make an excavation in any such road or any such land, or to enclose the whole or any part of any such road or of any such land, and may charge such fees as it may fix for such permission:

Provided that such person undertakes to make due provision for the passage of the public and to erect sufficient fences to protect the public from injury, danger or annoyance, and to light such fences from sunset to sunrise sufficiently for such purpose.

Hoards to
be set up
during
repairs.

157. (1) Every person intending to build or take down any house, or to alter or repair the outward part of any house shall, if any public road will be obstructed or rendered inconvenient by means of such work, before beginning the same, cause sufficient hoards or fences to be put up in order to separate the house where such works are being carried on from the road, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the Board, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that no person shall put up such hoard or fence without the written permission of the Board, nor shall he keep up the said hoard or fence for a time longer than allowed in the said written permission.

(2) Any person who contravenes the provisions of sub-section (1) or who without written permission erects or

sets up any hoarding, scaffolding or fence whatsoever, or who, being permitted fails to put up such hoarding, scaffolding or fence or to continue the same standing, or to maintain the same in good condition, or who does not while such hoarding or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same within forty-eight hours when directed by the Board, shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued.

Penalty for encroachment on public road, etc.

158. Any person, who without the permission of the Board,—

(a) encroaches upon any public road or house-gully or upon any public drain, sewer, aqueduct, water-course or ghat by making any excavation or by erecting any wall, fence, rail, post, projection or other obstruction, or by depositing any movable property thereon, or

(b) takes up or alters the pavements or other material, fences or posts on any public road,

shall, for every such offence, be liable to a fine not exceeding two hundred rupees and to a further fine not exceeding twenty-five rupees for every day during which the encroachment continues.

Removal of obstructions or encroachments in or on public road.

159. The Board may issue a notice requiring any person to remove any building which he may have built or any fence, rail, post or other obstruction or encroachment which he may have erected, on any public road, house-gully, public drain, sewer, aqueduct, water-course, ghat or any land vested in the Board; and, if such person fails to comply with such requisition within forty-eight hours of the receipt of the same, the Magistrate may, on the application of the Board, order that such obstruction or encroachment be removed; and thereupon the Board may remove any such obstruction or encroachment and the expenses thereby incurred shall be paid by the person who erected the same.

Procedure when person who erected obstruction cannot be found.

160. (1) If the person who built or erected the said building, fence, rail, post or other obstruction or encroachment referred to in the preceding section is not known or cannot be found, the Board may cause a notice to be posted in the neighbourhood of the said building, fence, rail, post or other obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition.

(2) If the said building, fence, rail, post or other obstruction or encroachment be not removed in compliance with the requisition contained in such notice within forty-eight hours of the posting of the same, the Magistrate may, on the application of the Board, order, that such obstruction or encroachment be removed; and thereupon the Board may remove any such obstruction or encroachment, and may recover the cost of such removal by sale of the materials so removed.

(3) The surplus sale-proceeds, if any, shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

Projections from houses to be removed.

161. (1) The Board may issue a notice requiring the owner or occupier of any house to remove or alter any projection, obstruction or encroachment erected or placed against or in front of such house, if the same overhangs the public road or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public road or house-gully, or obstructs, or projects, or encroaches into or upon any drain, sewer, or aqueduct in any public road or into or upon any public water-course or ghat or any land vested in the Board.

(2) If such owner or occupier fails to comply with such requisition within forty-eight hours of the receipt of the same, or within such further time as the Board may allow, the Magistrate may, on the application of the Board, order that such projection, obstruction or encroachment be removed or altered; and thereupon the Board may remove or alter such projection, obstruction or encroachment, and any reasonable expense incurred for the purposes of such removal or alteration shall be paid by the defaulting owner or occupier.

(3) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building, in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building.

Power of District and Subdivisional Magistrates to remove encroachments.

162. Notwithstanding anything contained in sections 159 and 161, a District Magistrate or a Subdivisional Magistrate may, within his jurisdiction, on being so empowered by the State Government, order any person responsible for any obstruction or encroachment or projection as specified in sections 159 and 161 to remove or alter such obstruction or encroachment or projection within a period not less than forty-eight hours and on non-compliance with such order may take all necessary steps to remove or alter such obstruction or encroachment or projection and realise the expenses thereby incurred from the person concerned as fine in a Criminal Court:

Provided that in case the person or persons responsible for such obstruction, encroachment or projection is/are not known or cannot be found the procedure laid down in section 160 shall be followed.

Effect of order made under sections 159, 160, 161 or 162.

163. Every order made by a Magistrate under sections 159, 160, 161 or 162 shall be deemed to be an order made by him in the discharge of his judicial duty and the Board shall be deemed to be persons bound to execute such order within the meaning of the Judicial Officers' Protection Act, 1850.

Act XVIII of 1850.

Power to regulate line of buildings on public roads and drains.

164. (1) Whenever a Board considers it expedient to define the general alignment of buildings on each or either side of any existing or proposed public road or drain, it shall give public notice of its intention to do so.

(2) Every such notice shall specify a period within which objections will be received, and a copy of such notice shall be sent to every owner of premises abutting on such road or drain who is registered in respect of such premises on the books of the municipality; provided that accidental failure or omission to serve such notice on any owner shall not invalidate proceedings under this section.

(3) The Board shall consider all objections received within the specified period and may then pass a resolution defining the said alignment and the alignment so defined shall be called "the regular line" of the road or drain.

(4) Every order made under sub-section (3) shall be widely published by beat of drum in the locality and a copy thereof affixed to the notice board in the office of the municipality.

(5) Thereafter, it shall not be lawful for any person to erect, re-erect or alter a building or part of a building so as to project beyond the regular line of the road or drain unless he is authorised to do so by a sanction given under section 174 or by a permission in writing under this section and the Board is hereby empowered to grant such permission.

(6) Any owner of land who is prevented by the provisions of this section from erecting, re-erecting, or altering any building on any land may require the Board to make compensation for any damage which he may sustain by reason of such prevention, and upon the payment of compensation in respect of any land situated within the regular line of the road or drain such land shall vest in the Board.

(7) The Board may, by notice, require within a reasonable time the alteration or demolition of any building or part of a building erected, re-erected or altered in contravention of sub-section (5).

Erection of Platforms. 165. (1) No platform shall be erected, re-erected or extended upon or over any public road or drain without the previous sanction of the Board.

(2) The owner of every platform, except platforms which are used for giving such access to the houses as the Board may consider necessary, shall, if the Board in a meeting so direct, take out a license for keeping the platform. For every such license there shall be paid annually a fee to be fixed by the Board at a meeting.

(3) Every such license shall remain in force for one year and shall be renewable annually.

(4) Any platform erected, re-erected, extended or maintained in contravention of the provisions of sub-sections (1), (2) and (3) shall be deemed to be an "obstruction" for the purposes of sections 159, 160 and 161.

166. Whenever any building or other erection, or any tree, falls down and obstructs any public drain or encumbers any public road, the Board may remove such obstruction or encumbrance at the expense of the owner of the same, or may require him to remove the same within such time as the Board shall seem fit.

167. If any person, in order to provide for the passage of water, or for any other purpose, shall, without the consent of the Board, dig or cut any public road, he shall be liable to a fine not exceeding twenty-five rupees, and in addition be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public road.

168. The Board may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any public road or drain, and to cut and trim any trees or bamboos thereon overhanging any public road, drain or tank, or any well used for drinking purposes, or obstructing any public road or drain or causing or likely to cause damage to any public road or drain or any property of the Board, or likely to cause damage to person using any public road, or fouling or likely to foul the water of any well or tank.

169. Whoever, being the owner or occupier of any house or land within a municipality, fails to comply with a requisition issued by the Board under the provisions of sections 159, 161, 164, 166 or 168, shall be liable, for every such default, to a penalty not exceeding fifty rupees, and to a further penalty not exceeding ten rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

170. (1) The Board at a meeting may cause a name to be given to any public road and to be affixed in such place as it may think fit, and may also cause a number to be affixed to every house, and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Any person who destroys, pulls down, defaces or alters any name or number put up by the Board under sub-section (1) shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

Buildings

171. (1) No person shall erect, materially alter, or re-erect or commence to erect, materially alter or re-erect any building without the sanction of the Board.

(2) Every person who intends to erect, materially alter or re-erect any building shall give notice in writing to the Board of such intention.

(3) When bye-laws have been framed under section 302, no notice under sub-section (2) shall be considered to be valid until notice is served under clause (iii) with such information as is necessary under clause (iv) of that section.

Explanation.—An alteration in a building for the purposes of this section and of bye-laws be deemed to be material if it—

- (a) affects or is likely to affect prejudicially the stability or safety of the building or the condition of the building in respect of drainage, ventilation, sanitation or hygiene ; or
- (b) increases or diminishes the height or area covered by, or the cubical capacity of the building, or of any room in the building.

(4) In the municipalities where water works are maintained it shall be compulsory for persons erecting or re-erecting buildings costing Rs.10,000 or more (excluding cost of land and of improvement of land) to instal sanitary latrines. The Board shall withhold sanction if the plan and specification of the building submitted with the notice do not contain provision for installation of sanitary latrines.

Special provision for cases where bye-laws have not been made under section 302, clause (iv).
172. In any case in which no bye-laws have been made under section 302, clause (iv), the Board may, within fourteen days of the receipt of the notice required by section 171, sub-section (2), require a person who has given such notice to furnish, within one week of the receipt by him of the requisition, information on all or any of the matters as to which bye-laws might have been made, and in such case the notice shall not be valid until such information has been furnished.

Non-observance of bye-laws.
173. The Board at a meeting may dispense with the observance of any or all of the bye-laws made under section 302, clauses (iii) and (iv), in regard to the erection, material alteration or re-erection of any building or class of buildings specified by it.

Powers of Board to sanction or refuse.
174. (1) Within one month after the receipt of the notice, required by section 171, sub-section (2), or clause (iii) of section 302, the Board may refuse to sanction the building or may sanction it either absolutely or subject to such modification as it may deem fit in respect of all or any of the matters specified in section 302, clause (iv) ; and the person erecting, materially altering or re-erecting any such building as aforesaid shall comply with the sanction of the Board as granted in every particular.

(2) Should the Board neglect or omit for one month after the receipt of a valid notice to make and deliver to the person who has given such notice an order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposed building absolutely.

Explanation.—The Board may refuse to sanction the erection, material alteration or re-erection of any building either on the grounds affecting the particular building or in pursuance of a general scheme adopted by the Board at a meeting restricting the erection or re-erection of building or any class of buildings within specified limits for the prevention of over-crowding, or in the interest of the residents

within such limits or for any other public purpose. Permission may also be refused in any case in which there is any dispute between the Board and the applicant as to the title of the land on which it is proposed to erect the building until such dispute is decided.

Lapse of sanction.

175. A permission to erect, materially alter or re-erect a building granted under this Chapter or deemed to have been given by the Board, shall unless it is renewed on an application made to the Board for this purpose, continue only for one year after the date on which it is granted, unless the work has been commenced within that period and in any case shall not continue for a period longer than two years from the said date unless it is so renewed.

Penalty for building without or in contravention of sanction.

176. Whoever erects, materially alters or re-erects or commences to erect, materially alter or re-erect any building without the previous sanction of the Board, or in contravention of any directions given by the Board granting sanction under section 174, shall be liable to a fine not exceeding one hundred rupees for every such offence, and to a further fine not exceeding five rupees for each day during which the offence is continued after he has been convicted of such offence.

Powers of Board in case of disobedience.

177. (1) Should a building be begun, materially altered or erected—

- (a) without sanction as required by section 171 (1); or
- (b) without notice as required by section 171 (2); or clause (iii) of section 302; or
- (c) when sanction has been refused; or
- (d) in contravention of the terms of any sanction granted; or
- (e) when the sanction has lapsed; or
- (f) in contravention of any bye-laws made under section 302, clause (v);

the Board may, by notice to be delivered within a reasonable time, require the building to be altered or demolished as it may deem necessary, within the space of thirty days from the date of the service of such notice;

Provided that no such notice shall issue in respect of the contravention of any bye-law the observance of which has been dispensed with under section 173:

Provided also that the Board at a meeting may instead of requiring the alteration or demolition of any such building accept by way of composition such sum as it may deem reasonable.

(2) Any person who fails to comply with a requisition issued by the Board under the provisions of sub-section (1) shall be liable to a fine not exceeding fifty rupees and to a further fine not exceeding ten rupees for every day during which the person continues to make such default after service on him of such requisition.

Compensation for prohibition of erection or re-erection. 178. Subject to any other provision in this Act as regards compensation no compensation shall be claimable by an owner for any damage which he may sustain in consequence of the prohibition of the erection of any building.

Roofs and external walls not to be made of inflammable materials. 179. The Board at a meeting may, by written notice, require any person who has made any external roof or wall with thatch, mats, leaves or other inflammable materials in contravention of a bye-law made under Section 302, to remove or alter such roof or wall within a period to be specified in the notice.

Power to attach brackets for lamps. 180. The Board may attach or cause to be attached to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

Buildings unfit for human habitation. 181. (1) Should a building, or a room in a building be in the opinion of the Board unfit for human habitation in consequence of the want of proper means of drainage or ventilation or otherwise, the Board may, by notice, prohibit the owner or occupier thereof from using the building or room for human habitation or suffering it to be so used either absolutely or unless, within a time to be specified in the notice, he effects such alteration therein as is specified in the notice.

(2) Upon failure of a person to whom notice is issued under sub-section (1) to comply therewith, the Board may require by further notice the demolition of the building or room.

(3) Any person who uses a building or room or suffers it to be used contrary to the provisions of sub-section (1) shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Power to require cleansing or lime-washing of buildings. 182. (1) If it appears to the Board for sanitary reasons so to do, it may authorise an officer of the municipality to inspect a building after due notice to the owner or occupier. It may then by a written notice require the owner or occupier of any building to cause the same or any portion thereof to be lime-washed or otherwise cleansed either externally or internally or both externally and internally.

(2) Any owner or occupier of building, who fails to comply with a requisition issued under the provisions of sub-section (1), shall be liable, for every such default, to a penalty not exceeding twenty-five rupees and to a further penalty not exceeding five rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Fencing of building in a dangerous state.

183. (1) A Board may require by notice the owner or occupier of any land or building—

- (a) to demolish, secure or repair within eight days from the date of service of the notice in such manner as it deems necessary any building, or portion of a building, wall or other structure or anything affixed thereto which appears to it to be in a ruinous condition or dangerous to inmates, if any, passers-by or other property, or
- (b) to repair, secure or enclose, within eight days from the date of the notice, in such manner as it deems necessary any tank, well or excavation belonging to such owner or in the possession of such occupier which appears to the Board to be dangerous to persons by reason of its situation, want of repairs or other such circumstances,

(2) Where it appears to the Board that immediate action is necessary for the purpose of preventing imminent danger to any person or property, it shall be the duty of the Board to take immediate action and recover the expense so incurred from the owner or occupier of the building or the owner or occupier of the land to which such building or other structure or anything is affixed.

Board may require owners to pull down ruins.

184. Whenever it appears to the Board that any building by reason of abandonment or disputed ownership or other cause is untenanted, or by reason of having fallen into ruins, affords facilities for the commission of a nuisance by disorderly persons or for the harbouring of snakes or other noxious animals, the Board may require the owner of such building or the owner of the land to which such building is attached, to properly secure the same, or to remove or level such ruins, as the case may require.

Penalty for disobeying requisition under Section 183 or 184.

185. Any owner or occupier of a house or land who fails to comply with a requisition issued by the Board under the provisions of Section 183 or 184, shall be liable, for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding twenty rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Tanks, wells, streams, etc.

Provision for drinking water, bathing places, etc.

186. (1) The Board may, by order published at such places as it may think fit, set apart convenient wells, tanks, parts of rivers, streams, channels or water-courses, not being private property, for the supply of water for drinking

or for culinary purposes and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid;

and may similarly set apart a sufficient number of the same for the purpose of bathing;

and a sufficient number for washing animals and clothes or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

(2) The Board may, by an order published at such places as it may think fit, prohibit in the private portion of any stream, channel or water-course used as a part of the public water supply, bathing, washing of clothes or animals, or any act likely to pollute the water in the public portion of such stream, channel or water-course.

Prohibition by Board of use of unwholesome water.

187. If the Assistant Director of Public Health, Civil Surgeon, District or Subdivisional Medical Officer of Health or Health Officer certifies that the water in any well, tank or water-course situated within a municipality is likely, if used for any purposes, to endanger or cause the spread of disease, the Board may, by public notice, prohibit the removal or use of such water during a period to be specified in such order; in the case of a private well or tank require the owner of, or person having control over it, to close it permanently or to fill it up with suitable material.

Disobeying order under Section 186 or 187.

188. Any person who disobeys an order passed by the Board under the provisions of Section 186 or 187 shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

Dangerous or insanitary holdings and other places

Power to require owners to clear noxious vegetation.

189. The Board may, by notice, require the owner or occupier of any land within such time as the Board may fix to cut and remove any trees or bamboos or branches thereof, or eradicate and destroy lantana, eupatorium, or other vegetation or undergrowth which may appear to the Board to be insanitary, injurious to health or offensive to the neighbourhood or to be causing or likely to cause damage or destruction to any crop growing or to be grown, or to be obstructing or likely to obstruct the free passage of men or animals along a public road, or of any boat or steam vessel along a public waterway.

Power to require owners to improve bad drainage.

190. Whenever any land, being private property, or within any private enclosure, appears to the Board by want of drainage to be in a state injurious to health or offensive to the neighbourhood, or by reason of inequalities of surface to afford facilities for the commission of a nuisance, the Board may require the owner or occupier or the owner and occupier of such land, within fifteen days, to drain such land or level such surface:

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Board shall provide such land and pay such compensation.

Power to require unwholesome tanks or private premises to be cleansed or drained.

191. (1) The Board may require the owner or occupier of any land within eight days or such longer period as the Board may fix, either to re-excavate or at his option fill up with suitable material or to cleanse any well, water-course, private tank or pool therein, and to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood:

Provided that if, for the purpose of effecting any drainage under this section, it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, the Board shall provide such land and pay such compensation.

(2) If under the provisions of this Act the Board execute the work of such re-excavation or filling up with suitable material, it may retain possession of the tank or pool or the site of such tank or pool and turn the same to profitable account until the expenses thereby incurred shall have been realised.

Wells, tanks, etc., to be secured.

192. If any well, tank or other excavation, whether on public or private ground, be, for want of sufficient repairs or protection, dangerous to passers-by, the Board shall forthwith require by notice such owner or occupier or such owners and occupiers within eight days properly to secure or protect such well, tank or other excavation; and if after the said period the work is not executed, the Board shall cause a temporary hoard or fence to be put up for the protection of passers-by and recover the expenses so incurred from the owner or occupier or the owners and occupiers of the land on which such tank, well or other excavation is situated.

Penalty for disobeying requisition under Sections 189, 190, 191 or 192.

193. Any owner or occupier of a house or land who fails to comply with a requisition issued by the Board under the provisions of Sections 189, 190, 191 or 192 shall be liable for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding twenty rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Power of State Government to prohibit cultivation, use of manure, or irrigation, injurious to health.

194. If the Assistant Director of Public Health, Civil Surgeon, District or Subdivisional Medical Officer of Health or the Health Officer certifies that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner—

- (a) in any place within the limits of the municipality, is injurious, or facilitates practices which are

injurious, to the health of persons dwelling in the neighbourhood, or

- (b) in any place within or without the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise renders it unfit for drinking purposes,

the State Government may, on receipt of an application from the Board, by public notice, prohibit the cultivation of such crop, the use of such manure, or the use of the method of irrigation so certified to be injurious, or impose such conditions with respect thereto as may prevent the injury:

Provided that, if the act prohibited has been practised in the ordinary course of husbandry at any time during the five successive years preceding the date of the prohibition, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by such prohibition.

Power to prohibit excavations.

195. (1) The Board at a meeting may, by a general order, prohibit in the whole or any part of the municipality the making of excavations for the purposes of taking earth or stone therefrom, or for the purpose of storing rubbish or offensive matter therein, and the digging of tanks or pits without special permission previously obtained from it.

(2) If any such excavation, tank or pit is made after the issue and publication of such order without such special permission, the Board may require the owners and occupiers of the land on which such excavation, tank or pit is made within two weeks to fill up such excavation and in case of failure may cause such excavation to be filled up and recover the cost thereof from the person so required.

(3) Any person who contravenes an order made under sub-section (1) shall be liable, for every such offence, to a fine not exceeding twenty-five rupees.

Public latrines and urinals.

196. The Board may provide and maintain in sufficient number and in proper situation, public latrines and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

Permission to construct latrines and urinals which are to be properly enclosed.

197. (1) No person shall construct a latrine or urinal without a written permission of the Board.

Every person constructing a latrine or urinal shall have such latrine or urinal shut out by a sufficient roof and wall of fence from the view of persons passing by or residing in the neighbourhood; and the Board may require any owner or occupier of land on which a latrine or urinal stands to cause the same to be shut out from view as aforesaid within fifteen days.

(2) Any person constructing a latrine or urinal and failing to have it shut out from view as required in sub-section (1), shall be liable to a fine not exceeding twenty rupees

and a daily fine of one rupee until it shall have been so shut out from view.

Power to require latrine or urinal to be constructed

198. (1) If the Board thinks that any latrine or urinal or additional or common latrine or urinal should be provided for any house or land within the limits of the municipality, the owners of such house or land shall, within fourteen days after notice given by the Board, or within such longer time as the Board may for special reasons allow, cause such latrine or urinal to be constructed in accordance with the requisition; and, if such latrine or urinal is not constructed to the satisfaction of the Board within such period, the Board may cause the same to be constructed, and the expenses thereby incurred shall be recoverable from the owner.

(2) Any person failing to comply with the requisition within the time allowed under sub-section (1) shall be liable to a fine not exceeding twenty-five rupees and a daily fine of one rupee during which the default is continued.

(3) The Board may, for the purposes of this section or for the purpose of levying the latrine tax at a rate per head under Section 72, sub-section 2 (a), by a notice in writing require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in or habitually resorting to, such holding.

(4) Whoever, being the owner or occupier of any holding, fails to furnish such list within the time specified in such notice, after being required to furnish the same by the Board shall be liable to a fine not exceeding one hundred rupees.

No latrine, etc., to be constructed in certain circumstances.

199. (1) No person shall, without a special permission of the Board, construct a latrine or urinal with a door or a trap door opening on to any public road or drain.

(2) No person shall, without the written permission of the Board, construct or keep any latrine, urinal, cess-pool, drain or other receptacle for sewage or other offensive matter within fifty feet of any public tank or water-course or a tank or water-course which the inhabitants of any locality use, or any well.

(3) The Board may require any owner and occupier upon whose land any latrine or urinal such as is mentioned in sub-section (1) or any latrine, urinal, cess-pool, drain or other receptacle so situated as is mentioned in sub-section (2) exists, or may hereafter be constructed, to remove the same within eight days.

(4) Any person who contravenes any provision of sub-sections (1) and (2) shall be liable for every such offence to a fine not exceeding fifty rupees.

(5) Any person who fails to comply with an order under sub-section (3) shall be liable to a fine of fifty rupees and daily fine of five rupees during which the offence is continued.

Inspection
of latrines,
etc.

200. The Board, or any person authorised by it in that behalf, may inspect all latrines, urinals, cess-pools, drains and other receptacles for sewage or other offensive matter at any time between sunrise and sunset, after six hours' notice in writing to the occupier of premises in which such latrines, urinals, cess-pools, drains or receptacles are situated, and may, if necessary, cause the ground to be opened where it or he may think fit for the purpose of preventing or removing any nuisance arising from such latrines, urinals, cess-pools, drains or receptacles, and the expenses thereby incurred, if the Board so requires, shall be paid by the owner or occupier of such premises. The expense of causing the ground to be closed and made good as before shall be borne by the Board.

Power to re-
quire owner
or occupier
to repair
latrine, etc.

201. The Board may require the owner or occupier, or the owner and occupier of any land, within fifteen days, to repair and make efficient any latrine, urinal, cess-pool, drain or receptacle for sewage or other offensive matter or to close any latrine, urinal, cess-pool or receptacle which is situated on such land.

Penalty for
not keeping
latrine, etc.,
in proper
order.

202. If the owner or occupier of any latrine, urinal, cess-pool, drain or other receptacle for sewage or other offensive matter neglects or refuses, after warning from the Board, to keep the same in a proper state of repair and efficiency, he shall be liable to a penalty not exceeding fifty rupees and a daily fine not exceeding five rupees during which the offence is continued :

Provided that no person who pays a latrine tax shall be liable to punishment for non-compliance with the provision of this section where the default is exclusively due to the failure of the Board to perform its obligation under this Act.

Power to al-
ter any
latrine, etc.,
made con-
trary to
orders.

203. (1) If any latrine, urinal, cess-pool, drain or other receptacle for sewage or other offensive matter be defective or be constructed contrary to the directions of the Board, or contrary to the provisions of this Act or any bye-law passed under this Act ; or if any person without the consent of the Board, constructs, rebuilds or opens any latrine, urinal, cess-pool, drain or receptacle which has been ordered by it to be demolished or closed up or not to be made, the Board may cause such addition or alteration to be made in any such latrine, urinal, cess-pool, drain or receptacle as it thinks fit or may cause the same to be removed and the expenses thereby incurred shall be paid by the persons by whom such latrine, urinal, cess-pool, drain or receptacle was improperly constructed, rebuilt or opened.

(2) The person by whom such latrine, urinal, cess-pool, drain or receptacle is improperly constructed, rebuilt or opened shall also be liable to a fine not exceeding fifty rupees and a daily fine not exceeding five rupees during which the offence is continued.

Power to demolish unauthorised drains leading into public sewer. 204. (1) If any person, without the written consent of the Board first obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any sewer, drain, water-course road or land vested in the Board, the Board may cause such branch drain to be demolished, altered, re-made or otherwise dealt with as it shall think fit, and the expenses thereby incurred shall be paid by such person making or altering such branch drain.

(2) The person so making or altering such branch drain shall also be liable for every such offence to a fine not exceeding fifty rupees.

Penalty for allowing water of any sewer, etc., to run on any public road. 205. Whoever causes or allows the water of any sink, sewer, latrine, urinal, cess-pool, or any other offensive matter belonging to him or being on his land, to run, drain or be thrown or put upon any public road, or causes or allows any offensive matter to run, drain or be thrown into a surface drain near any public road, shall be liable to a fine not exceeding twenty-five rupees and a daily fine not exceeding five rupees during which the offence is continued.

Power to require owner to drain land. 206. If any land, being within one hundred feet of a sewer, drain or other outlet into which such land may, in the opinion of the Board, be drained, is not drained to the satisfaction of the Board, the Board may require the owner within one month to drain the said land into such sewer drain or outlet.

Penalty for disobeying requisition under Section 201 or 206. 207. Any person who fails to comply with a requisition issued by the Board under the provisions of Section 201 or 206 shall be liable, for every such offence, to a fine not exceeding twenty-five rupees and a further fine not exceeding five rupees for every day during which he shall continue to make such default after service on him of such requisition.

Power to drain group or block of houses, etc., by a combined operation. 208. (1) If it appears to the Board at a meeting that a group or block of houses may be drained or improved more effectively, economically or advantageously in combination than separately, and if a sewer, drain or other outlet already exists or is about to be constructed within one hundred feet of any part of such group or block of houses, the Board may cause such group or block of houses to be so drained and improved; and the expenses thereby incurred shall be recovered from the owners of such houses in such proportions as shall to the Board seem fit.

(2) Not less than one month before any such work is commenced, the Board shall give to each such owner—

- (a) a written notice of the nature of the proposed work;
- (b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.

Control in respect of Public Health

Public Health administration. 209. The Director of Health Services may, from time to time as occasion requires, recommend for adoption, by the Municipal Boards, such measures as may be necessary for improving the public health administration or for safeguarding the public health therein:

Provided that if on account of financial or other resources, any Municipal Board is unable to carry out such measures or if there is any difference of opinion between the Municipal Board and the Director, the matter shall be referred to the State Government whose decision shall be final.

Inspection by Public Health Department.

210. (1) The District or the Subdivisional Medical Officer of Health, as the case may be, shall regularly but not less than twice a year inspect the different areas of the municipalities in their jurisdiction and send copies of their recorded notes to the Municipal Boards concerned and to the Director of Health Services. The Municipal Board shall consider the inspection notes at the next meeting of the Board and submit a report of the action taken or proposed to be taken to the State Government through the Director of Health Services who shall forward a copy of the report with his comments and suggestions to the State Government.

(2) The Assistant Director of Public Health shall also make inspection of the municipal areas as often as is possible and his inspection reports shall be dealt with in the same manner as stated in sub-section (1).

Removal of sewage, offensive matter and rubbish

Establishments for removal of sewage, offensive matter and rubbish.

211. (1) The Board shall provide for the removal—

- (a) of sewage, rubbish and offensive matter from all public latrines, urinals and drains and from all public roads and all other property vested in the Board, and
- (b) in any municipality wherein a latrine-tax has been imposed under section 63(1)(d), of sewage and offensive matter from all private latrines, urinals and cess-pools,

and for the disposal of such sewage, rubbish or offensive matter and for the cleansing of such latrines, urinals, drains and cess-pools, and shall maintain sufficient establishment, animals, carts, motor trucks and implements for the said purposes.

(2) Whenever an order such as is referred to in section 214 shall have been published, no sweeper or other servant of the Board employed to move or deal with sewage, offensive matter or rubbish shall wilfully absent himself from his duties without the permission of the Board, or, unless he has given notice in writing not less than one month previously of his intention so to withdraw, shall withdraw from the employment of the Board without its permission.

(3) Any sweeper or other such person who, after the said publication, contravenes the provisions of sub-section (2), shall forfeit his license and all salary which may be due to him and he shall also be liable to a fine not exceeding twenty rupees.

Sewerage
Scheme.

212. A Board may also introduce a sewerage scheme for removal of sewage by flushing with water through underground closed sewers. When a Board introduces such a scheme in its area the Board may, where felt necessary, with the approval of the State Government, levy additional latrine and water taxes to meet the cost and maintenance of such scheme.

Power to
require
removers
of sewage
to take
out
license.

213. The Board at a meeting may make an order requiring all persons employed in the removal of sewage, offensive matter and rubbish within the limits of the municipality or any part thereof to take out licenses, and to be servants of the Board for the purpose of removing sewage, offensive matter and rubbish from premises within the said limits.

Removal of
sewage,
offensive
matter and
rubbish.

214. (1) The Board at a meeting may, from time to time, by an order published in the prescribed manner, appoint the hours within which sewage and offensive matter may be moved, the manner in which the same shall be moved, as also the hours within which only every occupier of any house or land may place rubbish in a receptacle provided by the Board on or by the side of the public road.

(2) The Board may provide places convenient for the deposit of sewage and offensive matter and may require the occupiers of houses to cause the same to be deposited daily or at other stated intervals in such places, and may remove the same at the expense of the occupiers from any house if the occupier thereof fails to do so.

(3) The Board may charge such fees as it may think fit in respect of the removal of such rubbish as is referred to in sub-section (1), with the consent of the occupier of any house or land, from such house or land or in respect of the removal from such public road of any rubbish which has accumulated in the exercise of a trade or business.

Abatement of Nuisances

Nuisance

219. Without prejudice to the generality of the definition of the expression "Nuisance" contained in clause (30) of section 3, the following shall be deemed specifically to be "nuisance" under this Act—

(1) any premises in such a state as to be prejudicial to health ;

(2) any tank, pond, pool, ditch, gutter, water-course, water-trough, latrine, cess pool, drain or ashpit which is so foul or in such a state as to be prejudicial to health ;

(3) any animal kept in such a place or manner as to be prejudicial to health ;

(4) any accumulation or deposit of refuse or other matter which is prejudicial to health ;

(5) any factory, workshop or workplace, which is not provided with sufficient means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia, or which is so overcrowded while work is carried on as to be prejudicial to the health of those employed therein ;

(6) any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse or gaswork, or in any manufacturing or trade process whatsoever ;

(7) any chimney sending forth smoke in such quantity as to be a nuisance ; and

(8) any noise, vibration, dust, cinders, irritating smell or offensive odour produced by a factory, workshop or workplace which is a nuisance to the neighbourhood

Notice to
remove
nuisance.

220. Every Municipal Board shall—

(a) cause its local area to be inspected frequently with a view to ascertain what nuisances exist therein calling for abatement ; and

(b) serve the owner or occupier of the land on which the nuisance exists with a notice to remove the same within such time as the Board may fix.

Notice to
remove
nuisance.

221. If the person on whom a notice has been served under the preceding section fails to comply with its requirements within the time specified therein or if the nuisance although abated within such time is, in the opinion of the Board likely to recur, the Board may arrange for the execution of any works necessary to abate the nuisance or to prevent its recurrence, as the case may be, and may recover the cost from such person as it were a tax due to the Board.

Complaints
against
nuisance.

222. Any person aggrieved by a nuisance in any area may give information of the same to the Board. Upon the receipt of such information the Board shall make an enquiry and if satisfied of the existence of nuisance may proceed in the manner laid down in the two preceding sections.

Private Markets

Power to
prohibit use
of unlicen-
sed markets.

223. (1) The Board at a meeting may order that within such limits as it may fix, no land shall be used as a market otherwise than under a license to be granted by the Board. The license may be for one year and thereafter liable to renewal annually.

(2) On the issue of an order as in sub-section (1), the Board at a meeting may grant a license for the use of any land as a market:

Provided that the Board shall not—

- (a) refuse a license for the maintenance of a market lawfully established on the date of such order coming into force, if application be made within six months from such date except on the ground that the place where the market is established fails to comply with any conditions prescribed by, or made under, this Act; or
- (b) cancel, suspend or refuse to renew any license granted under such order for any cause other than the failure of the licensee to comply with the conditions of the license, or with any provisions prescribed by, or made under, this Act.

Penalty for
using un-
licensed
market.

224. Whoever, being the owner or occupier of any land, wilfully or negligently permits the same to be used as a market without a license under section 223, shall be liable to a fine not exceeding five hundred rupees for every such offence, and to a further fine not exceeding two hundred rupees for each day during which the offence is continued after conviction of such offence.

Power to
close unli-
censed
places.

225. (1) A Magistrate, on the application of the Board, may order any land in respect of which a conviction shall have been obtained under the preceding section, to be closed as a market place, and thereupon may make order to prevent such land being so used.

(2) Every person who shall sell or expose for sale any article intended for food or drink or any live-stock or other merchandise on any land which shall have been so closed, shall be liable, for every such offence, to a fine not exceeding ten rupees.

Markets,
slaughter-
houses, etc.,
to be pro-
perly drain-
ed.

226. (1) Every owner, occupier or farmer of a market, or of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house, within the limits of a municipality, shall make or cause such drains to be made therein as shall be considered sufficient by the Board, and, if required to do so by the Board, shall cause all the floors and drains to be paved with stone or burnt brick, and cemented, and shall also cause a supply of water to be provided, sufficient

for keeping such market, place or slaughter-house in a clean and wholesome state and shall also provide adequate ventilation, lighting of shops and stalls and passages and ways to or in such market.

(2) If any such owner, occupier or farmer, after notice in writing given to him by the Board that such market, place or slaughter-house is defective in any of the particulars specified in sub-section (1) and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

(3) If the owner, occupier or farmer of a market makes default as aforesaid, the Board may enter into possession of the market and execute such improvement mentioned in sub-section (1) as it deems fit, and may receive all rents, tolls and other dues in respect of the market and retain possession thereof for recovery of the sum expended by it on the works of improvement:

Provided that the Board shall vacate the market if it appears that the sum expended by it on the works of improvement has been realized; and that the surplus, if any, remaining after the payment of the expenses incurred shall be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

Sale of food

Sale, exposing for sale, etc., of food.

227. Any person directly or indirectly selling, exposing for sale, hawking or manufacturing, storing or possessing for sale any adulterated food, shall be dealt with in accordance with the provisions of the Prevention of Food Adulteration Act, 1954. For this purpose the Board shall appoint at least one Inspector for the areas under its jurisdiction and may authorize such other persons to exercise such of the powers of an Inspector as may be prescribed by Rules under the Prevention of Food Adulteration Act, 1954.

Act 37 of 1954.

Act 37 of 1954.

Regulation of factories, workshops, offensive trades etc.

Factory, etc. not to be newly established without permission of the Board.

228. (1) No person shall newly establish in any premises within the Municipality any factory, workshop or work place in which it is intended to employ steam, water or other mechanical power or electrical power, without previous written permission of the Board which the Board may grant with prior approval of the District or the Sub-divisional Magistrate as the case may be.

(2) The application for permission shall be accompanied by a plan of the factory, workshop, work-place, and sufficient particulars as regards the power, machinery and plant.

(3) The Board, shall, as soon as may be, after the receipt of the application—

- (a) grant the permission applied for either absolutely or subject to such condition as it thinks fit to impose; or
- (b) refuse permission if it is of opinion that the establishment of such factory, workshop, or work place in the proposed site,—
 - (i) would be objectionable by reason of the density of the population in the neighbourhood thereof, or
 - (ii) would be a nuisance to the inhabitants of the neighbourhood, or
 - (iii) for any other sufficient reason.

(4) Before granting approval to such permission, the District or the Sub-divisional Magistrate may obtain the opinion of the Chief Inspector of Factories and the Civil Surgeon.

(5) The Board may suspend or cancel any permission granted under this section if it considers that there has been any breach in the conditions imposed.

(6) Any person who establishes a factory, workshop or work place in contravention of sub-section (1) shall be liable to a fine not exceeding five hundred rupees and to a further fine not exceeding fifty rupees for every day during which the factory, workshop or work place is maintained after he has been convicted of such offence.

(7) Factory dealt with in this section means a factory to which the provisions of the Factories Act, 1948, do not apply. Act LXIII of 1948.

Certain offensive and dangerous trades not to be established within the limits to be fixed by the Board without license.

229. (1) Within such local limits as may be fixed by the Board at a meeting, no place shall be used without a license from the Board which shall be renewable annually, for any of the following purposes, namely:—

- (a) melting tallow;
- (b) boiling offal or blood;
- (c) skinning or disembowelling animal;
- (d) the manufacture of bricks, pottery, tiles or lime in a kiln, panja or clamp or by any other similar method;
- (e) as a soap-house, oil-boiling house, dyeing house;
- (f) as tannery, slaughter-house;
- (g) as a manufactory or place of business from which offensive or unwholesome odour may arise;
- (h) as a yard or depot for hay, straw, bamboo, thatching grass, jute or other dangerously inflammable material for the purpose of any trade;
- (i) any store-house for kerosene, petroleum, naphtha, coal-tar or any inflammable oil or spirit, or wholesale stock of matches exceeding one hundred gross;

- (j) as a shop for the sale of meat ;
- (k) as a place for the storage of rags or bones, or both ;
- (l) tea stall ;
- (m) sweetmeat stall ;
- (n) hotel or eating house ;
- (o) aerated water ;
- (p) bakery, including biscuit factory.

(2) Such license shall not be withheld unless the Board has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the neighbourhood.

(3) The Board at a meeting may, subject to such restrictions, if any, as it may impose, extend the provisions of this section to yards or depots for trade in coal, coke, timber or wood.

(4) The grant of a license for the purposes mentioned in clause (i) of sub-section (1) shall be consistent with the provisions of the Indian Petroleum Act, 1899, and no such licenses shall be granted unless the said provisions have been complied with by the applicant for the license. Act VIII of 1899.

Cinemas,
dramatic
performances,
circuses,
etc.

230. (1) No place within the Municipality shall be kept open for the purposes of regular gain by means of public cinematographic exhibitions, dramatic performances, circuses, variety shows, or a place of public resort for similar recreations or amusements unless a license has been granted therefor by the Board at a meeting, which license shall be annually renewable, and in accordance with such conditions as the Board, subject to rule, may think fit to impose :

Provided, firstly, that such conditions shall not be inconsistent with the terms of any license which may be required for such places under any other Act :

Provided, secondly, that this section shall not apply to private amateur performances or to performances held wholly for the benefit of a charity, in any such place ; and

Provided, thirdly, that notwithstanding the provisions of sub-section (2) of section 68 the imposition of a license fee exceeding rupees two hundred on any cinema house or other place of amusement as aforesaid shall require the approval of the State Government.

(2) No place within the municipality shall be used for the purposes of public cinematographic performances, circuses, variety shows, or as a place of public resort for similar recreations or amusements, otherwise than for the purpose of regular gain, unless a license has been granted for such purpose by the Board and in accordance with such conditions as the Board, subject to rule, may think fit to impose :

Provided, firstly, that such conditions shall not be inconsistent with the terms of any license which may be required for such places under any other Act :

Provided, secondly that this sub-section shall not apply to private amateur performances or to performances held wholly for the benefit of a charity, in any such place, and

(3) If within a period of three months following the receipt of an application for license under sub-section (1) or (2) of this section the Board at a meeting or the Board, as case may be, has not passed orders thereon, either granting or refusing a license, it shall be deemed to have granted the license.

Cancellation, revocation, etc., of licenses.

231. (1) Subject to the provisions of section 233 any license granted under section 230 by the Board at a meeting, or the Board, as the case may be, may, at any time, be suspended or revoked by the authority granting the license, if any of the restrictions, limitations, or conditions attached to the license be evaded or infringed by the grantee, or if the grantee be convicted of a breach of any of the provisions of the Act or of any rule or bye-law made thereunder in any matter to which such license relates, or if the grantee has obtained the same by misrepresentation or fraud.

(2) When any such license is suspended or revoked, and until such order of suspension or revocation is cancelled, or when the period for which it was granted, or the period within which application for renewal should be made has expired, whichever expires later, the grantee shall for all purposes of this Act, or any rule or bye-law made under the Act, be deemed to be without a license.

Publication of order of refusal, suspension, etc., of licenses.

232. Every order granting, refusing, suspending, revoking, or modifying a license under section 230 or section 231, as the case may be, shall be in writing, shall state the ground on which it proceeds, shall be published on the notice board of the Board's office, and shall also be served on the owner of the premises concerned within fourteen days.

Appeals under sections 230 and 231.

233. Any person aggrieved by an order granting, refusing, suspending or revoking a license under section 230, or section 231, as the case may be, may, notwithstanding anything contained elsewhere in this Act, appeal—

- (a) to the State Government in the case of an order passed by the Board at a meeting
- (b) to the Deputy Commissioner in the case of an order passed by the Board:

Provided that no such appeal shall be entertained unless it is received within thirty days of the date of the order complained of.

The decision of the State Government, or the Deputy Commissioner, as the case may be, shall be final, and shall not be questioned in any Court.

Power to order the use of slaughter-houses and the carrying on of dangerous and offensive trade to be discontinued.

234. (1) If it be shown to the satisfaction of the Board at a meeting that any place licensed under section 229 causes any nuisance or is injurious to the health of the neighbourhood, it may, notwithstanding anything contained in the said section, give notice to the occupier to discontinue the use of such place within one month after the date of such notice:

Provided that no such notice shall be given until the licensee shall have been given reasonable opportunity of showing cause against such notice and the Board shall refund so much of any fee levied in respect of such place under section 68, sub-section (2), as may be proportionate to the unexpired portion of the year for which the license was granted.

(2) If any person, after the expiration of the time specified in a notice issued by the Board under the provisions of sub-section (1), uses or permits to be used the place specified in such notice in such a manner as to be a nuisance or injurious to the health of the neighbourhood, he shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding forty rupees, for each day during which the offence is continued after he has been convicted of such offence.

Power to prohibit private kilns.

235. Within such local limits as may be fixed by the Board at a meeting, no place shall, without the permission of the Board be used for the manufacture of bricks, pottery, tiles or lime in a kiln, panja or clamp or by any other similar method.

Penalty for offence under sections 229, 230 and 235.

236. Any person who—

- (1) without a license uses any place for any of the purposes specified in section 229 or uses any place for the manufacture of bricks, pottery, tiles or lime in contravention of the provisions of section 235; or
- (2) being a holder of a license under section 229, breaks any condition of such license; or
- (3) uses any place for the purposes of public cinematographic exhibitions, dramatic performances, circuses or variety shows, or as a place of public resort for similar recreations or amusements, in contravention of the provisions of section 230;

shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees for every day during which the offence is continued after he has been convicted of such offence.

Infectious and contagious diseases

Steps to be taken on outbreak of infectious diseases.

237. In the event of the prevalence or threatened outbreak of any infectious disease in any municipal area, or of any unusual mortality therein, the Municipal Board concerned shall provide such staff, medicines, appliances, equipments and other things as may, in the opinion of the State Government, be necessary for the treatment of such infectious disease and preventing it from spreading.

Information to be given of infectious diseases.

238. Any person who—

- (a) being a medical practitioner and being cognizant of the existence of any infectious or contagious diseases in any dwelling other than a public hospital, or
- (b) being the owner or occupier of such dwelling and being cognizant of the existence of any such disease therein, or
- (c) being the person in charge of, or in attendance on, any person suffering from any such disease in such dwelling and being cognizant of the existence of the disease therein,

fails to give information forthwith to such officer as the Board may direct, or gives false information, respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees.

Removal to hospital of patients suffering from infectious diseases.

239. In any municipality when any person suffering from any infectious or contagious disease is found to be—

- (a) without proper lodging or accommodation, or
- (b) living in a Serai or other public hostel, or
- (c) living in a room or house which neither he nor any one, of whom he is a dependant, either owns or pays rent for,

the Board, by any person authorised by it in this behalf, may, on the advice of an Assistant Surgeon I, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

Disinfection of buildings and articles.

240. (1) If the Board is of opinion that the cleansing or disinfecting of a building or any part thereof or of any article therein, which is likely to retain infection, will tend to prevent or check the spread of any disease, it may, by notice, require the owner or occupier to cleanse or disinfect the same in the manner and within the time prescribed in such notice.

(2) If—

- (a) within the time specified as aforesaid from the receipt of the notice the person on whom the notice is served fails to have the building or part thereof or the article disinfected as aforesaid within the time fixed in the notice, or
- (b) the occupier or owner, as the case may be, gives his consent,

the Board may, at the cost of such owner or occupier, cause the building or part thereof and articles to be cleansed and disinfected :

Provided that the Board may in its discretion pay the whole or any part of such cost.

Penalty for letting infected house.

241. Every person knowingly letting a house or other building or part of a house or building in which any person suffering from an infectious or contagious disease, had lived without having such house or other building or part thereof and all articles therein liable to retain infection disinfected thereafter to the satisfaction of the Board, shall be liable to a penalty not exceeding two hundred rupees.

For the purpose of this section a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging-house.

Provision of places and appliances for disinfection.

242. The Board may—

- (a) provide proper places, with all necessary attendants and apparatus, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection,
- (b) cause conveyances, clothing or other articles brought for disinfection to be disinfected free of charge or subject to such charges as may be approved by it, and
- (c) direct any clothing, bedding or other articles likely to retain infection to be disinfected or destroyed, and shall give compensation for any article destroyed under this section.

Acts done by person suffering from certain diseases.

243. Whoever, while suffering from an infectious, contagious or loathsome disease—

- (a) makes or offers for sale any article or food or drink for human consumption or any medicine, drug or clothing, or
- (b) wilfully touches any such article, medicine, drug, or clothing, when exposed for sale by others, or
- (c) takes any part in the business of washing or carrying soiled clothes,

shall be punishable with fine which may extend to twenty rupees.

Exposure of person suffering from infectious disease.

244. Any person who—

- (a) while suffering from any infectious or contagious disease wilfully exposes himself in any road, public place, shop, bazar or any place used in common by persons other than members of the family or household to which such infected person belongs, or causes or suffers himself to be carried in a public conveyance, without proper precautions against spreading the said diseases ; or
- (b) being in charge of any person so suffering, so exposes such sufferer, or so carries or permits him to be carried in a public conveyance ;

shall be punishable with fine which may extend to twenty rupees.

Power of entry for purpose of preventing spread of disease. 245. The Board may authorise any officer to enter, at any time between sunrise and sunset, after three hours' notice into any building or premises in which any infectious or contagious disease is reported or suspected to exist, for the purposes of inspecting such building or premises.

Maintenance of conveyances by board for certain purposes. 246. The Board may provide and maintain suitable conveyance for the free carriage of person suffering from any infectious or contagious disease or of dead bodies of persons who have died from any such disease.

Power to close market, tea stall, etc. 247. (1) The Board may, with a view to preventing the spread of any infectious or contagious disease, order that, for a specified time, any market, tea stall or restaurant, hotel or lodging-house within the municipality shall be closed, or forbid any persons to attend any such market, tea stall or restaurant, hotel or lodging-house.

(2) Such order shall be publicly notified in such manner and at such places as the Board shall direct, and notice thereof shall be served on the owner, occupier or farmer of the market or the keeper of the hotel or lodging-house, tea stall or restaurant.

(3) After complying with the notice, the owner, occupier, or farmer of the market or the keeper of the hotel or lodging-house, tea stall or restaurant or any person interested may appeal to the Deputy Commissioner, or where the Deputy Commissioner is the Chairman of the Municipality, to the Commissioner of Division, if he considers the notice to be unreasonable, and the order of the Deputy Commissioner or of the Commissioner of Division, as the case may be, shall be final.

(4) When an order has been notified under sub-section (2), and has not been set aside under sub-section (3), any owner, occupier or farmer of a market or the keeper of hotel or lodging-house, tea stall or restaurant who neglects to close the market, hotel or lodging-house, tea stall or restaurant shall be liable to a fine which may extend to five hundred rupees; and any person who attends such market, hotel or lodging-house, tea stall or restaurant in contravention of the terms of the order shall be liable to a fine which may extend to fifty rupees.

Power to close school. 248. (1) The Board may, by notice, require the managing authority of any school situated within the municipality for a specified time with a view to preventing the spread of disease or any danger to health likely to arise from the condition of the school, either to close the school or to exclude any scholars from attendance; and the managing authority shall comply with the notice.

(2) After complying with the notice, managing authority may appeal to the Deputy Commissioner or, where the Deputy Commissioner is the Chairman of the Municipality, to the Commissioner of Division, if it considers the notice to be unreasonable, and the order of the Deputy Commissioner or of the Commissioner of Division, as the case may be, shall be final.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) of this section in good faith.

(3) When the State Government pass an order to take over under its control the fire fighting services in a municipality, the Board shall make over the same to such authority, as the State Government may appoint in this behalf. When the fire fighting services are taken over by the State Government the concerning Board or any Commissioner thereof, as the case may be, shall cease to exercise any power under section 250 and this section and no fee under section 68(1)(f) shall be levied with effect from the date from which the fire fighting organisation of the Board is taken over by the State Government unless the State Government direct that the fee shall continue to be levied and the income derived therefrom shall be payable to the State Government after deducting reasonable collection charge as fixed by the State Government.

Burial and burning grounds and the disposal of corpses

Powers in respect of burial and burning places.

252. (1) The Board at a meeting may, from time to time, out of the municipal fund, provide fitting places to be used as burial or burning grounds either within or without the limits of the municipality.

(2) The Board may, by public notice, order any burial or burning ground situated within municipal limits or any municipal burial or burning ground outside such limits which is certified by the Civil Surgeon or Health Officer to be dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall, in such a case if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(3) Should any person, without the permission of the Board, bury or burn or cause, or permit, to be buried or burnt, any corpse at any place which is not a burial or burning ground or in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

(4) Private burial places in such burial grounds may be excepted from the notice, subject to such conditions as the Board may impose in this behalf:

Provided that the limits of such burial places are sufficiently defined and that they shall only be used for the burial of members of the family of the owners thereof.

(5) No private burial or burning ground shall be made or formed within the municipality after the commencement of this Act, without the permission in writing of the Board.

Burial of paupers.

253. The Board may, from time to time, out of the municipal fund, provide for the burial or burning of paupers, free of charge, within the limits of the municipality.

Powers to cause corpses to be burnt or buried according to the religious tenets of the deceased.

254. After the expiration of not less than twenty four hours from the death of any person, the Board may cause the corpse of such persons to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the estate of such person. In every such case, the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets of the deceased.

Power to license fuel shops at burning grounds.

255. (1) The Board at a meeting may, from time to time, grant licenses to persons applying for the same, for the sale at burning grounds of fuel and other articles used for the cremation of dead bodies and in case any such license is granted shall, from time to time, prescribe a scale of rates for the sale of such articles; and no person not so licensed shall within three hundred yards of any such burning grounds, sell or offer for sale any such fuel or other article.

(2) The Board may on good and sufficient cause, revoke or withdraw any such license, as it may think fit, and any person to whom such license is granted, who charges for the sale of any such article at any higher rate than the rate fixed, shall be liable to have his license cancelled and shall be also liable to a fine not exceeding fifty rupees.

Disorderly house and persons

Powers over disorderly houses and prostitutes.

256. (1) The Board at a meeting, may by one month's notice in writing, prohibit in any part of the municipality—

- (a) the keeping of a brothel;
- (b) the residence of a public prostitute.

(2) Whoever contravenes an order notified under subsection (1) shall be punishable with imprisonment for a term which may extend to eight days or with fine which may extend to fifty rupees, and in the case of a continuing failure with an additional fine not exceeding five rupees for every day after the first in regard to which he or she is convicted of having persisted in the failure.

Brothels.

257. On the complaint of the Board, or of three or more inhabitants of a municipality, that a house within the limits of the municipality is used as a brothel, or by disorderly persons of any description, to the annoyance of the inhabitants of the vicinity, or that any such house is used as a brothel in the neighbourhood of a cantonment or of an educational institution or hostel or of any place of worship, any Magistrate of the first class, having jurisdiction in the place where the house is situated, may summon the owner

or tenant of the house and on being satisfied that the house is so used and that it is a source of annoyance to the neighbours or that it is in the neighbourhood of a cantonment or of an educational institution or hostel or of any place of worship, may order the owner or tenant to discontinue such use of it; and, if he shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house is so used.

Dogs

Token for dogs and disposal of mad and stray dogs.

258. (1) The Board may, by public notice, require that every dog in respect of which a license fee has been paid and registered in the books of the municipality, shall wear a collar to which shall be attached a token to be issued by the Board, and may from time to time, give notice that with effect from a date to be specified in the notice, every dog found wandering within municipality without a collar bearing such a token, will be liable to be destroyed or otherwise disposed of.

(2) The Board, by any person authorised by it in this behalf, may—

- (i) destroy or cause to be destroyed, or confine, or cause to be confined, for such period as the Board may direct, any dog suffering from any loathsome disease or from rabies, or reasonably suspected to be suffering from rabies, or bitten by any dog or other animal suffering or suspected to be suffering from rabies;
- (ii) confine, or cause to be confined any dog found wandering about roads or public places without a collar or other marks distinguishing it as private property and charge a fee for such detention, and destroy or otherwise dispose of any such dog if it is not claimed within one week and the fee paid;
- (iii) after a date specified in this behalf in a notice published under sub-section (1), destroy or cause to be destroyed or otherwise dispose of any dog found wandering about roads or public places without a collar bearing a token issued by the Board or other marks distinguishing it as private property.

(3) No damages shall be payable in respect of any dog confined, destroyed or otherwise disposed of under this section.

Educations

Schools.

259. (1) The Board shall be guided by provision contained in the Assam Basic Education Act, 1945 and rules and orders thereunder in the discharge of their liability in respect of Basic Education.

Assam Act
XXVI of
1954.

(2) Subject to as aforesaid, the Board may, with its own consent, be charged by the State Government with, and made responsible for, the establishment, maintenance and management of any schools or class of schools other than basic schools, within the municipality. Subject to the approval of the State Government the Board may

make grants-in-aid to any schools, whether they are under public or private management.

Medical

260. Subject to rule, the Board may—

Dispensaries, hospitals, asylums, poor-houses and medical relief.

- (a) establish and maintain, within the municipality, dispensaries, hospitals, chest clinics, asylums and places for the reception of the sick or destitute, or contribute towards the cost of the establishment and maintenance of such institutions ;
- (b) with the previous sanction of the Commissioner of Division contribute such annual or other sum as may be agreed on towards the cost of the establishment or maintenance of any dispensary, hospital, asylum or place for the reception of the sick or destitute, which is situated outside the municipality, but is, or may be, ordinarily used by the inhabitants of the municipality ;
- (c) provide for the payment of allowances to medical practitioners for professional services rendered to the establishment employed by the Board ;
- (d) provide medicines or medical assistance for the poorer inhabitants of the municipality or take such measures as may appear to it to be necessary including the temporary employment of medical practitioners during the prevalence of diseases in the municipality ;
- (e) provide for the payment of expenses of any of the poorer inhabitants of the municipality for journeys to and from any hospital established in any part of India for the treatment of special diseases, and of their subsistence thereat, according to such scale as may be fixed by the Commissioner of Division.

Maternity and Child Welfare

Maternity houses and child welfare centres, midwives for maternity cases and health visitors.

261. (1) The Board may establish and maintain, within the Municipality, Maternity Houses and Child Welfare Centres or may with the previous sanction of the State Government contribute annual or other sum to any institutions doing maternity and child welfare works which are situated within the Municipality or outside the Municipality but are or may be ordinarily used by the inhabitants of the Municipality.

(2) The Board at a meeting may provide (a) midwives for attendance in maternity cases and (b) health visitors to visit and inspect any premises in the Municipality and to give advice to expectant mothers on their health and as to

the proper nurture, care and management of young children, and the promotion of hygiene.

Vaccination and inoculation

Vaccination.

262. Every Municipal Board shall provide for the appointment, pay and management of vaccinators and inoculators and may provide for the promotion of free vaccination and inoculation in the municipal areas.

Registration of births and deaths

Registration of births and deaths.

263. A Municipal Board, when required by the State Government, shall provide for the registration of births and deaths within its limits in accordance with the provisions of the Assam Births and Deaths Registration Act, Act II of 1935.

CHAPTER VII

Water Supply, Lighting and Drainage Systems

Supply of drinking water.

264. (1) Every Municipal Board shall provide or arrange for the provision of a sufficient supply of drinking water for the inhabitants of the areas within its jurisdiction.

(2) The Board shall make adequate provision for securing—

- (a) that the water supply is continuous throughout the year, and
- (b) that the water supply is at all times pure and fit for human consumption.

(3) A Municipal Board shall also provide or arrange for the provision of sufficient supply of water for other domestic purposes or for non-domestic purposes.

Satisfactory system of drainage.

265. (1) Every Municipal Board shall, so far as the fund at its disposal may permit, provide and maintain a sufficient and satisfactory system of public drains for the effectual drainage of its local area.

(2) If in the opinion of the State Government any area of the Municipality or part thereof should, for any special reason, be provided with a system of public drains or with other means of drainage, they may direct the Municipal Board to provide or execute, within such time as may be fixed by them in this behalf, such works as may be considered necessary by them.

(3) The Board shall at all time keep in good repair all drains, cesspools and the like vested in or belonging to it.

Introduction of Schemes

Sanction of scheme by State Government.

266. The State Government may, on the application, in accordance with rule, of any Municipal Board at a meeting, or of any such Board acting conjointly with any one or more of the local authorities specified in section 49,

sanction a scheme for water supply or for the introduction of a system of lighting by electricity or otherwise or for the supply of gas or of a system of drainage or sewerage.

Publication of scheme.

267. Before any scheme or a joint scheme for any of the purposes mentioned in section 266 is sanctioned by the State Government, there shall be published in the official Gazette and locally the following particulars:—

- (a) a general description of the scheme;
- (b) an estimate of the cost of carrying it out and its maintenance;
- (c) source from which the cost will be met; and
- (d) the amount of loan if any, proposed to be taken.

Scheme to be carried out by municipalities.

268. When a scheme has been sanctioned under section 266, the Municipal Board or any of the other local authorities concerned or a joint-committee constituted under section 49, shall, if the tax and other moneys to be collected, received or recovered for or in respect of the supply of water or the lighting, drainage or sewerage system, be sufficient for the purpose, proceed to carry it out, or cause it to be carried out.

State Government may appoint an officer to execute the works.

269. The State Government may order the works specified in any scheme as aforesaid, or any portion thereof, to be executed by an officer to be appointed by it, and may fix the remuneration of such officer; and may specify a period within which the work shall be completed, and may extend such period from time to time as may be necessary.

General provisions relating to the laying and connecting of pipes, sewers and the like

Power of Board to lay or carry wires, pipes, drains, or sewers, through private land subject to payment of compensation for damage sustained provided that no nuisance is created.

270. The Board may carry any wire, pipe, drain, sewer or channel of any kind for the purpose of providing or of carrying out and establishing or maintaining a system of water supply, lighting, drainage or sewerage, through, across, under or over any road, or place laid out as or intended for a road, and, after giving reasonable notice in writing to the owner and occupier, into, through, across, under, over or up the side of any land or building whatsoever situated within the limits of the municipality, and for the purpose of introduction, distribution or outfall of water or for the removal or outfall of sewerage, without such limits, and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such wire, pipe, drain, sewer or channel, as the case may be, in an effective state for the purpose for which the same may be used or intended to be used:

Provided that no nuisance more than is necessarily caused by the proper execution of the work is created by any such operation; and

Provided, further, that reasonable compensation shall be paid to the owner or occupier or both for any damage at the time sustained by him or them and directly occasioned by the carrying out of any such operations.

Provisions as to wires, pipes, drains or sewers laid or carried above surface of ground. 271. In the event of any wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over, or up the side of any building, such wire, pipe, drain, sewer or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building, and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment.

Previous notice to be given. 272. Except as otherwise provided the Board shall cause not less than fourteen days' notice in writing to be given to the owner or occupier before commencing any operations under section 270.

Power to permit connections with main. 273. (1) Subject to rule, the Board may, on the application of the owner or occupier of any premises, make, or cause or permit to be made, any connection to such premises from any wire, pipe, drain, sewer or channel constructed or maintained by or vested in the Board, on such terms as the Board at a meeting may from time to time determine.

(2) Any person who shall, without the permission of the Board, make or cause to be made, any such connection or flush, draw off, divert, take or use water or gas from any works belonging to, or under the control of the Board, or divert or take water from any water or stream by which water-works belonging to, or under the control of the Board, are supplied, shall be liable to a fine not exceeding one hundred rupees.

Power to make or require connections in certain cases. 274. In municipalities to which the provisions of this section may, at any time, by notification, be extended by the State Government, the Board may establish any connection from any drain or sewer to any premises, or may by notice require the owner or occupier of any such premises to establish any such connection, in such manner and within such time as the Board by notice in that behalf may prescribe, at the cost of such owner or occupier.

Power to prescribe size of ferrules and to establish meters and the like. 275. The Board may prescribe the size of the ferrules to be used for the supply of gas and water, and may establish meters or other appliances for the purpose of testing the quantity or quality of any gas supplied to the premises of any person or to or for the use of any person or business.

Communications and connections to be made subject to inspection by and to the satisfaction of Board. 276. All work in connection with the ferrules, communication-pipes, connections, meters, stand-pipes and all fittings thereon or connected therewith, leading from mains or service wires, pipes, drains, sewers or channels, into any house or land, and the wires, pipes, fittings and works inside any such house or within the limits of any such land, shall in all cases be executed subject to the inspection and to the satisfaction of the Board.

Connections may be made by Board's own agency.

277. The Board may require such ferrules, communication-pipes, connections, meters, stand-pipes and fittings to be supplied and fitted by its own agency upon such terms as may be agreed upon between it and the person requiring the connection or subject to such charges as may be fixed by the Board; and may require the amount necessary for the execution of such works to be paid or deposited before such works are executed.

Power to enter premises.

278. (1) Any officer authorised in that behalf by the Board may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land for the purpose of inspecting or repairing gas, water, or other installations, and for taking readings of meters connected therewith.

(2) If such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination, the Board may forthwith cut off the supply of gas or water as the case may be, from such house or land:

Provided that nothing hereinbefore contained shall authorise an entry into any room appropriated for the *zenana* or residence of women, which by the custom of the country is considered private, unless a notice in writing of not less than four hours is given.

Presumption as to correctness of meter.

279. Whenever water or gas is supplied under this chapter through a meter, it shall be presumed that the quantity or quality indicated by the meter has been consumed until the contrary is proved.

Testing of meter.

280. (1) If the owner or occupier of any premises to which water or gas is supplied through a meter desires to have the meter tested, he may send a written application to the Board, and such application must be accompanied by a fee of five rupees.

(2) Upon receipt of any such application and fee, the Board shall forthwith cause such meter to be tested, at a time and place to be specified in a notice to be served upon such owner or occupier.

(3) If such meter is found, upon being so tested, to be incorrect by more than two per cent the said fee shall be returned to the person who sent it.

Penalty for fraud in respect of meter.

281. (1) Any person who shall fraudulently—

(a) alter the index to any meter, or prevent any meter from duly registering the quantity or quality of water or gas supplied, or

(b) abstract or use water or gas before it has been registered by a meter set up for the purpose of testing the quantity or quality of the same,

shall be liable to a fine not exceeding one hundred rupees.

(2) The existence of artificial means under the control of the consumer for causing any such alteration, prevention, abstraction or use shall be evidence that the consumer has fraudulently effected the same.

Penalty for injuring meter. 282. Any person who shall wilfully or negligently injure or suffer to be injured any meter or any of the fittings of any meter shall be liable to a fine not exceeding one hundred rupees.

Estimate and specification of works to be sent. 283. No works for establishing any such connection as is referred to in section 273, shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such specification and estimate to the owner.

Owner to bear the cost of keeping works in repair. 284. Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expense of keeping any such connection with such premises as is referred to in sections 273 and 274 and all works connected therewith in substantial repair and if he fails to do so the occupier may, after giving the owner three days' notice in writing, himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to the owner in respect of such premises:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the commencement of this Act.

Special provisions relating to water supply systems

Board to provide water-supply. 285. (1) In any municipality in respect of which a scheme for a supply of water has been sanctioned under section 266 and in which the imposition of a water-tax has been sanctioned by State Government under section 68, sub-section (1) (b), the Board shall provide a supply of water within the limits of the municipality for domestic purposes; and for this purpose it shall be lawful for it to cause such mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed, as shall be necessary for the supply of water in the chief public roads; and it may also erect in all such roads sufficient and convenient stand-pipes or pumps for the use of the inhabitants of the municipality for domestic purposes.

(2) The Board may supply water for other than domestic purposes.

Pressure at which water must be kept. 286. The Board at a meeting shall determine what pressure of water shall be maintained in its service-pipes and mains, and during what hours such pressure shall be continued; and any order made under this section shall be published in such manner as the Board may direct, and shall not be altered except with the sanction of the Board at a meeting.

Provision for water-meter. 287. (1) The Board may provide a water-meter and attach it to the communication-pipe of any premises to which water is supplied by the Board, and whenever a water-meter is provided the Board shall maintain it in an efficient state.

(2) When any meter attached to the communications pipe of any premises is out of order or under repair, the Board shall forthwith replace it by another meter.

(3) The expense of providing, attaching and replacing a meter under sub sections (1) and (2) may, at the discretion of the Board, be borne by the municipal fund, or may be recovered wholly or in part from the person requiring the supply, or, if the communication-pipe has been laid down before the commencement of this Act, from the owner of the premises, except in the case of a special agreement to the contrary between the owner and the occupier, in one instalment or more than one instalment according as the Board thinks proper; and if the expense as aforesaid or any part of it is borne by the municipal fund, the Board may recover rent for the meter at such rate as may be fixed by it.

House-holder entitled to certain supply of water for domestic use. 288. (1) The Board at a meeting may determine what quantity of water shall be supplied for domestic purposes to the occupier of any premises free of further charge for every rupee paid to the Board as water-tax on account of such premises.

(2) Any water which may be used for domestic purposes over and above the quantity to which the occupier is entitled as aforesaid, and any water which may be used for other than domestic purposes, shall be paid for by him at such rate as the Board at a meeting may determine.

Power to provide water for latrines. 289. It shall be at the option of the Board to provide water for all latrines and water closets, and it shall be lawful for it to require that all latrines and water closets supplied with water shall be provided with a cistern of such size and description as the Board shall direct, and all such cisterns shall be put up at the cost of the owner of the premises so supplied with water.

Power to turn off water. 290. (1) The Board may cause the water to be turned off from any premises which are supplied with water after giving notice in writing of not less than twenty-four hours--

- (a) if the premises are unoccupied; or
- (b) if the person liable to pay the water-tax or any charge made under section 287 (3) or 288 (2) neglects to pay the same; or
- (c) if any pipes, works, fittings or meters connected with the supply of water and being the property of the owner or occupier are found, on examination by any officer of the Board authorised in that behalf, to be out of repair to such an extent as to cause the waste of water; or
- (d) if the owner or occupier of the premises wilfully or negligently contaminates, misuses or causes waste of water;

and may recover from the owner or occupier of such premises, or from the person liable to pay the water-tax or the charge, as the case may be, the expenses incurred for turning off the water:

Provided that the stopping or cutting off of the supply of water shall not relieve any person from any penalties or liabilities which he may have incurred.

(2) When the water has been turned off under sub-section (1) (b) the Board shall restore the supply on payment of sums for non-payment of which the water was turned off together with the expenses incurred in turning off the water or on the removal of the defects referred to in clauses (c) and (d) of sub-section (1) for which the water was turned off.

Penalty for causing waste of water.

291. (1) The occupier of any premises, in which water supplied by the Board under this chapter is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works, fittings or meters for the supply of water shall be found to be out of repair to such an extent as to cause waste of water, shall be liable to a fine not exceeding twenty rupees.

(2) Any person otherwise causing waste of water supplied by the Board shall be liable to a fine not exceeding five rupees.

Power to allow persons outside the town to take water.

292. It shall be within the discretion of the Board to allow any person not residing within the limits of the municipality to take or be supplied with water for domestic use, on such terms as the Board at a meeting may from time to time determine ;

and any person taking or causing to be taken for use, outside the limits of the municipality, water supplied by the Board, without the permission of the Board, shall be liable, to a fine not exceeding fifty rupees.

CHAPTER VIII

Control

Control by Commissioner, etc.

293. The Commissioner of Division or any officer of Government authorised in that behalf by the State Government, by a general or special order may at all times—

(1) enter into and inspect, or cause any other person to enter into or inspect—

- (a) any immovable property in the occupation of, or
- (b) any work in progress under, or
- (c) any institution under the control and administration of the Board ; and

(2) call for and inspect any book or document which may be, for the purpose of this Act, in the possession or under the control of the Board.

Inspection
of works and
registers by
Commissioners.

294. With the previous sanction of the Chairman any Commissioner of a Board may inspect any work, or institution, constructed or maintained, in whole or in part at the expense of the Board, and any register, books, accounts or other documents belonging to, or in the possession of the Board.

Inspector
of Municipal
Works.

295. (1) The State Government may appoint an officer of the Government to be Inspector of Municipal Works for one or more municipalities.

(2) The Inspector of Municipal Works shall perform such duties and exercise such powers as may be assigned to him by rule.

(3) In particular and without prejudice to the powers referred to in sub-section (2), the Inspector of Municipal Works may at all times enter upon or into and inspect, or cause any other person to enter upon or into and inspect, any immovable property in the occupation, or any work in progress, under the orders of the Board of any municipality within his charge, and the Board shall furnish such statements, estimates and reports as he may require.

(4) A report of every inspection made under this section shall be prepared, and a copy thereof shall be forwarded to the Board.

(5) The Board within the charge of an Inspector of Municipal Works shall, in all matters of professional detail, be guided by his report.

Power to
suspend
action under
Act.

296. The State Government, the Commissioner of Division or the Deputy Commissioner may, by order in writing, suspend the execution of any resolution or order of the Board or prohibit the doing of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act, or in pursuance of any sanction or permission granted by the Board in the exercise of their powers under this Act, if, in its or his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

When the Commissioner of Division or the Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the State Government, which may thereupon rescind the order or direct that it continues in force with or without modification, permanently or for such period as it thinks fit.

Powers of
State Government
in case of default,
and of
Deputy Commissioner
in case of emergency,
etc.

297. (1) If at any time, on receipt of a complaint or information, it appears to the State Government that the Board have made default in performing any duty imposed on them by or under this or any other Act, the State Government may, by an order in writing, call upon the Board to perform the duty within such time as may be appointed by such order.

(2) If such duty is not performed within such period, the State Government may, after considering any representation which the Board may submit, either revoke or modify the order or appoint some fit and proper person to perform the duty.

(3) If, in any case of emergency, the Deputy Commissioner, upon the recommendation of the concerning technical adviser immediately available in the district within which the municipality is situated, is of opinion that the immediate execution of any work or the immediate doing of any act which the Board, whether at a meeting or otherwise, are empowered to execute or do, is necessary for the health or safety of the public, he may call upon the Board to execute the work within such time as he may appoint. If such work is not executed within such period he may appoint some fit and proper person to execute the work or do the act immediately.

The Deputy Commissioner shall forthwith report to the Commissioner of Division every case in which he uses the powers conferred on him by this sub-section whereupon the Commissioner of Division may pass such orders as he thinks fit.

(4) Where any person is appointed under sub-section (2) or sub-section (3), the State Government or, subject to any orders which may be passed by the Commissioner of Division under sub-section (3), the Deputy Commissioner with the prior approval of the Commissioner of Division may direct that the expense of performing the duty, executing the work or doing the act, together with reasonable remuneration, if any, to the person so appointed, shall forthwith be paid by the Board.

(5) Where such expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense and remuneration, or so much thereof as is possible from the balance, in priority to any or all other charges, and such person shall make payment accordingly.

Provided that the Board may prefer an appeal to the State Government against the decision of the Commissioner of Division as regards assessment of expenses and remunerations as made under sub-section (4).

Power to
supersede or
dissolve
Board in case
of incompetence,
default or
abuse of
powers.

298. If in the opinion of the State Government, the Board is not competent to perform, or persistently make default in the performance of, the duties imposed on them by or under this Act or otherwise by law, or exceed or abuse their powers, the State Government after giving the Municipal Board an opportunity for submitting an explanation in regard to the matter may, by notification, stating the reasons for so doing, declare such Board to be incompetent, or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period not exceeding one year at a time or dissolve the Board and order a fresh election as soon as possible;

Provided that when the Board is dissolved, the State Government may appoint any person as Chairman to carry on routine matters on behalf of the Board until the Board is reconstituted and a new Chairman is elected.

Consequences of supersession.

299. (1) When an order of supersession shall have been passed under the preceding section, the following consequences shall ensue :—

- (a) all the Commissioners of the Board shall, as from the date of the order, vacate their offices as such Commissioners ;
- (b) all the powers and duties which under the Act may be exercised and performed by the Board, whether at a meeting or otherwise, shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct ;
- (c) all property vested in such Board shall, during the period of supersession, vest in the State Government.

(2) On the expiration of the period of supersession, specified in the order, the State Government may—

- (i) extend the period of supersession for such further term as it may consider necessary, but not exceeding a period of one year at a time, or
- (ii) reconstitute the Municipal Board by a fresh general election and the persons who vacated their offices under clause (a) of sub-section (1) shall not be deemed disqualified for election or appointment :

Provided that the State Government may at any time before the expiration of the period of supersession take action under clause (ii) of this sub-section.

Disputes.

300. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between the Boards of two or more municipalities constituted under this Act, or between the Board of any such municipality and a cantonment authority, or any other local authority, the matter shall be referred—

- (a) to the Deputy Commissioner, if the local authorities concerned are in the same district ; or
- (b) to the Commissioner of Division concerned if the local authorities are in different districts.

(2) Save as provided in sub-section (4) the decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (a), the Deputy Commissioner is a member of one of the local authorities concerned, his functions under this section shall be discharged by the Commissioner of Division concerned.

(4) An appeal shall lie to the Commissioner of Division concerned against a decision of the Deputy Commissioner and to the State Government against a decision of the Commissioner of Division concerned.

(5) Where a cantonment authority is a party to a dispute, the powers of the State Government under this section shall be exercisable only with the concurrence of the Central Government.

CHAPTER IX

RULES AND BYE-LAWS

Rules

Power of State Government to make rules. 301. (1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers such rules may—

- (i) determine the mode and time of election of Commissioners, the qualifications and disqualifications and registration of voters, qualifications of candidates, the acts to be deemed corrupt practices at elections and generally regulate all elections under this Act ;
- (ii) regulate the manner in which the minutes of the proceedings of meetings of the Board shall be published ;
- (iii) prescribe the manner in which bye-laws, notices, orders and other documents directed to be published under the Act shall be published ;
- (iv) regulate the keeping, checking and publication of accounts and the manner of periodical audit ;
- (v) provide for the retention of adequate working or closing balances ;
- (vi) provide for the preparation of plans and estimates for works to be partly or wholly constructed at the expense of the Board, and determine, according to the nature of the staff entertained by the Board, the persons by whom and the conditions subject to which such plans and estimates are to be sanctioned ;
- (vii) regulate the form and procedure to be followed in the preparation of budget estimates by the Board, and prescribe the authority by whom, and the conditions subject to which, such estimates may be sanctioned, provided that such rules shall not empower such authority to refuse

to sanction such estimates except on the following grounds :-

- (1) that the minimum closing balance prescribed has not been maintained.
 - (2) that due provision has not been made for the purposes specified in section 60 (1) (a), (b) and (c).
 - (3) that the provisions of the Act and the rules and any standing orders of State Government have not been complied with.
- (viii) regulate the preparation, submission and publication of returns, statements and reports by the Board ;
- (ix) prescribe forms for any proceedings of the Board for which it considers that a form should be provided ;
- (x) prescribe the maximum fees which may be levied by the Board under section 63, sub-sections (1)(g) and (h) ;
- (xi) prescribe the mode of ascertaining the capitalised value recoverable under clauses (c) and (d) of proviso (1), section 136 ;
- (xii) provide, in matters not specifically provided for in the Act, for the valuation of holdings and for the assessment, collection and refund of taxes imposed under the Act ;
- (xiii) fix the fees payable upon distrains under this Act ;
- (xiv) prescribe the qualifications of candidates for employment by the Board and declare what circumstances shall be a disqualification for continuance of such employment ;
- (xv) prescribe the division of Health Officers and Sanitary Inspectors into classes or grades according to their qualifications ;
- (xvi) prescribe the proportion of the pay and allowance of Government officers employed by the Board, which shall be borne by the Board, and provide for the control of such officers ;
- (xvii) regulate the conditions which may be imposed for the grant of licenses for places of public resort for recreations and amusements ;
- (xviii) prescribe the conditions subject to which the Board—
- (a) may permit connections and communications to be made between private houses or premises and mains or service wires, pipes, drains, sewers and other channels established or maintained by the Board ;
 - (b) may direct that such connections and communications shall be cut off ;
- (xix) prescribe method of preparation of compost manure and regulate the operation of compost manure schemes ;

(xx) provide for the regulation, management and inspection of the working of systems of water-supply, electricity, lighting, drainage or sewerage provided, established or maintained by or under the control and administration of any Municipal Board ;

(xxi) generally provide for the guidance of the Board and officers of Government in all matters connected with the carrying out of the provisions of this Act, and for settling their relations to one another :

Provided that rules under sub-clauses (xviii) and (xx) shall not be inconsistent with those under the Indian Electricity Act of 1910 (as amended).

(3) In making rules under clause (i) of sub-section (3) the State Government may direct that a breach of any rule, so far as it prohibits corrupt practices at elections, shall be punishable with a fine not exceeding five hundred rupees.

(4) All rules made under this section shall be subject to the condition of previous publication.

Bye-Laws

Power to
make bye-
laws.

302. The Board may, from time to time, at a meeting which shall have been convened expressly for the purpose, and of which due notice shall have been given, frame such bye-laws as they deem fit, not being inconsistent with this Act, or with any other general or special law, for—

- (i) regulating traffic, and preventing obstructions and encroachments and nuisances on or near public roads, or on or near pontoons, bridges, ghats, landing places, river banks or other places of public resort or on places near water-works for the supply of drinking water ;
- (ii) prescribing a minimum width of wheel-tyres or a minimum diameter and the maximum wheel tracks of wheels for different classes of carts and carriages kept or used within the municipality ;
- (iii) prescribing the manner in which notice of the intention to erect, re-erect or materially alter a building shall be given to the Board ;
- (iv) requiring that with every such notice shall be furnished a site plan of the land on which it is intended to erect, re-erect or materially alter such building and a plan and specification, and in the case of erection or re-erection of a building, an estimate also of the cost of construction (excluding cost of land and its improvement) of the building, all such characters and with such details as the bye-laws may require in respect of all or any of the matter following, *viz.*—
 - (a) free passage or way in front of the building ;

- (b) space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire ;
 - (c) provision and position of latrines, urinals, cess pools or drains ;
 - (d) level and width of foundation, level of lowest floor, and the stability of the structure ; and
 - (e) the line of frontage with neighbouring buildings, if the building abuts on a public road ;
- (v) regulating in respect of the erection, re-erection or material alteration of any building, within the municipality or part thereof—
- (a) the materials and method of construction to be used for external and partition walls, roofs and floors ;
 - (b) the materials and method of construction and position of fire-places, chimneys, latrines, urinals, cess pools and drains ;
 - (c) the height and slope of the roof above the upper-most floor upon which human beings are to live or cooking operations are to be carried on ;
 - (d) the space to be left about the building to secure the free circulation of air and for the prevention of fire ;
 - (e) the line of frontage where the building abuts on a public road ;
 - (f) the number and height of the storeys of which the building may consist ;
 - (g) the means to be provided for egress from the building in case of fire ; and
 - (h) any other matter affecting the ventilation or sanitation of the building ;
- (vi) preventing the erection of buildings without adequate provisions being made for the laying out and location of roads ;
- (vii) regulating the level, means of drainage, alignment and width of roads constructed by private persons ;
- (viii) fixing, and from time to time varying, the number of persons who may occupy a building or part of a building, which is let in lodgings or which is situated within such congested areas as may be specified in the bye-law ; or occupied by members of more than one family ; and providing—
- (a) for the registration and inspection of such buildings ;
 - (b) for promoting cleanliness and ventilation in such buildings ;

- (c) for notice to be given and precautions to be taken in the case of any infectious or contagious disease breaking out in such buildings ;
- (d) in the case of hotel, serai and lodging-house keepers and secretaries of residential clubs, for the maintenance of registers, in such form as the Board may prescribe, of visitors and lodgers ; and
- (e) generally for the proper regulation of such buildings ;
- (ix) regulating the use of, and the prevention of nuisance in regard to public water-supply, bathing and washing places, streams, channels, tanks and wells ;
- (x) regulating, either by rendering licenses necessary or otherwise, the washing of clothes by professional washermen, and fixing the places in which clothes may be so washed or in which they may not be so washed ;
- (xi) prescribing the measures to be taken for the prevention of the breeding of mosquitoes in wells, tanks, pools, excavations, cisterns or other places or vessels containing or capable of containing water ;
- (xii) regulating the cutting of trees and bamboos within the municipality ;
- (xiii) defining the duties of persons employed in the removal of sewage within the municipality and required to take out licenses under section 213 ;
- (xiv) regulating the disposal of sewage, offensive matter, carcasses of animals and rubbish, and the construction and maintenance of latrines, urinals, cesspools, drains and sewers ;
- (xv) providing for the inspection and regulation of markets and for the preparation and exhibition of a price list thereat ;
- (xvi) regulating the hours and manner of transport within the municipality of any specified articles of food or drink ;
- (xvii) fixing the places in which any specified article of food or drink may be sold or exposed for sale or the places in which it may not be sold or exposed for sale ;
- (xviii) regulating, either by rendering licenses necessary or otherwise, the import into the municipality for sale, of milk and butter ;
- (xix) regulating either by rendering licenses necessary or otherwise, or prohibiting, for the purpose of preventing danger to the public health, the stalling or herding of horses, cattle, swine, donkeys, sheep or goats, geese, ducks and fowls ;

- (xx) providing for the inspection of milch cattle, and prescribing the measures to be taken on the occurrence amongst them of infectious or contagious diseases; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milksellers;
- (xvi) providing for the inspection and proper regulation of encamping grounds, pounds, serais, bakeries and aerated water factories, ice-factories, flour mills, oil mills, sweetmeat shops, factories, and other places in which mechanical or electrical power is employed, and slaughter houses;
- (xvii) preventing nuisances affecting the public health, safety, or convenience in places of public resort for purposes of recreation or amusement;
- (xviii) preventing nuisances affecting the public health, safety or convenience;
- (xix) providing for the guidance, discipline and conduct of the members of a volunteer fire-brigade recognised by the Board;
- (xx) controlling and regulating the use and management of burial and burning ground and the disposal of corpses;
- (xxi) providing for the inspection of weights and measures used in markets within the municipality;
- (xxii) providing for the holding of fairs and industrial exhibitions within the municipality or under the control of the Board and for fixing and collecting the fees to be levied thereat;
- (xxiii) fixing the conditions on which licenses under this Act are to be granted and may be suspended or revoked;
- (xxiv) preventing and removing any encroachments on any municipal lands including markets, drains, roads, etc; and
- (xxv) giving effect to the objects of this Act; and may by such bye-laws impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of fifty rupees for each offence, and, in case of a continuing offence, a further penalty not exceeding twenty rupees for each day after written notice of the offence from the Board:

Provided that no person shall be punishable for breach of any bye-law made under clause (xvi) of this section by reason of exposure for sale of any article in any premises which are at the time of the making of such

bye-law used for such purpose until he has received from the Board six months' notice in writing to discontinue such exposure for sale in such premises.

Additional powers to make bye-laws in hill municipalities.

303. (1) The Commissioners of a municipality wholly or in part situated in a hilly tract may, at a meeting, in addition to such bye-laws as they may make under the preceding section, make bye-laws for regulating or prohibiting the cutting or destroying of trees or shrubs or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears to the Board to be necessary for any or all the following purposes:—

- (a) the maintenance of a water-supply ;
- (b) the preservation of the soil ;
- (c) the prevention of landslips ;
- (d) the formation of ravines or torrents ;
- (e) the protection of land against erosion or the deposit thereon of sand, gravel or stones ;
- (f) the protection of the beauty or general appearance of the municipality.

(2) The Board may, by any bye-law made under this section, declare that any person committing a breach of any such bye-law, or failing to comply with any notice issued thereunder, shall be liable to a fine which may extend to fifty rupees and to a further fine which may extend to twenty rupees for each day after conviction during which the offence is continued.

Confirmation of bye-laws.

304. (1) The power to make bye-law under this Act shall be subject to the condition of previous publication.

(2) No such bye-law shall come into force until it has been confirmed by the State Government.

(3) The State Government may cancel their confirmation of any such bye-law, and thereupon the bye-law shall cease to have effect.

Publication of bye-laws.

305. Every bye-law shall, after confirmation, be published in the prescribed manner.

Subsidiary Rules

Power to make rules as to business and affairs.

306. (1) The Board at a meeting specially convened for the purpose may, by subsidiary rules consistent with this Act and with any rules made thereunder by the State Government, provide for —

- (a) the time and place of their meetings and of the meetings of committees, the business to be transacted at such meetings, and the manner in which notice of such meetings shall be given ;
- (b) the conduct of proceedings at such meetings, the method of voting, the due record of all dissents and discussions, and the adjournment of such meetings ;

- (c) the custody of the common seal and the purposes for which it shall be used ;
- (d) the division of duties among the Commissioners of the Municipal Board, and the powers to be exercised by committees or Commissioners to whom particular duties are assigned ;
- (e) the persons by whom receipts shall be granted for money received under this Act ;
- (f) the duties, appointment, leave, fining, suspension, and removal of municipal officers and servants ;
- (g) the appointment or election of the Chairmen or Vice-Chairmen of committees and the delegation of powers by the Board to committees ;
- (h) regulation of the expenditure of money for purposes provided for in the budget estimates ;
- (i) the nature and amount of security to be furnished by different classes of officers or servants of the Board for the proper discharge of their duties ; and
- (j) other similar matters ; and may, by such rules, annul, alter or add to all or any of the rules in the second Schedule.

(2) Rules made under this section consistent with the Act shall be subject to the sanction of the State Government and shall, if sanctioned be published in such manner as the State Government may direct and shall have the force of law.

(3) The rules in the second Schedule shall have effect as if enacted in the body of this Act until annulled or altered by rules made under sub-section (1).

CHAPTER X

PROCEDURE

Municipal Notice

How notice, etc., may be served 307. (1) Every notice, bill, form, summons or notice of demand under this Act may be served personally on or presented to the person to whom the same is addressed ;

or be left at his usual place of abode with some adult male member or servant of his family ;

or, if it cannot be so served, presented or delivered, may be put on some conspicuous part of his place of abode, or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended to be served or may be sent by post in a registered cover.

(2) Every such notice, bill, form, summons or notice of demand shall be signed by or bear a facsimile signature of the Chairman, Vice-Chairman or any other officer authorised by the Chairman in that behalf.

Reasonable time for compliance to be fixed.

308. When any notice under this Act requires any act to be done for which no time is fixed by this Act, the Board shall fix a reasonable time for doing the same.

Service of notice on owner or occupier of land.

309. When any notice is required to be given to the owner or to the occupier, or the owner and the occupier of any land, such notice, addressed to the owner or occupier or both, as the case may require, may be served on the occupier of such land, or otherwise in the manner mentioned in section 307:

Provided that when the owner and his place of abode are known to the Board or other authorities issuing the notice, they shall, if such place of abode be within the limits of their authority, cause such notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family; and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode, and such service shall be deemed to be good service of the notices:

Provided further that when the name of the owner or occupier or both is not known, it shall be sufficient to designate him or them as "the owner" or "the occupier" of the land in respect of which the notice is served.

Enforcement of requisitions

Procedure when owners or occupiers are required by Board to execute works.

310. Whenever it is provided in this Act that the Board, or the Board at a meeting may require the owners or the occupiers, or the owners and occupiers, of any land to execute any work or to do anything, such requisition shall be made, as far as possible, by a notice to be served as provided in sections 307 and 309, on every owner or occupier who is required to execute such work or to do such thing; but if there be any doubt as to the persons who are owners or occupiers, such requisition may be made by a notice to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owners or the occupiers, or the owners and occupiers, of any land, to execute such work or to do such thing within a specified time; and in such notice it shall not be necessary to name the owners or occupiers.

Every requisition as aforesaid shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition or to prefer an objection against such requisition as provided in the next succeeding section the Board will enter upon the land and cause the required

work to be executed, or the required thing to be done ; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

Persons required to execute any work may prefer objection to the Board.

311. Any person who is required by a requisition as aforesaid to execute any work or to do anything may instead of executing the work or doing the thing required prefer an objection in writing to the Board against such requisition within five days of the service of the notice of posting up of the notification containing the requisition, or, if the time within which he is required to comply with the requisition be less than five days, then within such less time.

Except as provided in the next succeeding section such objection shall be heard and disposed of by the Chairman or Vice-Chairman.

Procedure if person object- ing that work will cost more than three hundred rupees.

312. If the objection shall allege that the cost of executing the work or of doing the thing required will exceed three hundred rupees, such objection shall be heard and disposed of by the Board at a meeting ; unless the Chairman or Vice-Chairman shall certify that such cost will not exceed three hundred rupees, in which case the objection shall be heard and disposed of by the Chairman and Vice-Chairman :

Provided that in any case in which the Chairman or Vice-Chairman shall have certified his opinion as aforesaid, and the objection shall in consequence thereof have been heard and disposed of by the Chairman and Vice-Chairman, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the Board as the cost of executing the work or doing the thing required ; whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required, and in respect of paying the expenses thereof and the Board itself shall execute such work or do such thing, and shall exercise all powers necessary therefor.

Chairman etc., to make order after hearing objection.

313. The Chairman or Vice-Chairman, or the Board at a meeting, as the case may be, shall, after hearing the objection and making any inquiry which they may deem necessary, record an order withdrawing, modifying, or making absolute the requisition against which the objection is preferred ; and if such order does not withdraw the requisition it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

Order to be explained orally.

314. If the person making such objection be present at the office of the Board, the said order shall be explained to him orally, and if such order cannot be so explained, notice of such order shall be served as provided in section

307 on the person making the objection ; and such explanation of, or service of, the notice of the said order shall be deemed a requisition duly made under this Act to execute the work or do the thing required.

Power of Board on failure of persons to execute work.

315. If the person or persons required to execute the work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to do such thing, and thereafter diligently to execute the same to the satisfaction of the Board until it is completed, the Board or any person authorised by it in that behalf, may, after giving forty-eight hours' notice of its intention by a notification to be posted up on or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required ; and the expenses thereby incurred shall be paid by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers, respectively, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

Power to apportion expenses among owners and occupiers.

316. (1) Whenever any expenses incurred by the Board are to be paid by the owners of any land as provided in the preceding section, the Board may, if there be more than one owner, apportion the said expenses among such of the owners as are known in such manner as to the Board may seem fit.

(2) Whenever any such expenses are to be paid by the occupiers of any land as provided in the preceding section, the Board may, if there be more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as to the Board may seem fit.

Apportionment among owners and occupiers.

317. Whenever any expenses incurred by the Board are to be paid by the owners and occupiers of any land, as provided in section 315, the Board may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as to the Board may seem fit.

Occupier may recover cost of works executed at his expense from owner

318. Whenever any works or alterations and improvements, of which the Board is authorised by this Act to require the execution, are executed by the occupier on the requisition of the Board or are executed by the Board, and the cost thereof is recovered from the occupier, the cost thereof may, if the Board certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction.

Power to enter upon possession of houses repaired.

319. If the Board, under the provisions of this Act shall have caused any repairs to be made to any house or other structure, and if such house or other structure be unoccupied, the Board may enter upon possession of the same, and may retain possession thereof until the sum expended by it on the repairs be paid to it.

Sale of materials of houses, etc., pulled down. 320. The materials of anything which shall have been pulled down or removed under the provisions of section 310 may be sold by the Board, and the proceeds of such sale may be applied, so far as the same will extend, to the payment of the expenses incurred.

The surplus sale-proceeds, if any, shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

Appeals

Appeals from orders of Board.

321. (1) Any person aggrieved—

- (a) by the refusal of the Board under section 174 to sanction the erection, re-erection or material alteration of any building, or
- (b) by a notice from the Board under section 155 requiring a road to be drained, levelled, paved, flagged, metalled or provided with proper means of lighting, or under section 177 requiring the alteration or demolition of a building, or
- (c) by any order made by the Board under by-law made under section 302, clause (ii), or
- (d) by any order made by the Board under the powers conferred upon it by section 181 or 255,

may appeal within thirty days from the date of such refusal, notice or order to the Board, and every such appeal shall be heard and determined by not less than three members of the Board who shall be appointed in that behalf by the Board at a meeting, and no such refusal, notice or order shall be liable to be called in question otherwise than by such an appeal.

(2) The appellate authority may, for sufficient cause extend the period allowed by sub-section (1) of this section for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from, shall be final:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the Board have had reasonable opportunity of being heard.

Appeals from orders refusing licenses. 322. Any person aggrieved by an order refusing a license or permission required under this Act, may, notwithstanding anything contained elsewhere in this Act, within thirty days from the date of refusal, appeal to the State Government or an officer authorised by the State Government in that behalf whose decision shall be final and shall not be questioned in any Court.

Prosecutions

Board may direct prosecution for public nuisance, etc. 323. The Board may direct any prosecution for any public nuisance under the Indian Penal Code, and may order proceedings to be taken for the recovery of any penalties under this Act or rules or bye-laws made thereunder and for the punishment of any persons offending against the same, and may order the expense of such prosecution or other proceedings to be paid out of the Municipal fund. XLV of 1860.

No prosecution for an offence under this Act to be instituted without consent of Board. 324. No prosecution for an offence under this Act or any rule or bye-law made in pursuance thereof shall be instituted without the order or consent of the Board, and no such prosecution shall be instituted except within three months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be instituted within six months of date on which the commission or existence of the offence was first brought to the notice of Chairman of the Board:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

Police Officer to report offences and arrest persons refusing to give name and residence. 325. (1) All police officers shall give immediate information to the Board of the municipality of any offence committed against this Act or any rule or bye-law made in pursuance thereof. When any person, in the presence of the police officer, commits or is accused of committing any such offence, and refuses, on demand of a police officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained, and he shall within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

(2) Any servant of the Board in receipt of a salary of not less than thirty rupees per mensem, when empowered in that behalf, on the recommendation of the Board, by a general or special order of the District Magistrate, may exercise the powers of a police officer under this section.

Suits

No action to be brought against the Board or their officers until after one month's notice of cause of action. 326. (1) No suit or other legal proceeding shall be brought against any Board or any of its officers, or any person acting under its direction for anything done under this Act or any rule or bye-law made thereunder, until the expiration of one month next after notice in writing has been delivered or left at the office of such Board and also (if the suit is intended to be brought against any officer of the said Board or any person acting under its direction) at the place of abode of the person against whom such suit or proceeding is threatened to be brought stating the cause of suit or proceeding the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the suit;

and unless such notice be proved, the Court shall find for the defendant.

(2) Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

(3) If the Board or its officers or any person to whom, any such notice is given, shall, before the suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Liability to pay expenses or fees may be contested in Civil Court. 327. Any owner or occupier of land may contest his liability to pay any expenses or fee under this Chapter or under Chapters VI and VII or may contest the amount which he has been called upon to pay in a Civil Court of competent jurisdiction:

Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount in the manner provided by section 149.

Dispute as to compensation payable by Board 328. (1) Should a dispute arise touching the amount of compensation which the Board is required by this Act to pay, it shall be settled in such manner as the parties may agree, or, in default of agreement, by the Deputy Commissioner or any officer authorised by him in that behalf upon application made to him by the Board or the person claiming compensation.

(2) Any decision of the Deputy Commissioner or the officer as aforesaid awarding compensation shall be subject to a right of the applicant for compensation to require a reference to the District Judge in accordance with the procedure set forth in section 18 of the Land Acquisition Act, 1894.

(3) In cases in which compensation is claimed in respect of land, the Deputy Commissioner or the officer as aforesaid and the District Judge shall, as far as may be, observe the procedure prescribed by the said Act for proceedings in respect of compensation for the acquisition of land acquired for public purposes.

CHAPTER XI

Miscellaneous Provisions

Delegation of certain powers and functions of State Government.

329. (1) The powers and functions of the State Government specified in sections 58, 65, 71, 263 and 337 may be delegated by the State Government to the Commissioner of Division.

(2) In regard to powers or functions delegated to him under this section, the Commissioner of Division shall have the same authority as is given by this Act to the State Government, and the delegation shall continue until revoked by the State Government.

(3) A delegation under this section may be of all or any of the powers and functions aforesaid, and may be made generally in regard to all the municipalities or it may be made particularly in regard to certain municipalities only.

(4) The delegation may be by official designation, and shall, in each case, be notified in the Gazette.

Survey of municipalities.

330. The Board at a meeting may order that a survey shall be made of the lands situated in the municipality and thereupon all the provisions of the Calcutta Survey Act, 1887, shall, so far as may be practicable, apply and be extended to such municipality. 1 of 1887.

Holder of license to produce it when required.

331. Every person to whom a license has been granted under this Act shall, at all reasonable times, while such license shall remain in force, if so required by the authorities which granted the license or by any person authorised by them in that behalf, produce such license to the said authorities or to the person so authorised.

Whoever fails to produce his license when required to produce the same by any person authorised under this section to demand the production thereof, shall be liable to a fine not exceeding one hundred rupees.

Suspension or revocation of licenses, etc.

332. Any Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the bye-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend for any period not exceeding two months, any such license.

And the Board, upon the conviction of any person for a second or other subsequent like offence, may cancel his license.

Penalty on officers, etc., taking unauthorised fees.

333. If any person employed under this Act (not being a public servant within the meaning of section 21 of the Indian Penal Code) shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or

XLV of 1860.

forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person within the Board or with any public servant or with any Government in the discharge of his official duties, he shall be punished with imprisonment either XLV of simple or rigorous, as provided in section 53 of the 1860. Indian Penal Code, for a term which may extend to three years, or with a fine not exceeding five hundred rupees, or with both.

CHAPTER XII

Small Towns

Constitution
of notified
areas.

334. (1) The State Government may, by notification, signify its intention to declare that with respect to some or all of the matters upon which a municipal fund may be expended under section 60, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipality.

(2) A copy of the notification under sub-section (1) shall be published in such places as the State Government may by general or special order direct.

(3) Should any inhabitant of the specified area aforesaid desire to object to the notification issued under sub-section (1), he may within six weeks from the date of its publication, submit his objection in writing to the State Government, through the Deputy Commissioner, and the State Government shall take his objection into consideration.

(4) When six weeks from the date of publication have expired, and the State Government has considered and passed orders on such objections as may have been submitted to it, the State Government may, by notification, declare the specified area aforesaid or any portion thereof to be a notified area to be termed as Small Town.

Constitution
of Town
Committee.

335. (1) There shall be established for each notified area a committee for the purposes of section 336, sub-section (1) (b) and (c), consisting of such number of members, as may be fixed by the State Government by rules who shall, for the first term, be appointed and, for the subsequent terms, elected except that not more than two members shall be appointed by the State Government to represent the Scheduled Castes, Scheduled Tribes or other socially and educationally Backward Classes residing within the Small Town.

(2) A committee established under this section shall be called a town committee.

(3) The State Government may appoint any person, whether a member of the town committee or not, to be its Chairman or Vice-Chairman, or may authorise any town committee to elect its Chairman or Vice-Chairman or both, and fix the term of office of member or Chairman or Vice-Chairman of the town committee.

Power of State Government to impose taxation and regulate expenditure of proceeds thereof and to extend provisions of the Act to notified areas.

336. (1) The State Government may—

- (a) impose in any notified area any tax which could have been imposed therein if such area were a municipality ;

Explanation.—The words “any tax” in the above clause shall be deemed to include all fees, tolls, cesses and rates ;

- (b) apply or adapt to the notified area for the assessment and recovery of any tax imposed under clause (a) any of the provisions of this Act, or of any rules for the time being in force, with respect to the assessment and recovery of any tax imposed under this Act ;
- (c) arrange for the due expenditure of the proceeds of taxes imposed under clause (a) and of any other funds which may come to the hands of the town committee for the purposes of the notified area and for the preparation and maintenance of proper accounts ; and in addition to, or in lieu of, the exercise of any of the foregoing powers ; and
- (d) extend to any notified area the provisions of any section of this Act subject to such restrictions and modifications, if any, as the State Government may think fit.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in same manner in which the municipal fund of such notified area might be expended if the notified area were a municipality.

(3) For the purposes of any section of this Act which may be extended to a notified area, the town committee constituted for such area under section 335 shall be deemed to be a Municipal Board under this Act and the area to be a municipality.

Application of funds of areas ceasing to be notified.

337. When by reason of any order cancelling a notification under section 334 any notified area ceases to be notified, the unexpended proceeds of any taxes levied therein under section 336 shall be applied for the benefit of the inhabitant of such area in such manner as the State Government may think fit.

SCHEDULES

THE FIRST SCHEDULE

(See Section 33)

Municipality or Municipalities in which the Chairman shall be appointed by the State Government.
Shillong
Tinsukia.

THE SECOND SCHEDULE

(See Section 306)

Business and procedure at first meetings

(1) The first meeting of a Municipal Board after a general election shall be held on such date as the Deputy Commissioner may fix :

Provided that—

- (a) Whenever he considers necessary, he may vary the original or any subsequent date so fixed ; and
- (b) the date fixed for the meeting shall be notified in the Gazette at least 15 clear days before the meeting.

(2) The Deputy Commissioner shall cause copies of the notification fixing the date of the first meeting as required by rule (1) to be sent to the members at least seven days before the meeting is held.

(3) The Magistrate shall appoint a member of the Board to preside at the meeting and may whenever he considers necessary vary the original or any subsequent order of appointment, provided always that the person appointed is not a candidate for the office of Chairman.

(4) The President shall first make the oath (or affirmation) prescribed by section 25 himself and then administer the oath (or affirmation) to the other members present whether there is a quorum or not.

(5) (i) The meeting shall thereupon proceed to elect, or request the State Government to appoint a Chairman :

Provided the quorum required by section 46(v) is present.

(ii) If the quorum required by section 46(v) is not present or if the first meeting for any reason proves infructuous, the meeting shall stand adjourned to some future date to be appointed by the Magistrate, who shall cause at least three days' notice of the adjourned meeting to be given to the members; the members present at the adjourned meeting shall form a quorum whatever their number may be and shall be competent to proceed to elect a Chairman.

(6) At any time before noon of the day preceding the date fixed for the meeting under rule (1) any member may nominate any other member, not being an officer of Government appointed under sub-section (2) of section 11 of the Act, for election as Chairman, by delivering to the Magistrate or to any other officer appointed by the Magistrate in this behalf a nomination paper signed by himself as proposer and by a third member as seconder and stating—

- (a) the name of the member nominated, and
- (b) that the proposer has ascertained that such person is willing to serve as Chairman if elected.

(7) If and when the meeting proceeds to select a Chairman, the President shall read out to the Board the names of the members who have been duly nominated together with those of their proposers and seconders, and if only one member has been so nominated, shall declare that member to be elected; if more than one member has been so nominated, the meeting shall proceed to elect a Chairman by ballot.

(8) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election until one candidate obtains more votes than the remaining candidate or than the aggregate votes of the remaining candidates as the case may be.

(9) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under rule (8) the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by the drawing of lots.

(10) In these rules,
"Magistrate" means

- (a) in the case of a municipality in a subdivision, the Subdivisional Magistrate, and
 - (b) in other cases, the District Magistrate.
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