

**THE PUNJAB MUNICIPAL ACT, 1911**  
**(PUNJAB ACT 3 OF 1911)**

Received the assent of the Lieutenant – Governor of the Punjab on the 3<sup>rd</sup> May, 1911, and that of the Governor – General on the 7<sup>th</sup> July, 1911, and was first published in the Punjab Gazette of the 11<sup>th</sup> August, 1911.

An Act to make better provision for the Administration of Municipalities in <sup>1</sup>[Punjab}.

**LEGISLATIVE AMENDMENTS<sup>2</sup>**

Repealed in part and amended, by Act 38 of 1920.

Amended by Punjab Act 2 of 1919

Amended by Punjab Act 1 of 1922

Amended by Punjab Act 2 of 1923

Amended by Punjab Act 1 of 1925

Amended by Punjab Act 5 of 1925

Amended by Punjab Act 15 of 1926

Amended by Punjab Act 4 of 1929

Amended by Punjab Act 2 of 1931

Amended by Punjab Act 3 of 1933

Amended by Punjab Act 1 of 1934

Amended by Punjab Act 3 of 1935

Amended by Government of India (Adaptation of Indian Law-Order, 1937)

Amended by Punjab Act 2 of 1940

Amended by Punjab Act 15 of 1940

Amended by East Punjab Act 3 of 1947

Amended by East Punjab Act 17 of 1948

Amended by Punjab Act 2 of 1919

Amended by the Indian Independence (Adaptation of Bengal & Punjab Acts) Order, 1948.

Amended by East Punjab Acts 8,9 and 20 of 1949

Amended by Adaptation of Laws Order, 1950

Amended by Punjab Act 12 of 1950

Amended by Punjab Act 5 of 1951

Amended by Adaptation of Indian Laws (Third Amendment) Order of 1951

Amended by Punjab Act 23 of 1952

Amended in part by Punjab Act 34 of 1953  
Amended by Punjab Act 48 of 1953  
Amended in part by Punjab Act 34 of 1954  
Amended by Punjab Act 10 of 1955  
Amended by Punjab Act 10 of 1955  
Amended by Punjab Act 28 of 1956  
Extended to Pepsu Territory by Punjab Act 5 of 1959  
Amended by Punjab Act 22 of 1959  
Amended by Punjab Act 25 of 1959  
Amended by Punjab Act 22 of 1961  
Amended by Punjab Act 25 of 1964  
Amended by Punjab Adaptation of Laws (State and Concurrent Subjects Order, 1968)  
Amended by Punjab Act 10 of 1972  
Amended by Punjab Act 24 of 1973  
Amended by Punjab Act 38 of 1973  
Amended by Punjab Act 8 of 1974  
Amended by Punjab Act 15 of 1974  
Amended by Punjab Act 29 of 1975  
Amended by Punjab Act 3 of 1976  
Amended by Punjab Act 38 of 1976  
Amended by Punjab Act 9 of 1977  
Amended by Punjab Act 18 of 1978  
Amended by Punjab Act 2 of 1979  
Amended by Punjab Act 19 of 1982  
Amended by Punjab Act 12 of 1983  
Amended by Punjab Act 2 of 1984  
Amended by Punjab Act 3 of 1985  
Amended by Punjab Act 3 of 1985  
Amended by Punjab Act 11 of 1994  
Amended by Punjab Act 6 of 1995

Whereas it is expedient to make better provision for the administration of municipalities in Punjab. It is hereby enacted as follows:

**CHAPTER 1**  
**(PRELIMINARY)**

1. **Titles, Extent and Commencement.** (1) This Act may be called the Punjab Municipal Act, 1911.

(2) It extends only to the territories<sup>1</sup>[-] administered by the<sup>2</sup>[Government] of<sup>3</sup>[Punjab] and

(3) It shall come into force on<sup>4</sup>such day as the State Government may, by notification in the Official Gazette, appoint in this behalf.<sup>5</sup>

### **CASE LAW**

Deputy Commissioner dismissed the challenge as the house tax had not been deposited – Actual position is that as shown by the receipt issued to the Landlord, it was paid about a year earlier – Deputy Commissioner has also considered some arguments – Held – Approach of the learned Deputy Commissioner appears to be casual – Case remitted back to lower court for fresh adjudication.

### **1996 (1) ALL INDIA LAND LAWS REPORTER 189**

Municipal Committee Sirhind extended its limits to include a part of the Sabha area in it – Since a part only was merged (AND NOT THE WHOLE) the Khewatdar claim the property or compensation therefore – Provisions show that when Whole of Sabha area is vested in an urban estate, the Sabha or the Gram Panchayat shall cease to exist in respect of that area and its assets shall be disposed of in the prescribed manner – Contention which found favour with courts below, upto High is that unless whole land of the Sabha area is vested in Urban estate, a part of the Sabha Area is not vested in the municipality – Contention not accepted at the stage of appeal by apex Court-Held – Expression “Whole” in S. 4 (3) of Gram Panchayat Act brings within its sweep a part of sabha area also – Disputed properties in hand which originally formed the part of the sabha area, having been included in the Municipality never re-vested in the khewatdars as found by the courts below – Punjab Gram Panchayat Act, 1952 – S. (3).

### **1996 (1) ALL INDIA LAND LAWS REPORTER 437**

Petitioners, tenants of the Municipal Committee are aggrieved by the increase in rent – Contention is that annual value of the property has not been kept in view while ordering enhancement – Held – Government is fully empowered to direct enhancement of rent – Claim of the parties cannot be upheld.

## **1996 (2) ALL INDIA LAND LAWS REPORTER 428**

When land is acquired by a Municipality under Town Improvement Act or Land Acquisition Act for a town planning scheme, its compensation is paid to the land owner – But when acquired under Municipality Act 1911 for the same or similar scheme the compensation to the land owner upto 25% of his holdings is denied because (i) Such public purpose is for the benefit of the landowner as it appreciates in value – Such benefit is for other members of public also – Why he alone should pay for it (ii) Such benefit is not for this landowner only but is for all other landowners whose lands are similarly situate – When benefit is for all similarly situate persons why this landowner should be made to suffer (iii) this improvement if results in accretion in value, it may prove a burden if the property tax, wealth tax, wealth tax, estate duty etc. are calculated on the market value of the property – Held – This accretion may prove a recurring liability, no reason why this landowner should be denied compensation – And finally why should a similar acquisition for the similar public purpose be treated differently under the three Acts – Provisions of Section 192 (1) (c) are violative of Article 14 of the Constitution. Punjab Town Improvement Act, 1922 – Punjab Municipal Act, 1911 – Section 192 (1) (c).

Respondents are various States of Union of India – Being impugned is the judgement and order of Delhi High Court by which the properties owned by the States in the capital are exempted from property tax, by Article 289 (i) of the Constitution – These contentions involving constitutional provisions in which large financial stakes are involved, shall be placed before a Nine-Judge Bench for enunciation of law – Constitution of India, Art. 289.

## **1995 (1) ALL INDIA LAND LAWS REPORTER 252**

Appellant is the defeated candidate – His nomination paper was rejected by the Returning Officer because his parentage in nomination papers differed from the corrected one in voter list – Appellants plea was rejected by Returning Officer as also by the DC – When a challenge was laid by writ petition, the case was remitted to prescribed Authority for decision – And prescribed authority also rejected the plea – High Court, in appeal Held – Prescribed authority has fallen into error in rejecting the election petition – Electoral roll was clandestinely got corrected by someone at the back of the petitioner – When such a correction is to be made, a petition is to be submitted by the person to whom that entry relates (Rules 8 (G) (4) (B) – Appellant never came to know of this correction – Procedure adopted by the Returning Officer

cannot be granted judicial recognition – Election of respondent No. 3 is declared void – Punjab Municipal Election Rules, 1952 – Rule 53.

### **1997 (1) ALL INDIA LAND LAWS REPORTER 549**

2. **Repeal – Saving Clause.** [See Schedule I for enactments repealed]

3. **Definitions** – In this Act, unless there is something repugnant in the subject or context. –

<sup>1</sup> (1) “annual value” means –

(a) in the case of land or building which is in the occupation of a tenant, the gross annual rent at which the land or building has actually been let:

Provided that in the event of increase in the rent, the Committee may make corresponding increase in the annual value:

Provided further that where the land or building has been let by the owner to any of his relations, and the Committee is of the opinion that the rent fixed does not represent the true rent, the rent fixed under the agreement of lease shall not be taken into consideration and the annual value shall be determined in accordance with the principles contained in clause (b);

#### **CASE LAW**

- S.3 (1) – House Tax – Annual Retable Value – Has to be assessed not on the actual rent received by landlord but on the standard rent as per Rent Act – Building tenanted or self occupied is immaterial – This view as held by apex Court in 1995 (2) ALL INDIA LAND LAWS REPORTER 480 is relied upon.

### **1996 (2) ALL INDIA LAND LAWS REPORTER 566**

(b) in the case of land or building which is occupied by the owner, the annual value shall be five per cent on the sum obtained by adding the present market value of the land and estimated cost of erecting the building less ten per cent depreciation:

Provided that in the calculation of annual value of any land and building, no account shall be taken of the furniture or machinery thereon:

#### **CASE LAW**

- Section 3 (1) (b) – East Punjab Urban Rent Restriction Act, 1949 - Ss. 4 & 5 – Annual Ratable Value – For the purpose of property tax – Not the actual rent received but the hypothetical rent which can reasonably be expected if the building is to let, would be the yard stick for ratable value – Admission by the landlord to pay tax on actual rent received is again of no help – State would not like him to go back on the admission but that is not proper – There can be no estoppel against the statute – Rental value has to be assessed as provided by the statute.

### **1996 (2) ALL INDIA LAND LAWS REPORTER 331**

- S.3 (1) (b) – As per law laid down by Apex Court in 1980 All India Land Laws Reporter 169, annual rental value for purposes of assessment of tax would not exceed the standard rent – Before the annual rental value is increased it was mandatory for the authorities to assess standard Rent – And such increase cannot be made retrospectively – Impugned order is quashed and case remitted to appellate authority for a fresh decision in view of observations – Recovery of the dues stayed till then.

### **1994 (3) ALL INDIA LAND LAWS REPORTER 458**

- Section 3 (i) (b) – Writ petition of the appellant challenging the municipal order assessing house – tax at the rental actually received was dismissed in limine – Special leave appeal arises out of that – “May reasonably be expected to let from year to year” is the clause in the provision which guides the assessment – Is a clear indicator to standard rent – Can the actual rent received be taken as a ratable value – Held – Actual rent received from a tenant is not the measure for determination of the annual ratable value but the standard rent expected to be received under the relevant Rent Act – Admission made by the landlord will not work as there is no estoppel against the statute.

### **1994 (3) ALL INDIA LAND LAWS REPORTER 458**

(c) in the case of any land on which no building has been erected but on which a building can be erected, and no any land on which a building is in the process of erection, the annual value shall be fixed at five per cent of the estimated market value of such land;

(d) in the case of any land on which no building has been erected but on which a building can be erected, or which is partially build and is being used by erecting tents, temporary structures for the purpose of accommodating marriage

parties, circus shows or for any entertainment purposes or such other purpose as may be specified in this behalf by the Committee with the previous sanction of the State Government the annual value shall be twenty per cent of the estimated market value of such land;”;

<sup>1</sup>”(2) “building” means any shop, house, hut, outhouse, stable, a factory, an industrial shed and a temporary structure erected by means of tents and structures raised for entertainment purposes whether roofed or not and whether used for the purposes of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatched, metal or any other material whatever, and includes a wall and a well;”;

(3) “bye-laws” and “bye-law” means respectively the regulations made or to be made by the committee at a special meeting under the authority of this Act and any of such regulations.

“(4) “committee” means a Municipal Council or Nagar Panchayat, as the case may be, constituted under Section 12 of this Act;”;

<sup>2</sup>[4(a)] “Deputy Commissioner” or “Deputy Commissioner of the District” includes Additional Deputy Commissioner, Joint Deputy Commissioner or any person or persons at any time appointed by the State Government to perform in any district or districts the functions of a Deputy Commissioner under this Act:

<sup>3</sup>”[4(b)] “District Planning Committee” means a Committee constituted under Article 243 ZD of the Constitution of India;

4(c) “election” means and includes the entire election process commencing on and from the date of notification calling for such election of members and ending with the date of declaration and notification of results thereof;”;

Provided that no official shall be so appointed unless he has for three years exercised the powers of a Magistrate of the first class.

<sup>1</sup>[-]

(5) “erect or re-erect any building” includes -

(a) any material alteration or enlargement of any building,

- (b) the conversion by structural alteration into a place for human habitation of any building not originally constructed for human habitation,
- (c) the conversion of two or more places of human habitation into a greater number of such places,
- (d) the conversion of two or more places of human habitation into a greater number of such places,
- (e) such alterations of a building as effect an alteration of its drainage or sanitary arrangement, or materially affect its security,
- (f) the addition of any rooms, buildings, out-houses or other structures to any building, and
- (g) the construction in a wall adjoining any street or land not belonging to the owner of the wall, of a door opening on to such street or land.

<sup>2</sup>[(5a)] “Executive Officer” means an Executive Officer appointed under the provisions of the Punjab Municipal (Executive Officer) Act 2 of 1931.

<sup>3</sup>[(5b)] “ex-officio member” means a member referred to in clause (ii) of subsection

(2) of section 12 of this Act;”;

(6) “explosive” and “petroleum” have the meanings assigned to those words in the Indian Explosives Act, 1884, and the Indian Petroleum Act, 1899, respectively.

(7) “infectious disease” means cholera, plague, smallpox, <sup>4</sup>[tuberculosis] or such other dangerous disease as the State Government may notify in this behalf.

(8) “inhabitant” includes any person ordinarily residing or carrying on business, or owning or occupying immovable property, in any municipality or in any local area which, the State Government has by notification under this Act proposed to declare to be a municipality; and in case of any dispute, means any person or persons declared by <sup>5</sup>[Deputy Commissioner] to be inhabitant or inhabitants.

<sup>6</sup>[(8a)] “land” includes benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and rights created by law over any street.]



<sup>7</sup>[(8aa) “market value” means the market value of the land or the building which is determined in accordance with the principles contained in Section 23 of the Land Acquisition Act, 1894, or is determined in accordance with the provisions of the Registration Act, 1908];

(8c) “Municipal Council” means a Municipality constituted under sub-section (2) of section 4 of this Act for a smaller urban area; and

(8c) “Municipal area” means the territorial area of a Municipality specified under section 4 of this Act;

<sup>8</sup>[(9)] “Municipality” means an institution of self government constituted as a Nagar Panchayat or a Municipal Council under sub-section (2) of section 4 of this Act;

(9a) “Nagar Panchayat” means a Municipality constituted under sub-section (2) of section 4 of this Act for a transitional area;”;

<sup>2</sup>[(9b) “newly constituted committee” means a committee the members whereof have been elected at a general election but have been not taken or made an oath or affirmation of allegiance as required under section 24;”;

(10) “occupier” includes an owner in actual occupation of his own land or building, and also any person for the time being 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 land is used: for the purposes of Chapter V [and IX] occupier shall include hotel-keeper, lodging house-keeper, and any owner whose premises are let to more than one tenant.

(11) “owner” includes the person for the time being receiving the rent of land and buildings, or either of them, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose or who would so receive the same if the land or building were let to a tenant.

(11a) “population” means the population as ascertained at the last preceding Census, of which the relevant figures have been published;

<sup>3</sup>[(11aa) “premises” means any land or building or part of a building and includes-

- (a) the garden, ground and out-houses, of any, appertaining to a building or part of a building; and
- (b) and fitting affixed to a building or part of a building for the more beneficial enjoyment thereof;]

(11b) “relation” in relation to an owner of any land or building means wife, husband, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, of such owner;

(12) “rules” and “rule” mean, respectively, the rules made or to be made and notified by the State Government under the authority of this Act, and any one of such rules.

(12a) “Street”, shall mean any road, footway, square, court, alley, or passage accessible, whether permanently or temporarily to the public, and whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any person as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid:

and shall include also the drains or gutters therein, or on either side, and the land, whether covered or not by any pavement, verandah or other erection, up to the boundary of any abutting property not accessible to the public.

(c) “public street” shall mean any street –

(i) heretofore leveled, paved, metalled, channeled, swerved, or repaired out of municipal or other public funds, unless before such work was carried out there was an agreement with the proprietor that the street should not thereby become a public street, or unless such work was done without the implied or express consent of the proprietor; or

(ii) which under the provision of section 171, is declared by the committee to be, or under any other provision of this Act becomes, a public street.

(14) “vehicle” shall include bicycles, tricycles and automotor cars, and every wheeled conveyance which is used or capable of being used on a public street.

<sup>1</sup>(15) Substituted by Punjab Act 3 of 1993. [(15) “Medical Officer of Health” means such person as the committee has appointed Medical Officer of Health” means such person as the committee has appointed Medical Officer of Health.]

<sup>2</sup>[(16) “factory” shall have the meaning assigned to it in the Indian Factories Act, 1911.]

<sup>3</sup>[(17) “Public place” means a space which is open to the use or enjoyment of the public whether or not private property and whether or not vested in the committee.

(18a) “built area” is that portion of municipality of which the greater part has been developed as a business or residential area.

(b) “unbuilt area” is an area within the municipal limits which is declared to be such at a special meeting of the committee by a resolution confirmed by the<sup>4</sup> [State] Government, or which is notified as such by the State Government.]

<sup>5</sup>[(19) “during” for the purposes of sections 154-A and 154-B shall include night – soil, sewage, sullage, sludge, refuse, filth or rubbish or animal matters of any kind.

(20) “compost manure” means the produce prepared from dung by subjecting it to the process of compost making in the manner prescribed by rules].

<sup>6</sup>[(21) “prescribed” means prescribed by rules made under this Act].

**4 Specification of local areas to be smaller Urban Areas or Transitional Areas and Constitution of Municipal Councils and Nagar Panchayats.**<sup>7</sup> - The State Government may, having regard to population of the area the density of the area the density of the population therein, the revenue generated for local administration the percentage or employment in non-agricultural activities, the economic importance or such other factors, as it may deem fit, specify, by notification in the Official Gazette, any area to be transitional area or a smaller urban area for the purposes of this Act:

Provided that no military cantonment or any part thereof shall be included in such transitional area or a smaller urban area:

Provided further that such an urban area or part thereof, as the State Government may, having regard to the size of the area and municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as it may deem fit, by notification, specify to be an industrial township shall not form part of a transitional area or a smaller urban area.

(2) Where an area is specified as a transitional area or as a smaller urban area under sub-section (1), the State Government may, by notification in the Official Gazette, constitute for the transitional area so specified a Nagar Panchayat and for the smaller urban area so specified a Municipal Council of the first class, second class or third class:

Provided that the State Government may, after consulting the Municipal Council by notification change its classification from one class to another.

(3) where any area which is within the jurisdiction of any other local authority, is constituted as or included in a transitional area or smaller urban area, the State Government may pass such orders as it may deem fit as to the transfer of such area to

the Nagar Panchayat of such transitional area or disposal otherwise, of the assets or institutions of such local authority and so as to the discharge of the liabilities, if any, of such local authority, relating to such assets or institutions.

(4) Where any area is excluded from a transitional area or a smaller urban area and included in the area of any other local authority, the State Government may pass such orders as it may deem fit as to the transfer to such local authority or disposal otherwise of, the assets or institution, of such local authority in that area or as to the discharge of the liabilities, if any, of such local authority, relating to such assets and institutions.

(5) Every area, which immediately before the commencement of the Punjab Municipal (Amendment) Act 11, of 1994 was constituted as a Municipality under this Act, shall be deemed to have been constituted as smaller urban area under sub-section (1) and Municipality existing for that area before such commencement and specified in schedule II shall be deemed to have been constituted under this Act for that area.

(6) Every area, which immediately before the commencement of Punjab Municipal (Amendment) Act 11, of 1994, was constituted as a Notified Area under Section 241 of this Act, shall be deemed to have been specified as a transitional area or a smaller urban area under sub-section (1), and a Municipality of the category as indicated in schedule III shall be deemed to have been constituted under this Act for that area.

**5 Alteration of limits of Municipality.** - “The State Government may, from time to time, keeping in view the provisions of sub-section (1) of section 4 and after consultation with the concerned Municipality, by notification in the Official Gazette alter the limits specified for any municipal area so as to include therein or to exclude therefrom such area as may be specified in the notification.

(2) The power to issue a notification under sub-section (1) shall be subject to the condition of previous publication.”

**Section 6 [Omitted by Act 11 of 1994.]**

**Section 7 [Omitted by Act 11 of 1994]**

**8. Reservation of seats.** - <sup>1</sup>“8(1) In every Municipality, out of the total number of elected members determined under sub-section (3) of section 12, the State Government shall, by notification, reserve -

- (a) such number of seats for the Scheduled Castes as may be determined by the State Government, subject to the condition that the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality, as the population of the Scheduled Castes, in the municipal area bears to the total population of that area bears to the total population of that area, and, such seats may be allotted by rotation to different constituencies to be known as wards in the Municipality.
- (b) one seat for the Backward Classes, and, such a seat may be allotted by rotation to different constituencies to be known as wards in the Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (a) of sub-section (1) shall be reserved for women belonging to the Scheduled Castes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies to be known as wards in the Municipality.

Explanation, - In this section the expression, -

- (a) "Scheduled Castes" shall have the meaning assigned to them in clause (24) of Article 366 of the Constitution of India; and
- (b) "Backward Classes" means the Backward Classes as the State Government may, from time to time, declare by issuing a notification in the Official Gazette."

**8-A. Reservation of offices presidents - 2** "Offices of Presidents of the Municipalities in the State shall be reserved by rotation in the prescribed manner in the following ratio, namely : -

- (a) five per cent for the Scheduled Castes;
- (b) five per cent for women including women belonging to the Scheduled Castes; and
- (c) two per cent for the Backward Classes."

**Section 9 [Omitted by Act 11 of 1994.]**

**Section 10 [Omitted by Act 11 of 1994.]**

**Section 11 [Omitted by Act 11 of 1994.]**

12 (1). **Composition of Municipalities** - <sup>1</sup>A Municipal Council or a Nagar Panchayat constituted under section 4 shall consist of a body of member, specified in section (3), having authority over such area.

(2) The Nagar Panchayat or the Municipal Council constituted under subsection (1) shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to hold, acquire and dispose of property and may by that name sue or be sued.

(3) The Nagar Panchayat or the Municipal Council constituted under Sub-section (1) shall consist of the following members, namely: -

- (i) such number of elected members as may be determined from time to time by the State Government in accordance with the prescribed principles; and
- (ii) all members of the Legislative Assembly of the State representing constituencies comprising wholly or partly the Municipal area.”

**CASE LAW**

- Section 12 as substituted by Amendment Act of 1994 – Sections 12A to 12E stand omitted – No co-option permissible or provided for Municipalities to be constituted in future – No associate member – Bar on the voting right of the MLA removed, MLAs can cast their votes in the Municipalities to be constituted in future but not in the existing ones – HELD – MLA attended the convened meeting to consider no confidence motion against the President – Cast his vote – With his one Vote, resolution passed by 2/3<sup>rd</sup> majority – Irregular, Not entitled to vote in the existing municipalities – One vote excluded, the resolution falls – Has no legal sanctity and hence quashed.

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Section 12-A [Omitted by Act 11 of 1994]

Section 12-B [Omitted by Act 11 of 1994]

Section 12-C [Omitted by Act 11 of 1994]

Section 12-D [Omitted by Act 11 of 1994]

Section 12-E [Omitted by Act 11 of 1994]

13 (1). **Duration of municipalities.**<sup>2</sup> Every Municipality save as otherwise provided in this Act, shall continue for five years from the date appointed for its first meeting and no longer.

**Explanation:** - In this section “first meeting” means the meeting of the newly constituted Municipality held for election of its President and Vice-President under Section 20 of this Act.

(2) All Municipalities existing immediately before the commencement of the Constitution (Seventy-Fourth) Amendment Act, 1992, shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to the effect by the State Legislature.

(3) An election to constitute a Municipality shall be completed,

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

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

Provided that when the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under clause (b) for constituting the municipality for such period.

(4) The first election to a Municipality constituted under this Act after the commencement of the Punjab Municipal (Amendment) Act 11 of 1994, shall be held within a period of six months of its being notified as such.

(5) Elections to the Municipalities where no elected body exists immediately before the commencement of the Punjab Municipal (Amendment) Act 11 of 1994, shall be held within a period of six months from the date of such commencement.

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

13-A (1) **Power of State Government to direct holding of general election** - <sup>1</sup> “13-A (1) Subject to the provisions of this Act and the rules made there under, the State Government, may by notification, direct that a general election of the members of the Municipalities or an election to fill a casual vacancy shall be held by such date as may

be specified in the notification and different dates may be specified for elections for different Municipalities or group or groups of Municipalities.

(2) As soon as a notification is issued under sub-section (1), the Election Commissioner shall take necessary steps for holding such general election.”

14 (1). **Dissolution of municipalities-**<sup>2</sup> “If in the opinion of the State Government, a municipality is not competent to perform its duties or persistently makes default in the performance of the duties imposed on it by or under this Act or any other law for the time being in force, or exceeds or abuses any of its powers, the State Government may, by an order publish, along with reasons thereof, in the Official Gazette, dissolve such Municipality:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) When a Municipality is dissolved under sub-section (1), -

(i) all members of the Municipality shall vacate their offices forthwith:

(ii) all powers and duties of the Municipality during its dissolution shall be exercised and performed by such person or authority, as the State Government may, by notification, appoint in this behalf; and

(iii) all property in possession of the Municipality shall be held by the State Government.

(3) Upon dissolution of a Municipality under sub-section (1) the State Government shall re-constitute a Municipality as specified under section 12 and election to reconstitute such Municipality shall be completed before the expiration of a period of six months from the date of dissolution:

Provided that where the remainder of the period for which dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for reconstituting the Municipality for such period

(4) The Municipality reconstituted upon the dissolution of the existing Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under section 13 had it not been so dissolved.”



<sup>3</sup>[15. **Resignation of member of committee:** - If a member of committee wishes to resign his office he shall submit an application in writing through the Deputy Commissioner to the State Government. If such resignation is accepted, it shall be notified in the gazette on date not less than 15 days and not more than 60 days after the receipt of the said member's application by the Deputy Commissioner whereupon the member shall be deemed to have vacated his seat:

Provided that if a member who has submitted an application to resign wishes to withdraw his resignation he may apply to the Deputy Commissioner within 15 days of the receipt by the Deputy Commissioner of his application to resign, and the application to resign shall then be deemed to have been withdrawn.]

<sup>1</sup>[16. **Powers of the state government as to removal of members:** - (1) <sup>2</sup> The State Government may, by notification <sup>3</sup>[remove any member of a committee other than an associate member];

(a) if he refuses to act, or becomes, in the opinion of these [State] Government, incapable of acting, or has been declared a bankrupt or an insolvent or has been convicted of any such offence or subjected by a criminal court to any such order as implies, in the opinion of the State Government, a defect of character which unfits him to be a member,

(b) if he has been declared by notification to be disqualified for employment in, or has been dismissed from, the public service and the reason for the disqualification or dismissal is such as implies in the opinion of the State Government a defect of character which unfits him to be member;

(c) if he has <sup>4</sup>[without reasonable cause in the opinion of the State Government absented himself for more than three consecutive months from the meeting of the committee.

(d) if his continuance in office is, in the opinion of the State Government dangerous to the public peace or order;

<sup>5</sup>if, in the opinion of the <sup>6</sup>[State] Government he has flagrantly abused his position as a member of the committee or has through negligence or misconduct been responsible for the loss, or misapplication of any money or property of the committee:]

<sup>7,8</sup>(f) if he has, since his election or co-option, become subject to any disqualification which, if it had existed at the time of his election or co-option, would have rendered him ineligible under any rule; for the time being in force regulating the

qualification of candidates for election, or if it appears that he was at the time of his election or co-option, subject to any such disqualification:]

<sup>9</sup>[(g) if, being a legal practitioner, he acts or appears in any legal proceeding on behalf of any person against the committee, or on behalf of or against the <sup>10</sup>[Government]<sup>11</sup> where in the opinion of the 12

<sup>13</sup>[Provided that before the 14[State] Government notifies the removal of a member under the section, the reasons for his proposed removal shall be communicated to the member concerned and he shall be given an opportunity of tendering an explanation in writing].

<sup>1</sup>[(2) A person removed under this section <sup>2</sup>[.....] or whose election or appointment has been deemed to be invalid under the provision of sub-section (2) of section 24, or whose election has been declared void for corrupt practices or intimidation under the provisions of section 255, or whose election the State Government <sup>3</sup>[or the Deputy Commissioner] has under section 24 refused to notify, shall be disqualified for election for a period not exceeding five years:

Provided that a person whose election or appointment has been deemed to be invalid under the provisions of sub-section (2) of section 24, shall not be disqualified for election or appointment for a period exceeding two years from the date of disqualification. <sup>4</sup>[(3) A person, whose seat has been vacated under the provision of section 14 (2) may be disqualified for election for a period not exceeding five years.]

(2) A person elected to fill up a casual vacancy shall be elected for the remainder of his successors' terms of office:

Provided that where the remainder of the period for which a member is to be elected, is less than six months, it shall not be necessary to hold any election to fill up such a vacancy.”

### CASE LAW

- Sections 17, 12 and 13 substituted by Amending Act, 1994 – As on today, there is no provision of co-option of persons belonging to Scheduled Castes, Background Classes or women – Such classes have to contest election even though the reservations are there – Section 17 of the Act talks of vacancies but does not mean the vacancies under the discussion – Right of the members to co-opt members from other communities cannot be taken away by the repealing Act – Punjab General Clauses Act, 1898 – Section 4.

18. **Incorporation of committee:** - Every committee shall be a body corporate by the name of the municipal committee of its municipality; and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and subject to the provisions of this Act, or of any rules made there under to transfer any property held by it to contract and to do all other things necessary for the purposes of its constitution; and may sue and sued in its corporate name.

<sup>6</sup>[19. **Officers, Servants and Members to be Public Servants:-** Every officer or servant employed by the committee whether for the whole or part of his time and every member of the committee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.]

20(1). **Election of President and Vice-President.-** <sup>7</sup>“Every Municipality shall, from time to time, elect one of its members to be its President, and the member so elected shall, on being notified by the State Government shall become President of the Municipality.”

(2) Every Municipality may also, from time to time, elect one or two of its members to be Vice-President or Vice-Presidents and when two Vice-Presidents are elected on the same date, the Municipality shall declare which of them shall be deemed to be the senior.

(3) Notwithstanding anything contained in this section an ex-officio member shall not be eligible for election as President or Vice-President of the Municipality.”

“21. <sup>1</sup>**term of office of President and Vice-President:** - The term of office of President of a Municipality shall be co-terminus with the term of the Municipality.

(2) The term of office of Vice-President of the Municipality shall be such as the Municipality may fix under its bye-laws.

(3) An outgoing President or the Vice-President shall, if otherwise qualified, be eligible for the re-election.”

22. **Resignation [or removal]<sup>2</sup> of President and Vice-President** – Wherever a President or Vice-President vacates his seat or tenders in writing to the committee his

resignation of his office, he shall vacate his office; and any President or Vice-President may be removed from office by the <sup>3</sup>[State] Government on the ground of abuse of his powers or habitual failure to perform his duties or in pursuance of a resolution requesting his removal passed by two-thirds of the members of the committee:

<sup>4</sup>[Provided that if a resolution requesting the removal of the President or the Vice-President is passed by two thirds of the members of the committee the President or, as the case may be the Vice-President shall be deemed to be under suspension immediately after such resolution is passed]:

Provided further that before the <sup>5</sup>[State] Government notifies his removal, the reason for his proposed removal shall be communicated to him by means of a registered letter in which he shall be [called upon] <sup>6</sup>to tender within twenty-one days an explanation in writing and if no such explanation is received in the office of the <sup>7</sup>[appropriate Secretary to Government] within twenty one days of the dispatch of the said registered letter, the <sup>8</sup>[State] Government may proceed to notify his removal.

#### **CASE LAW**

Section 22 – Voting out of President of a municipality – Total number of members 17 including the associate/Ex-officio member – Votes polled in favour of resolution is 11 – Associate member whereas is not entitled to vote but is a member all right – Resolution passed by 11 members is not passed by two third members as required by Section 22 of the Act-Legislature has not defined the strength as “two – third members of the committee excluding the associate member” – It is a motion not passed but lost – Writ petition dismissed.

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**23. Casual vacancies in office of President or Vice-President** – Upon the occurrence of any vacancy in the office of President or Vice-President, a new President or Vice President shall be elected [ ]<sup>9</sup> in manner provided by Section 20.

<sup>10</sup>[**24. Notification of election and oath or affirmation of allegiance** – (1) No elected member of a Municipality shall enter upon his duties as such member until he has taken or made, at a meeting of the Municipality, an oath or affirmation of his allegiance to India in the following form, namely: -

“I. A.B. having been elected Member of the Nagar Panchayat or Municipal Council of ..... do hereby solemnly swear (or affirm) that I will be faithful

and bear true allegiance to India and to the Constitution of India as by the law established and I will faithfully discharge the duties upon which I am about to enter”.

(2) The State Government shall notify in the Official Gazette every election of President of a Municipality and no President shall enter upon his duties as such until his election is so notified:

Provided that the State Government may refuse to notify the election as President of any person who has incurred a disqualification under this Act or under any other law for the time being in force, subsequent to his election as member of the Municipality.

Provided further that the State Government shall not refuse to notify the election of the President without giving an opportunity of being heard to the concerned person.”

### **Conducted of Business**

25. **Times of holding meetings.** – (1) Every committee shall meet for the transaction of business at least once in every month at such time as may, from time to time, be fixed by the bye-laws.

(2) The President or, in the absence <sup>1</sup>[or during the vacancy of his office <sup>2</sup>[or during his suspension under Section 22] a Vice-President may, whenever he thinks fit and shall on a requisition <sup>3</sup>[specifying the purpose of the meeting made in writing] by not less than one fifth of the members of the committee, convene either an ordinary or a special meeting at any other time.

<sup>4</sup>[(3) If the President or the Vice-President, as the case may be, fails to call a meeting of the committee within a period of fourteen days from the date of receipt of requisition, the members who had signed the requisition may convene a meeting of the committee in accordance with the bye-laws of the committee within a period of thirty days of the making of such requisition and notwithstanding anything contained in this Act such meeting shall be deemed to be a validly conveyed meeting:

Provided that no business other than that specified in the requisition shall be transacted in such meeting and the quorum for such a meeting shall be as provided for a special meeting under sub-section (1) of Section 27.

26. **Ordinary and special meeting.** – (1) Every meeting of committee shall be either ordinary or special.

(2) Any business may be transacted at any ordinary meeting unless required by this Act or the rules to be transacted at a special meeting.

<sup>5</sup>[(3) When a special and an ordinary meeting are called for the same day the special meeting shall be held as soon as necessary quorum is present.]

27. **Quorum** – (1) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the number of the committee actually serving at the time, be fixed by the bye-laws, but shall not be less than three:

Provided that, if at any ordinary or special meeting of a committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he may think fit, and the business which would have been brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting, whether there be a quorum present thereat or not.

28. **Chairman of meeting** – At every meeting of a committee the President, if present, or, in his absence or during the vacancy of office, <sup>1</sup>[or during his suspension under Section 22 the senior Vice-President present, and if there be no President or Vice-President present then such one of their number <sup>2</sup>[other than an associate member] as the members present may elect shall preside as chairman.

29. **Vote of majority decisive.** – Except as otherwise provided by this Act or the rules, all questions which come before any meeting of a committee shall be decided by a majority of the votes of the members present, the chairman of the meeting, in case of an equality of votes, having a second or casting vote.

30. **Record and publication or proceedings.** – (1) minutes of the proceedings at each meeting of a committee shall be drawn up and recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in such manner as the <sup>3</sup>[State] Government may direct, and shall, at all reasonable times and without charge, be open to inspection by any inhabitant.

(2) A copy of every resolution passed at any meeting of a committee shall, within three days from the date of the meeting, be forwarded to the Deputy Commissioner.

<sup>4</sup>[31. **Bye-Laws.** – Every committee may, from time to time, and shall, if so required by the <sup>5</sup>[State] Government provide by bye-laws consistent with this Act and with the rules for]

- (a) the time and place of its meeting;
  - (b) the manner in which notice of ordinary and special meetings and adjourned meetings shall be given;
  - (c) the quorum necessary for the transaction of business at ordinary meetings;
  - (d) the conduct of proceedings at meetings and the adjournment of meeting;
  - (e) the custody of the common seal and the purposes for which it shall be used;
  - (f) the appointment of sub-committees and their duties, the division of duties among the members of the committee and the powers to be exercised by such members as are primarily responsible for the current executive administration, whether Presidents, Vice-Presidents members of sub-committees or individual members;
  - (g) the persons by whom receipts shall be granted on behalf of the committee for money received under this Act;
  - <sup>6</sup>[(gg) the condition on which registers, documents, maps and plans of the Committee may be inspected by the public, and copies of them supplied and the fees payable for such inspection or for the supply of such copies.
  - (h) The appointment, duties, executive powers, leave, suspension and removal of its officers and servants;
  - (i) The term for which a Vice-President shall hold office;
  - (j) Appeal from executive orders of sub-committees, the President, Vice-President, member, officers and servants of the committee;
  - (k) All other similar matters.
- <sup>7</sup>[(2) No bye-laws made under clause (c) or clause (d) or clause (f) of subsection
- (1) shall take effect until it has been approved by the State Government.]
  - (3) Every bye-law made under this section shall be published in such manner as the State Government may direct.

<sup>1</sup>[32. **Delegation of certain powers and functions of State Government.** – The State Government may, by notification, delegate all or any of its powers under this Act, except the power to frame forms or make rules under Section 240, to any officer not below the rank of an Extra Assistant Commissioner, subject to such restrictions and conditions as may be specified in the notification.]

<sup>2</sup>[33. **Delegation of certain powers and functions of committees.** – (1) Notwithstanding anything in this Act every committee may subject to the provisions

of Section 46, with the previous sanction of the State Government <sup>3</sup>[...] by resolution delegate: -

- (a) to the President, a Vice-President, the Secretary or a sub-committee all or any of the powers conferred upon 'the committee by Sections 39, 72, 75, 97, 98, 101, <sup>4</sup>[ ] 109 (1), 110, 113, 114, 115, 115-A, 117, 118, 119, 122, 124, 126, 127, 128, 129, 130, 131, 140, 142, 143, 145(b) and (c), 166, 169 (c), 170, 170-A(1) and (2), 172(2), 173, 176, <sup>5</sup>[176-A], 191-A, 203 to 208 (both inclusive), 210, 211 212 and 220;
- (b) to the Medical Officer of Health all or any of the powers conferred upon the committee under Sections 39, 105, 109, 113, 114, 115, 115-A, 116, 117, 118, 119, 125, 126, 128, 131, 142, 143, 144, 145, clauses (b) and (c), 146, 149, 155, 157, 166 182, 203, 204, 205, clause (b), 206, 208, 211 and 212;
- (a) and to the Inspector-General of Civil Hospitals, Civil Surgeon of the district or any officer of the Department of Public Instructions or Public Health all or any of the powers conferred upon the committee under Section 39;
- (b) and to the Municipal Engineer the powers conferred upon the committee under Section 195-A and under Section 195, except to the extent that composition under that section shall require the sanction of the committee;

in respect of all or particular classes of cases arising under these sections, and for the whole or any part of the municipality and may, by resolution, withdraw the power so delegated.

(2) The delegation by the committee of any power under sub-section (1) may be made subject to the condition that all or any orders made in pursuance or such delegation shall be subject to the right of appeal to or revision by, the committee within such period as may by bye-law be prescribed.]

34. **Appointment of wards sub-committees.** – (1) With the previous sanction of the <sup>6</sup>[State] Government, and subject to such conditions as the State Government may prescribe, <sup>7</sup>[a committee may appoint a sub-committee consisting of such members as it may deem fit for the management of any one or more wards] and may delegate to the sub-committee all or any of the powers of the committee to be exercised within the ward or wards.



(2) The sub-committee shall, if necessary, from time to time, appoint one of its members to be chairman of the sub-committee

<sup>8</sup>[35. **Extraordinary powers of President or Vice-President in case of emergency.** – (1) On the occurrence of threatened occurrence of any event involving or likely to involve extensive damage to property or danger to human life or grave inconvenience to the public, the President or the Executive Officer or, in the absence of the President or during the vacancy of his office, a Vice-President may, if in his opinion there is an emergency necessitating action before the matter can be considered by the committee, direct the execution of any such work or the doing of any such act which the committee is empowered to execute or do, as the emergency shall in his opinion justify or require, and may direct that the expense of executing such work or doing such act be paid from the municipal fund:

Provided that every such action taken under this section shall be reported to the committee at its next meeting.

(2) The President or Vice-President <sup>1</sup>[or the Executive Officer] shall not act under this section in contravention of any order of the committee.

(3) The President <sup>2</sup>[or in his absence] or during the vacancy of his office a Vice-President may prohibit, until the matter has been considered by the committee, the doing of any act which is in his opinion undesirable in the public interest:

Provided that the act is one which the committee has power to prohibit.

(4) No different given in this section shall be questioned in any court on the ground that the case was not one of emergency.

### **JOINT COMMITTEES**

36. **Joint committees.** – A committee may concur with any other committee, or with any district board, or with any cantonment authority, or with more than one such committee, board or authority in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in delegating to any such joint committee any power which might be exercised by either or any of the Committees, boards or authorities concerned, and in framing or modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating thereto.

## DEFECTS IN CONSTITUTION AND IRREGULARITIES

37. **Vacancies and irregularities not to invalidate proceedings.**- No act done or proceeding taken under this Act shall be questioned on the ground merely of the existence of any vacancy in any committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

### OFFICERS AND SERVANTS

<sup>3</sup>[38. **Constitution of municipal services.** – (1) Notwithstanding anything contained in this Act, the State government may by notification, constitute in the prescribed manner all or any of the following Municipal Services, namely: -

- (i) Punjab Service of Municipal Executive Officers;
- (ii) Punjab Service of Municipal Engineers and Sectional Officers.
- (iii) Punjab Service of Municipal Health Officers;
- (iv) Punjab Service of Municipal Secretaries;
- (v) Punjab Service of Municipal Accountants: and
- (vi) Such other Municipal Services as the State Government may decide.

(2) The State Government may make rules for regulating the recruitment and the conditions of service of members of the Municipal Services referred to in subsection

- (1) and for the classification of such Services.

(3) The State Government may transfer any member of a Municipal Service from a post in one committee to a post carrying the same scale of pay in another committee.

(4) The salary, allowances, gratuity, annuity, pension and other payments required to be made to the members of the Municipal Services in accordance with the conditions of their service shall be charged from the municipal fund in the prescribed manner.

(5) Creation of posts in a Municipal Service and appointment of members thereto shall be made by the State Government or by an authority empowered by the State Government in this behalf after taking into consideration the requirements of the Committees and their financial capacity but no such members shall be deemed to have been appointed to any civil service or post under the State.

(6) Every person, who, immediately before the issue of notification under sub-section (1), is serving in a committee on a post in relation to which a Municipal Service is constituted, shall, on the issue of such notification, become a member of the corresponding Municipal Service, if he is found fit by an authority appointed by the Government in this behalf for becoming such a member on the basis of his qualification and service record:

Provided that his terms and conditions of service in so far as they relate to remuneration, gratuity and provident fund shall not be varied to his disadvantage on his becoming a member of the Municipal Service:

Provided further that any such person may, by notice in writing given to the State Government, within a period of thirty days of the constitution of the Municipal Service, intimate his intention of not becoming a member of such Service and where such an intimation is given that person will not become a member of the corresponding Municipal Service and will continue to be governed by the same terms and conditions of service as were applicable to him immediately before the constitution of the Municipal Service.

<sup>1</sup>[(6-A). In the case of a person who is not found fit under sub-section 6 for becoming a member of the corresponding Municipal Service the post on which he is serving shall be deemed to have been abolished on the commencement of the Punjab Municipal (Second Amendment) Act, 1976, if the decision that he is not so fit was taken at any time before such commencement and in the case of others as and when such a decision is taken:

Provided that the Government may appoint such a person, with his consent on a post in any other Municipal Service to which he may be found suitable.]

<sup>2</sup>[(7) Recruitment of members of the Municipal Service referred to in sub-section (1) shall be made by the State Government or by any authority empowered by the State Government in this behalf and nothing contained in the Punjab Public Service Commission (Additional Functions) Act, 1955, shall be deemed to apply to or require consultation with the Punjab Public Service Commission in respect of such requirement.]

**39. Employment of other officers and servants.** – (1) Subject to the provisions of this Act and the rules and bye-laws made thereunder, a committee may, and if so required by the State Government shall, employ other officers and servants and may assign to such officers and servants such remuneration as it may think fit, and may suspend, remove, dismiss, or otherwise punish any officer or servant so appointed.

<sup>3</sup>[Provided that no person who is a member of a committee shall be employed by a committee during the tenure of his term and for a period of twelve months thereafter.]

<sup>4</sup>[(2) Nothing in this section shall prevent the State Government from making any provision in the rules under this Act for the reservation of appointment or posts and to lay down methods to secure such reservation in favour of members of the Scheduled Castes, the Scheduled Tribes and such other backward classes of citizens which in the opinion of the State Government are not adequately represented in the services under the Municipal Committee.]

<sup>1</sup>[40.[...]]

**41. Powers to demand punishment or dismissal.** – If in the opinion of the <sup>2</sup>[State] Government any officer or servant of the committee is negligent in the discharge of his duties, the committee shall on the requirement of the <sup>3</sup>[State] Government, suspend, fine or otherwise punish him; and if in the opinion of the <sup>4</sup>[State] Government he is unfit for his employment, the committee shall dismiss him]

<sup>5</sup>[Provided that before requiring the committee to suspend, fine or otherwise punish any officer or servants or before declaring any officer or servant as unfit for employment, the State Government shall give to the concerned office or servant an opportunity of being heard.]

**42. Power to prevent extravagance in establishments.** – If, in the opinion of the <sup>6</sup>[Deputy Commissioner], the number of person employed by a Committee as officers or servants, or whom the Committee may propose to employ as such <sup>7</sup>[other than those officers or servants, in respect whereof a Municipal Service has been constituted] or the remuneration assigned by the committee to those persons or any of them is excessive, the committee shall, on the requirement of the <sup>8</sup>[Deputy Commissioner], reduce the number of those persons or the remuneration, as the case may be: -

Provided that the committee may appeal against any such requirement to the State Government, and the decision of the State Government, on any such appeal shall be final.

43. **Pensions, leave allowances and provident fund.** – If an officer or servant of a committee is <sup>9</sup>[person in the service of the <sup>10</sup>(Government)], the committee may -

- (a) if his services are wholly lent to it, <sup>11</sup>[make such contributions to his pensions, gratuity and leave allowances as may be required by the conditions of his service under the <sup>12</sup>[Government] to be paid by him or on his behalf]; and
  - (b) if he devotes only a part of his time to the performance of duties on behalf of the committee, contribute to his pension gratuity and leave allowance in such proportion as may be determined by the State Government.
- (2) If an officer or servant of a committee is not a <sup>13</sup>[person in the service of the <sup>14</sup>(Government)], the committee may, subject to such conditions as the State Government may prescribe-
- (a) grant him leave, absentee or acting allowance; and
  - <sup>15</sup>[(b) if his pay is less than <sup>16</sup>(seventy rupees) a month, either permit him to contribute to a provident or annuity fund established under (c) or grant him a gratuity on retirement; and
  - (c) if his pay is over seventy rupees a month establish and maintain a provident or annuity fund and compel him to contribute thereto.]
  - (d) where such a fund has not been established or where such a fund has been established but he has been contributing thereto for less than the whole of his service, grant him a gratuity or purchase or arrange for an annuity for him on his retirement.
- (3) With the sanction of the <sup>1</sup>[State] Government the committee may give an extraordinary pension or gratuity -
- (a) to any officer or servant injured in the execution of his duty;
  - (b) to the family of any officer or servant who is killed in the execution of his duty or whose death is due to devotion to duty.
- (4) A pension, gratuity or annuity shall not exceed the sum to which <sup>2</sup>[.....] such officer or servant or his family would be entitled if the service had been service under the Government.

44. **Pension, etc. in case of service partly under the Government and partly under committee.** – (1) If a person serving or having served under a committee has been or is transferred from or to the service of the Government or is partly employed by the <sup>3</sup>[Government] and partly by a committee, the committee shall <sup>4</sup>[make] such

contributions to his pension and leave allowance as may be required, by the conditions of his service under the <sup>5</sup>(Government), to be paid by him or on his behalf.

<sup>6</sup>[(2). In the absence of a written contract to the contrary, the committee may dispense with the services of any such person by giving the <sup>7</sup>[Government concerned] one month's previous notice.]

45. **Notice before discharge.** – (1) In the absence of a written contract to the contrary, every officer or servant employed by a committee shall be entitled to one month's notice before discharge <sup>8</sup>[.....] unless he is discharged during a period of probation or for misconduct or was engaged for a specified term and discharged at the end of it.

<sup>9</sup>[(2) Should any officer or servant employed by a committee, in the absence of a written contract authorizing him so to do, and without reasonable cause, resign his employment or absent himself from his duties without giving one month's a notice to the committee he shall be liable to forfeit a sum not exceeding one month's wages out of any wages due to him, and if no wages, or less than one month's wages, are due to him, he shall be liable to a penalty not exceeding wages for one month or an amount equal to the difference between one month's wages and the wages due to him, which shall be recoverable in the manner provided by Section 81].

<sup>10</sup>[(3) – ]

<sup>11</sup>[(4) - ]

## CONTRACTS

<sup>1</sup>[46. **Authority to contract.** – (1) The committee of any municipality of the first class may, subject to the provisions of this Act, delegate to one or more of its members <sup>2</sup>[other than an associate member] the power of entering on its behalf into any particular contract whereof the value or amount does not exceed five hundred rupees, or into any class of such contracts.

(2) No contract by or on behalf of any committee whereof the value or amount exceeds five hundred rupees shall be entered into until it has been sanctioned at a meeting of committee.]

47. **Mode of executing contract and transfer of property** – (1) Every contract made by or on behalf of any municipality of the first class whereof the value or amount exceeds one hundred rupees, and every contract made by or on behalf of the committee of any municipality of the second <sup>3</sup>[and third class] whereof the value of amount exceeds fifty rupees, shall be in writing, and must be signed by two members,

of whom the President or a Vice-President shall be one, and countersigned by the Secretary:

Provided that, when the power of entering into any contract on behalf of the committee has been delegated under the last foregoing section, the signature or signatures of the members to whom the power has been delegated shall be sufficient.

(2) Every transfer of immovable property belonging to any committee must be made by an instrument in writing, executed by the President or Vice-President, and by at least two other members of committee, whose execution thereof shall be attested by the Secretary.

(3) No contract or transfer of the description mentioned in this section executed otherwise than in conformity with the provisions of this section shall be binding on this committee.

<sup>4</sup>[48. **Penalty on member, officer or servant being interested in any contract made with a committee.** – (1) If any member, officer or servant of a committee or of a joint committee, without the previous permission in writing of the <sup>5</sup>[Deputy Commissioner] voluntarily renders himself interested in any contract made with that committee, or if within one month of his becoming interested in any such contract he neither resigns or obtains the of his becoming interested in any such contract he neither resigns or obtains the permission in writing of the <sup>6</sup>[Deputy Commissioner] for his remaining a member, officer or servant of the committee inspite of his interest in such contract, he shall be deemed to have committed an offence under Section 168 of the Indian Penal Code:

Provided that for the purposes of this sub-section a person who has been elected but whose election has not been notified shall be deemed to be a member.]

(2) No member, officer or servant of a committee or a joint committee shall be reason only of his being a shareholder, in, or a member of, any in-corporated or registered company, be held to be interested in any contract entered into between the said company and the committee; or joint committee but no such person as aforesaid shall take part in any proceedings on the committee or joint committee relating to any such contracts.

### **PRIVILEGES AND LIABILITIES**

49. **Suits against committee and its officers.** – No suit shall be instituted against a committee, or against any officer or servant of a committee, in respect of any act purporting to be done in its or his official capacity, until the expiration of one month

next after notice in writing has been, in the case of a committee, delivered or left at its office, and in the case of an officer or servant, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff: and the plaint must contain a statement that such notice has been so delivered or left :

Provided that nothing in this section shall apply to any suit instituted under Section 54 of the Specific Relief Act, 1877.

<sup>1</sup>[50. **Liability of members of the committee.** – (1) Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to a committee, if such loss, waste or misapplication is reported by the Examiner of Local Fund Accounts, or other audit authority empowered by the <sup>2</sup>[State] Government in this behalf to be a direct consequence of his neglect or misconduct in the performance of his duties while a member of the committee, and he may after being given an opportunity, by notice served in the manner provided for the service of summonses in the Civil Procedure Code, to show cause by written or oral representation why he should not be required to make good the loss, be surcharged with the value of such property or the amount of such money by the Deputy Commissioner. <sup>3</sup>[---] and if the amount is not paid within fourteen days from the expiry of the period of appeal prescribed by sub-section (2) the Collector at the request of the Deputy Commissioner <sup>4</sup>[---] shall proceed forthwith to recover the amount as if it were an arrear of land revenue and have it credited to the municipal fund.

(2) The person against whom an order under <sup>5</sup>[sub-section] (1) is made, may within thirty days of the notification of such order appeal to the <sup>6</sup>[State Government] <sup>7</sup>[---] who shall appoint an officer to hear the appeal: and the appellate authority shall have the power of confirming, modifying or disallowing the surcharge:

Provided that no person shall under this section be called upon to show cause after the expiry of a period of four years from the occurrence of such loss, waste or misapplication or after the expiry of one year from the time of his ceasing to be a member:

Provided further that nothing in this section shall be deemed to debar the aggrieved party from seeking a remedy in a civil court against an order made under sub-section (1).

<sup>8</sup>[(3) Nothing in this section shall apply to an associate member].



**CHAPTER III –A<sup>9</sup>**  
**(FUNCTIONS OF THE MUNICIPALITIES)**

**50-A. General powers of municipalities.** (1) Subject to the provisions of this Act and the rule, regulations and bye-laws made thereunder, the municipal administration of a smaller urban area and a transitional area shall vest in the Municipal Council and a Nagar Panchayat respectively.

(2) Without prejudice to the generality of the provisions of sub-section (1), it shall be the duty of the Municipality to consider all periodical statements of the receipts and disbursement and all progress reports and pass such resolutions thereon as it thinks fit.

**50-B. Powers and authorities of municipalities.** – (1) Without prejudice to the generality of the provisions of sub-section (1) of Section 50-A, the State Government may, by notification endow the Municipalities with such powers and authorities as may be necessary to enable them to function as institutions of self-government, subject to such to such conditions as may be specified therein, with respect to, -

- (i) the preparation of plans for economic development and social justice;
- (ii) the performance of functions and implementation of the schemes which may be entrusted to them including the following, namely: -
  - (1) urban planning including town planning.
  - (2) Regulation of land-use and construction of building;
  - (3) Planning for economic and social development;
  - (4) Roads and bridges;
  - (5) Water supply for domestic, industrial and commercial purposes;
  - (6) Public health, sanitation conservancy and solid waste management;
  - (7) Fire services;
  - (8) Urban forestry, protection of the environment and promotion of ecological aspects;
  - (9) Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded;
  - (10) Slum improvement and upgradation;
  - (11) Urban poverty alleviation;

- (12) Provisions of urban amenities and facilities such as parks, gardens and playgrounds;
- (13) Promotion of cultural, educational and aesthetic aspects;
- (14) Burials and burial grounds, cremations, cremation grounds and electric crematoriums;
- (15) Cattle ponds and prevention of cruelty to animals;
- (16) Vital statistics including registration of births and deaths;
- (17) Public amenities including street lighting, parking lots, bus stops and public conveniences; and
- (18) Regulation of slaughter houses and tanneries.

(2) Nothing contained in the provisions of this section shall be construed to diviest the Municipalities of various powers and functions vested in them under various provisions of this Act, rules and bye-laws made thereunder.”

#### **CHAPTER IV (MUNICIPAL FUND AND PROPERTY)**

<sup>1</sup>[51. **Constitution of municipal fund.** – There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof.

- (a) all sums received by, or on behalf of the committee under this Act or otherwise <sup>2</sup>[land];
- (b) the balance (if any) standing at the credit of the municipal fund of the municipality at the commencement of this Act.] <sup>3</sup>[.....]
- <sup>4</sup>[(c) .....]

52. **Application of fund.** – (1) The committee shall set apart and apply of the municipal fund.

- (a) first, such sum as the committee may be required by the <sup>6</sup>[State] Government to contribute towards the cost of such Local Self-Government Board or Inspectorate as the <sup>1</sup>[State] Government may establish, for the purpose of advising, assisting and supervising the work of municipal committees and other local bodies:

Provided that such sum shall not exceed an amount equal to one perfect of the income for the financial year preceding the year, in which the committee is called upon to make the contribution]:

- <sup>2</sup>[(c) thirdly, such sum as may be required to meet the charges, of its own establishment, including such subscriptions and contributions as are referred to in Sections 43 and 44, and such sum as may be required for maintenance of a police establishment under Chapter VI;
- <sup>3</sup>[(d) fourthly, such sum as may be required to pay the expenses incurred in auditing the accounts of the committee, and such portion of the costs of any public expenditure by the <sup>4</sup>[Central Government] or the State Government as may be held by the State Government to be equitably payable by the committee in return for services rendered to it.
- <sup>5</sup>[(e) fifthly, such sum as the committee may be required by the State Government to contribute towards the maintenance of pauper lunatics or pauper lepers sent from any place in the <sup>6</sup>[State] to mental hospitals or public asylums whether in or outside the State.
- (f) sixthly, such sum as may be due to the State Government in respect of the cost of maintenance by the State Government, on behalf of the committee, of water-works, drainage, sewage or other works.]
- <sup>7</sup>(g) seventhly, such sum to be paid annually by the committee to the State Government by way of contribution as is equivalent to-
- (i) the total provision made in the budget for the year 1957-58 under the main head 'Education' excluding <sup>8</sup>[the provision under sub-heads relating to public libraries, colleges, reading rooms and museums or pertaining to such other matters not relating to schools as the State Government may specify, educational grants and the provisions made for 'original works' relating to schools; and
- (ii) a sum representing one per centum of the total income from its own resources for the year 1957-58, in lieu of the deductions made for 'original works' made under clause (i):
- Provided that in respect of the financial year 1957-58, the committee shall make a payment to the State Government of the sums which have remained unexpanded on 31<sup>st</sup> March, 1958, out of the provisions under the head 'Education' in the budget of 1957-58;
- <sup>9</sup>[Provided further that in computing the total provision under sub-section (1), school fees or other moneys received from students by the Committee, income from any property transferred to the State Government, donations for education from the public and such other income of the Committee as may be specified by the State Government shall be excluded.]

(2) Subject to the charge specified in sub-section (1) and to such rules as the State Government may make with respect to the priority to be given to the several duties of the committee, the municipal fund shall be applicable to the payment in whole or part, of the charges and expenses incidental to the following matters within the municipality, and with the sanction of the <sup>1</sup>[State Government] outside the municipality, namely: -

- (a) the construction, maintenance, improvement, cleansing and repair of all public streets, bridges, town-walls, town-gates, embankments, drains, privies, latrines, urinals, tanks and water-courses <sup>2</sup>[and the preparation of compost manure];
- (b) the watering and lighting of such streets or any of them;
- (c) the construction, establishment and maintenance of schools, hospitals and dispensaries and other institutions for promotion of education or for the benefit of the public health, and of rest-houses, sarais, poor-houses, markets, <sup>3</sup>[stalls], encamping grounds, ponds, and other works of public utility, and the control and administration of public institutions of any of these descriptions:
- (d) grant-in-aid to schools, hospitals, dispensaries, poor-houses, leper-asylums, and other educational or charitable institutions;
- (e) the training of teachers and the establishment of scholarships;
- (f) the giving to relief and the establishment and maintenance of relief works in time of famine or scarcity;
- (g) the supply, storage and preservation from pollution of water for the use of men or animals;
- (h) the planting and preservation of trees; and the establishment and maintenance of men or animals;
- (i) the taking of a census, the registration of births, marriages and deaths, public vaccination and any sanitary measure;
- (j) the holding of fairs and any industrial exhibitions;
- (k) the preparation and maintenance of a record of rights in immovable property and
- (l) all acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants or expenditure whereon may be declared by the committee, with the sanction of the <sup>4</sup>[State] Government to be an appropriate charge on the municipal fund.

<sup>5</sup>[(3) Notwithstanding any contained in the foregoing sub-sections of this Act no charges or expenses shall be paid from the municipal fund incidental to any matter which has been specifically declared by the State Government by general or special order to be a matter in regard to which no expenditure shall be met from municipal fund .

(4) Subject to the provisions of this Act and the rules and bye-laws made thereunder it shall be the President and of any member presiding at any meeting of the committee or of a sub-committee to disallow the consideration or discussion of any matter for which provision is not made in Section 52 or any other section of the Act.]

**53 Payment of salary to president out of funds.** – With the sanction of the State Government a salary of such amount as the State Government may fix may be paid to the President of a committee not being salaried <sup>6</sup>[servant of the] <sup>7</sup>[Government] out of the municipal fund.

**54 Custody of municipal fund.** – <sup>8</sup>[(1) All moneys payable to the credit of the municipal fund shall be received by a municipal employee authorized by the committee in this behalf and shall be forthwith paid into the State Bank of India, in a Treasury of the Government, in a Nationalised Bank or in any other bank approved by the Government in this behalf.

**Explanation.** – For the purposes of this section Nationalised Bank means a Bank specified in column 2 of the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.]

<sup>1</sup>[(2) In places where there is no such treasury, sub-treasury or bank, the municipal fund may with the previous sanction of the <sup>2</sup>[Deputy Commissioner] be deposited with any banker, or person acting as a banker, and who has given such security for the safe custody and repayment on demand of the fund if deposited as the <sup>3</sup>[Deputy Commissioner] may in each case think sufficient.]

**55. Investment of same.** – 4[(1) A committee may, with the previous sanction of the <sup>5</sup>[Deputy Commissioner], invest any portion of its municipal fund in securities of <sup>6</sup>[the Central Government], or invest it in such other securities or place it in such manner as the State Government may approve in this behalf, and vary such investment or placement for others of like nature.]

(2) The income resulting from <sup>7</sup>[such] securities <sup>8</sup>[or placements] and the proceeds of the sale of the same shall be credited to the municipality.

**56. Property vested in committee.** – (1) Subject to any special reservation made or to any special conditions imposed by the <sup>9</sup>[State] Government, all property of the nature hereinafter in this section specified and situated within the municipality, shall vest in and be under the control of the committee, and with all other property which has already vested or may hereafter vest in the committee, shall be held and applied by it for the purposes of this Act, that is to say: -

- (a) all public town-walls, gates, markets, <sup>10</sup>[stalls], slaughter-houses, manure and night-soil, depots and public buildings of every description which have been constructed or are maintained out of the municipal fund;
- (b) all public streams, springs and works for the supply, storage and distribution of water for public purposes, and all bridges, buildings, engines, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;
- <sup>11</sup>[(c) all public sewers and drains, and all sewers, drains, culverts and water-courses in or under any public streets, or constructed by or for the committee alongside any public street, and all works, materials and things appertaining thereto:]
- (d) all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind or dead bodies of animals, collected by the committee from the street, houses, privies, sewers, cess-pools or elsewhere or deposited in places fixed by the committee under Section 154;
- (e) all public lamps, lamp-posts, and apparatus connected therewith or appertaining thereto;
- (f) all land or other property transferred to the committee by the <sup>12</sup>[Government] or acquired by gift, purchase or otherwise for local public purposes;
- <sup>13</sup>[(g) all public streets, not being land owned by <sup>14</sup>(Government) and the pavements, stones and other materials, thereof, and also trees growing on and erections, materials, implements and things provided for such streets.]

(2) Where any immovable property is transferred otherwise than by sale by the <sup>1</sup>[State Government] to a municipal committee for public purposes, it shall be deemed to be a condition of such transfer, unless specially provided to the contrary, that should the property be at any time resumed by Government, the compensation payable therefore shall, notwithstanding anything to the contrary in the Land

Acquisition Act, 1894, in no case exceed the amount if any paid to the Government for the transfer, together other works executed on the land by the municipal committee.

<sup>2</sup>[(3) The committee shall maintain a register and map of all immovable property of which it is the proprietor, or which vests in it; or which it holds in trust for the State Government.]

**57 Management of public institutions.** – (1) The management, control and administration of every public institution maintained out of the municipal fund, shall vest in the committee.

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

Provided that the extent of the independent authority of the committee in respect of any such institution may be prescribed by the <sup>3</sup>[State] Government:

Provided also that nothing in this section shall be held to prevent the vesting of any trust property in the Treasurer of Charitable Endowments under the Charitable Endowments Act, 1890.

**58. Acquisition of land.** – When any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the <sup>4</sup>[State] Government may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, and on payment by the committee of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the committee.

**Explanation.** – When any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on both sides of the street and such land shall be deemed to be required for the purposes of this Act.

59. **Transfer to government of property vesting in committee.** – The committee may, with the sanction of the <sup>5</sup>[State] Government transfer to <sup>6</sup>[Government] any property vesting in the committee under Section 56 or Section 57, but not so as to affect any trusts or public rights subject to which the property is held:

<sup>7</sup>[Provided that where a committee has passed a resolution under Section 3 of the Punjab Local Authorities (Aided Schools) Act, 1959 or the State under Section 5 of that Act, all rights and interests in the establishment maintenance and management of the aforesaid schools immediately before the 1<sup>st</sup> October, 1957, including all interests in the lands, buildings, playgrounds, hostels of the said schools as also in the movable properties like furniture, books, apparatus, maps and equipment pertaining thereto shall be deemed to have been transferred to the State Government on the date and, all unspent balances in respect of grants and contributions received for the maintenance and promotion of these schools shall be deemed to have been surrendered to the State Government.]

60. **Saving of Act XI of 1879:** - Nothing in this Act shall affect the <sup>1</sup>[Local Authorities Loan Act, 1879.]

## CHAPTER V TAXATION

<sup>2</sup>[61. **Taxes which may be imposed.** – Subject to any general or special orders which the State Government may make in this behalf, and to the rules, any committee may, from time to time for the purposes of this Act, and in the manner directed by this Act, impose in the whole or any part of the municipality any of the following taxes, namely: -

“(a)<sup>3</sup> A tax payable by the owner of building and lands not exceeding fifteen per cent of the annual value.”

(i) not exceeding <sup>4</sup>[.....] one anna, per square yard of the ground area; or

(ii) not exceeding <sup>5</sup>[.....] three rupees, per running foot of frontage in street or bazaars;

<sup>6</sup>[.....]

Provided <sup>7</sup>[.....] that in the case of lands and buildings occupied by tenants in perpetuity, the tax shall be payable by such tenants;

(b) a tax on persons practicing any profession or art or carrying on any trade or calling in the municipality;



(c) a tax payable by the owner, on all or any vehicles <sup>13</sup>[other than motor vehicles] animals used for riding, draught or burden, and dogs, when such vehicles, animals used as aforesaid, and dogs are kept within the , municipality;

<sup>14</sup>(d) a tax, payable by the employer, on menial domestic servants;

(e) a tax, payable by the occupier of any buildings in respect of which the committee has, in exercise of the powers conferred by Sections 159 to 165 of this Act, undertaken the house scavenging;

<sup>15</sup>[(ee) in addition to the tax imposed under clause (a), scavenging tax, payable by the occupier, on buildings and lands of such percentage of the annual value thereof as the State Government may, by notification, declare to be reasonable for providing for the collection, removal and disposal by the committee of all filth and polluted and obnoxious matter from latrines, urinals, cess-pools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of such filth or polluted and obnoxious matters:

<sup>1</sup>[(f) a tax payable by persons presenting building applications to the committee:

Provided that a committee shall not impose any tax without the previous sanction of the <sup>2</sup>[State] Government when-

(i) it consists of members less than three-fourths of whom have been elected; or

(ii) its cash balances have, at any time within the three months preceding the date of the passing of the resolution imposing the tax, fallen below Rs.20,000 or one-tenth of the income accrued in the previous financial year whichever amount shall be less.

(2) Save as provided in the foregoing clause, with the previous sanction of the State Government any other tax which <sup>3</sup>[State Legislature] has power to impose in the State under the <sup>4</sup>[Constitution].

<sup>5</sup>[(3) - ]

<sup>6</sup>[Nothing in this section shall authorize the imposition of any tax which the State Legislature has no power to impose in the <sup>7</sup>[State] under the

<sup>8</sup>[Constitution]

Provided that a committee which immediately before the commencement of<sup>9</sup>[Constitution] was lawfully levying any such tax under this section as then in force may continue to levy that tax until provision to the contrary is made <sup>10</sup>[Parliament]

<sup>11</sup>[Explanation: - In this section “tax” includes any duty, cess or fee.]

### CASE LAW

Sections 61 and 62 – Imposition of sewerage cess and enhancement of water rate have been challenged by the petitioners as violative of Section 62 (3) of the Act as imposed without inviting objections – Also violative of Section 97 (2) as impugned levy has been imposed by the Government and not by the committee – And lastly that the sewerage cess is actually a fee/tax which has to be imposed on the principal of quid pro quo – Held – Neither any tax has been imposed by the Municipal Committee nor the rates have been enhanced by it – Committee has merely carried out the orders of the Government – Procedure contained in Sections 61 and 62 was not required to be followed – Impugned orders suffer from no infirmity – Theory of quid pro quo does not have even the remotest application to the facts of the present case – Petitioners themselves have said the sewerage cess to be a tax – Tax is a compulsory exaction from the citizen and its validity is not judged on the basis of services provided by the authority – Mathematical exactitude is no longer required – There is no merit in petition which is dismissed.

<sup>1</sup>[62. **Procedure to impose taxes:** - (1) A committee may, at a special meeting pass a resolution to propose the imposition of any tax under Section 61.

(2) When such a resolution has been passed the committee shall publish a notice, defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed and the system of assessment to be adopted.

(3) If the committee decides to amend its proposals or any of them, it shall publish amended proposals along with a notice indicating that they are modification of those previously published for objection.

(4) Any objections which may within thirty days be received to the amended proposals shall be dealt with in the manner prescribed in sub-section (3).

(5) When the committee has finally settled its proposals it shall, if the proposed tax falls under clauses (b) to (f) of sub-section (1) of section 61 direct that the tax be imposed, and shall forward a copy of its order to the effect through the <sup>2</sup>[Deputy Commissioner], to the State Government and if the proposed tax falls under any other provision it shall submit its proposals together with the objection if any made in connection therewith to the <sup>3</sup>[Deputy Commissioner.]

(6) If the proposed tax falls under clause (a) sub-section (1) of Section 61, the <sup>4</sup>[Deputy Commissioner], after considering the objections received under sections (3) and (5) may either refuse to sanction the proposals or return them to the committee for further consideration, or sanction them without modification or with such modification or with such modification not involving an increase of the amount to be imposed, as he deems fit, forwarding to the <sup>5</sup>[State] Government a copy of the proposals and his order of sanction; and if the tax falls under sub-section (2) <sup>6</sup>[--] of section 61, <sup>7</sup>[Deputy Commissioner] shall submit the proposals and objections with his recommendations to the State Government.

(7) The State Government on receiving proposals for taxation under sub-section (2) <sup>8</sup>[--] may sanction or refuse to sanction the same or return them to the committee for further consideration.

(8) <sup>9</sup>[--]

(9) (a) When a copy of order under sub-sections (6) and (7) has been received, or  
b) when a proposal has been sanctioned under sub-section (8) <sup>10</sup>[--] the State Government shall notify the imposition of the tax in accordance with such order or proposal, and shall in the notification specify a date not less than <sup>11</sup>[one month] from the date of notification, on which the tax shall come into force.

(10) A tax leviable by the year shall come into force on the first day of January or on the first day of April or on the first day of July, or on the first day of October in any year and if it comes into force on any other than the first day of the year by which it is leviable shall the leviable by the quarter till the first day of such year then next ensuing.

(11) A notification of the imposition of a tax under this Act shall be conclusive evidence that the tax has been imposed in accordance with the provisions of the Act.

## CASE LAW

- Section 62 to 66 – Objections that the Committee has failed to comply with the provisions of Ss. 62 to 66 if the Act which requirement is mandatory and such non-compliance renders the assessment invalid, illegal and void – Held – Petitioner himself has admitted that he received notice for the year 1973-74 and filed objections such and other admissions in para 6 of the plaint go against the contention of the petitioner – Petitioner cannot be allowed to come round and say that Mandatory requirements of the provisions of Ss. 62-66 have not been complied with as relating to the levy of tax on the property in dispute.

### 1996 (3) ALL INDIA LAND LAWS REPORTER (407)

<sup>1</sup>[62-A. **Power of Government in taxation:** (1) The State Government may, by special or general order notified in the official Gazette, require a Committee to impose any tax mentioned in section 61, not already imposed at such rate and within such period as may be specified in the notification and the Committee shall thereupon act accordingly.

(2) The State Government may require a Committee to modify the rate of any tax already imposed and thereupon the Committee shall modify the tax as required within such period as the State Government may direct.

(3) If the Committee fails to carry out any order passed under sub-section (1) or (2) the State Government may by a suitable order notified in the official Gazette impose or modify the tax. The order so passed shall operate as if it were a resolution duly passed by the Committee as if the proposal was sanctioned in accordance with the procedure contained in section 62.

### PROCEDURE FOR ASSESSING IMMOVABLE PROPERTY.

63. **Preparation of assessment list.** – The committee shall cause an assessment list of all buildings and lands on which any tax is imposed to be prepared, containing: -

(a)

the name of the street or division in which the property is situated;

- (b) designation of the property, either by name or by number sufficient for identification;
- (c) the names of the owner and occupier, if known;
- (d) the annual <sup>2</sup>; and
- (e) the amount of the tax assessed thereon by the committee.

64. **Publication and completion of assessment list.**- When the assessment list has been completed, the committee shall give public notice thereof, and of the place where the list or a copy thereof may be inspected and every person claiming to be either owner or occupier of property included in the list and any authorized agent of such person shall be at liberty to inspect the list and to make extracts therefrom without charge.

65. **Public notice of time fixed for revising assessment list.** – (1) The committee shall at the time of the publication of such assessment list give public notice of a time, not less than one month thereafter, when it will proceed to revise the valuation and assessment; and in all cases in which any property is for the first time assessed, or the assessment thereof is increased, it shall also give notice thereof to the owner or occupier of the property.

(2) All objections to the valuation and assessment shall be made in writing before the time fixed in the notice, or orally or in writing at that time.

66. **Settlement of lists.** –<sup>1</sup>(1) After the objections have been enquired into and the persons making them have been allowed an opportunity of being heard either in person making them have been allowed an opportunity of being heard either in person or by authorized agents, as they may think fit, and the revision of the valuation and assessments has been completed, the amendments made in the list shall be authenticated by the signatures of at least two members of

the committee, who shall at the same time certify that no valid objection has been made to the evaluation and assessment contained in the list, except in the cases in which amendments have been entered therein and subject to such amendments as may thereafter be duly made, the tax so assessed shall be deemed to be the tax for the year commencing on the first day of April of the year in which notice was issued under section 64 or section 65 of the Act:

Provided that this date will not be earlier to the date on which the building came into existence.]

(2) The list when amended under this section shall be deposited in the committee's office and shall there be open during office hours to all owners or occupiers of property comprised therein or the authorized agents of such persons, and public notice that it is so open shall forthwith be published.

#### CASE LAW

S.s 66-68 – House tax – Imposition of house tax challenged as not having been imposed after fixing annual rental value of property – Held – From the perusal of record, it cannot be said that annual rental value of the property has been fixed before assessing and imposing House tax – Matter remanded to Municipality to proceed in accordance with the law.

#### **1997 ALL INDIA LAND LAWS REPORTER 395**

- Ss. 66 & 68 – Estoppel – Respondent State contended that appellant admitted to pay the tax on the basis of actual rent received from Bank – They are estopped from going back from the admission – Held – Contention cannot be appreciated as there is no estoppel against the statute – When the statute prescribes a mode to determine annual rental value, it has to be done in that manner only.

#### **1997 ALL INDIA LAND LAWS REPORTER (395)**

67. **Further amendments of assessment list.** – (1) The committee may at any time amend the list by inserting the name of any person whose name ought to have been or ought to be inserted, or by inserting any property which has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the committee or of the assessee, or in the case

of tax payable by the occupier by a change in the tenancy, after giving notice to any person affected by the amendment, of a time, not less than one month from the date of service at which the amendment is to be made.

(2) Any person interested in any such amendment may tender his objection to the committee in writing before the time, fixed in the notice or orally or in writing at that time, and shall be allowed an opportunity of being heard in support of the same in person or by authorized agent, as he may think fit.

<sup>2</sup>[(3) Notwithstanding anything contained in this Act, the Committee may with a view to give effect to the annual value as modified by the Punjab Municipal (Amendment) Act 11, 1994 amend the assessment list of the year commencing on the first day of April of the relevant year for increasing or reduced annual value of any property and of the assessment thereupon after giving notice at any time to any person affected by the amendment of a period not less than one month from the date of service at which the amendment is to be made and the Committee shall consider any objection made in this regard by any such person and the amended assessment list shall come into force with effect from the first day of April of the year in which notice was given to the person affected.]

<sup>1</sup>[68. (1) **Preparation of new assessment list.** – Where the assessment of land or building has been made on the basis of the annual value as specified in clause (i) of section 3, the assessment list will be valid for a period of five years and after the expiry of the period of five years, the annual value may be determined at the option of the owner either in accordance with the method specified in sub-clause (b) of clause (i) of section 3 or by increasing it by ten per cent of the annual value already fixed.

(2) In the case of land or building which is occupied by the tenant, the annual value may be revised when revision in the rent is made:

Provided that where no revision in rent is made and a period of five years have elapsed since the date of the previous assessment, the annual value may be enhanced for reasons to be recorded in writing and after hearing the landlord.]

<sup>2</sup>[68-A. **Power to amend assessment list in certain cases.**- (1) Notwithstanding anything contained in this Chapter, where the prescribed authority satisfied that any property has been erroneously valued or assessed through fraud, accident or mistake, whether on the part of the committee or of the assessed, it may, after giving to the assessee an opportunity of being heard and after making such enquiry as it may deem fit pass an order amending the assessment already made and fixing the amount of tax payable for that property and on the issue of such an order the assessment list then in force shall, subject to the order, if any, passed in appeal, be deemed to have been amended accordingly with effect from first day of January, or first day of April, or first day of July, or first day of October, next following the month in which the order is passed.

(2) Any person aggrieved by an order of the prescribed authority may, within a period of thirty days of the date of communication to him of the order, file an appeal to State Government which shall decide the appeal after giving to the appellant an opportunity of being heard.]

### **GENERAL PROVISIONS**

**69. Tax not invalid for defect of form.** – No assessment and no charge of demand of any tax made under the authority of this Act shall be impeached or affected by reason of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax, or in the description of any property or thing liable to the tax, or of any mistake in the amount of assessment or tax, or by reason of any clerical error or other defect of form; and it shall be enough in any such tax if the property taxed or assessed is so described as to be generally known; and it shall not be necessary to name the owner or occupier thereof.

**70. Power of the committee in regard to taxes:** - (1) A committee may exempt, in whole or in part, for any period not exceeding one year from the payment of any such tax, any person who by reason of poverty may in its opinion be unable to pay the same, and may renew such exemption as often as may be necessary.

(2) A committee, by a resolution assessed at a special meeting and confirmed by the State Government, may -



- (a) provided that all or any persons may be allowed to compound for taxes imposed under sub-clauses (c), (d) and (e) of clause (1) and under clauses (2) and (3) section 61;
- (b) abolish, suspend or reduce in amount any tax imposed under the foregoing sections; or
- (c) exempt in whole or in part from the payment of any such tax, any person or class of persons or any property or description of property.

71. **Powers of the State Government in regard to taxes:** - (1) The State Government may order exempt in whole or in part from the payment of any such tax any person or class or persons or any property description of property.

If at any time it appears to the State Government on complaint made or otherwise, that any tax imposed under the foregoing sections is unfair in its incidence or that the levy thereof or any part thereof is injurious to the interests of the general public, it may require the committee to take within a specified period measures to remove the objection; and, if within that period the requirement is not complied with to the satisfaction of the State Government the State Government may by notification suspend the levy of tax or of such part thereof until the objection has been removed.

72. **Remission of tax on unoccupied immovable property:** - (1) When any property assessed to a tax under <sup>1</sup>[sub-clause (a) of clause (1) of section 61.] which is payable by the year or by instalment, has remained unoccupied and unproductive or rent throughout the year or the period in respect of which any instalment is payable, the committee shall remit the amount of the tax or of the instalment, as the case may be: -

Provided that no such remission shall be granted unless, notice in writing of the circumstances under which it is claimed has been given to the committee within the first month after the expiry of the period in respect of which it is so claimed.

- (2) When any such property as aforesaid -
  - (a) has not been occupied or productive of rent for any period of not less than sixty consecutive days, or

- (b) consists of separate tenements, one or more of which has or have not been occupied or productive of rent for any such period as aforesaid; or
- (c) is wholly or in greater part demolished or destroyed by fire or otherwise; the committee may remit such portion(if any) of the tax or instalment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall lie upon him.

(4) For the purposes of this section neither the presence of a care-taker nor the mere retention in an otherwise unoccupied dwelling house of the furniture habitually used in it shall constitute occupation of the house.

(5) For the purposes of this section a house shall be deemed to be productive of rent of let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

<sup>2</sup>[(6) The enquiry necessary for a decision whether any relief shall be granted under this section shall be held by the Executive Officer who shall make such recommendation to the committee as he may deem proper:

Provided that the committee shall not grant any remission of tax unless such remission is recommended by the Executive Officer.]

**73. Duty of furnishing true information regarding liability to municipal taxation: -** (1) Every person shall on the demand of an officer duly authorized by the committee in this behalf furnish such information as may be necessary in order to ascertain whether such person is liable to pay any municipal tax; and every hotel or lodging house keeper or secretary or a residential club shall also on demand made as aforesaid furnish a list of all persons residing in such hotel, lodging-house or club.

(2) If any person so called upon to furnish such information omits to so or furnishes information which is untrue, he shall be punishable with fine which may extend to one hundred rupees.

<sup>3</sup>[(3) It would be obligatory for the owner to inform the committee about rent being charged from the tenant and also about the increase in the rent by filing a statement in the manner prescribed.

(4) In the event of the owner not giving the information as required under sub-section (3), the owner shall be liable to pay a penalty which may extend to the amount of the tax payable on land or building under sub-section (1) of section 61 of this Act.]

**74. Notice to be given to the committee of all transfers of title of person primarily liable to payment of property tax:** - (1) whenever the title to or over any building or land of any person primarily liable for the payment of property taxes on such property is transferred the transferor <sup>1</sup>[and the transferee] shall within three months of the registration of the deed of transfer if it be registered, or if it be not registered within three months of its execution, or if no instrument be executed of the actual transfer give notice in writing of such transfer to the committee.

(2) Every person primarily liable for the payment of a tax on any property, who transfers his title to or over such property, without giving notice of such transfer to the committee as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue 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 committee's books.

(3) Wherever the title to or over any building or land has developed upon any person by inheritance, the heir shall within three months of the date of the death of the former owner give notice in writing of such inheritance to the committee.

(4) But nothing in this section shall be held to diminish the liability of the transferee or heir for the said taxes or to affect the prior claim of the committee for the recovery of the taxes due thereupon.

<sup>2</sup>[(5) Whoever contravenes the provisions of sub-sections (1) and (3) shall, in addition to any other penalty which he incurs through such neglect, be punishable with fine which may extend to fifty rupee; and, in the case of a continuing breach, with a further fine which may

extend to fifty rupee; and, in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues.]

### CASE LAW

-Section 74 – Petitioner denies the ownership of the property for which property tax demand has been raised – Contention is that the property stood in the name of his sons who had purchased it from previous owners in 1965 – Held – Section 74 lays down that in case of transfer of property, both, the transferee as well as the Transferor are bound to inform the committee – Petitioner or his sons failed to inform the Committee about the transfer – Petitioner has not placed any of the previous notices on record for evidence in support of his claim – Petitioner is liable to pay the tax.

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75. **Power of entry for the purpose of valuation or taxation:** - The committee may authorize any person: -

- (a) after giving twenty-four hours' notice to the occupier, or, if there be no occupier, to the owner, of any building or land, at any time between sunrise and sunset, to enter, inspect and measure any building for the purpose of valuation:
- (b) to enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any vehicle or animal liable to taxation under this Act or for which a licence has not been duly taken out.

76. **Power to examine article liable to octroi:** - Every bringing or receiving with the octroi <sup>3</sup>[or terminal] limits of any municipality any article on which octroi or <sup>4</sup>[terminal tax] is payable shall when required by an officer duly <sup>5</sup>[authorized by the State Government or the Committee] in this behalf and so far as may be necessary for ascertaining the amount of tax chargeable: -

- (a) permit that officer to inspect, examine, weigh and otherwise deal with the article, and

(b) communicate to that officer any information and exhibit to him any bill, invoice or document of like nature which he may possess relating to the article.

77. **Power to search where octroi is leviable:** (1) If any person, bringing or receiving conveyance or package within the octroi or <sup>1</sup>[terminal tax] limits of a municipality on which octroi or <sup>2</sup>[terminal tax] is or is believed to be leviable, shall refuse, on the demand of an officer <sup>3</sup>[authorized by the State Government or the committee] in this behalf, to permit the officer to inspect, weigh or otherwise examine the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi or <sup>4</sup>[terminal tax] is payable or shall refuse to communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature which he may possess relating to the article, or with the intention of defrauding the committee or a lessee under section 83 shall communicate any such information which is false or exhibit any such bill, invoice or document of a like nature which is false, forged or fraudulent he shall be punishable with a fine which may extend to fifty rupees.

(2) Any such person may demand that the conveyance or package or both as the case may be, shall be taken without unnecessary delay before <sup>5</sup>[a member of the committee or the secretary] or a magistrate who shall cause the inspection to be made in his presence.

<sup>6</sup>(3) Without prejudice to the provisions of sub-section (1) in case of non-payment of any octroi on demand, the officer referred to in section 76 may seize any article on which the octroi is chargeable to satisfy the demand.

(4) The committee or an officer authorized by it in this behalf may after the lapse of five days from the seizure and after the issue of proclamation fixing the time and place of sale, cause any property to be seized, or so much thereof as may be necessary to be sold by auction to satisfy the demand including the amount of penalty with the expenses occasioned by the seizure, custody and sale thereof, unless the demand including the amount of penalty and expenses are in the meantime paid:

Provide that by order of the officer authorized by the committee in this behalf, articles of a perishable nature which cannot be kept for five days without serious risk of damage may be

sold the lapse of such shorter time as he may, having regard to the nature of the articles, think proper]

**78. Power to fix octroi or terminal tax limits and penalty for evasion of octroi or terminal tax:** - If <sup>7</sup>[animals or articles] passing the octroi or <sup>8</sup>[terminal tax] boundary of municipality are liable to the payment of octroi <sup>9</sup>[terminal tax] then every person who <sup>10</sup>[-causes or abets the introduction of or himself introduces or attempts to introduce within the said octroi or <sup>11</sup>[terminal tax] boundary, any such <sup>12</sup>[animals or articles] upon which payment of the octroi <sup>13</sup>[or terminal tax] due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend either to <sup>1</sup>[twenty] times the value of such octroi or <sup>2</sup>[terminal tax] or to fifty rupees, whichever may be greater.

<sup>3</sup>[.....]

<sup>4</sup>[78-A. **Extension of taxation limits by agreement:** (1) When a committee, with the sanction of the State Government has agreed with a Cantonment Authority <sup>5</sup>[...] or <sup>6</sup>[The Committee of] an area notified under section 241 that in consideration of the payment of a lump sum or otherwise the same limit of octroi or terminal tax or any toll or tax shall be established for the contracting parties, the committee may fix limits under section 188 so as to include so much of the area controlled by the said contracting parties as it may deem necessary, and shall have the powers of collecting such toll or tax or octroi or terminal tax on animals or articles brought within the such limits, and the provisions of the Act for the assessment and collection of such tax or tool or terminal tax shall apply in the same way as if the said limits were wholly comprised in the area of the municipality.

(2) The total of the proceeds of such taxes or tools made, in the joint area of the municipality and Cantonment <sup>7</sup>(---) or notified area and the cost thereby incurred shall be apportioned between the municipal fund and the fund subject to the control of the Cantonment Authority <sup>8</sup>[---] or notified area in such proportion as shall have been determined by the agreement.

<sup>9</sup>78-B. **Taxation on articles exported:** - When terminal tax is leviable on animals or articles conveyed out of the terming tax limits the provisions of sections 76, 77, 78 and 78-A shall be deemed, so far as may be, to apply in respect of the animals or articles so conveyed.

79. **Taxes when payable:** - Subject to provisions of sections 62(7) and (8) and 66 any tax imposed under this chapter and payable periodically shall be payable on such dates and in such instalments (if any) as the committee, with the previous sanction of the Deputy Commissioner may from time to time direct.

80. **Recovery of taxes payable by owner:** - (1) When any sum is due on account of a tax payable under this Act in respect of any property by the owner thereof the committee shall cause a bill for the amount, stating the property and the period for which the charge is made to be delivered to the person able to pay the same.

(2) If the bill be not paid within ten days from the delivery thereof the committee may cause a notice of demand to be served on the person liable to pay the same, and if he does within seven days from the service of the notice, pay the sum due, with any fee leviable for the notice, or show sufficient cause for non-payment the sum due with the fee shall be deemed to be an arrears of tax.

(3) <sup>10</sup>[Any sum due or the amount of tax payable under this Act] for the words besides being recoverable in any other manner provided this Act; shall, subject to any claim on behalf of Government be a first charge on the property, in respect of which it is payable, and shall be recoverable; on application made in this behalf by the committee to the Collector, as if the property were an estate assessed to land revenue and the arrears were an arrears of such revenue the thereon;

Provided that nothing in this sub-section shall authorize the arrest of a defaulter.

(4) If any tax or sum leviable under this Act from the owner is recovered from the occupier, such occupier shall, in the absence of any contract to the contrary, be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

- Sections 80(2) and 62 – Appeal by Municipality against quashing of assessment of house-tax- Held - Municipality was not competent to assess house-tax on the basis of the contractual rent between the landlord and the tenant.

### 1995(2) ALL INDIA LAND LAWS REPORTER 297

81. **Recovery of taxes, etc.** – (1) Any arrears of any tax, water rate, <sup>1</sup>[rent] application to a Magistrate having jurisdiction within the limits of the municipality, or in any other place where the person from whom the money is claimable may for the time being be resident, by the distress and sale of any immovable property within the limits of his jurisdiction belonging to such person. <sup>2</sup>[The cost of such proceedings shall be recoverable from the defaulter in the same manner as the said arrears.]

<sup>3</sup>[(2) An application made under sub-section (1) shall be in writing and shall be signed by the <sup>4</sup>[President, a Vice-President or the Secretary] of the committee, but it shall not be necessary to present it in person.]

### CASE LAW

- Section 81 – Plaintiffs – Respondents are the tenants of municipality paying rent regularly, having taken the shops on lease in a public auction – Municipality unilaterally increased the rent, resisted by tenants – Municipality proceeded to recover the amount in a summary way – Trial Court held in favour of tenants – Municipal is in appeal – Held – Under Section 81 summary recovery will be made in respect of “claimable” sums and not “any sum” – Municipality has not been able to point out any provision in the Act under which shops in dispute were leased by the Committee – Sum in dispute is not “Claimable” – Orders of the Trial Court upheld.

### 1994 (3) ALL INDIA LAND LAWS REPORTER 41

<sup>5</sup>[81-A. **Recovery of water tax and water rate as arrears of land revenue:** - When a committee has made over to the <sup>6</sup>[State] Government its water works for maintenance, any



arrears of water tax and water rate or both due to the committee under this Act, may be recovered by the <sup>7</sup>[State] Government on behalf of the committee as arrears of land revenue.]

82. **Recovery of octroi and tolls:** - (1) In case of non-payment of any octroi <sup>8</sup>[or terminal tax] or of any toll on demand, the officer empowered to collect there same may seize any articles on which the octroi <sup>9</sup>[or terminal tax] is chargeable or any vehicle or animal on which the toll is chargeable, or any part of its burden of sufficient value to satisfy the demand.

(2) The committee after the lapse of five days from the seizure, and after the issue of a proclamation fixing the time and place of sale, may cause any property to be seized, or so much thereof, as may be necessary to be sold by auction to satisfy the demand with the expenses occasioned by the seizure, custody and sale thereof, unless the demand and expenses are in the meantime paid:

Provided that, by order of the <sup>10</sup>[President or a Vice-President] article of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of such shorter time as he may, having regard to the nature of the articles, think proper.

Provided that, by order of the <sup>10</sup>[President or a Vice-President] article of a perishable nature which could not be kept for five days without serious risk of damage may be sold after the lapse of such shorter time as he may, having regard to the nature of the articles, think proper.

83. **Powers to lease the collection of octroi or tolls:** - The collection of any octroi <sup>1</sup>[or terminal tax] or toll may be leased by the committee, with the previous sanction of the <sup>2</sup>[Deputy Commissioner] for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of the octroi <sup>3</sup>[or terminal tax] or toll shall in respect thereof. -

- (a) be bound by any orders made by the committee for their guidance;
- (b) have such powers exercisable by officer of a committee under this Act, as the committee may, from time to time; confer upon them; and

- (c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the committee for the management and collection of the octroi <sup>4</sup>[or terminal tax] or toll.

84. **Appeals against taxation:** - (1) An appeal against the assessment or levy of any or against the refusal to refund any tax under this Act shall lie to the Deputy Commissioner or to such other officer as may be empowered by the State Government in this behalf:

Provided that, when the <sup>5</sup>[Deputy Commissioner] or such other officer as aforesaid is, or was when the tax was imposed, a member of the committee, the appeal shall lie to the [State Government].

(2) If, on the hearing of an appeal under the section, any question as to the liability to, or the principle of assessment of, a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement with his own opinion on the point for the decision of the <sup>6</sup>[High Court].

(2) On a reference being made under sub-section (2), the subsequent proceedings in this case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in section 113 and Order XLVI of the code of Civil Procedure.

(3) In every appeal the costs shall be in discretion of the officer deciding the appeal.

(4) Costs awarded under this section into the Committee shall be recoverable by the committee as though they were arrears of a tax due from the appellant.

(5) If the committee fall to pay any costs awarded to an appellant within ten days after the date of the order for payment thereof, the officer awarding the costs may order the person having the custody of the balance of the municipal fund to pay the amount.

### CASE LAW

- Ss. 84 and 86 – Civil Procedure Code, 1908 – Section 9 – Appeal is against the levy of House tax – And consequential actions – Section 86 of the Act ousts the jurisdiction of Civil

Court – S.84 provides for appeal to be filed before Deputy Commissioner/State Government – Section 9 of the Code also ousts suits cognizance of which are expressly or impliedly barred – Exceptions are there – But do not cover the present Case – Held – Jurisdiction of Civil Court regarding valuation or assessment or liability of a person taxed is barred – Alternative remedy provided under S.84 of the Act – Appeal dismissed in limine.

## 1996 (2) ALL INDIA LAND LAWS REPORTER 190

85. **Limitation of appeal:** - (1) No appeal shall lie in respect of a tax on any land or building unless it is referred within one month after the publication of the notice prescribed by Section 66 or Section 68, or after the date of any final order under Section 61, as the case may be and no appeal shall lie in respect of any other tax unless is preferred within one month from the time when the demand for the tax is made:

Provided that an appeal may be admitted after the expiration of the period prescribed therefore by this section if the appellant satisfied the officer before whom the appeal is preferred that he had sufficient cause for not presenting the appeal within that period.

(2) No appeal shall be entertained unless the appellant has paid all <sup>1</sup>[-] municipal taxes due from him to the committee upto the date of such appeal.

86. **Taxation not to be questioned except under this Act:** - (1) No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Act.

(2) No refund of any tax shall be claimable by any person otherwise than in accordance with the provisions of this Act and the rules thereunder.

## CHAPTER VI (MUNICIPAL POLICE)

87. **Police Establishment:** - (1) every committee shall, unless relieved of this obligation by the State Government, maintain a sufficient police establishment for police requirements within municipal limits and for the performance of the duties imposed on it by this Act.

(2) The establishment maintained under sub-section (1) shall consist either of a body of part of watchmen or of the general police force under the State Government with the meaning of section 2 of Act V of 1861, or partly of one and partly of the other, as the State Government may determine; and shall consist of such number of officers and men who shall respectively receive such pay, leave, allowances, gratuities and pensions as the committee may from time to time after consultation with the District Magistrate and the Inspector General of Police, and subject to the final decision of the State Government, direct.

88. **Relief of committee from police charges:** - (1) The State Government may relieve any committee of the whole or part of the cost of the police establishment, and may enter into a contract with the committee, on such terms as may be agreed on, that in consideration of such relief, the committee shall pay periodically a sum not exceeding the amount thereof, or undertake any services within the municipality of which the municipal fund can properly be applied and which are estimated to cost not more than the amount of the relief.

(2) When a committee has been relieved under this section of the whole or part of the cost of the police establishment which it is required to maintain, the State Government shall maintain such police establishment as it shall consider necessary, and the establishment so maintained may consist either of a body of the watchmen or of a part of the general police force under the State Government within the meaning of section 2 of Act V of 1861, or partly of one and partly of the other.

89. **Appointment, liabilities and duties of municipal watchmen.** – (1) If the establishment maintained under this chapter consists wholly or in part of watchmen, they:

- (a) shall be under the orders of the Superintendent of Police, subject to the general control of the District Magistrate:
- (b) shall be appointed and promoted, and shall be liable to dismissal, suspension, reduction or fine, under such rules as the State Government may, make in this behalf;
- (c) shall perform such duties as the State Government may, subject to the provisions of this Act, direct; and

(d) shall possess the same powers, be entitled to the same assistance, enjoy the same protection, be subject to the same responsibilities and be liable to the same penalties, as if they were police officers enrolled under Act V of 1861.

(2) Any person obstructing any such watchmen in the discharge of his duties may be arrested without warrant by a police officer or by any such watchman.

90. **Duties of municipal police enrolled under Act V of 1861:** - If the establishment maintained under this chapter or any portion thereof consist of part of the general police force, the State Government may notwithstanding anything contained in Act V of 1861, or in any other Act for the time being in force, define, subject to the provisions of this Act, the duties which the officers and men of the establishment or such portion thereof may or may not be required to perform.

91. **Powers and duties of police in respect of offences against Act Rules, and assistance to Municipal Authorities:** - (1) Every member of a police establishment under this Act shall give immediate information to the committee of any offence committed against this Act or the rules or bye-laws, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(2) Every member of such police establishment may arrest any person committing in his view any offence against this Act or the rules or bye-laws -

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(3) A person arrested under this section may be detained until his name and address have been correctly ascertained;

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a magistrate except under the order of magistrate for his detention.

92. **Police protection at fairs, etc.:** - When special police protection is, in the opinion of the State Government, requisite on the occasion of any fair, agriculture show or industrial exhibition, managed by a committee, or for the purpose of guarding houses evacuated on account of plague, the State Government may provide such protection and the committee shall pay the whole charge thereof or such portion of such charge as the State Government may consider equitably payable by it.

## **CHAPTER VII**

### **EXTINCTION AND PREVENTION OF FIRE**

93. **Establishment and maintenance of Fire-Brigade:** - <sup>1</sup>[For the prevention and extinction of fire, the committee may and, if the State Government so direct shall, establish and maintain a fire-brigade, and provide implements, machinery or means of communicating intelligence for the efficient discharge of their duties by the brigade.]

94. **Power of fire brigade and other persons for suppression of fires:** (1) On the occasion of a fire in a municipality and magistrate, the secretary of the committee, any member of committee, any member of a fire-brigade maintained by the committee then and there directing the operations of men belonging to the brigade, and <sup>2</sup>[---] any police officer <sup>3</sup>[not below the rank of Sub-Inspector may]-

- (a) remove or order the removal of any person who by his presence interference with or impedes the operations for extinguishing the fire or for saving life or property;
- (b) close any street or passage in or near which any fire is burning;
- (c) for the purpose of extinguishing the fire break into or through or pull down, or cause to be broken into or through or pulled down, or used for the passage of houses or other appliances, any premises;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred;
- (e) call on the persons in-charge of any fire-engine to render such assistance as may be possible; and

- (f) generally, take such measures as may appear necessary for the preservation of life or property.

When any Government building is endangered by such a fire the officer of the Public Works Department for the time being in-charge of the building may exercise the powers conferred on a magistrate by this sub-section.

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

(3) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damaged by fire within the meaning of any policy of insurance against fire.

95. **Limitation of operation of chapter:** - The powers conferred by the last foregoing section shall be subject to any regulations, conditions or restrictions which may be imposed by rule.

## **CHAPTER VIII**

### **WATER SUPPLY**

96. <sup>1</sup>[**Provision of water:** - The committee may, and when the <sup>2</sup>State Government so directs shall, provide the area under its control or any part thereof with a supply of wholesome water sufficient for public and domestic purposes.

(2) For the purpose of providing such supply within the municipality the committee shall cause such tanks, reservoirs, engines, pipes, taps and other works as may be necessary to be constructed or maintained, whether within or without the municipality; and shall erect sufficient stand pipes or other conveniences for the gratuitous supply of water to the public.

(3) When required by the Medical Officer of Health, the committee shall arrange for the examination of water supplied for human consumption for the purpose of determining whether the water is wholesome.

97. **Supply of water to connected premises:** - (1) The committee may, on application by the owner of any building arrange for supplying water from the nearest main to the same for domestic purposes in such quantities as it deems reasonable, and may at any time limit the amount of water to be so supplied whichever it considers it necessary.

(2) No additional charge shall be payable in respect of such supply in any municipality in which a water tax is levied, but for water supplied in excess of the quantity to which such supply is under sub-section (1) limited, and in other municipalities for all water supplied under this section payment shall be made at such rate as may be fixed by the committee with the approval of the <sup>3</sup>[State] Government.

**Explanation-** A supply of water for domestic purposes shall not be deemed to include a supply-

- (a) for animals or for washing vehicles where such animals or vehicles are kept for sale or hire,
- (b) for any trade, manufacture or business,
- (c) for fountains, swimming baths, or for any ornamental or mechanical purpose.
- (d) For gardens or for purposes of irrigation,
- (e) For watering roads and paths,
- (f) For building purposes.

98. **Supply of water for other than domestic purposes:** - (1) The committee may supply water for any purpose, on receiving a written application specifying the purpose for which such supply is required and the quantity likely to be consumed.

(2) For all water supplied under sub-section (1) payment shall be made at a rate not less than the rate prescribed under sub-section (2) of Section 97.

(3) The committee may withdraw such supply at any time if it should appear necessary to do so in order to maintain a sufficient supply of water for domestic purpose.

99. **Making connections with municipal water works:** - (1) Where an application under Section 97 or Section 98 has been received, all necessary communication pipes and fittings shall be supplied by the committee and the work of laying and applying such communication pipes



and fittings shall be executed by municipal agency under the committee's order but the cost of making any such connection and of all communication pipes and fittings so supplied and of all works so executed, shall be paid by the owner or the person making such application. The committee may either provide a meter and charge rent for the same or may require the owner or applicant to provide a meter of such size, material and description as it shall approve.

(2) Notwithstanding anything in sub-section (1) the committee may require any owner or person applying for a supply of water to provide all communication pipes and fittings and to carry out at his own cost under its supervision and inspection all the work of laying and applying such communication pipes and fittings.

100. **Obligation of owner or occupier to give notice of waste of water.** – Any owner or occupier of any building or land, in or on which water supplied under this Act is misused from negligence or other circumstances under his control, or used without permission in excess of the quantity fixed under Section 97 or Section 98, or in which the pipes mains or other works are out of repair to such an extent as to cause waste of water shall if he has knowledge thereof, be bound to give notice of the same to such officer as the committee may appoint in this behalf.

101. **Cutting off of supply to premises.** – If any person whose premises are supplied with water, neglects to pay the water-tax or any sum payable under Section 97 or Section 98 when due, or to give notice as provided in the last preceding section, or willfully or negligently misuses or causes waste of water, the committee may cut off the supply of water from the said premises.

102. **Power of the committee in respect of communications, etc.** – For the purpose of providing or maintaining the water supply or of making or maintaining communications or connections with the mains, or generally for the purposes of this chapter, the committee shall have all powers which are conferred upon it in respect of drainage and supply of gas by Section 132 to 140/

**Section 103 – Omitted<sup>1</sup>**

**Section 104 – Omitted<sup>2</sup>**

**Section 105 – Omitted<sup>3</sup>**

**CHAPTER IX  
POWERS FOR SANITARY AND OTHER PURPOSES**

106. **Bathing and washing places** – (1) The committee may set apart suitable places for the purposes of bathing and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, for any other purposes connected with the health, cleanliness or comfort of the inhabitants; and may, by public notice, prohibit bathing or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and may other act by which water in public places may be rendered foul or unfit for use, and may charge fees for the use of such places by any specified class or classes of persons or by the public generally.

(2) The committee may fix, by notice, places at which articles of clothing, bedding; or other articles which have been exposed to infection shall be washed, and, no person shall wash any such article at any place not so fixed.

**BURIAL AND BURNING PLACES**

107. **Powers in respect of burial and burning places.**<sup>1</sup>[(1) The committee may by public notice order and, if so directed by the State Government shall within one month of the notification of such direction be deemed to have ordered, any burial or burning ground situate within municipal limits or with in one mile thereof which is certified by the Medical Officer of Health to be dangerous to be health of persons living in the neighborhood to be closed, form a date to be specified in the notice, and shall in such case, If no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial places in such burial grounds may be excepted from the notice, subject to such conditions as the committee 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 owner thereof.

<sup>2</sup>[(3) No burial or burning ground, whether public or private, shall be made or formed after the commencement of this Act, except with the sanction in written of the committee which shall not be granted unless the Medical Officer of Health has certified in writing for the information of the Committee that such burial or burning ground is not prejudicial to public health:

Provided that no such burial or burning ground shall be made or formed except with the sanction of the State Government.

(4) Should any person, without the permission of the committee, bury or burn, or cause or permit to be buried or burnt, any corpse at any place which is to 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 punishment with fine which may extend to fifty rupees.]

108. **Removal of corpses.** (1) The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

(2) Whoever carries a corpse along a route prohibited by the committee, or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to ten rupees.

### **DANGEROUS ANIMALS**

109. **Disposal of mad and stray dogs and other animals.** (1) The committee may-

(a) authorize any person-

- (i) to destroy, or cause to be destroyed, or confine, or cause to be confined for such period as the committee may direct, any dog or other animal suffering, or reasonably suspected to be suffering from rabies, or bitten by any dog or other animal suffering or suspected as aforesaid;
- (ii) to confine, or cause to be confined, any dogs found wandering about streets or public places without collars or other marks distinguishing them as private

property and charge a fee for such detention and destroy or otherwise dispose of any such dog if it is not claimed within one week, and the fee paid;

(b) issue a temporary or standing order that any dog without collars or other marks distinguishing them as private property, found straying on the streets or beyond the enclosures of the houses of the owners of such dogs may be destroyed and destroy or cause them to be destroyed accordingly. Public notice shall be given of any such order.

(2) No damages shall be payable in respect of any dogs or other animal destroyed or otherwise disposed of under this section.

110. **Suffering dogs to be at large:** - Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without a muzzle-

(a) if such dog is likely to annoy or intimidate passengers, or

(b) if the committee has by public notice during the prevalence of rabies directed that dogs shall not be at large without muzzles.

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

111. **Control of elephants, bears or camels.** – Whoever, being incharge of any elephant, camel or bear, omits on being requested to do so to remove as far as may be practicable his elephant camel or bear, to a safe distance on the approach of a horse whether ridden or driven, shall be punishable with fine which may extend to twenty rupees.

112. **Taking elephants along public roads.** – Whoever, contrary to any orders of the committee, takes an elephant along a street, shall be punishable with fine which may extend to twenty rupees.

### **DANGEROUS OR INSANITARY BUILDINGS OR PLACES**

113. **Power to require buildings, wells, tanks, etc., to be secured.** – Should any building or any well, tank, reservoir, pool, depression or excavation be, for want of sufficient repair,

protection or enclosure, dangerous to the persons dwelling or working therein or in the neighbourhood or to persons passing by, the committee may, <sup>1</sup>[by notice], require the owner or occupier thereof to repair, protect or enclose the same and should it appear to <sup>2</sup>[it to be necessary in order to prevent imminent danger, it shall forthwith take such steps to aver the danger as may be necessary].

114. **Buildings, etc., in dangerous state.** – Should any buildings, wall or structure, or anything affixed thereto, or any bank or tree, be deemed by the committee to be in a ruinous state or in any way dangerous, or there be any fallen building or debris or other material which is unsightly or is likely to be in any way injurious to health, it may <sup>3</sup>[by notice] require the owner thereof either to remove the same or to cause such repairs to be made to the buildings, wall, structure or bank, as the committee may consider necessary for the public safety, and should it appear to <sup>1</sup>[be necessary in order to prevent imminent danger the committee shall forthwith take such steps, at the expense of the owner, to avert the danger as may be necessary].

115. **Cleaning of filthy building or land.** – Should the owner, <sup>2</sup>[part owner] or occupier of any building or land suffer the same to be in a filthy or unwholesome state, the committee may, by notice, require him within twenty-four hours to cleanse the same or otherwise put it in a proper state and thereafter to keep it in a clean and proper state and If it appears to be necessary for sanitary purpose to do so, may at any time by notice, direct the occupier of any building to lime-wash or otherwise cleanse the said building inside and outside in the manner and within a period to be specified in the notice.

115-A. **Paving or draining of cattle stands.** – The committee may by notice require the owner or occupier of any land on which cattle or other animals are habitually tethered to have the same properly paved or drained or both.

116. **Power to prohibit use for human habitation of buildings unfit for such use.** – Should any building appear to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or any, sufficient reason, the committee may <sup>3</sup>[by

notice] prohibit the owner or occupier thereof from using the same for human habitation, or suffering it to be so used until it has been rendered fit for such use to the satisfaction of the committee, and no such owner or occupier shall inhabit such building or suffer it to be inhabited until the committee shall have informed in writing the owner or occupier that the prohibition has been withdrawn.

### CASE LAW

- Ss. 116, 151 and 394B – Non-payment of octroi – Composition of offence – Under S. 151, commissioner with previous sanction of Corporation can allow any person to compound for any tax for a period of one year at a time – Section does not talk of composition of offence – Similarly S.394B authorizes the Commissioner or any other person to compound any offence but not unilaterally – Petitioner had never applied for compounding of offence – Imposition of penalty can be under S.116 of the Act but the same is not applicable to this case as per SUPP. VOL. 17 ALL INDIA LAND LAWS REPORTER 112 – Orders levying penalty are quashed – Amount of half penalty is ordered to be refunded.

### 1997 ALL INDIA LAND LAWS REPORTER 336

117. **Power to require owner to clear away noxious vegetation.** – The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick vegetation or undergrowth which may appear to the committee to be injurious to health or offensive to the neighbourhood.

118. **Power to require hedges and trees to be trimmed.** – The committee may, by notice, require the owner or occupier of any land to cut or trim within three days the hedges growing thereon which overhang any bordering on any street or any branches of trees growing thereon which overhang any street and obstruct the same or cause danger, or which so overhang any well tank or other source from which water is derived from public use as to be likely to pollute the water thereof<sup>4</sup>[or are in any way offensive or injurious to health].

119. **Power to require untenanted building becoming a nuisance to be secured or enclosed.** – The committee may, by notice, require the owner or part-owner, or person claiming to be the owner or part owner of any building or land which by reason of abandonment or disputed ownership or other cause has remained untenanted and become a resort of idle and disorderly persons or otherwise a nuisance to secure or enclose the same within a reasonable time fixed in this notice.

<sup>1</sup>[120. **Prohibition of cultivation, use of manure or irrigation injurious to health.** – If the Medical Officer of Health 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 an municipality is injurious or facilitates practices which are injuries to the health of persons dwelling in the neighbourhood; or

(b) in any place within or beyond the limits of any municipality is likely to contaminate the water supply of such municipality or otherwise render it unfit for drinking purposes;

the committee may prohibit the cultivation of such crop, the use of such manure or the employment of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent such injury or contamination:

Provided that if it is notified by the State Government that the cultivation of such crops, the use of such manure, or the employment of such method of irrigation is prohibited or conditions are imposed with respect thereto, the committee shall be deemed to have ordered such prohibition, or imposed such conditions and shall issue notice in accordance with the notification:

Provided also that, when on any land to which such prohibition applies the act prohibited has been practiced during the five years next preceding the prohibition in the ordinary course of husbandry, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by the effect of such prohibition.

(2) Should any person fall within six months from the date of its service to comply with a prohibitory notice issued under sub-section (1), he shall be punishable with fine which

may extend to fifty rupees and with a further fine which may extend to five rupees for every day during which the offence is continued.]

### **DANGEROUS OR OFFENSIVE TRADES**

121. **Regulation of offensive and dangerous trade.** (1) No place within a municipality shall be used for any of the following purposes: -

- melting tallow, <sup>2</sup>[dressing raw hides] boiling bones, offal or blood,
  - as a soap house, oil boiling house, dyeing house or tannery;
  - as any other manufactory, engine-house, storehouse or place of business from which offensive or unwholesome smell, gases, noises or smoke arise;
  - as a yard or depot for trade in unslaked lime hay, straw, thatching grass, wood, charcoal or coal, or other dangerously inflammable material;
  - as a store-house for any explosive or for petroleum or any inflammable oil or spirit:
- except under a license from the committee which shall be renewable annually:

Provided that no such license shall be necessary in the case of any such premises which were used for any such purposes at the time that the Punjab Municipal Act, 1891, came into force, and were registered under that Act and in the case of brickfields, which were used at the time that his Act come into force, but the owner or occupier of the brickfields so excepted shall register the same in a book to be kept by the committee for the purpose.

(2) The license shall not be withheld unless the committee consider that the business which it is intended to establish or maintain would be the cause of annoyance or danger to persons residing in or, frequenting the immediate neighbourhood or that the area should be for general reasons kept clear of the establishment of such business.

(3) The committee may charge any fees according to a scale to be approved by the <sup>1</sup>[Deputy Commissioner] for such licenses, and may impose such conditions in respect furnace used in connection with such trade shall, so far as practicable, consume its own smoke.

(4) The owner or occupier of any place registered under sub-section (1) may apply to have that place licensed under this section. When any such place has been licensed the registration that place shall thereby be cancelled, and shall not be renewed.



(5) Whoever, without registration or without a license uses any place for any such purpose as is specified in this section or in contravention of the condition of any such license, shall be punishable with fine which may extend to fifty rupees and with a further fine not exceeding ten rupees for every day during which the offence is continued.

#### **CASE LAW**

- Sections 121 and 123 – Writ petitioner challenges orders of the Executive Officer of the Municipality, to discontinue the working of a printing press in a residential colony as it was a source of nuisance – Stay issued – Held – Executive Office has no power under Section 123 to order closure of a printing press – Since the press was working under stay and since there has been no renewal of the licence to operate it, the proprietors may apply for a licence under section 121 – Thereafter it is for the Municipality to do as considered necessary.

#### **1995 (2) ALL INDIA LAND LAWS REPORTER (516)**

<sup>2</sup>[121–A. **Consent of committee to use of new factories:** - (1) Within any municipality to which this section shall have been extended by the State Government no person shall use as a factory any place which has not previously been so used without having obtained the consent of the committee.

(2) The consent of the committee may be given without condition or subject to the condition that the owner or user of the said factory shall provide adequate housing accommodation for labourers employed in the factory or for any proportion or class of such labourers.

Provided that the consent of the committee shall not be withheld for any reason except the refusal of such owner or user comply with such condition.

Provided further that if the committee neglect or omit to give their consent within a period of two months from the date of application, such consent shall be deemed to have been given without condition.

<sup>3</sup>[(3) Whosoever commits a breach of the provisions of sub-sections (1) and (2) shall, on conviction, be punishable with a fine which may extend to one thousand rupees, and when the

breach is a continuing one, with further fine which may extend to one hundred rupees for every day, after the first, during which the breach continues].

**122 Prohibition of cinematographs and dramatic performances except in licensed premises.** – (1) No exhibition of pictures or other optical effects by means of a cinematograph or other similar apparatus for the purpose of which inflammable films are used, and no public dramatic <sup>4</sup>[or circus] performance or pantomime, shall be given in any municipality elsewhere than in premises for which a license has been granted by the committee under this section.

(2) If the owner of a cinematograph or other apparatus uses the apparatus or allows it to be used, or if any person takes part in any public dramatic or circus performance or pantomime, or if the occupier of any premises allows those premises to be used, in contravention of the provisions of this section or of any condition of a license granted under this section he shall be liable to a fine not exceeding two hundred rupees and in the case of a continuing offence, to a further penalty of fifty rupees for each day during which the offence continues, and the license if any shall be liable to be revoked by the committee.

**123. Power to prohibit such trades.** – <sup>1</sup>[(1) whenever it appears that any place registered or licensed under the preceding sections is a nuisance to the neighborhood or likely to be dangerous to life, health or property, the committee may, and if so required by the State Government shall, by notice require the occupier thereof to discontinue the use of such place, or to effect such alternations, additions or improvements as well, in the opinion of the committee, render it no longer a nuisance or dangerous.

(2) Whoever, after any notice has been given under this section, uses such place or permits to be used in such a manner as to a nuisance to the neighborhood or dangerous, or does not effect such alterations, addition or improvements, shall be punishable with fine which may extend to two hundred rupees and with a further fine not exceeding fifty rupees for every day during which the offence is continued.

**124. Use of steam whistles, etc.** – <sup>2</sup>[(1) No person shall use or employ in any factory or other place any whistle or trumpet or any other mechanical contrivance which emits an offensive noise for the purpose of summoning or dismissing workmen or persons employed, nor shall any person by means of any contrivance increase the noise emitted in any such factory or place by the

exhaust pipe of any engineer, without the written permission of the committee, in grating which, the committee may impose such conditions as it may deem proper, restricting the times at which such whistle or trumpet, or other contrivance may be used.]

(2) The committee may on giving one month's notice revoke any permission given under sub-section (1).

(3) Whoever, in contravention of the provisions of this section, uses or employees <sup>3</sup>[any whistle, trumpet or other contrivance], shall be punishable with a fine which may extend to fifty rupees, and with a further fine which may extend to five rupees for every day during which the offence is continued.

## **DRAINS AND PRIVIES**

125. **Provisions of drains, privies, etc.** – (1) The committee may, by notice require the owner of any building or land to provide, move or remove any drain, privy, latrine, urinal, cesspool or receptacle for filth or refuse, or provide any additional drains, privies, latrines, urinals, cesspools or other receptacles as aforesaid which should in its opinion be provided for the building or land, in such manner and of such pattern as the committee may direct.

(2) The committee may, by notice, require any person employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order to be daily cleaned;

<sup>4</sup>[.....]

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy, latrine or urinal provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter as the committee may direct, any door or trapdoor or a privy, latrine or urinal opening on to any street or drain.

<sup>5</sup>[(4) The committee may, and when required by the State Government, shall provide latrines and urinals for the use of public].

126. **Repair and closing of drains, privies, latrines, urinals and cesspools.** – (1) The committee may, by notice, require the owner or occupier of any building or land to repair, alter or put in good order any drain, privy, latrine, urinal, cesspool or receptacle for any filth or refuse or to close any drain, privy, latrine, urinal or cesspool belonging thereto.

(2) The committee may, by notice, require any person who may construct any new drain, privy, latrine, urinal cesspool or receptacle for filth or refuse without its permission in writing or contrary to its directions or regulations or the provisions of this Act, or who may construct, rebuild or open any drain, privy, latrine, urinal, cesspool or receptacle for filth or refuse which it has ordered to be demolished or stopped up or not to be made to demolish the drain, privy, latrine, urinal, cesspool or receptacle, or to make such alteration therein as it may think fit.

127. **Unauthorised building over drain, etc.** – The committee may, by notice, require any person who without its permission in writing may newly erect or rebuild any building over any sewer, drain, culvert, water-course or water-pipe vested in the committee to pull down or otherwise deal with same as it may think it.

128. **Removal of latrines, etc., near any source of water supply.** – (1) The committee may, by notice, require any owner or occupier on whose land any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, to remove or close the same within one week from the service of such notice.

(2) Whoever, without the permission of the committee, makes or keeps for a longer time than one week, after notice under this section any drain, privy, latrine, urinal, cesspool or other receptacle for filth or refuse, within fifty feet of any spring, well, tank, reservoir, or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to <sup>1</sup>[fifty rupees] and, when a notice has issued with a further fine not exceeding five rupees for each day during which the offences is continued after the lapse of the period allowed for removal.

<sup>2</sup>[129. **Discharging Sewerage.** – Whoever without the permission of the committee, causes of knowingly or negligently allows the contents of any sink, sewer or cesspool or any other offensive matter to flow, drain or be put upon any street or public place, or into any irrigation channel or any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to <sup>3</sup>[five hundred rupees].

130. **Making or altering drains without authority.** – Whoever, without the permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the sewers or drains vested in the committee shall be punishable with fine which may extend to <sup>4</sup>[five hundred rupees].

131. **Power to require removal of nuisance arising from tanks and the like.** – The committee may, by notice, require the owner or occupier of any land or building to cleanse, repair, cover, fill up or drain off any private well, tank, reservoir, pool, depression or excavation therein which may appear to the committee to be injurious to health or offensive to the neighbourhood:

Provided that if for the purpose of affecting any drainage under this section it should be necessary to acquire any land not belonging to the same owner or to pay compensation to any person, the committee shall provide such land or pay such compensation.

### **LAYING AND CONNECTING PIPES, SEWERS AND THE LIKE**

132. **Power of committee to lay or carry wires, pipes, drains, or sewers through private land subject to payment or compensation for damage sustained provided that no nuisance is created.** – The committee may carry any cable, wire, pipe, drain, sewer or channel of any kind, for the purpose of establishing telephonic or other similar communication or of carrying out and establishing or maintaining any system of lighting, drainage or sewerage, through, across, under or over any road, street, or place laid out as or intended for a road or street, and after giving reasonable notice in writing to the owner or occupier, into, through, across, under, over or up the side of any land or building whatsoever situate within the limits of the

municipality, and, for the purpose of the introduction, distribution of 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 cable, 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 necessary caused by the proper execution of the work is created by any such operation; and

Provided further that reasonable compensation shall be paid to owner occupier for any damage at the time retained by him and directly occasioned by the carrying of any such operations.

**133. Provision as to wires, pipes, drains, or sewers laid or carried above surface of ground.** – In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land of through; over or up the side of any building, such cable, 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.

**134. Previous notice to be given.** – Except in cases which Sections 203 and 205(c) relate the committee shall cause not less than fourteen days notice in writing to be given to the owner or occupier before commencing any operations under Section 132.

**135. Connection with main not to be made without permission of committee.**- (1) No persona shall, without the permission of the committee, at any time make, or cause to be made, any connection or communication with any cable, wire, pipe, <sup>1</sup>[ferrule], drain, sewer or channel constructed or maintained by or vested in the committee for any purpose whatsoever.

(2) Any person acting in contravention of the terms of sub-section (1) shall be punishable with a fine to exceeding <sup>2</sup>[five hundred rupees].

136. **Connection may be made or required by the committee in the case of sewerage.** –  
<sup>3</sup>[.....] The committee may at any time, establish any connection or communication from any water-main, drain or sewer to any premises, or may by notice require the owner of any such premises to establish any such connection or communication, in such manner and within such times as the committee, by notice in that behalf, may prescribe, at the cost of such owner or occupier.

137. **Power to prescribe size of ferrule and to establish meters and the like.** – The committee may prescribe the size of the ferrules to be used for the supply of gas, and may establish meters of other appliances for the purpose of testing the quantity of any gas or electricity for the use of any person or business.

138. **Communication and connection to be made subject to inspection by and to the satisfaction of committee.** – The ferrules, communication pipes, connection, meters, stand-pipes and all fittings thereon ferrules, communication pipes, connection, meters, stand-pipes and all fittings thereon or connected therewith, leading from mains or service cables, wires, pipes, drains, sewers or channels into any house or land and the wires, pipes, fittings and the 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 committee.

139. **Rates and charges may be fixed.** – The committee may, from time to time, fix the charges to be made for the establishment by them or through their agency of communications from and connections with mains or service cables, wires and pipes for the supply of lighting, telephone, or gas and for meters or other appliances for testing the quantity or quality thereof supplied, and may levy such charges accordingly.

140. <sup>1</sup>[**Troughs and pipes for rain water.** – (1) The committee may, by notice, require the owner of any building or land in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying water and sullage from the buildings or land and for discharging the same so as not to inconvenience persons passing along the street].

(2) For the purpose of efficiently draining any building or land the committee may by notice in writing.

(a) require any courtyard, alley or passage between two or more building to be paved <sup>2</sup>[by the owner or part-owner of such buildings] with such materials and in such manner as may be approved by <sup>3</sup>[the committee], and

(b) require such paving to be kept in proper repair.

**141. Information to be given of cholera, small pox, etc.-** Whoever-

(a) being a medical practitioner or a person openly and constantly practicing the medical profession, and in the course of such practice becoming cognizant of the existence of any infectious disease in any dwelling other than a public hospital; or, in default of such medical practitioner or person practicing the medical profession;

(b) being the owner or occupier of such dwelling, and being cognizant of the existence of any such disease therein; or person practicing the medical profession;

(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.

<sup>4</sup>[fails forthwith to give information, or knowingly, gives false information to the Medical Officer of Health or to any other officer to whom the committee may require information to be given respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees]:

Provided that a person, not required to give information in the first instance, but only in default of some other person, shall not be punishable if it be shown that he had reasonable cause to suppose that the information had been or would be, duly given.

**142. Removal to hospital of patients suffering from infectious diseases.** –<sup>5</sup>[(1) In any municipality to which this section may at any time be extended by the State Government, when any person suffering from any infectious disease is found to be -

(a) Without proper lodging or accommodation. .

(b) Living in a sarai <sup>1</sup>[hotel, boarding house] or other public hostel, or



<sup>2</sup>[(c) living in a room or which neither owns nor pays rent for nor occupies as the guest or relative of any person who owns or pays rent for it, or)

(d) lodged in premises occupied by members of two or more families and any of such occupiers objects to his continuing to lodge in such premises, the committee, by any person authorized by in this behalf, may, on the advice of any medical officer of rank not inferior to that of an assistant surgeon, 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.

<sup>3</sup>[(2) The committee shall, if required by the State Government erect an infectious diseases hospital of such type and dimensions as the State Government shall deem expedient.

<sup>4</sup>[143. **Disinfections of building and articles.** – If the committee 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, or to destroy such article, in the manner and within the time prescribed in such notice].

144. **Penalty for letting infected houses.** – Every person knowingly letting a house or other building or part of a house or building in which an person has been suffering from an infectious disease, without having such house or other building or part thereof and all articles therein liable to retain infection disinfected to the satisfaction of the committee 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.

145. **Provision of places and appliances for disinfection.** – <sup>5</sup>[The committee may, and when the State Government so directs, shall]-

- (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; and

- (b) cause conveyances, clothing or other articles brought for disinfection to be disinfected free of charge or subject to such charge 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 articles destroyed under this sub-section.

146. **Acts done by persons suffering from certain disorders.** – Whoever, while suffering from an infectious, contagious or loathsome disorder -

- (a) makes or offers for sale any articles and food or drink for human consumption or any medicine or drug, or
- (b) willfully touches any such article, medicine or drug, 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.

<sup>6</sup>[147. **Keeping of animals so as to be injurious to health.** – Whoever keeps any swine or other animals in disregard of any orders which the committee may give to prevent them from becoming a nuisance or so as to be injurious to the health of the inhabitants or of animals shall be punishable with fine which may extend to twenty rupees, and to fifty rupees for every such subsequent offence].

148. **Feeding animals on deleterious substances.** – Whoever feeds or allows to be fed any animals which is kept for dairy purposes or may be used for food on deleterious substances, filth or refuse of any kind, shall be punishable with fine which may extend to fifty rupees.

149. **Prohibition by committee of use of unwholesome water.** – Should the committee, on the report of the <sup>1</sup>[medical officer or health,] consider that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, it may -

- (a) by public notice prohibit the removal or use of such water for drinking;

(b) by notice require the owner or person having control of such well, tank or place to take such steps as may be specified in the notice to prevent the public from having access to or using such water; or

(c) take such steps as it may, on the advice of the <sup>2</sup>[medical officer of health] consider expedient to prevent the danger or spread of any such disease.

**150. Penalty for selling food or drink not of the nature, substance or quality of the article demanded by the purchase.** – (1) Whoever sells, to the prejudice of any purchaser, any article of food or drink which is not of the nature, substance or quality of the article demanded by such purchase, shall be punishable with fine which may extend to one hundred rupees:

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say-

(a) where any matter or ingredient not injurious to health has been added to food or drink in order to the production or preparation of the same as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure or conceal the inferior quality thereof;

(b) where food or drink is unavoidably mixed with some extraneous matter in the process of collection or preparation.

(2) In any prosecution under this section it shall be no defence to allege that the vendor was ignorant of the nature, substance or quality of the article sold by him, or that the purchaser, having bought such article only for analysis, was not prejudiced by the sale;

<sup>3</sup>[Provided that this section shall not apply to those areas to which the State Government has directed or may direct that the <sup>4</sup>[Punjab Pure Food Act, 1929 shall apply.]

**151. Soliciting Alms.** – (1) Whoever, in any street or public place within the municipality, begs importunately for alms, or exposes, or exhibits with the object of exciting charity, any deformity or disease, or any offensive sore or wound, shall be punishable with imprisonment of either description, which may extend to three months, or with a fine not exceeding fifty rupees, or with both, provided that -

- (a) in the case of a first offence, the Court may, if it thinks fit, instead of sentencing the convict to any punishment release him after due admonition;
- (b) in any case, the court may, if it is satisfied of the inability of the convict to earn a livelihood, owing to physical infirmity or debility and if the person – in – charge of any poor house in the municipality certifies that he is willing to receive him direct that the convict be received into such poor house, after being released on entering into a bond, with or without sureties, to appear and receive sentence, when called upon during such period, not exceeding three years as the court may direct.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this section shall be cognizable; and notwithstanding anything contained in this Act, a court may take cognizance of such an offence in the manner provided by Section 190 of the Code of Criminal Procedure, 1888.

**152. Power over disorderly houses and prostitutes.** (1) The committee may by public notice, prohibit in any specified part of the municipality-

- (a) the keeping of a brothel;
  - (b) the residence of any person who practices prostitution.
- (2) Whoever after the date specified in the public notice issued under sub-section (1) -
- (a) keeps or manages or acts or assists in the management of a brothel within the prohibited area; or
  - (b) being the tenant, lessee or occupier of any premises knowingly permits such premises or any part thereof to be used as a brothel or for the purposes of habitual prostitution within the prohibited area; or
  - (c) being the lessor or landlord, or any premises, or the agent to such lessor or landlord, lets the same or any part thereof, within the prohibited area with the knowledge that such premises or some part thereof are, or is used as a brothel or for the purposes of habitual prostitution, or is willfully a party to the continued use of such premises as a brothel or for the purposes of habitual prostitution; or
  - (d) being a practicing prostitute resides within the prohibited area;

shall be punishable with imprisonment of either description, for a term which may extend to one month, or with fine which may extend to one hundred rupees or with both, and in the case of a continuing offence with an additional fine not exceeding ten rupees for every day after the first during which the offence continues].

153. **Brothel.** – On the complaint of the committee 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 respectable 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 boarding house or of any place of worship any magistrate of the Ist class having as such 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 or offence to the neighbours or that it is in the neighbourhood of a cantonment or of an educational Institution or boarding-house, 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 shall be so used.

### SCAVENGING AND HOUSE-SCAVENGING

154. **Removal and deposit of offensive matters.** – The committee may fix places within or with the approval of the District Magistrate, beyond the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposit at such places.

If the owner and the occupier are two different persons and neither the owner nor the occupier takes any step in getting the name of occupier entered in the assessment register the owner cannot escape liability for the payment of latrine tax.<sup>1</sup>

2. Sanitation tax. – Sanitation tax can be validly imposed under this section. The term sanitation has a wide connotation and is confined not only to the interior of the buildings but takes into its ambit the condition obtaining in the surrounding buildings and places.<sup>2</sup>

<sup>3</sup>[154-A. **Preparation to compost manure.** – Where the State Government so requires it shall be the duty of the Committee to subject all dung to the process of making compost manure.

154-B. <sup>1</sup>[**Power to acquire, etc.** – (1) Where the property in any dung vests in any person or class or persons other than the committee, the Committee, required under the last preceding section, shall acquire, either permanently or for such period as it may deem fit, the rights or interests in the dung belonging to the aforesaid persons, on payment of such compensation as the committee may consider reasonable and may assess in the manner prescribed.

<sup>2</sup>[(2) Where any such dung is requisitioned or acquired under this section the amount of compensation payable shall be determined in the manner and in accordance with the principle enumerated below: -

- (a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;
- (b) Where no such agreement can be reached, the Committee and the person or persons as aforesaid shall appoint an arbitrator having knowledge of the price of the property or interest in the dung requisitioned or acquired;
- (c) At the commencement of the proceedings before the arbitrator, the committee and the person, to be compensated shall state what, in their respective opinion, is the fair amount of compensation;
- (d) The arbitrator in making his award shall take into consideration the market value of the dung in the locality, the damage, if any, resulting from diminution of the profits accruing to the persons aforesaid and any other factor of a like nature;
- (e) Save as otherwise hereinafter provided in this Act or the rules made thereunder, nothing in any other law for the time being in force shall apply to arbitration under this section].

154-C. **Right of appeal and revision.** – (1) Any person aggrieved by <sup>3</sup>[an award made] under Section 154-B may, within thirty days from the date of the communication to him of the <sup>4</sup>[award] prefer an appeal in writing to the Deputy Commissioner of the district wherein the Committee is situated:

Provided where the Deputy Commissioner is himself a member of the Committee against whose decision the appeal has been preferred, the fact of his being a member shall not disqualify him from hearing the appeal.

(2) The Deputy Commissioner shall decide the appeal after sending for the records of the case from the Committee and after giving the parties an opportunity of being heard and, if necessary, after making such further enquiry as he thinks fit either personally or through an officer subordinate to him.

(3) A further appeal shall lie to the State Government provided that when <sup>5</sup>[the award is] confirmed by the Deputy Commissioner no such appeal shall lie.

(4) The State Government <sup>6</sup>[-] may, at any time, call for the record of any case pending before or disposed of by the Deputy Commissioner:

Provided that this power shall not be exercised by the State Government when an appeal has been preferred to <sup>7</sup>[it] under sub-section (3):

Provided further that the State Government <sup>8</sup>[---] shall not under this sub-section pass an order revising or modifying an order affecting any person without giving such person an opportunity of being heard:

<sup>9</sup>[---]

154-D. **Jurisdiction of civil courts barred.** – Notwithstanding anything contained in any other law for time being in force, no civil court shall have jurisdiction to entertain or adjudicate in any suit, application or other proceedings relating to the right or interest to, or in the compensation referred to in Section 154-B or 154-C or the amount or apportionment or the payment thereof or any matter connected therewith.

155. **Failure to remove offensive matter.** – Whoever, being the owner or occupier of any building or land, keeps or knowingly or negligently allows to be kept for more than twenty-four

hours on otherwise than in some proper receptacle or pit, any dirt, dung, bones, ashes, nigh-soil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle or pit to be in a same, shall be punishable with fine which may extend to <sup>1</sup>[five hundred rupees].

<sup>2</sup>[156. **Depositing or throwing of earth or material of any description roads or into drains.** – Whoever, without the permission of the committee or in disregard of its order, throws or deposits, or permits his servants or members of his household under his control to throw or deposit earth or materials of any description, or refuse, rubbish or offensive matter of any kind upon any street or public place or into any irrigation channel or public sewer or public drain or into any drain communicating with an irrigation channel or a public sewer of public drain, shall be punishable with fine which may extend to <sup>3</sup>[five hundred rupees].

157 **Nuisance by children and others.** – Whoever permits any person under his control to whom the provisions of Section 82, 83 and 84 of the Indian Penal Code are applicable to commit a nuisance upon any street or into any public sewer or drain or any drain communicating therewith shall be punishable with fine which may extend to <sup>6</sup>[five hundred rupees].

158. **Definition of house scavenging.** – The removal of filth, rubbish, ordure or other offensive matter from a privy, latrine, urinal, cess-pool or other common receptacle for such matter in or pertaining to house or building is called house scavenging.

159. **Undertaking by committee of huse-scavenging generally.** – (1) Subject to the provisions hereinafter contained with respect to the customary rights of sweepers the committee may at any time undertake the house scavenging of any house or building on the application or with the consent of occupier.

<sup>7</sup>[(2) The committee may be public notice, except in cases to which Section 166 is applicable, undertake the house-scavenging of any house or buildings in the municipality from any date not less than two months after issue of the notice].



(3) The occupier of any house or building affected by the notice may at any time, after the issue thereof, apply to the committee to exclude that house or building from the notice.

(4) The committee shall consider and pass orders upon every such application within six weeks of the receipt thereof, and may, by any such order, exclude such house or building from the notice.

(5) In deciding whether to exclude any house or building from the notice, the committee shall consider among other matters, the efficiency of the arrangements for house-scavenging made by the occupier (if any) and purpose to which he applies the matter dealt within house-scavenging.

**160. Saving in favour of customary sweepers and of agriculturist.** – Notwithstanding anything in the last forgoing section, the committee shall not except in accordance with the provisions of this chapter -

- (a) undertake the house-scavenging of any house or building in respect whereof any sweeper has a customary right to do such house-scavenging.
- (b) Without the consent of the occupier undertake the house-scavenging of any house or building occupied by an agriculturists who himself cultivate land within municipal limits or in a village co-terminus therewith.

**161. Continuance of house-scavenging once undertaken by committee** – When once the committee has undertaken the house scavenging of any house-or building under this chapter, it may continue to perform such house-scavenging with or without the consent of the occupier for the time being of such house or building.

**162. Obligation of committee to perform house-scavenging properly.** – When the committee has undertaken the house scavenging of any house or building, it shall be bound to perform the same properly, until it shall have relieved itself of the obligation by an order under Section 159, sub-section (4).

163. **Powers of municipal servants for house-scavenging purposes.** – The servants of the committee employed in house scavenging may, at all reasonable times, do all things necessary for the proper performance of any house scavenging undertaken by the committee.

164. **Vesting in committee of collection from house-scavenging.** – All matters removed by the servants of the committee in the course of house scavenging shall belong to the committee.

165. **Punishment of customary sweepers for negligence.** - (1) Should a sweeper who has a customary right to do the house-scavenging of a house or building (hereinafter called the customary sweeper) fail to perform such house-scavenging in a proper way and at reasonable intervals, the occupier of the house or building or the committee may complain to a <sup>1</sup>[judicial magistrate].

(2) The magistrate receiving such complaint shall hold an enquiry, and, should it appear to him that the customary sweeper has failed to perform the house-scavenging of the house or building in a proper way or at reasonable intervals, he may impose upon such sweepers a fine which may extend to ten rupees, and, upon a second or any later conviction in regard to the same house or building, may also direct the right of the customary sweeper to do the house-scavenging of the house or building to be forfeited and thereupon such right shall be forfeited accordingly.

<sup>2</sup>[(3) Should any sweeper (other than a customary sweeper) who is under contract to do the house-scavenging of a house or building discontinue to do such house-scavenging without having given 14 days notice to his employer or without reasonable cause, he shall on conviction be punishable with a fine which may extend to ten rupees].

166. **Punishment of cultivators for failure to provide for proper house-scavenging –**

(1) Should any person, who himself or any member of whose family residing with him cultivates land within municipal limits or in a village within two miles from the municipal limits fail to provide for the proper house-scavenging of any house or building occupied by him within the limits of the municipality, the committee may complain to a <sup>3</sup>[judicial magistrate].

(2) The magistrate receiving the complaint shall hold an enquiry, and, should it appear to him that such person has not provided for the proper house-scavenging of the house or building, he may pass an order empowering the committee to undertake the same, and thereupon the committee shall be entitled to undertake such house-scavenging.

## **SLAUGHTER PLACES**

167. **Places for slaughter of animals for sale.** – (1) The committee may and shall when so required by the State Government, fix premises with the approval of the Deputy Commissioner, either within or without the limits of the municipality, for the slaughter of animals for sale, or of any specified description of such animals, and may, with the like approval, grant and withdraw licenses for the use of such premises or, if they belong to the committee, charge rent or fees for the use of the same.

(2) When such premises have been fixed by the committee beyond municipal limits, it shall have the same power to make bye-laws for the inspection and proper regulation of the same as if they were within those limits.

(3) When any such premises have been fixed no person shall slaughter any such animal for sale within the municipality at any other place.

(4) Any person who slaughters for sale any animal at any place within a municipality other than one fixed by the committee under this section, if any places have been so fixed, shall be punishable with fine which may extend to <sup>1</sup>[five hundred rupees].

168. **Disposal of dead animals.** (1) Whenever any animal in the charge of any person dies otherwise than by slaughter either for sale or for some religious purpose, the person in charge thereof shall within twenty four hours either -

- (a) convey the carcass to a place (if any) fixed by the committee under Section 154 for the disposal of the dead bodies of animals or to any place at least one mile beyond the limits of the municipality; or
- (b) give notice of the death to the committee whereupon the committee shall cause the carcass to be disposed of.

(2) In respect of the disposal of the dead body of an animal under clause (b) of sub-section (1), the committee may charge, such fee as the committee may, by public notice, have prescribed.

(3) For the purpose of this section the word “animal” shall be deemed to mean all horned cattle, elephants, camels, horses, ponies, asses, mules, deer, sheep, goats, swine and other large animals.

(4) Any person bound to act in accordance with sub-section (1) of this section shall, if he fails so to act, be punishable with fine which may extend to <sup>2</sup>[five hundred rupees].

## **STREETS AND BUILDINGS**

169. **Powers in connection with streets.** – The committee –

- (a) may lay out and make a new public street and construct tunnels and other work subsidiary thereto, and
- (b) may widen, lengthen, extend, enlarge, raise, or lower the level of or otherwise improve any existing public street vested in the committee, and
- (c) may close temporarily any public street or any part thereof for any public purpose, and
- (d) may turn, divert, discontinue or close any public street so vested, and
- (e) may provide within its discretion building sites of such dimensions as it deemed fit, to abut on or adjoins any public street made, widened, lengthened, extended, enlarged, imposed, or the level of which has been raised or lowered by the committee under clauses (a) and (b) or by the State government, and
- (f) subject to the provisions of any rule prescribing the conditions on which property may be acquired by the committee may acquire any land, along with the building thereon, which it deems necessary for the purpose of any scheme of work undertaken or projected in exercise of the powers conferred under the preceding clause, and
- (g) [subject to the provisions of any rule prescribing the conditions on which property vesting in the committee may be transferred, may lease, sell or otherwise dispose

of any property acquired by the committee under clause (f); or any land vesting in and used by the committee for a public street and no longer required therefore, and in so doing may impose conditions regulating the removal and construction of building upon it and the other uses to which such land may be put:]

Provided that land owned by proprietors other than the <sup>2</sup>[Government] shall become the absolute property of the committee after it has continuously vested in the committee for use as a public street for a period of twenty-five years: but that the possession of such land that ceases to be required for use as a public street before the expiry of twenty five years from the time that it became vested in the committee shall be transferred to the proprietor thereof, on payment by him of reasonable compensation to the committee for improvements of such land, and subject to such restrictions as the committee may impose on the future use of such land, and that should the proprietor be unable or unwilling to pay the amount of such compensation the committee may, subject to such conditions as it may deem fit sell the land, and shall pay to the owner the proceeds, if any, over and above the amount of such compensation which shall be paid into the municipal fund, or may dispose of it in such manner as it may deem fit.]

<sup>3</sup>[170. **Powers to require protection of streets during cutting down of trees, erection or demolition of buildings etc.** (1) No person shall cut down any trees or cut off a branch of any tree, or erect or demolish any building, or part of a building or alter or repair the outside of any building, where such action is of a nature to cause obstruction, danger or annoyance, or risk of obstruction, danger or annoyance to any person using a street, without the previous permission in writing of the committee.

(2) The committee may at any time by notice require that any person doing or proposing to do any of the acts referred to in sub-section (1) shall refrain from beginning or continuing the act unless he puts up, maintains, and provides from sunset to sunrise with sufficient lighting such hoardings or screen as are specified or described in the notice and may further at any time by notice require the removal, within a time to be specified in the notice, of any hoarding or screen erected in anticipation or in pursuance of any of the said acts.

(3) Whoever contravenes the provisions of sub-section (1) or fails to comply with the terms of a notice under sub-section (2) shall be punishable with fine which may extend to fifty rupees and when the contravention or non-compliance is a continuing one, with a further fine which may extend to five rupees for every day after the first during which the contravention or non-compliance continues.]

<sup>4</sup>[170-A. **Notice to be given and sanction obtained before making a street.** - (1) No person shall lay out or make or commence to lay out or make a street without the sanction of the committee.

(2) Every person who intends to lay out or make a street shall give notice in writing to the committee of such intention.

(3) Where a committee has issued an order under clause (b) of section 170-B no notice under sub-section (2) shall be deemed to be valid until the particulars required under such order have been furnished to the satisfaction of the committee].

<sup>1</sup>[170-B. **Order of committee on notice being given under section <sup>2</sup>[170-a].** The committee may, within one month of the receipt of the notice required by sub-section (2) of Section <sup>3</sup>[170-A] issue-

- (a) an order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with; or
- (b) an order requiring further particulars.]

<sup>4</sup>[170-C. **Sanction of committee with regard to new street:** - Within two months after the receipt of the notice required by sub-section (2) of section <sup>5</sup>[170-A] the committee may refuse to sanction the proposed street, or may sanction it either absolutely or subject to such written directions as to level, metalling, paving, means of drainage, direction and width as the committee may deem fit to issue and the person laying out or making such street shall comply with the sanction of the committee in every particular:

Provided that should the committee neglect or omit for two months after the receipt of such notice or if an order has been issued under clause (b) of section <sup>6</sup>[170-B], fail within the period specified in such order, to make and deliver to the person who has given such notice and order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposed street absolutely.]

<sup>7</sup>[170-D. **Power of sanction:** - Every sanction for the laying out or making Of a street which shall be given, or be deemed to have been given, by a committee, shall remain in force for one year only from the date of such sanction. Should the laying out or making of the street not have been commenced within the said period of one year, the sanction shall be deemed to have lapsed; but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of this Act.

Explanation: - A street shall be deemed to be made or laid out when it is demarcated on the ground by permanent boundary marks].

<sup>8</sup>[170-E. **Penalty:** - Whoever begins, continues or completes the laying out or making of a street without giving the notice required by section <sup>9</sup>[170-A], or in contravention of any written direction made under section <sup>10</sup>[170-C], or of any bye-law or provision of this Act shall be liable to a fine which may extend to five hundred rupees.]

<sup>11</sup>[170-F. **Notice to owner of land under street:** - In any case where the committee considers that any land is being or has been laid out as a street without the notice required by section 170-A having been given or in contravention of any written direction made by the committee under section <sup>12</sup>[170-C] or of any bye-law or provision of this Act, the committee may, by notice in writing, require the owner of the land to alter the street in such manner as it deems necessary.]

171. **Power to require repairs of streets and to declare such streets public:-**<sup>13</sup> [(1) (a) When the municipal committee considers that in any street other than a public street, or in any part of such street 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 municipal committee may by written notice require the owners of such streets or part thereof, to carry out such work in a manner and within a time to be specified in such notice; and

(b) Should the owner refuse or should he fail to carry out the work within the time specified, the committee may, by written notice, require the owners of the land or buildings, fronting, adjoining or abutting upon such street or part thereof to carry out the work in such manner and within such time as may be specified in the notice.

(2) If compliance with the term of the notice issued under clause (b) of sub-section (1) is not effected within the time specified, the committee may, if it thinks fit, itself execute the work and may recover under the provisions of section 81 the expenses incurred in doing so in such proportions as it may deem equitable from the owner of the street and the persons served with a notice under clause (b) of sub-section (1).

(3) After such work has been carried out by the persons served with a notice under clause (b) of sub-section (1) or as provided in sub-section (2) by the committee at the expense of such persons and the owner of the street, the street or part thereof, in which such work has been done, may, on the requisition of the owner or owners of the major portion of the said street or part thereof, or on the requisition of a majority of the persons served with a notice under clause (b) of sub-section (1), it shall be declared by a public notice to be put up therein by the committee to be a public street and shall vest in the committee.

(4) A committee may at any time, by notice fixed up in any street or part thereof not maintainable by the committee give intimation of their intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or any one of several owners of such street or such part of a street lodge objection thereto at the Municipal office, the Municipal Committee may, by notice in writing, put in such street, or such part, declare the same to be a public street vested in the committee.

(5) This section shall not take effect in any municipality until it has been specially extended thereto by the State Government, of its own motion or at the request of the committee.]

172. **Punishment for [1] overhanging structure over street.** – (1) Whoever without the written permission of the committee [2] erects or re-erects any immovable overhanging structure projecting into a street at any point above the said ground level, shall be punishable with imprisonment of either description which may extend to one month and shall also be liable to fine which may extend to one thousand rupees.

(2) The committee may, by notice require the owner or occupier of any building to remove or alter, within a specified time not exceeding six weeks, such [3] overhanging structure as aforesaid, and no compensation shall be claimable in respect of such removal or alteration:

Provided that if a period of more than three years has elapsed from the completion of the [4] over hanging structure, no prosecution shall lie under sub-section (1) – nor shall such]

overhanging structure be required to be removed or altered without payment of reasonable compensation]

<sup>5</sup>[172-A (1) **Punishment for encroachment upon land, premises or public place.** – Whoever makes any encroachment by raising a temporary or permanent structure on any land, premises or public place, not being private property whether such land, premises or public place belongs to or vests in the committee or not shall on conviction be punished with simple imprisonment which shall not be less than one month, but which may extend to three years and with fine which may extend to twenty thousand rupees:

Provided that parking of rickshaws temporarily or setting up steps for providing passage to the houses and shops is a street for a drain, channel, well or tank passing through or by the side of land, premises or public place shall not be construed as an encroachment.

(2) The Executive Officer or any other officer authorised by the Committee in this behalf shall have power to remove any such encroachment and the expenses of such removal shall be paid by the person who has caused the said encroachment.

(3) Notwithstanding anything contained in the foregoing provisions, the Executive Officer or the officer authorised by the Committee in this behalf, shall, in addition to any other action which may be taken under this section, also have power to seize or attach any property found on the land, premises or public place referred to in this section or, as the case may be, attached to or permanently fastened to anything attached to such land, premises or public place.

(4) Where any property is seized or attached in terms of sub-section (3) by an officer authorised by the Committee, he shall immediately make a report of such seizure or attachment to the Executive Officer.

(5) The Executive Officer may make such order as he may think fit for the, proper custody of the property seized or attached, pending the confiscation of confiscation proceedings and if, the property is subject to speedy and natural decay, or it is otherwise expedient so to do, the Executive Officer may cause it to be sold or otherwise disposed of.

(6) Where any property is sold as aforesaid the sale proceeds thereof after deduction of the expenses of any such sale or other incidental expenses relating thereto, shall-

- (a) Where no order of confiscation is passed by the Committee under sub-section (7); or
- (b) Where an order passed in appeal, under sub-section (11) so requires, be paid to the owner thereof or the person from whom, it is seized.

(7) Where any property is seized or attached, under sub-section (3) the Committee may subject to the provisions of sub-section (8) order confiscation of such property.

(8) No order for confiscating a property under, sub-section (7) shall be made unless the owner of such property or the person from whom it is seized or attached is given, -

- (a) a notice in writing, informing him of the grounds on which it is proposed to confiscate the property;
- (b) an opportunity of making a representation in writing, within such reasonable time as may be specified in the notice against the grounds of confiscation; and



(c) a reasonable opportunity of being heard in the matter.

(9) The order of any confiscation made under sub-section (7), shall not prevent the infliction of any punishment to which the person affected thereby is liable under this Act

(10) Any person aggrieved by such confiscation order made under sub-section (7) may, within one month from the date of communication to him of such order, appeal against it to the District Judge of the District in which such property is seized or attached.

(11) On such appeal, the District Judge may, after giving an opportunity to the appellant and the respondent to be heard, direct the order to be stayed pending disposal of the appeal, or may modify; alter or annul the order and make any further order that he may think proper in the matter.

(12) Subject to the provisions of sub-section (5), whenever any property is seized or attached pending confiscation, under sub-section (7), the Committee or the District Judge shall have, and notwithstanding anything to the contrary contained in any other law for the time being in force, any court, tribunal or other authority shall not have jurisdiction to make order with regard to the possession, delivery, disposal, release or distribution of such property.

(13) Where any person is prosecuted of an offence for the contravention of the provisions of sub-section (1), the burden of proving that he has not committed the said offence, shall be on such person.

(14) Whoever being an employee of the Committee permits any body to encroach upon or abets to encroach upon any property specified in sub-section (1), shall on conviction be punished with simple imprisonment for a term which may extend to one month or fine which may extend to one thousand rupees or with both:

Provided that no court shall take cognizance against such employee for the offence punishable under this sub-section except with the previous sanction of the Committee.

(15) No investigation of an offence for contravention of the provisions of sub-section (1) of sub-section (14), as the case may be, shall be made by an officer below the rank of a Deputy Superintendent of Police.]

**173. Power to permit occupation of public street and to remove obstruction:** - <sup>1</sup>[(1) The committee may grant permission in writing, on such conditions as it may deem fit for the safety or convenience of persons passing by, or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission, to any person to –

- (a) place in front of any building any movable encroachment upon the ground level of any public street or over or on any sewer drain or water-course or any movable overhanging structure projecting into such public street at a point above the said ground level.
- (b) take up or alter the pavement or other materials for the fences or posts of any public street, or
- (c) deposit or cause to be deposited building materials, goods for sale, or other articles on any public street, or

- (d) make any hole or excavation on, in or under any street, or remove materials from beneath any street, so to cause risk of subsidence, or
- (e) erect or set up any fence, post, stall or scaffolding in any public street.

(2) Whoever does any of the acts mentioned in sub-section (1) without the written permission of the committee shall be punishable with fine which may extend to <sup>2</sup>[five hundred rupees] and the committee or the secretary of the committee or the Medical Officer of Health or any person authorised by the committee may -

- (i) after reasonable opportunity has been given to the owner to remove his material and he has failed to do so, remove or cause to be removed by the police, or any other agency, any such movable encroachments or overhanging structures and any such materials, goods or articles, of merchandise and any such fence, post, stall, or scaffolding.
- (ii) and take measures to restore the street to the condition it was in before any such alteration, excavation or damage.

(3) If the material specified in clause (i) of sub-section (2) has not been claimed by the owner within a fortnight of its having been deposited for safe custody by the committee or if the owner shall fail to pay to the committee the actual cost of removal or deposit in safe custody, the committee may have the material sold by auction at the risk of the owner, and the balance of the proceeds of such sale shall after deduction of the expenditure incurred by the committee be paid to the owner, or if the owner cannot be found, or refuses to accept payment the balance shall be kept in deposit by the committee until claimed at the risk of the person entitled thereto and if no claim is made within two years the committee may credit the amount to the municipal fund.]

Explanation: - For the purposes of this section 'movable encroachment' includes a seat or settee and 'movable overhanging structure' includes an awning of any material.

**174. Power to regulate line of building:** - <sup>1</sup>[(1) Should any house, shop, wall or other building or part of a building project beyond the regular line of a street, either existing or determined on for the future, or beyond the front of the building on either side thereof, the committee may, whoever such house, shop, wall or other building or part thereof, has been either entirely or in greater part taken down or burned down, or has fallen down, by notice require such building or part when being rebuilt to be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner of the building, or of the land thus vacated for any damage <sup>2</sup>[-] he may sustain in consequence of his building or any part thereof being set back.

(2) The Committee may, on such terms as it may think fit, allow any building to be set forward for the improvement] of the line of the street.

**174-A. Special provisions regarding streets belonging to Government:** - Notwithstanding anything contained in sections 172, 173, 174 in clause (u) of section 188, and subject to any

general or special order that the State Government may make in this behalf<sup>3</sup>[if any street is vested in the State Government] –

- (a) the committee, shall not, in respect of such street, grant permission to do any act the doing of which without the written permission of the committee is punishable under section 172 or section 173 or allow any building to be set forward under the provisions of sub-section (2) of section 174, except with the sanction of the<sup>4</sup>[State] Government which may be given in respect of a class of cases generally or in respect of a particular case;
- (b) the committee shall, if so required by the<sup>5</sup>[State] Government, exercise the power conferred upon it by sub-section (2) of section 172 or sub-section (2) of section 173 or sub-section (1) of section 174 or clause (u) of section 188 or any bye-law made in exercise of the power conferred by clause (u) of section 188 in respect of any encroachment or overhanging structure on or over such street or fence, post stall or scaffolding erected or set up in any such street or in respect of any building or part of a building which projects beyond the regular line of such street.

**175. Removal or alteration of any balcony, projection or structure, etc., on payment or compensation:**<sup>6</sup>[The committee may subject to the payment of reasonable compensation, by notice, require the owner or occupier of any building within a period of not less than six weeks to be specified in such notice to remove or alter any balcony, projection, structure or verandah, erected with the sanction of the committee, overhanging, projecting into or encroaching on any street or into or on any drain, sewer or aqueduct therein.]

**176. Power to attach brackets for lamps:** - The Committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

<sup>7</sup>[**176-A. Construction of stalls for displaced persons:** - The committee may, and if so required by the State Government, shall construct stalls for persons displaced from Pakistan, and shall lease them out to such persons on such conditions as the State Government may by general or special order specify.]

**177. Destroying direction posts, lamp posts, etc.:** - Whoever, without being authorized by the committee, defaces or disturbs any municipal direction post, lamp post or, lamp or extinguishes any municipal light in any public place, shall be punishable with fine with which may extend to <sup>1</sup>[five hundred rupees.]

**178. Bill-sticking without permission:** - <sup>2</sup>[(1) whoever, without the consent of the owner or occupier or other persons for the time being incharge, affixes any posting bill, notice placard or other paper or means of advertisement against or upon any building, wall tree, board, fence or pale, with chalk or paint or in any other way whatsoever, shall be punishable with fine which may extend to <sup>3</sup>[five hundred rupees.]

<sup>4</sup>(2) Notwithstanding anything contained in section 228 a court may take cognizance of an offence under sub-section (1) of this section upon the complaint of the owner or occupier or other person in charge of the property in respect of which such offence is alleged to have been committed.]

179. **Names of streets and number of buildings:** - (1) The committee may cause a name to be given to any street, and to be affixed on any building in such place as it may think fit, and

(2) Whoever shall destroy, pull down or deface any name or number affixed to any street or building under this section, or put up any different name or number from that put up by order of the committee, shall be punishable with fine which may extend to <sup>5</sup>[five hundred rupees.]

180. **Inflammable Materials:** - The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting timber, wood, dry grass, straw or inflammable materials, or placing mats or thatched huts of lighting fires in any place or within any limits specified in the notice.

181. **Roofs and external walls not to be made of inflammable materials:** - The committee may direct that within certain limits, to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other highly inflammable materials without the permission of the committee in writing; and the committee may, by written notice, require any person, who has disobeyed any such direction to remove or alter the roofs or walls so made or renewed as it may think fit.

182. **Picketing animals and collecting carts:** - (1) Whoever, without the permission of the committee, pickets animals or collects carts on any street or uses any street as a halting place for vehicles or animals of any description or as a place of encampment or causes or permits animals to stray shall be punishable with fine which may extend to <sup>6</sup>[five hundred rupees.]

<sup>7</sup>(2) Any animal found picked, tethered or straying on any public street without the permission of committee may be removed to a pound by any officer or servant of the committee or by a police officer.

183. **Driving vehicles without proper lights.** - <sup>8</sup>(1) Whoever drives or propels any vehicle not properly supplied with lights in any street during the periods from half an hour after sunset to half an hour before sunrise, shall be punishable with fine which may extend to <sup>9</sup>[five hundred rupees].

<sup>1</sup>(2) Whoever, in driving, leading or propelling a vehicle along a street fails without reasonable excuse-

(a) to keep to the left, or

(b) when he is passing a vehicle going in the same direction, to keep to the right of that vehicle.

Shall be liable to a fine which may extend to twenty rupees.

Exception – The sub-section shall not apply to a municipality wholly or in part situated in a hilly tract.

184. **Beating drums etc.:** - Whoever, in contravention of any general or special prohibition issued by the committee, without the permission of the committee, beats a drum or tomtom, blows a horn or trumpet or beats or sounds any brass or other instrument or utensil, shall be punishable with fine which may extend to <sup>2</sup>[five hundred rupees.]

<sup>3</sup>[Explanation I. – In the case of bands, each individual member of such band shall be punishable under this section.

<sup>4</sup>[Explanation II. – For the purposes of this section “instrument shall include a gramophone, a wireless receiver, a loud speaker or any electrically or mechanically operated instrument capable of producing loud noises.

185. **Discharging fire-arms, etc.** – Whoever discharges fire-arms or lets off fire-works, fire-balloons or detonators, or engages in any game. In such a manner as to cause, or to be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to <sup>5</sup>[five hundred rupee.]

186. **Quarrying, blasting, cutting timber or building:** - Whoever quarries, blasts, cuts timber or carries on building operations in such a manner as to cause, or to be likely to cause danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to <sup>6</sup>[five hundred rupees.]

187. **Power to levy fees at fairs:** - A committee may, with the previous sanction of the Deputy Commissioner, or if the Deputy Commissioner is a member of the committee, of the <sup>7</sup>[State Government], levy small fees from each person attending a fair on which the committee incurs expenditure under section 52(2) (j) and from person exposing goods for sale and all persons playing any occupation for gain (except water-carriers, scavengers and other employed in connection with the fair) for defraying the cost of sanitary arrangements, watch and ward and the like.

## **CHAPTER X BYE LAWS**

188. **General Bye-Laws:** - <sup>8</sup>[A committee may, and shall if so required by the State Government by bye-law.]

(a) render licenses necessary for the proprietors or drives of vehicles <sup>9</sup>[other than motor vehicles] or animals kept or playing for hire within the limits of the municipality, and fix the fees payable for such licenses and the conditions on which they are to be granted and may be revoked, and may by such conditions provide among other things for a minimum breadth for wheel tyres and for a minimum tyres and for a minimum diameter of the wheels;

<sup>10</sup>[(b) limit the rates which may be demanded for the hire of any carriage, cart, or other conveyance, or of animals hired to carry loads or persons, or for the services of persons hired to carry loads or to impel or carry such conveyances and limit the loads which may be carried by

any animal or carriage, cart or other conveyance, playing for hire, within the limits of the municipality:]

Provided that no bye-laws made under clause (a) or clause (b) by the committee of a municipality in which the Hackney Carriage Act, 1879, is in force shall apply to any vehicle to which that Act applies:

Provided also that operations of any bye-law made under the provisions of clause (a) or clause (b) or of any rules made under the Hackney Carriage Act, 1879, may, with the sanction of the State Government, be extended to –

- (i) any railway station:
  - (ii) the whole or part of any road so far as such road is situate within ten miles of the limits of the municipality;
  - (iii) the whole or any part of road leading from the limits of any one municipality or notified area to the limits of any other municipality or notified area, if the distance between the said municipalities or notified areas does not exceed fifty miles, and the committees of the said municipalities or notified areas consent to the extension of such bye-laws;
- (b) provide for the proper registration of births, marriages and deaths, and for the taking of a census;
- (c) fix, and from time to time vary, the number of persons who may occupy a building or part of a building, which is let in lodgings or occupied by members of more than one family, or which is situated within such congested bazaar areas as may be specified in the bye-law; and provide -
- (i) for the registration and inspection of such buildings.  
<sup>1</sup>[(ia) for the licensing of hotels and lodging-houses and for the fees payable for such licenses and the conditions on which they may be granted on or revoked].
  - (ii) for promoting cleanliness and ventilation in such buildings.
  - (ii) for the notices to be given and the precautions to be taken in the case of any infections or contagious disease breaking out in such buildings.
  - <sup>2</sup>[(iv) for the scavenging, removal and disposal of all rubbish, filth, night-soil, sullage or sewage in such buildings,
  - (iii) in the case of hotel, serai and lodging, house keepers and the secretaries of residential clubs for the maintenance of registers, in such form as the committee may prescribe, of visitors and lodgers, and
  - (iv) in the case of hotel, serai and lodging, house keepers and the secretaries of residential clubs for the maintenance of registers, in such form as the committee may prescribe, of visitors and lodgers, and
  - (v) generally for the proper regulation of such buildings;
- (e) provide -
- <sup>3</sup>[1] for the inspection and proper regulation of encamping grounds, pounds, serais, bakeries, accreted-water factories, ice factories, dhobis ghats, flour mills, foodgrain godowns, dispensing chemists shops, slaughter houses and places licensed under section 121.

(ii) for the inspection and proper regulation of markets <sup>4</sup>[and stalls] for the preparation and exhibition of a price current and for fixing the fees, rents and other charges to be levied in such markets <sup>5</sup>[and stalls].

(iii) for defining the standard weights and measures to be used in the municipality and for inspection of weights and measure under section 207.

(iv) for the holding of fairs and industrial exhibitions within the municipality or under the control of the committee, and for the collection of fees under section 187.

(v) for controlling and regulating the use and management of burial and burning grounds.

(vi) for the supervision, regulation and protection from pollution of public wells, tanks, springs or other sources from which water is or may be made available for the use of the public, whether within or without the municipality.

<sup>1</sup>[(vii)] for the licensing, inspection and proper regulation of theatres and other places of public resort, recreation or amusement].

<sup>2</sup>[(viii)] for inspection and proper regulation of channels which are supplied with water from any canal to which either the Northern India Canals Act, 1905, applies].

(f) require and regulate the appointment by owners of buildings or land in the municipality, who are not resident in the municipality, of persons residing within or near the municipality to act as their agents for all or any of the purposes of this Act or any rule thereunder:

(g) where the collection of an octroi <sup>3</sup>[or terminal tax] has been sanctioned, fix limits for the purpose of collecting the same, and may prescribe routes by which <sup>4</sup>[animals or articles] or both which are subject to octroi <sup>5</sup>[or terminal tax] may be imported into the municipality <sup>6</sup>[or exported therefrom];

(h) render licenses necessary for using premises as stables, cow-houses or houses or enclosures for sheep goats <sup>7</sup>[or swine], and regulate the grant and withdrawal of such licenses];

(i) in any municipality where a reasonable number of slaughter-houses has been provided or licensed by the committee control, regulate or prohibit the admission within the municipal limits for the purpose of sale of the flesh (other than cured or preserved meat) of any cattle, sheep, goat or swine slaughtered at any slaughter-house or place not maintained or licensed under this Act, and may provide for the seizure, destruction or disposal otherwise of any flesh brought within municipal limits in contravention of any such bye-law;

(j) six premises within the municipality in which the slaughter of animals of any particular kind, not for sale, shall be permitted, and prohibit, except, in case of necessity such slaughter elsewhere within the municipality.

Provided that no such bye-laws shall apply to animals slaughtered for any religious purposes;

(k) prohibit the letting off of fire-arms, fire-works, fire balloons, bombs or detonators except (1) with the permission of the committee or of a municipal officer empowered to give such permission, (2) subject to such conditions as the committee may impose and (3) on payment of such fees (if any) as may at any time have been fixed by the committee in the behalf;

(l) regulate the making and use of connections or communications between private houses and premises and mains or service cables, wires, pipes, drains, sewers and other channels established or maintained by the committee under any of the provisions of this Act.

<sup>8</sup>[(m) regulate the collection, storage preservation from pollution and use of rain water, and the carrying out of the provisions of section 96 to <sup>9</sup>[(102)];

(n) regulate the posting of bills and advertisement, and the position size, shape and style of name-boards, and sign posts:

(o) provide for, regulate, require or prohibit the construction, pattern of construction, maintenance and materials of boundary walls hedges and fences hereafter erected or re-erected so as to abut on a public street or upon property vested in the committee:

<sup>1</sup>[(p) regulate or prohibit any description of traffic in the street and provide for the reduction of noise caused thereby:

(q) prohibit the storage of more than a fixed maximum quantity of any explosive, petroleum spirit naphtha or other inflammable material in any building not registered or licensed under section 121:

(r) provide for the seizure and confiscation of ownerless animals straying within the limits of the municipality:

(s) provide for the registration of all or any specified classes of dogs and in particular and without prejudice to the generality of foregoing -

(i) provide for the imposition of any annual fee for such registration;

(ii) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the committee;

(iii) provide that any dog, not registered and wearing such token, may if found in any public place, be detained at a place to be set apart for the purpose and will be liable to be destroyed or otherwise disposed of after a period to be specified in the bye-laws];

<sup>2</sup>[(t) render licenses necessary for hand carts employed for transport or hawking articles for sale, and for the persons using such hand carts, and prescribe the conditions for the grant and revocation of such licenses];

<sup>3</sup>[(u) regulate the conditions on which and the period for which permission may be given under sub-section (1) of section 1872 and sub-section (1) of section 173 and provide for the levy of fees and rents for such permission. <sup>4</sup>[.....]

<sup>5</sup>[(uu) provide for the registration, inspection and proper regulation of buildings ordinarily utilised for the residence or treatment of persons suffering from infectious diseases and for the limiting of the number of such persons who reside in such buildings or part of such buildings; and]

(v) generally provide for carrying out the purposes of this Act.

189. **Prohibition of building without sanction:** - (1) No person shall erect or re-erect or commence to erect or re-erect building without the sanction of the <sup>6</sup>committee.

<sup>7</sup>[(2) Notice of building – Every person who intends to erect or re-erect any building shall give notice in writing to the committee of such intention.]

<sup>8</sup>[(3) Building by laws: - A committee shall by bye law-



- (a) prescribe the manner in which notice of the intention to erect or re-erect a building shall be given to the committee;
- (b) require that with every such notice shall be furnished a site plan of the land on which it is intended to erect or re-erect such building and a plan and specification of the building of such character and with such details as the bye-laws may require;
- (c) where the building appears likely to be used as a factory, require the provisions of adequate housing accommodation in connection therewith.

(4) where bye-laws have been framed under this section on notice under sub-section (2) shall be considered to be valid until the information, if any, required by such bye-laws has been furnished to the satisfaction of the<sup>1</sup> committee.

“Provided that the Executive Officer shall not without the approval of the committee, sanction the erection or re-erection of any building which involves any projection or encroachment over or upon any land vested in the committee or any land, the property of Government, which has been transferred to the committee for management:

“Provide further that if the Executive Officer refuses to sanction the erection or re-erection by any person of any building exception the ground that such erection or re-erection would be in contravention of any bye-law or of any general scheme sanctioned by the Commissioner restricting the erection or re-erection of buildings or any class of building, such person may, within fifteen days from the date of the service of the Executive Officer’s order refusing to sanction such erection or re-erection appeal to the committee, and the committee’s decision shall, subject to the provision of section 22, 232 and 236, be final]”

<sup>2</sup>[190. **Power of committee of make bye-laws as to erection ors re-erection of buildings:** - (1) The committee may, and if so required by the State Government shall by bye-laws, regulate in respect in respect of the erection or re-erection of any building within the municipality or part thereof-

- (a) the materials and method of construction to be used for external and party walls, roofs, floors, stair-cases, lifts, fire places and chimneys;
- (b) the materials and method of construction and position of fire-places, chimneys, drains latrines, privies, urinals and cess pools;
- (c) the heights and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;
- (d) the ventilation and the space to be left about the buildings to secure the free circulation of air and for the prevention of fire;
- (e) the line of frontage where the building abuts on a street;
- (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;

- (h) the materials and method of construction to be used for godowns intended for the storage of foodgrains in excess of fifty maunds in order to render them rat-proof;
- (i) the minimum dimensions of rooms intended for use as living rooms or sleeping rooms:
- (j) the ventilation of rooms and the minimum dimensions of doors<sup>3</sup> [and windows [-]<sup>4</sup>
- (k) the position and dimensions of projections beyond the outer face of any external wall of a building; and
- (l) the height of factory chimneys and the provision to be made for consumption of smoke arising from the combustible used in any fire place of furnace in factory.

(2) Notwithstanding anything contained in section 93, no person shall erect or re-erect any building in contravention of any bye-laws made under sub-section (1)]

**191. Special provision for cases where bye-laws have not been made under section 189(3):** - In any case in which no bye-laws have been made under sub-section (3) of section 189, the committee may, within 14 days of the receipt of the notice required by sub-section (2) of that section 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.

<sup>1</sup>[192. **Building Scheme:** - (1) The committee may, and if so required by the <sup>2</sup>[(1) Deputy Commissioner] shall, within six months of the date of such requisition, draw up a building scheme for built areas, and a town planning scheme for unbuilt areas, which may among other things provide for the following matters, namely: -

- (a) the restriction of the erection or re-erection of buildings or any class of buildings in the whole or any part of the municipality, and of the use to which they may be put;
- (b) the prescription of a building line on either side or both sides of any street existing or proposed; and
- (c) the amount of land in such unbuilt area which shall be transferred to the committee for public purposes including use as public streets by owners of land either on payment of compensation or otherwise, provided that the total amount so transferred shall not exceed <sup>3</sup>[thirty-five per cent] and the amount transferred without payment shall not exceed <sup>4</sup>[twenty-five per cent], of any one owner's land within <sup>5</sup>[such unbuilt area].

## CASE LAW

- Section 192(1)(c) - Constitution of India Article 31(2) (as it stood before repeal in 1979)  
 - Word "Transfer" is a misnomer for "ACQUISITION" in Section 192(1)(c) - Although limit to what extent land can be transferred is 35%, limit for acquisition without payment of

compensation is 25% and 10% beyond that has to be paid for - Portion in italics above makes the provision violative of Article 31(2) as it then stood.

- Section 192(1)(c) (Haryana Act, Section 203(1)(c) - Contention that expression "TRANSFER" is used as against acquired and therefore the ownership rights of the landowner remain with him intact - There is no such provision in the act which suggest that inspite of the "transfer" the landowner can "deal" with the land in the manner he likes - That being not so, he stands divested of all his rights as owner of the land - And that also without payment upto 25% of his holdings - If the land was not to vest in the Municipality the legislature would not provide for payment for 10% of the holdings beyond 25%.

- Section 192(1)(c) - Haryana Municipal Act 1973 - Section 203(1)(c) - Bombay Town Planing Act, 1954 - For the town planning Scheme, whereas in the Bombay Act there is an elaborate procedure prescribed for determination of compensation to be paid to the land-holders whose land is acquired for the purpose of scheme and levy of betterment charges on all landholders whose land are benefitted by the scheme, there are no such provisions in the Punjab/Haryana Municipal Act - And to that extent the provisions are discriminating - States may suitably amend the Sections on the lines of the enactments prevailing in other States or in the Bombay Act.

- Section 192(1)(c) - When land is acquired by a Municipality under Town Improvement Act of Land Acquisition Act for a town planning scheme, its compensation is paid to the land owner - But when acquired under Municipal Act 1911 for the same or similar scheme the compensation to the land owner upto 25% of his holdings is denied because (i) such public purpose is for the benefit of the landowner as it appreciates in value - Such benefit is for other members of public also-Why he alone should pay for it or suffer for it (ii) such benefit is not for this landowner only but is for all other landowners whose lands are similarly situate- When benefit is for all similarly situate persons why this landowners should be made to suffer (iii) this improvement if results in accretion in value, it may prove a burdon if the property tax, wealth tax, estate duty etc. are calculated on the market value of the property – Held – This accretion may prove a recurring liability, no reason why this landowner should be denied compensation – And finally why should a similar acquisition for the similar public purpose be treated differently under the three Acts- Provisions of Section 192 (1) (c) are violative of Article 14 of the Constitution. Punjab Town Improvement Act, 1922 – Punjab Municipality Act, 1911 – Section 192 (1) (c).

(2) When a scheme has been drawn up under the provisions of sub-section (1) the committee shall give public notice of such scheme and shall at the same time intimate a date not less than thirty days from the date of such notice by which any person may submit to the committee in writing any objection or suggestion with regard to such scheme which he may wish to make.

(3) The committee shall consider every objection or suggestion with regard to the scheme which may be received by the date estimated under the provisions of sub-section (2) and may modify and scheme in consequence of any such objection or suggestion and shall then forward such scheme as originally drawn up or a modified to the <sup>1</sup>[Deputy Commissioner] who may, if he thinks fit, return it to the committee for reconsideration and resubmission by a specified date; and the <sup>2</sup>[Deputy Commissioner] shall submit the plans as forwarded or as

resubmitted, as the case may be, with his opinion to the <sup>3</sup>[State] Government, who may sanction such scheme or may refuse to sanction it, or may return it to the committee for reconsideration and resubmission by a specified date.

(4) If a committee fails to submit a scheme within six months of being required to do so under sub-section (1) or fails to resubmit a scheme by a specified date, when required to do so under sub-section (3) or resubmits a scheme which is not approved by the <sup>4</sup>[State] Government, the <sup>5</sup>[Deputy Commissioner] may draw up a scheme of which public notice shall be given by notification and by publication within the municipality together with an intimation of the date by which any person may submit in writing to the <sup>6</sup>[Deputy Commissioner] any objection or suggestion which he may such objection or suggestion to the <sup>8</sup>[State] Government and the <sup>9</sup>[State] Government may sanction such scheme as originally notified or modified in consequence of any such objection or suggestion, as the <sup>10</sup>[State] Government may think fit; and the cost of such scheme or such portion of the cost as the <sup>11</sup>[State] Government may deem fit shall be defrayed from the municipal fund.

(5) When sanctioning a scheme the State Government may impose conditions for the submission of periodical reports on the progress of the scheme to the Deputy Commissioner or to the State Government, and for the inspection and supervision of the scheme by the State Government.

**192-A. Punishment for erection or re-erection of a building on sanction of a building scheme under section 192:** - If under the provision of any scheme sanctioned under section 192 the erection or re-erection of buildings in specified area for a specified purpose is prohibited, any person who after such scheme is sanctioned uses any building for a such purpose shall, <sup>1</sup>[-] unless it was used for this purpose before the scheme was sanctioned, on conviction <sup>2</sup>[-] be liable to fine which may extend to <sup>3</sup>[one thousand rupees and if after such conviction be continues to use such building for such purpose <sup>4</sup>[-] shall be liable to fine which may extend to fifty rupees for every day during which such use continues.

<sup>5</sup>[193. **Powers of committee to sanction or refuse erection or re-erection of building:** - The committee <sup>6</sup>(or the Executive Officer as the case may be), shall refuse to sanction the erection or re-erection of any building in contravention of any bye-law made under sub-section (1) of section 190 or in contravention of any scheme sanctioned under sub-section (3) or sub section (4) of Section 192 unless it be necessary to sanction the erection of a building in contravention of such a scheme owing to the committee's inability to pay compensation as required by section 174 for the setting back of a building.

<sup>7</sup>[(1-a) When the erection or re-erection of a building is likely, in the opinion of the Committee <sup>8</sup>(or the Executive Officer, as the case may be) to interfere with the enforcement of a scheme proposed under section 192, the Committee may refuse its sanction and in such case shall communicate its refusal in writing together with the grounds therefore, to the applicant within sixty days of the receipt of his application, and the applicant may thereafter by written notice require the committee to proceed with the preparation of the proposed scheme with all possible speed. The application shall be deemed to have been sanctioned if an order or refusal is not passed by the committee <sup>9</sup>(or the Executive Officer as the case may be) within the time

specified above, or if the proposed scheme has not received the sanction of the <sup>10</sup>[State] Government within twelve months of the date of delivery of the applicant's written notice hereinbefore referred to:

Provided that should a resolution refusing such sanction be suspended under section 232, the period prescribed above shall commence to run afresh from the date of communication of final orders by <sup>11</sup>the <sup>12</sup>[State] Government under section 235.

**Explanation:** A scheme shall be deemed to have been proposed under section 192 if a requisition for its preparation has been received by the committee from the <sup>13</sup>[Deputy Commissioner] or if the preparation of the scheme is under the consideration of the committee.

(2) The committee <sup>14</sup>(or Executive Officer, as the case may be) may refuse, to sanction the erection or re-erection of any building for any other reason, to be communicated in writing to the applicant, which it <sup>15</sup>(or he as case may be) deems to be just and sufficient as affecting such building, be if the land, on which it is proposed to erect or re-erect such building <sup>16</sup>[is vested in the Government or in the committee], and the <sup>1</sup>[consent of the Government] concerned or, as the case may be, of the committee has not been obtained, or if the title to the land is in dispute between such person and the committee <sup>2</sup>[or any Government].

(3) Subject to the provisions of sub-section (1) the committee' [or the Executive Officer, as the case may be] may sanction the erection or re-erection of any building either absolutely or subject to such modifications in accordance with the bye-laws and rules as it (or he as the case may be) may deem fit.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2) but subject to the provisions of sub-section (2) of section 190 <sup>4</sup>[and sub section (1-a) of this section] if the committee <sup>5</sup>[or the Executive Officer as the case may be] neglects or omits within sixty days of the receipt from any person of a valid notice of such person's intention to erect or re-erect a building, or within one hundred and twenty days, if the notice relates to a building on the same or part of the same site, on which sanction for the erection of a building has been refused within the previous twelve months, to pass orders sanctioning or refusing to sanction such erection or re-erection, such erection or re-erection shall, unless the land on which it is proposed to erect or re-erect such buildings belongs to or vests in the committee, be deemed to have been sanctioned, except in so far as it may contravene any bye-law, or any building or town planning scheme sanctioned under section 192.

Provided that should a resolution conveying or refusing such sanction be suspended under section 232, the period prescribed by clause (4) shall commence to run afresh from date of communication of final orders by <sup>6</sup>[-] the State Government under section 235.

Provided further that if not less than one-fifth of the members present vote against a resolution conveying sanction, the sanction shall be deemed not to have been conveyed until after the lapse of fourteen days from the passing of the resolution.

**193-A. Power of committee to direct modification of a sanctioned plan of a building before its completion:** - If at any time before the completion of a building of which the erection has been sanctioned under section 193 the committee finds that any modification of the sanctioned

plan is necessary, the committee may, subject to compensation for any loss to which the owner may be put, direct that the building be modified accordingly.

194. **Lapse of sanction after one year from the date of such sanction:** - Every sanction for the erection or re-erection of any building which shall be given or be deemed to have been given by a committee, <sup>7</sup>[or the Executive Officer, as the case may be] shall remain in force for one year only from the date of such sanction or for such longer period as the committee <sup>8</sup>[or the Executive Officer, as the case may be] may have allowed when conveying sanction under section 189. Should the erection or re-erection of the building not have been commenced within one year and completed within two years or such longer period as may have been allowed by the committee <sup>9</sup>[or the Executive Officer as the case may be] the sanction shall be deemed to have lapsed; but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of the Act].

<sup>1</sup>[195. **Penalty for disobedience:** - Should a building be begun, erected or re-erected.

- (a) without sanction as required by section 189 (1); or
- (b) without notice as required by section 189 (2); or
- (c) when sanction has been refused;

the <sup>2</sup>[committee] may by notice delivered to the owner within six months from the completion of the building, require the building to be altered or demolished as it may deem necessary within the period specified in such notice; and should it be begun or erected.

- (d) in contravention of the terms of any sanction granted; or
- (e) when the sanction has lapsed; or
- (f) in contravention of any bye-law made under section 190; or in the case of a building of which the erection has been deemed to be sanctioned under section 193(4), if it contravenes any scheme sanctioned under section 192;

the <sup>3</sup>[committee] may by notice to be delivered to the owner within six months from the completion of the building require the building to be altered in such a manner as it may deem necessary, within the period specified in such notice:

Provided that the committee may, instead of requiring the alteration or demolition of any such building, accept by way of compensation such sum as it may deem reasonable:

Provided also that the committee shall require a building to be demolished or altered so far as is necessary to avoid contravention of a building scheme drawn up under section 192:

<sup>4</sup>[Provided further that if any notice is issued by the Executive Officer under this section on the ground that a building has been begun or has been erected in contravention of the terms of any sanction granted or in contravention of any bye-law made under section 190 the person to whom the notice is issued may, within fifteen days from the date of service of such notice, appeal to the committee, and subject to the provisions of sections 225, 232 and 236, the decision of the committee shall be final.]

195-A. **Power of committee to stay building operations:** - (1) Where a building is begun as described in section 195 but not completed, the committee may <sup>5</sup>[by notice, to be delivered to the owner within six months from the commencement of the building, or from the contravention of

the terms of any sanction, or any bye-law framed under section 190, as the case may be] require the building operations to be discontinued from the date of the service of such notice.

(2) Any person failing to comply with the terms of such notice shall be punishable with a fine which may extend to one thousand rupees and when the non-compliance is a continuing one, with a further fine which may extend to fifty rupees for every day after the first during which the non-compliance continues.

196. **Compensation:** - (1) No compensation shall be claimable by an owner for any damage which he may sustain in consequence of the prohibition of erection of any building. (2) The committee shall make reasonable compensation to the owner for any damages or loss which he may sustain in consequence of the prohibition of the re-erection of any building or part of a building except in so far as the prohibition is necessary under any bye-law.

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back, unless for a period of three years or more immediately preceding such notice the building has by reason of its being in ruinous or dangerous condition become unfit for human habitation or unless an order of prohibition issued under section 116 has been and still is in force in respect of such building.

<sup>1</sup>[197. **Power of committee, to regulate the manufacture, preparation and sale of food and drink:** - The committee may, and shall if so required by the <sup>2</sup>[State] Government by bye-law-

- (a) prohibit the manufacture, sale, or preparation or exposure for sale, of any specified articles of food or drink, in any place or premises not licensed by the committee;
- (b) regulate the hours and manner of transport within the municipality of any specified articles of food or drink, and prescribe the route by which such articles shall be carried;
- (c) prohibit the sale of milk, butter, ghee, curd, meat, game, fish and poultry by persons not licensed by the committee;
- (d) prohibit the import into the municipality for sale of milk, cream, butter, ghee, curd, meat, game, fish and poultry by person not licensed by the committee;
- (e) make regulations for the grant and withdrawal of licenses and the levying of fees therefore under this section:

Provided that no person shall be punishable for breach of any bye-law made under clause (a) of this section by reason of the continuance of such manufacture, preparation or exposure for sale, or sale upon any premises which are, at the time of the making of such bye-law, used for such purpose until he has received from the committee six months' notice in writing to discontinue such manufacture, preparation or exposure for such sale, or such sale in such premises:

Provided further that nothing herein contained shall affect the operation of section 43 of the Punjab Laws Act, 1872, and the rules made thereunder.

<sup>3</sup>[197-A. **Prohibition of possession or sale of wild birds and animals:** - No wild bird or animal in respect of which any close time has been notified by the <sup>4</sup>[State] Government under section 3 of the Wild Birds and Animals Protection Act, 1912, shall whether dead or alive be possessed or sold during such close time within any municipality; and no such bird or animal shall any another time be sold within any municipality except under an annual license to be granted by the committee; Provided that these prohibitions shall not extend to wild birds or animals possessed or sold as pets.

198. <sup>5</sup>[-]

199. **Penalty for infringement of bye-laws:** - (1) In making any bye-law under any section of this chapter, the committee may direct that a breach or an abatement of a breach of it shall be punishable with fine which may extend to <sup>6</sup>[five hundred rupees], and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

(2) In lieu of or addition of such fine the magistrate may require the offender to remedy the mischief so far as is within his power.

200. **Procedure for making bye-laws:** - All bye-laws made under this Act shall be subject to previous publication.

201. **Confirmation of bye-laws:** - (1) No bye-law made under any section of this chapter shall come into force until it has been confirmed by the State Government and, published for such time in such manner as the State Government may prescribe in this behalf.

(2) The State Government may cancel its confirmation of any such bye-laws and thereupon the bye-law shall cease to have effect.

202. **Bye-laws to be available for purchase and inspection:** - (1) A copy of all bye-laws made under this Act for any municipality shall be kept at the committee's office, and shall be open during office hours without charge to the inspection of any inhabitant.

(2) Copies of all such bye-laws shall be kept at the committee's office for sale to the public not exceeding one rupee.

## CHAPTER XI POWER OF ENTRY AND INSPECTION

203. **Inspection of drains, privies and cesspools:** - (1) The committee <sup>1</sup>[or Executive Officer may] authorise any person to enter, between sunrise and sunset, into any building or upon any land and to inspect any drain, privy, latrine, urinal, cesspool, cable, wire, pipe, sewer or channel therein or thereon, and to cause the ground to be opened where such person as aforesaid may think fit for the purpose or preventing of removing any nuisance arising from the drains, privies, latrines, urinals, cesspools, cables, wires, pipes, sewers, or channels.



(2) If, on such inspections, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building but if it be found that no nuisance exist or but for such opening would have arisen, the ground or portion of any building, drain or other work, if any, opened, injured or removed for the purpose of such inspection shall be filled in, reinstated and made good by the committee.

(3) No building other than a latrine, urinal or privy shall be entered under this section until six hours' notice in writing has been given to the occupier of the building by the committee or by the person authorised by the committee to make the entry.

**204. Inspection of buildings, etc.:** (1) The committee or Executive Officer may authorise any person after giving three hours' notice to the occupier, or, if there be no occupier, to the owner of any building to enter and inspect it at any time between sunrise and sunset where such inspection appears necessary for sanitary reasons.

(2) If the building to be inspected is a stable for horses or a house or shed for cows or other cattle, previous notice shall not be requisite before inspection.

**205. Other powers of entry on buildings or lands:** - The committee <sup>2</sup>[or Executive Officer] may authorise any person, after giving twenty four hours' notice to the occupier, or if there be no occupier, to the owner of any building or land, at any time between sunrise and sunset-

- (a) to enter on and to survey, and to take levels or measurements of any buildings or land;
- (b) to enter into any building or on any land for the purpose of examining works under construction, or ascertaining the course of sewers or drains, or of executing or repairing any work which it is by this Act empowered to execute or to maintain;
- (c) to enter into any building or on any land for the purpose of inspecting or repairing gas, water, telephonic, electric or other installation and for taking readings or meters connected therewith;
- (d) to enter into any building or on any land for the purpose of ascertaining whether any building is being or has been erected or erected without sanction or in contravention of any sanction given by the committee <sup>1</sup>[or Executive Officer] or by any bye-laws made under Section 190 or of any scheme sanctioned under Section 192 and to take such measurements and do any other such acts as may be necessary for such purpose.

**206. Power to inspect places for sale of food or drink etc., and to seize unwholesome articles exposed for sale.** – The committee<sup>2</sup> [or Executive Officer] may authorize any person at all reasonable times to enter into and to inspect any market, building, shop, stall or place used for the sale of food or drink for man, or as a slaughter house, or for the sale of drugs, and to inspect and examine any food or drink, animal or drug, which may be therein; and, if any article of food or drink, for any animal therein appears to be intended for the consumption of man to be unfit therefore, may seize and remove the same or may cause it to be destroyed or to be disposed of as

to prevent its being exposed for sale or used for such consumption; and, in case it is reasonably suspected that any drug is adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, to remove the same, giving a receipt therefore, and to cause the owner thereof to be brought before a magistrate for enquiry whether any offence has been committed in respect thereof, and for orders as to the disposal of the said drug.

**207. Inspection of weights and measures and seizure of false weights etc.** (1)-The committee,<sup>3</sup>[or Executive Officer] by any person authorized by it in this behalf, may at all reasonable times enter into and inspect any market, building, shop, stall or place used for the sale of any goods, food, drink or drug, and may inspect any instruments for weighing, weights or measures found therein and test the same with other weights and measures, and may seize any such instrument for weighing, weight or measure which the person so authorized reasonably believes to be false or not in accordance with bye-laws made by the committee under Section 188 (c)(iii), and may take the same to be examined or tested by the officer appointed for the purpose,.

(2) Every person for the time being in charge of or employed in such market, building, shop, stall or place shall, if so requested by the person making such inspection, produce for such inspection and comparison all instruments for weighing, weights and measures kept therein.

**208. Inspection of places for illicit slaughter of animals.** – If there are reasonable grounds for believing that any animal has been, is being, or is about to be slaughtered in any place or premises not fixed for such purpose under Section 167 or in contravention of any bye-law made under Section 181 (c) (i), the committee<sup>4</sup>[or Executive Officer] by any person authorized by it<sup>5</sup>[or him] in this behalf may, at all reasonable times, enter into and inspect any such place or premises:

Provided that no entry shall be made under the provision of this section without an order in writing from the President or from the<sup>1</sup> [Medical Officer of Health]. Such order shall specify the place or premises to be entered and the locality in which the same is situated and the period (which shall not exceed seven days) for which it is to remain in force.

**209. Refusal to suffer inspection under sections 205 to 208.** - Whoever, in contravention of Section 205 or Section 206 or Section 207 or Section 208 or Section 211, refuses to suffer inspection of any premises, food, drink, drug, animal, weight, measure or instrument for weighing, or in contravention of Section 207, clause (2) refuses to produce any weight, measure or instrument for weighing to which he has access, shall be punishable with fine which may extend to<sup>2</sup>[five hundred rupees].

**210. Search for inflammable or explosive material in excess of authorized quantity.** (1) The committee<sup>3</sup>[or Executive Officer] may authorize any person to enter upon at any reasonable time and inspect any house or building which is suspected to contain petroleum, explosive or other inflammable material, in excess of the quantity permitted to be kept in such house or building under the provisions of this Act or of any rule, bye-law or public notice made or published thereunder.

(2) Should any such excess quantity of such material be discovered, it may be seized and held subject to such order as a magistrate may pass with respect to it.

(3) If the magistrate decide that the material seized was stored in the house or building contrary to the provisions of this Act or of any rule, bye-laws or public notice made or published thereunder, he shall pass an order confiscating the same.

(4) Subject to any general rules for the time being applicable thereto, the material confiscated may be sold by order of the magistrate and the proceeds, after defraying the expenses of such sale, shall be credited to the municipal fund.

(5) No order of confiscation under this section shall operate to prevent any other criminal or civil proceedings to which the person storing the material in excessive quantity may be liable.

**211. Power of entry for purpose of preventing spread of disease.** (1) The <sup>4</sup>[Medical Officer of Health or any other officer authorised by committee<sup>5</sup> [or Executive Officer] may enter, at any time, after 'three hours' notice into any building or premises in which any infectious disease is reported or suspected to exist, for the purpose of inspecting such building or premises].

(2) No such inspection shall be made except in the hours between sunrise an sunset

**212. General Explanation-** The committee <sup>6</sup>[or Executive Officer] may authorize persons to exercise the powers of entry conferred by the foregoing sections of this chapter either generally in regard to all buildings and lands or classes of buildings and lands.

**213. Precautions to observe in entering dwellings.** When any building used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious sentiments of the occupiers: and before any apartment in the actual occupancy of any woman who according to custom does not appear in public, is entered under this Act, notice shall be given to her that she is at liberty to withdraw, and reasonable facility shall be afforded to her for withdrawing.

## NOTICE AND CONSEQUENCES OF NON-COMPLIANCE

**214. Reasonable time for compliance to be fixed.** When any notice under this Act requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

<sup>1</sup>[**215. Authentication, service and validity of notices.** Every notice issued by a committee under this Act or under any rule or bye-law shall be in writing, signed by the President, Vice-President, secretary or assistant secretary, or by the members of any sub-committee specially authorised by the committee in that behalf, <sup>2</sup>[and every such notice and every order made under Section 193] may be served on the person to whom it is addressed, or delivered or left at his usual place of abode or business with some adult male member or servant of his family or if it cannot be so served, may be affixed to some conspicuous part of this place of abode or business.

<sup>3</sup>[Provided that such notice may be signed by the Medical Officer of Health when it is issued by the committee under any section of this Act under which power may be delegated to the Municipal Officer of Health under clause (b) of Section 33 and has been so delegated.]

(2) When the place of abode or business of the person to whom notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) If the owner of any property has no place of abode or business within the municipality, every such notice addressed to him as such owner may be served on the occupier.

(4) When the place of abode or business of the occupier of any property is not known every such notice addressed to him as such occupier may be served by affixing it to some conspicuous part of the property.

(5) No notice issued by the committee under this Act or under any rule or bye-law shall be invalid for defect of form.]

**216. Service when owners and occupiers are different persons.** Whenever it is provided by this Act that any notice may be given to the owner or occupier of any land or building, and the owner and occupier are different persons, such notice shall be given to the one of them primarily liable to comply with such notice, and in case of doubt to both of them.

Provided that in any such case, where there is no owner resident within the municipality, the delivery of such notice to the occupier shall be sufficient.

**217. Mode of giving notice to owners or occupier of property.** When any notice is under the provisions of this Act to be given to or served on the owner or occupier of any property and he is unknown, it may be given or served.

- (a) by delivering a written notice to some person on the property, or should there be no person on the property to whom it can be delivered, by affixing it to some conspicuous part of the property; or
- (b) by putting into the post a pre-paid letter containing a written notice and addressed by the description of the "owner" or "occupies" of the property naming it in respect of which the notice is give, without further name or description.

**218. Publication of public notices** - Every public notice given by a committee under this Act or any rule or bye-law shall be published by proclamation or in such other manner as the [State] Government may, by rule, direct.

**219. Penalty for disobedience of orders of committees.** Whoever disobeys any lawful direction or prohibition given by the committee by public notice under this Act or any written notice lawfully issued by it thereunder, or fails to comply with the conditions subject to which any permission was given by the committee to him under those powers shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to <sup>1</sup>[five hundred rupees], and in the case of a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues:

Provided that when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

<sup>2</sup>[219-A. **Compensation for damage.** Every person convicted of an offence under this Act on account of any act or omission, shall notwithstanding any punishment to which he may have been sentenced for such offence, pay compensation, the amount of which shall be determined by the magistrate before whom he was so convinced, to the committee for any damage that may have occurred to any property of the committee, in consequence of such act or omission]

220. **Power of committee in the event of non-compliance.** Whenever the terms of any notice have not been complied with, the committee may after six hours' notice, by its officers, cause the act to be done.

221. **Penalty for obstruction.** Any person wilfully obstructing the committee, or any officer or servant of the committee, or any person authorised by the committee, in the exercise of the powers conferred by this Act, shall be punishable with fine which may extend to <sup>3</sup>[five hundred rupees].

222. **Recovery of cost of execution.** (1) Where, under this Act, the owner or occupier of property is required by the committee to execute any work and default has been made in complying with the requirement, and the committee has executed the work, the committee may recover the cost of the work from the person in default.

(2) As between themselves and the committee both owner and occupier shall be deemed to be in default for the purposes of this section, but that one of them shall be deemed to be primarily in default upon whom, as between landlord and tenant, the duty of doing the required act would properly fall either in pursuance of the contract of tenancy or by-law.

(3) When the person primarily in default is the owner and committee has recovered the whole or any part of the cost from the occupier, or he has paid the same upon its demand, he may deduct the sum so recovered or paid from the rent from time to time becoming due from him to the owner, or otherwise recover it from such owner:

Provided that no occupier shall be required to pay under sub-section (3) any sum greater than the amount for the time being due from him to the owner, either in respect of rent due at the date of such demands aforesaid or thereafter accruing, unless he has refused on application to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit or on application to a magistrate having jurisdiction within the municipality, by distress and sale of the movable property of the person from whom the money is recoverable, and if payable by the owner of the property shall, until it is paid, be a charge on the property.

(5) Nothing in this section affect any contract between an owner and on occupier.

<sup>1</sup>[(6) Where under Section 113 or Section 114 the committee had executed any work, the cost thereof may be recovered from the owner or occupier in connection with work done under Section 113, and from the owner in connection with work done under Section 114, in the manner

herein provided for the recovery of cost of work from a defaulting owner or occupier and subject to the provisions herein contained].

223. **Relief to agents and trustees.** (1) When any person, by reason of his receiving <sup>2</sup>[or being entitled to receive] the rent of immovable property as agent or <sup>3</sup>[trustee] of a person or society, would, under this Act, be bound for discharge any obligation imposed by this Act, on the owner of the property<sup>4</sup> [-] for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has, or but for his own improper act or default might have had, in his hand funds belonging to the owner sufficient for the purpose.

(2) The burden of proving the fact entitling an agent or trustee to relief under this section shall lie on him.

(3) When any agent or trustee has claimed and established his right to relief under this section, the committee may give him notice to apply to the discharge of such obligation as aforesaid the first moneys which shall come to his hands on behalf or for the use of the owner, and should he fail to comply with such notice, he shall be deemed to be personally liable to discharge such obligation.

#### **PAYMENT OF COMPENSATION BY THE COMMITTEE**

224. **Payment of compensation.** (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in the committee, its officers and servants under this Act, and shall make such compensation where the damage was caused by the negligence of the committee, its officer or servants and the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

<sup>5</sup>(2) Should any dispute, for the settlement of which no express provision is made by any other section, arise touching the amount of any compensation which the committee is by this Act required to pay or empowered to receive for injury to or in respect of any building or land, it shall be settled in such manner as the parties may agree, or in default of agreement in the manner provided by the Land Acquisition Act, 1894, with reference to the acquisition of and payment of compensation for land for public purposes so far as it can be made applicable.]

#### **APPEALS FROM ORDER, ETC.**

225. **Appeals from order of committee.** (1) Any person aggrieved –

(a) by the refusal of a committee under section 193 to sanction the erection or re-erection of a building, or

<sup>1</sup>(b) by a notice from a committee under Section 171 requiring a street to be drained, levelled, paved, flagged, metalled or providing with proper means of lighting, or declaring a street to be public street, or <sup>2</sup>[by a notice from the Executive Officer] under Section 195 requiring the alteration or demolition of a bulding, or]

(c) by any order made by a committee '[or any Executive Officer] under the powers conferred upon <sup>4</sup>[it] by Sections 107, 116,<sup>5</sup> [121], 123<sup>6</sup> [or 124] may appeal within thirty days,

from the date of such prohibition, notice or order to such officer as the State Government may appoint for the purpose of hearing such appeals or any of them, or, failing such appointment, <sup>7</sup>[-----] to the Deputy Commissioner <sup>8</sup>[\*-----] and no such refusal, notice or order shall be liable to be called in question otherwise than by such appeal.

<sup>9</sup>[X X X X]

(2) The appellate authority may, if it shall think fit, extend the period allowed by subsection (1) for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the refusal, notice or order appealed from shall be final: Provided that the refusal, notice or order shall not be modified or set aside until the appellant and the committee have had reasonable opportunity of being heard.

226. **Prosecution to be suspended in certain cases.** When any order of the kind specified in the Section 107, Section 123 and Section 219 is subject to appeal, and an appeal has been instituted against it, all proceedings to enforce such order and all prosecutions for any breach thereof shall be suspended pending the decision of the appeal, and if such order is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

227. **Appeal from certain orders.** Every order of the forfeiture under Section 165 and every order under Section 166 or Section 210 shall be subject to appeal to the next superior court, but shall not be otherwise open to appeal.

### OFFENCES AND PROSECUTION

228. **Authority for prosecution.** Unless otherwise expressly provided, no court shall take cognizance of any offence punishable under this Act or any rule or any bye-law thereunder, except on the complaint of or upon information received from the committee <sup>10</sup>[or its Executive Officer] or some person authorised by the committee <sup>11</sup>[or by the Executive Officer] in this behalf.

**Explanation.** The committee <sup>12</sup>[or its Executive Officer] may authorize <sup>13</sup>[any person] <sup>14</sup>and shall be deemed to have authorized <sup>15</sup>[any person] appointed to this end by the State Government to make complaints or to give information, without previous reference to the committee, either generally in regard to all offences against this Act and the rules or bye-laws thereunder, or particularly in regard only to specified class. The person authorized may be authorized of office; if he is President, Vice-President <sup>1</sup>[Medical Officer of Health] or Secretary of the committee, or officer in charge of a police station; in other cases the authority must be personal. The authority must in all case, be in writing, and, may at any time be cancelled by the committee.

229. **Power of compound offences.** (1) The committee or with the authorization of the committee its President, Vice-President <sup>2</sup>[Executive Officer] <sup>3</sup>[Medical officer of Health] or Secretary, or any sub-committee thereof, may accept from any person against whom a reasonable

suspicion exists that he has committed an offence against this Act or any rule or bye-law, a sum of money by way of compensation for such offence.

(2) On payment of such sum of money the suspected person if in custody shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded for.

(3) Sums paid by way of composition under this section shall be credited to the municipal fund.

(4) Authorization under sub-section (1) to accept composition for alleged offences may be given by the committee either generally in regard to all offences under this Act and the rules and bye-laws, or particularly in regard only to specified class, and may at any time be withdrawn by the committee.

<sup>4</sup>(5) If the committee has not authorized any of the officers specified in sub-section (1), it shall if so required by the Deputy Commissioner give such authorization to any to any of the officers specified in sub-section (1), and shall not withdraw authorization given on such requisition without the Deputy Commissioner.]

230. **Member not be deemed interested in prosecution.** No judge or magistrate shall be deemed to be a party to, or personally interested in, any prosecution for an offence punishable under this Act or any rule or bye-law, or under any other law, within the meaning of section 556 of the Code of Criminal Procedure, 1898, by reason only that he is member of the committee by the order, or under authority of which it has been instituted.

## CHAPTER XII CONTROL

<sup>5</sup>[231. **Control by commissioner and deputy commissioner.** (1) The<sup>6</sup> [-]<sup>7</sup> [-] Deputy Commissioner<sup>8</sup> or any official not below the rank of Extra Assistant Commissioner authorized in writing by<sup>9</sup> [him] or any person empowered by the State Government in this behalf by a general or special order, may –

- (a) enter on, inspect and survey, or cause to be entered on, inspected and surveyed, any immovable property occupied by any committee or joint committee, or any work in progress under its direction;
- (b) by order in writing addressed to the secretary call for and inspect or cause to be inspected any book or document in the possession or under the control of any committee or joint committee and the member or servant of the committee in possession of such book or document shall immediately place such book or document at the disposal of the secretary, who shall immediately comply with such order and shall immediately inform the President of the requisition. He shall also bring the matter to the committee at its meeting next following;
- (c) by order in writing addressed to the secretary require any such committee or joint committee to furnish within a special period such statements, accounts report and copies of documents relating to the proceedings or duties of the committee as he may think fit to call for;



- (d) inquire generally into the affairs of a committee or joint committee with a view to ascertaining whether a municipality is being satisfactorily administered, and for the purposes of such inquiry make use of any property of the committee, and of the powers mentioned in clauses (a), (b) and (c), and the members, officers, and servants of the committee shall tender such assistance in the enquiry as may be deemed necessary.

**Explanation.** Any person so empowered shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(2) The words “Commissioner or the” omitted by Punjab Act 34 of 1953 Schedule II. [-] Deputy Commissioner may record in writing for the consideration of any such committee or joint committee any observations that he may proper in regard to the proceedings or duties of the committee.

(3) Every committee shall submit such periodical reports to the Deputy Commissioner or other authority as the [State] Government may direct.

<sup>1</sup>[232. **Powers to suspend any resolution or order of committee.** The<sup>2</sup> [Deputy Commissioner] may, by order in writing, suspend the execution of any resolution or order of a committee, or joint committee 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 committee in the exercise of its power under the Act, if, in his opinion the resolution, order or act is in excess of the powers conferred by law or contrary to the interests of the public or likely, to cause waste or damage of municipal funds or property, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, to encourage lawlessness or to cause injury or annoyance to the public or any class or body of person.]

**233. Extraordinary power of deputy commissioner in cases of emergency.** (1) In case of emergency the Deputy Commissioner may provide for the execution of any work, or the doing of any act which a committee 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 the work or of doing the act shall be forthwith paid by the committee.

(2) Should the expense be 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, or so much thereof as may from time to time be possible, from that balance, in priority to all other charges against the same.

**234. Power to provide for performance of duties in case of default of committee.**<sup>3</sup> (1) When the<sup>4</sup> [Deputy Commissioner], after due inquiry is satisfied that a committee<sup>5</sup> has made default in performing any duty imposed upon it by this Act, or by any order or rule under this act he may by an order in writing, fix a period for the performance of that duty; and should it not be performed within the period so fixed, he may appoint some person to perform it and may direct that the expense thereof shall be paid within such time as he may fix by the committee.

(2) Should the expense be not so paid, the <sup>1</sup>[Deputy Commissioner] may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much there of as may from time to time be possible, from the balance in priority to all other charges against the same.

<sup>2</sup>(3) [-]

**235. Action of deputy commissioner to be immediately reported.** When the Deputy Commissioner makes any order under Section 232, section 233 or section 234 he shall forthwith forward to the State Government a, <sup>3</sup>[-] copy thereof, with a statement of the reasons for making it and with such explanation, if any, as the committee may wish to offer, and<sup>4</sup> the State Government<sup>5</sup> may thereupon confirm, modify or rescind the order.

**236. Power to [state] government and its officers over committees.** (1) The State Government and Deputy Commissioners, acting under the orders of the State Government, shall be bound to require that the proceedings of the committees shall be in conformity with law and with the rules in force under any enactment for the time being, applicable to Punjab generally or the area over which the committee have authority.

<sup>7</sup>(2) The State Government may exercise all powers necessary for the performance of this duty, and may among other things, by order in writing, annual or modify and proceeding which it may consider not to be in conformity with law or with such rules as aforesaid, or for the reasons which would in its opinion justify an order by the <sup>8</sup>Deputy Commissioner under Section 232.

(3) The<sup>9</sup> Deputy Commissioner may within <sup>10</sup>[his] jurisdiction for the same purpose exercise such powers as may be conferred upon <sup>11</sup>[him] by rule made in this behalf by the State Government.

<sup>12</sup>[237. **General powers of state government over officers.** Notwithstanding anything in this Act, the State Government shall have the power of reversing or modifying the order of any officer of the State Government passed or purporting to have been passed under this Act, if it considers it to be not in accordance with the said Act or the rules or to be for any reason in expedient, and generally for carrying out the purposes of this Act the State Government shall exercise over its officers <sup>13</sup>all powers of superintendence, direction and control.]

SECTION 238 [OMITTED BY ACT 11 OF 1994]

SECTION 238-A [OMITTED BY ACT 11 OF 1994]

**239. Disputes.** : - (1) If any dispute for the decision of which this Act does not otherwise provide, arises between two or more committees constituted under this Act, or between any such committee and a district board or cantonment authority, the matter shall be referred. -

(a) to the Deputy Commissioner if the local authorities concerned are in the same district:

<sup>1</sup>[(b) [-]

(c) to the State Government if the local authorities concerned are in different <sup>2</sup>[district].

<sup>3</sup>[-]

(2) The decision of the authority to which any dispute is referred under this section shall be final.

<sup>4</sup>[Provided that where a dispute referred to the <sup>5</sup>[State] Government under clause (c) of sub-section (1) is between a committee and a cantonment authority, the decision of the State Government shall be subject to the concurrence of the Central Government.

(3) If, in the case mentioned in clause (a), the Deputy Commissioner is a member of one of the committees or boards concerned, his functions under the section shall be discharged by the <sup>6</sup>State Government.

**240. Power of state government to frame forms and make rules:** - (1) <sup>7</sup>The State Government may frame forms for any proceeding of a committee <sup>8</sup>[and may make any rules consistent with this Act to carry out the purposes thereof and in particular and without prejudice to the generality of the foregoing power may make rules]-

- (a) with respect to the power and duties of committees in municipalities of the first, <sup>9</sup>[second and third class], respectively:
- (b) as to the division of municipality into wards, or of the inhabitants into classes, or both:
- (c) as to the number of representatives proper for each ward or class;
- (d) [omitted by Act 11 of 1994]
- (e) [omitted by Act 11 of 1994]
- (f) [omitted by Act 11 of 1994]
- (g) [omitted by Act 11 of 1994]
- (h) [omitted by Act 11 of 1994]
- (i) prescribing the qualification requisite in the case or persons appointed by a committee to offices requiring professional skill:
- (j) as to the priority to be given to the several duties of the committee.
- (k) As to the authority on which money may be paid from the municipal fund, and as to the management and regulation of provident funds established under section 43:
- (l) As to the appointment, promotion, suspension, reduction, fining and dismissal of municipal watchmen:
- (m) As to formation and working of municipal fire-brigades; <sup>10</sup>[and the provision of implements, machinery or means of communicating intelligence for the efficient discharge of their duties by such brigades];
- <sup>1</sup>[(n) as to procedure to be observed for the employment, punishment suspension or removal of officers and servants of the committee and as to appeals from orders of punishment or removal;]
- <sup>2</sup>[(nn) the manner of constitution of municipal services, the classification, method of recruitment and the conditions of service of persons appointed to such services;
- (o) as to the conditions on which property may be acquired by the committee or on which property vested in the committee may be transferred by sale, mortgage, lease, exchange or otherwise;

- (p) as to the intermediate office or offices, if any, through which correspondence between committees or members of committees and the <sup>3</sup>[State] Government or officers of that Government shall pass;
- <sup>4</sup>[(q) for the preparation of plans and estimates for works partly or wholly to be constructed at the expense of committees, and for the preparation and periodical revision of maps and registers made under sub-section (3) of section 56 and for the authorities by which and the conditions, subject to which such plans, estimates, maps and registers are to be prepared and sanctioned;]
- <sup>5</sup>[(qq) for the regulation of contracts with electric supply companies for the supply of electrical energy;]
- (r) for the assessment and collection of, and for the compounding for refunding or limiting refunds of taxes imposed under this Act, and for preventing evasion of the same; and for fixing the fees payable for notices of demand;
- (s) as to conditions on which a municipal committee may receive animals or articles into a bonded-warehouse and as to the agreements to be signed by traders or others wishing to deposit <sup>6</sup>[animals or articles] therein;
- (t) as to the accounts to be kept by committees, as to the conditions on which such accounts are to be open to inspection by inhabitants paying any tax under this Act, as to be open to inspection by inhabitants paying any tax under this Act, as to the manner in which such accounts are to be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;
- (u) as to the preparation of estimates of income and expenditure of committees, and as to the persons by whom and the conditions subject to which, such estimates may be sanctioned;
- (v) as to the returns, statements and reports to be submitted by committees;
- (w) as to the powers to be exercised by 7(-----) Deputy Commissioners under section 236 <sup>8</sup>[and the powers to be exercised by such Local Self Government Board or Inspector as the <sup>9</sup>[State] Government may establish;]
- (x) as to the language in which business shall be transacted, proceedings recorded and notices issued;
- (y) as to the publication of notices;
- (z) to regulate the proceedings of persons empowered to accept composition under section 229 for alleged offences; and
- <sup>10</sup>[(zi) mode of assessment, appointment of compensation under Section 154-B amongst, and payment, to the persons entitled thereto;
- (zii) mode of communication of the order under section 154-B to the person effected thereby;
- (ziii) the manner in which the compost is to be made;]
- (zz) generally for the guidance of committees and public officers in carrying out the purposes of this Act
- <sup>1</sup>[(zzz) for the same purposes as those for which a committee may make bye-laws under the provisions of sections 31, 188, 189, 190 or 197);
- <sup>2</sup>[(2) The rules made under sub-section (1) may among other matters provide: -

- (i) for reservation of seats in Municipality under section 8;
- (ii) for determining the number of elected member under clause (3)(I) of section 12;
- (iii) for specifying the authority and the manner under sub-section (2) of section 16-A; and
- (iv) for filing a statement under sub-section (3) of section 73;]; and

(3) The Municipal Account Code at present in operation in the Municipalities of the state shall be deemed to have been made in pursuance of the powers conferred upon Government by sub-section (1) of this section.

(4) In making rules <sup>3</sup>[under clauses (d) to (g), both inclusive, and clauses (m) and (n) of sub-section (1), the State Government may direct that a breach of any provision thereof shall be punished with fine which may extend to <sup>4</sup>[five hundred rupees.)

(5) All rules made under this Act shall be subject to previous publication.

(6) A rule under this section may be general for all municipalities or for all municipalities not expressly excepted from its operation, or may be special for the whole or any part of any one or more municipalities as the <sup>8</sup>[State] Government directs.

<sup>6</sup>[(7) Notwithstanding anything hereinbefore contained the <sup>7</sup>[State] Government shall not make rules under clause (zzz) of sub-section (1) for a Municipality unless the committee has been required by the <sup>8</sup>[State] Government to make bye-laws under section 31, section 188, section 189, section 190 or section 197, and has failed to make any such bye-laws, or having made them has failed to obtain their confirmation by the <sup>9</sup>[State] Government as required by sub-section (1) of section 201 within nine months of the date of the order of the <sup>10</sup>[State] Government requiring them to be made, and any rules made by the <sup>11</sup>[State] under clause (zzz) of sub-section (1) shall have effect as if they were, and shall be deemed for all purposes to be, bye-laws made by the committee.

1240-A. <sup>12</sup>General control of the State Election Commission. (1) The superintendence, direction and control of the preparation of electoral rolls for the conduct of all elections to the municipalities shall vest in the State Election Commission constituted under Article 243K of the Constitution.]

**Chapter XIII**  
**[OMITTED BY ACT 11 OF 1994]**

**Chapter XIV**  
**[OMITTED BY ACT 11 OF 1994]**

**STATEMENT OF OBJECTS AND REASONS**  
**Amending Act 11 of 1994**

The Constitution (74 Amendment) Act, 1992 has been passed by the Parliament with a view mainly to strengthen and revitalize the Municipalities so that they can subserve the growing needs of the urban population in towns and cities. Apart from that, it also provides for the steady

transformation of areas in transition from rural to urban character by constituting Nagar Panchayat (Article 243-Q (1) (a)].

2. The constitution Amendment gives broad guidelines for the composition of Municipalities (Article 243 (D) for the Constitution of Ward Committees (Article 243 S), for reservation of seats and offices (Article 243 T), duration of Municipalities (Article 243 U), disqualification (Article 243 V), powers and functions of the Municipalities (Article 243 W), power to impose taxes (Article 243 X), for the constitution of a Finance Commission (Article 243 Y), State Election Commission (Article 243 ZA read with Article 243 K), a Committee for District Planning (Article 243 ZD) and a Committee for Metropolitan Planning (Article 243 ZE).

3. Article 243 (ZF) inserted by the said Constitution amendment gives a time of one year for the State Acts relating to Municipalities and Municipal Corporations to be brought in conformity with the Constitution Amendment.

4. In order to bring the Punjab Municipal Act, 1911 in line with Constitution Amendment, it is proposed to make the required amendments in the said Act.

5. It is also proposed to bring amending legislation in the Punjab Municipal Act, 1911, relating to the provision regarding House Tax. The need for the proposed amendments had been felt for a long time in view of the various difficulties being experienced in the levy and collection of house tax. The major amendment proposed relates to the definition of 'Annual Value' as given in section 3 (1) of the Punjab Municipal Act, 1911. At present, it is not possible to increase the annual value in view of the existing law and judicial pronouncements. In the amended definition, annual premises, the concept of capital value is being introduced. Another proposal is to bring within the net of taxation, land which is used for commercial purpose. The definition of building is proposed to be widened to include factories and industrial sheds and temporary structures. A new definition of market value is proposed which is proposed to amend section 66 of the said Act with a view of the existing law which prohibits amendment of assessment list with retrospective effect. Similarly, provisions relating to recovery and to give effective powers of recovery to the Municipal Committees.

6. This Bill seeks to give effect to the above proposals.