

WEST BENGAL MUNICIPAL ACT, 1993

22 of 1993

[31st May, 1994]

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WEST BENGAL MUNICIPAL ACT, 1993

22 of 1993

[31st May, 1994]

An Act to consolidate and amend the law relating to urban municipal affairs in West Bengal. WHEREAS it is expedient to consolidate and amend the law relating to urban municipal affairs in West Bengal; It is hereby enacted as follows :

PART 1

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CHAPTER 1

Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the West Bengal Municipal Act, 1993.

(2) It extends to the whole of West Bengal, except Calcutta as defined in clause (9) of S.2 of the Calcutta Municipal Corporation Act, 1980, and Howrah as defined in clause (15) of Section 2 of the Howrah Municipal Corporation Act, 1980 , and such other area as may constitute the territorial jurisdiction of a municipal corporation established by any law for the time being in force.

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

(4) Notwithstanding anything contained in sub-section (2), it shall not take effect in any cantonment or part of a cantonment without the consent of the Central Government previously obtained.

(5) Notwithstanding anything contained in sub-section (2), the provisions of this Act shall apply to the district of Darjeeling or any part thereof subject to such exceptions and modifications as the State Government may, by notification, direct:

Provided that nothing in this Act shall be construed to affect the powers of the Council for the hill areas under sub-section (1) of Section 31 of the Darjeeling Gorkha Hill Council Act, 1988 .

2. Definitions :-

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

(1) "Annual Development Plan" means the Annual Development Plan prepared under section 300;

(1A) "annual valuation" means annual value, and includes determination of annual value where the context so requires;

(1B) "Auditor" means an Auditor appointed under section 86, and includes any officer authorised by him to perform all or any of the functions of an Auditor under this Act;

(2) "bridge" includes a culvert;

(3) "building" means a structure constructed for whatsoever purpose or of whatsoever materials, and includes the foundation, plinth, wall, floor, roof, chimney, fixed platform, verandah, balcony, cornice, or projection or part of a building or anything affixed thereto or any wall (other than boundary wall of less than three metres in height) enclosing or intended to enclose any land sign or

outdoor display structure, but does not include a tent, samiana or tarpaulin shelter;

(4) "building line" means the line up to which the main wall of a building abutting on a street or a projected public street may lawfully extend;

(5) "bustee" means an area containing land occupied by, or for the purposes of, any collection of huts or other structures used or intended to be used for human habitation.

Explanation . If any question arises as to whether any particular area is or is not a "bustee", the Board of Councillors shall decide the question and such decision shall be final;

(6) "bye-law" means a set of regulations made by the municipality under this Act;

(7) "carriage" means any wheeled vehicle with springs or other appliances acting as springs, which is used for the conveyance of human beings or goods, and includes a jin-rickshaw, a van-rickshaw and cycle-rickshaw, but does not include a motor vehicle or a bicycle or a tricycle or perambulator or other form of vehicle designed for the conveyance of small children;

(8) "cart" means any cart, hacker or wheeled vehicle with or without springs, which is not a carriage or a motor vehicle as defined in this section, and includes a handcart, but does not include the trailer of motor vehicle, a bicycle or a tricycle or a perambulator or other form a vehicle designed for the conveyance of small children;

(9) "Chairman" means the Chairman elected under section 17;

(10) "connected-privy" means a privy which is directly connected with a sewer;

1(10A) "corporate sector" means a financial institution.

Explanation "Financial institution" shall mean

(a) a bank to which the provisions of the BANKING COMPANIES (ACQUISITION AND TRANSFER OF UNDERTAKINGS) ACT, 1970~~0~~⁹ not apply,

(b) a financial institution which is not maintained or managed by the Central Government or the State Government,

(c) a private company, or a limited company (being a public company), as defined in the Companies Act, 1956 , not being a public financial institution within the meaning of section A of that Act, or

(d) a co-operative society, by whatever name called, registered or deemed to have been registered under the West Bengal Co-operative Act, 1983;

(11) "Council" means the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988 ;

2(11A) "Councillor", in relation to a Municipality, means a person chosen by Direct Election from a ward of the Municipality;

(12) "cubical extent", with reference to the measurement of a building, means the space contained within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only storey;

(13) "dairy" includes any farm, cattle-shed, cow-house, milk-store, milk- shop or other place

(a) from which milk is supplied on, or for, sale, or

(b) in which milk is kept for the purposes of sale or used for manufacture or preparation for sale of

(i) butter, or

(ii) ghee, or

(iii) cheese, or

(iv) curds, or

(v) dried, sterilized, condensed or toned milk, but does not include

(a) a shop or other place in which milk is sold for consumption of the premises only, or

(b) a shop or other place from which milk is sold or supplied in hermetically closed and unopened receptacles in the same original condition in which it was first received in such shop or other place;

(14) "dairyman" includes any occupier of a dairy, or any cow-keeper who trades in milk, or any wholesale or retail seller of milk;

(15) "dangerous disease" means

(a) cholera, plague, small-pox, cerebro-spinal meningitis, diphtheria, tuberculosis, leprosy, influenza, encephalitis, poliomyelitis and syphilis; and

(b) any other epidemic, endemic, or infectious disease which the State Government may, by notification, declare to be a dangerous disease for the purposes of this Act;

3(15A) "District Magistrate" means the District Magistrate referred to in sub-section (1) of Section 20 of the Code of Criminal Procedure, 1973 ;

4(15B) "District Planning Committee" means the District Planning Committee constituted under sub-section (1) of Section 3 of the West Bengal District Planning Committee Act, 1994 , and includes the Siliguri Sub-Division Planning Committee;

4(15C) "Draft Development Plan" means the Draft Development Plan prepared under section 297;

(16) "drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying of sullage, sewage, offensive matter, polluted water, rain-water or subsoil water;

(17) "drug" means any substance used as medicine or in the composition or preparation of medicines, whether for internal or external use, but does not include a drug within the meaning of clause (b) of Section 3 of the Drugs and Cosmetics Act, 1940 ;

(18) "dwelling house" means a masonry building constructed, used or adapted to be used wholly or principally for human habitation;

(19) "electoral roll" means the electoral roll prepared, revised or corrected **6******* by the State Election Commission;

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

(21) "footpath" or "footway" means pavement at the side of road for pedestrians;

(22) "habitable room" means a room constructed or adapted for

human habitation;

7(22A) "heritage building or site" means any building of one or more premises, or any part thereof, or any monument, or any precinct, or S.31 of the West Bengal Town and Country (Planning and Development) Act, 1979;

8(22B) "Heritage Conservation Committee" means the Heritage Conservation Committee constituted under sub-section (1) of section 225D;

(23) "hill areas" has the same meaning as in the Darjeeling Gorkha Hill Council Act, 1988 ;

(24) "holding" means land held under one title or agreement and surrounded by one set of boundaries:

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

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

(25) "house-drain" means any drain of one or more premises used for the drainage of such premises;

(26) "house-gully" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter to municipal employees or the persons employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air space above such passage or land;

9(26A) "household sector" includes

(a) a rural household or urban household.

Explanation I "Rural household" shall mean a house-hold within a rural area as defined in the West Bengal District Planning Committee Act, 1994 .

Explanation II "Urban household" shall mean a house-hold within an urban area as defined in the West Bengal District Planning Committee Act, 1994 ,

(b) a business undertaking, whether proprietorship or partnership, not being a body corporate as defined in the Companies Act, 1956 , or

(c) a trust for a public purpose of a charitable nature within the meaning of the Charitable and Religious Trusts Act, 1920 ;

(27) "hut" means any building, no substantial part of which excluding the walls up to a height of fifty centimetres above the floor or floor level is constructed of masonry, reinforced concrete, steel, iron or other metal;

10(27A) "industrial township" means such urban area **11**[or any other area] or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township;

(28) "infectious disease" or "communicable disease" means any disease which may be transmitted from one person to another and declared as such by the State Government by notification;

(29) "inhabited room" means a room in which some person passes the night or which is used as a living room, and includes a room with respect to which there is a reasonable presumption (until the contrary is shown) that some person passes the night therein or that it is used as a living room;

(30) "land" includes benefits arising out of land, and things attached to the earth;

(31) "market" includes any place, by whatever name called, where persons assemble for the sale of meat, fish, fruit, vegetables, livestock, or any other article of food of a perishable nature, or any other article for which there is a collection of shops or warehouses or stalls, declared and licensed by the Municipality as a market;

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

12(32A) "member", in relation to a Municipality, means a Councillor or a person nominated under clause (b) of sub-section (1) of section 13;

(33) "milk" includes cream, skimmed milk, separated milk and condensed, sterilized, desiccated or toned milk;

(34) all drugs or articles of food which enter into the composition of food, the package or mark or label of which bears any statement, design or device regarding such drugs or articles of food or the ingredients or substances contained therein as may be false or may mislead in any particular, shall be deemed to be "misbranded" and a drug or an article of food shall also be deemed to be misbranded if it is offered for sale under the name of another drug or article of food;

13(35) "municipal area" means an area constituted as a municipal area under section 6;

(36) "municipal drain" means a drain vested in the Municipality;

(37) "municipal slaughter house" means a slaughter house belonging to or maintained by the Municipality;

14(38A) "Municipality" means a Municipal Council for a smaller urban area as defined in Art.243Q of the Constitution of India ;

(39) "new building" means and includes

(a) any building constructed or in the process of construction after the commencement of this Act,

(b) any building which, having collapsed or having been demolished or burnt down for more than one-half of its cubical extent, is reconstructed wholly or partially after the commencement of this Act, whether the dimensions of the reconstructed building are the same as those of the original building or not,

(c) any hut which is converted into a masonry building after the commencement of this Act, and

(d) any building not originally constructed for human habitation which is converted into a place of human habitation after the commencement of this Act.

Explanation Sub-clause (b) applies where more than one- half of the cubical extent of any building has collapsed or been demolished or burnt down at the same time or at different times;

(40) "notification" means a notification published in the Official Gazette;

(41) "notified area" means an area constituted as a notified area under section 378;

15(41A) "Notified Area Authority" for a notified area means a Nagar Panchayat for a transitional area, that is to say, an area in transition from a rural area to an urban area as defined in Art.243Q of the Constitution of India ;

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

(43) "occupier" includes any person for the time being paying or liable to pay to the owner the rent or fee or contractual payment of

Provided that an owner living in or otherwise using his own land or building shall be deemed to be the occupier thereof;

(44) "offensive matter" means kitchen or stable refuse, dung, dirt, putrid or putrefying substance and filth of any kind which is not included in "sewage";

16(44A) "office-bearer" means the Chairman, the Vice-Chairman, the Vice- Chairman, or a member of the Chairman-in-Council;

(45) "owner" includes the person for the time being receiving the rent of any land or building or of any part of any land or building, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver who would receive such rent if the land or building or any part of the land or building were let to a tenant;

(46) "premises" means any land or building or part of a building or any hut or part of a hut, and includes

(a) the garden ground and out-houses, if any, appertaining thereto, and

(b) any fittings or fixtures affixed to a building or part of a building or hut or part of a hut for the more beneficial enjoyment thereof;

(47) "prescribed" means prescribed by rules made under this Act;

(48) "private drain" means any drain which is not a municipal drain as defined in this section;

(49) "private street" means any street, road, lane, gully, alley, passage or square which is not a public street as defined in this section, and includes any passage securing access to three or more premises belonging to the same or different owners

17(49A) "property tax" means a rate assessed, on building or buildings, or on lands or on both, and includes surcharge levied on property tax under this Act;

(50) "public building" means a building constructed, used or adapted to be used

(a) as a place of public worship or as a school, college or other place of instruction (not being a dwelling house so used) or as a hospital, nursing home, maternity home, factory, work house, public theatre, public cinema, public hall, public concert-room, public lecture-room, public library or public exhibition-room or as a public place of assembly, or

(b) as a hotel, eating-house, lodging-house, home, hostel, refuge or shelter, or

(c) for any other public purpose;

(51) "public street" means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thoroughfare or not, over which the public have a right of way and includes

(a) the access or approach to a public ferry,

(b) the roadway over any public bridge or causeway,

(c) the footway attached to any such street, public bridge or causeway

(d) the passage connecting two public streets, and

(e) the drains attached to any such street, public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, ail, hedge or pillar of the premises, if any, abutting on the street, or if a street alignment has been fixed, then up to such alignment;

(52) one-third of the total number of Councillors holding office for the time being shall be a "quorum" for a meeting;

(53) "ratepayer" means a person liable to pay any rate, tax or fee under this Act;

18(53A) "recognised political party" means a national party or a State party recognised as such by the Election Commission of India by notification for the time being in force;

(54) "registered medical practitioner" means a medical practitioner registered under the Bengal Medical Act, 1914 ;

(55) "rubbish" means dust, ashes, broken bricks, mortar, broken glass and refuse of any kind which is not offensive matter;

(56) "rules" means the rules made by the State Government under this Act;

(57) "service privy" means a fixed privy which is cleansed by hand daily or periodically, but does not include a movable commode;

(58) "sewage" means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;

(59) "slaughterhouse" means any place used for the slaughter of cattle, sheep, goats, kids or pigs, or hens, fowls, chicken, ducks, turkeys or any other eatable birds for the purpose of selling the flesh thereof as meat;

19(60) "State Election Commission" means the West Bengal State Election Commission referred to in sub-section (1) of S.3 of the West Bengal State Election Commission Act, 1994;

20(60A) "State Government" means the Government of the State of West Bengal in the Department of Municipal Affairs;

(61) "street" means a public or private street;

(62) "street alignment" means the line dividing the land comprised in, and forming part of, a street from the adjoining land;

21(62A) "Sub-divisional Magistrate" means the Sub-divisional Magistrate referred to in sub-section (4) of Section 20 of the Code of Criminal Procedure, 1973 ;

22(62AA)"Urban Development Sub-Committee" means the Urban Development Sub-Committee constituted under sub-section (4) of Section 10 of the West Bengal District Planning Committee Act,

1994 ;

20 (62B) "ward" means an administrative division of a Municipality;

(63) "watercourse" includes any river, stream or channel, whether natural or artificial;

(64) "year" means a financial year beginning on the first day of April.

1. Clause (10A) ins. by W.B. Act 32 of 1997.
2. Clause (11A) ins, by W.B. Act 13 of 1995.
3. Clause (15A) ins, by W.B. Act 45 of 1994.
4. Clauses (15B) and (15C) ins. by W.B. Act 32 of 1997.
6. Words and figures "under section 29" om. by W.B, Act 45 of 1994.
7. Clause (22A) ins. by W.B. Act 22 of 2000.
8. Clause (22B) ins. by W.B. Act 22 of 2000. This clause is now, perhaps, redundant with effect from the date of omission of section 225D underwhich the "Heritage Conservation Committee" was constituted.
9. Clause (26A) ins. by W.B. Act 32 of 1997.
10. Clause (27A) ins. by W.B. Act 30 of 1994.
11. Words ins. by W.B. Act 8 of 2004.
12. Clause (32A) ins. by W.B. Act 30 of 1994.
13. Clause (35) subs by W.B. Act 13 of 1995, which was earlier as under : '(35) "municipal area" means any place in which this Act, or any part thereof, is in force;'.
'.
14. Clause (38A) ins. by W.B, Act 30 of 1994.
15. Clause (41 A) ins. by W.B. Act 13 of 1995.
16. Clause (44A) ins. by W.B, Act 22 of 2000.
17. Clause (49A) ins. by W.B. Act 16 of 2002.
18. Clause (53A) ins. by W.B. Act 32 of 1997.
19. Clause (60) subs by W.B. Act 30 of 1994, which was earlier as under : (60) "State Election Commission" means the State Election Commission constituted in the manner referred to in sub-section (1) of section 28 ;'.
20. Clause (60A) ins, by W.B. Act 16 of 2002.
21. Clause (62A) first ins. by W.B. Act 30 of 1994. then clause (62A) renumbered as clause (62B) and present clause (62A) ins. by W.B. Act 45 of 1994,
22. Clause (62AA) ins. by W.B. Act 32 of 1997.

PART 2

THE MUNICIPAL AREAS

CHAPTER 2

Constitution of Municipal Areas

3. Declaration of intention to constitute a municipal area :-

Whenever it appears to the ¹[Governor] that any town, together

with, or exclusive of, any railway station, village, land or building in the vicinity of any such town

(i) contains a population of not less than ²[30,000] inhabitants,

(ii) has a density of population of not less than seven hundred and fifty inhabitants per square kilometre of area, and

(iii) has an occupational pattern in which more than one-half of the adult population are chiefly engaged in pursuits other than agriculture, and

if the ¹[Governor] is satisfied that if such town is constituted a municipal area, the municipal income from taxation and other sources is likely to be adequate for the discharge of municipal function under this Act, the ¹[Governor] may, by notification, declare ⁵[his] intention to constitute such town a municipal area under this Act:

6 Provided that notwithstanding anything contained in clauses (i) to (iii) of this section, the State Government may, by notification, determine separate conditions to constitute any area of the hill areas a municipal area.

1. Word subs for the words "State Government" by W.B. Act 30 of 1994.

2. Figures subs for the figures "20.000" by W.B. Act 16 of 2002.

5. Word subs for the word "its" by W.B. Act 30 of 1994.

6. Proviso ins. by W.B. Act 13 of 1995.

4. Publication of declaration :-

(1) The notification about the constitution of a municipal area shall be published in the Official Gazette and in at least two leading newspapers, one of which shall be in vernacular intelligible to the inhabitants of the local area concerned.

(2) A copy of the notification shall also be pasted up in a conspicuous place in the office of the District Magistrate, and in such other public places as the State Government may direct.

(3) A public proclamation about the constitution of a municipal area shall be made either by beating of drum throughout the local area concerned or through any other publicity media.

5. Consideration of objection :-

Any inhabitant of the town or local area in respect of which the notification has been published under section 4 may, if he objects

to anything contained in the notification, submit his objection in writing to the State Government within three months from the date of publication in the Official Gazette, and the State Government shall take his objection into consideration.

6. Constitution of municipal area :-

On the expiry of three months from the date of publication of the notification in the Official Gazette and after consideration of all or any of the objections which may be submitted, the ¹ [Governor] may, by notification, constitute such town or any specified part thereof a municipal area under this Act.

1. Word subs for the words "State Government" by W.B. Act 30 of 1994.

7. Power to classify municipal areas :-

The State Government may, for the purpose of application of the provisions of this Act, classify the municipal areas into the following groups on the basis of the population as ascertained at the last preceding census of which the relevant figures have been published :

Group A municipal areas having population above ¹[2,15,000.]

Group B municipal areas having population above ²[1,70,000 but not exceeding 2,15,000.]

Group C municipal areas having population above ³[85,000 but not exceeding 1,70,000.]

Group D municipal areas having population above ⁴[35,000 but not exceeding 85,000.]

Group E municipal areas having population not exceeding ⁵[35,000:]

⁶ Provided that for the purpose of classification of municipal areas of the hill areas, the State Government may, by notification, determine separate size of population for each such Group.

1. Figures subs for the figures "20.00.000" by W.B. Act 16 of 2002.

2. Words and figures subs for the words and figures "1,50,000 but not exceeding 2,00,000." by W.B. Act 16 of 2002.

3. Words and figures subs. Cor the words and figures "75,000 but not exceeding 1,50,000" by W.B. Act 16 of 2002.

4. Words and figures subs for the words and figures "25.000 but not exceeding 75,000." by W.B. Act 16 of 2002.

5. Figures subs for the figures "25,000 :" by W.B. Act 16 of 2002.
6. Proviso ins. by W.B. Art 13 of 1995.

8. Power to determine the number of wards in municipal areas :-

¹The State Government may, by notification, ²[determine the number of wards in any municipal area,] having regard to population, dwelling pattern, geographical condition and economic considerations of the area included in each ward:

Provided that the number of wards in any municipal area shall not be less than nine and shall not exceed, in the case of municipal area included in Group A, thirty-five, in the case of a municipal area included in Group B, thirty, in the case of a municipal area included in Group C, twenty-five, in the case of a municipal area included in Group D, twenty, and in the case of municipal area included in Group E, fifteen:

³ Provided further that the State Government may, by notification, determine the number of wards in the municipal area of a Municipality in such phases as that Government may deem fit.

1. Words subs for the words "Power to divide municipal areas into wards" by W.B. Act 30 of 1994.
2. Words subs for the words "divide any municipal area into a number of words," by W.B. Act 30 of 1994.
3. Proviso ins. by W.B. Act 45 of 1994.

9. Power to abolish or alter the limits of a municipal area :-

The State Government may, by notification,

- (a) withdraw any municipal area from the operation of this Act; or
- (b) exclude from a municipal area any local area comprised therein and defined in the notification; or
- (c) include within a municipal area any local area contiguous to the same and defined in the notification; or
- (d) divide any municipal area into two or more municipal areas; or
- (e) unite two or more municipal areas so as to form one municipal area; or
- (f) revise the boundary of two or more contiguous municipal areas; or
- (g) re-define the boundaries or limits of a municipal area; or

1(h)* * * * *

(h) revise the number of boundaries of wards comprised in a municipal area:".

Provided that the procedure laid down for the constitution of a municipal area under this Act shall be followed mutatis mutandis in each such case:

Provided further that the views of the Municipality affected by any such order shall be taken into consideration before a final declaration is made:

2 Provided also that no such notification shall be issued

(i) under any of the clauses (a) to (g) in respect of the municipal area which complies with the provisions of clauses (ii) and (iii) of section 3, except after taking into consideration the views of the Board of Councillors or the Boards of Councillors concerned;

(ii) under clause (c), unless the State Government is satisfied that the local area complies with the provisions of clauses (ii) and

(iii) of section 3 ;

(iii) where any part of the municipal area or the local area is a cantonment, or part of a cantonment, as defined in the Cantonments Act, 1924 .

1. Clause (h) om. by W.B. Act 30 of 1994, which was earlier as under :

2. Proviso ins. by W.B. Act 32 of 1997.

10. Power to include certain dwelling-house manufactory, etc., within a particular municipal area :-

Where a dwelling-house, manufactory warehouse, or place of industry or business is situated within the limits of two or more adjacent municipal areas, the State Government may, notwithstanding anything contained in this Act, by notification, declare within which of these municipal areas such dwelling-house, manufactory, warehouses, or place of industry or business shall be deemed to be included for the purposes of this Act.

11. Power to exempt municipal area from operation of any provisions of the Act unsuited thereto :-

(1) The State Government may, by notification and for reasons to

be recorded in writing, exempt any municipal area or municipal areas of any group from the operation of any of the provisions of this Act considered unsuited thereto, and thereupon the said provisions shall not apply to such municipal area or municipal areas until such provisions are applied thereto by notification.

(2) While the exemption as aforesaid remains in force, the State Government may make rules consistent with the provisions of this Act in respect of any matter within the purview of such provisions of this Act from the operation of which the municipal area or municipal areas as aforesaid are exempted.

CHAPTER 3

Municipal Authorities

12. Municipal authorities :-

The municipal authorities charged with the responsibility of carrying out the provisions of this Act shall, for each municipal area, be as follows :

- (a) the Municipality,
- (b) the Chairman-in-Council, and
- (c) the Chairman.

13. Municipality :-

1

(1) The Municipality established for a town shall mean the Board of Councillors charged with the authority of municipal government of the town, and shall consist of

- (a) such number of elected members as there are wards within the municipal area, and
- (b) persons having special knowledge or experience in municipal administration as may be nominated by the State Government from time to time, provided that such persons shall not have the right to vote in the meetings of the Municipality.

(2) The Municipality shall be a body corporate with perpetual succession and a common seal, and may, by the name of the Municipality of the town by reference to which the Municipality is known, sue and be sued.

(3) All executive actions of the Chairman-in-Council shall be expressed to be taken in the name of the Municipality.

(4) Subject to the provisions of this Act, the Municipality shall be entitled to acquire, hold and dispose of properties.

1. Sub-sec. (1) subs, by W.B. Act 30 of 1994, which was earlier as under : "(1) The Municipality established for a town shall mean the Board of Councillors consisting of such number of members as there are wards within the municipal area charged with the authority of municipal government of the town.".

14. Constitution of Board of Councillors :-

1

(1) The Councillors elected in a general election or by-election of a Municipality and the members nominated by the State Government under clause (b) of sub-section (1) of section 13 shall constitute the Board of Councillors.

2(2) The Board of Councillors, unless dissolved earlier, shall hold office for a period of five years from the date appointed for its first meeting after the general election and no longer :

Provided that the Board of Councillors, unless dissolved earlier, shall continue in office till the next Board of Councillors assumes office.

2(3) in a newly constituted municipal area, all the powers or functions, vested with the municipal authorities under this Act or under any other

Provided that if, for any reason, it is not possible to hold the first general election of a newly constituted Municipality before expiry of the period of six months under this sub-section, the State Government may, by notification, extend the term of such Administrator or Board of Administrators, as the case may be, for a further period not exceeding six months. In the case of extension of the term of such Administrator or Board of Administrators, as the case may be, under this sub-section, all the powers and functions, vested with the municipal authorities under this Act or under any other law for the time being in force, shall be exercised or performed, as the case may be, by such Administrator or Board of Administrators in such extended term.

(4) If, for any reason, it is not possible to hold the general election of a Municipality before the expiry of the period of five years specified in sub,ection (2), the Board of Councillors shall stand dissolved on the expiration of the said period ⁴ [and all the powers

or functions vested with the municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such person or persons to be designated as Administrator or Board of Administrators as the State Government may, by notification, appoint.]

1. Sub-sec. (1) subs, by W.B. Act 13 of 1995 after being amended by W.B. Act 45 of 1994. Previous sub-sec. (1) was as under : "(1) The Councillors elected in a general election or by-election of a Municipality shall constitute the Board of Councillors."

2. Sub-sees. (2) and (3) first subs, by W.B, Act 30 of 1994. then sub-sec.(3) again subs, by W.B. Act 16 of 2002. Previous sub-sees. (2) and (3) were earlier as under : "(2) The Board of Councillors shall hold office for a period of five years from the date of its first meeting after the general election at which a quorum is present, unless dissolved or superseded earlier: Provided that the Board of Councillors shall continue in office till the next Board of Councillors assumes office, unless dissolved or superseded earlier. (3) In a municipal area newly constituted, the local authority having Jurisdiction over such area immediately before such area was constituted a municipal area, shall continue to have jurisdiction and to perform its functions till such time, not exceeding six months from the date of the notification under section 6 or sub-section (3), or subs,ection (4), of section 378, as the case may be, as may be necessary for holding elections."

4. Words subs,, for the words "and thereupon the provisions of section 431 shall apply mutatis mutandis." by W.B. Act 22 of 2000.

15. Chairman-in-Council :-

1(1) There shall be a Chairman-in-Council consisting of the Chariman, Vice-Chariman and other members not exceeding, in the case of a municipal area included in Group A, five, in the case of a municipal area included in Group B, four, in the case of a municipal area included in Group C, three;

Provided that in respect of the municipal areas included in Group D and Group E, all the powers and functions vested with the Chairman-in-Council under this Act or under any other law, for the time being in force, shall be examined or performed, as the case may be, by the Chariman of the concerned Municipality.

(2) The Vice-Chairman and the other members referred to in sub-section (1) shall be nominated by the Chairman from amongst the Councillors of the Municipality **2**[within a period of thirty days of his entering into office,] **3**[oath of secrecy under section 50A;]

4 Provided that the State Government may on an application by the Chairman and for reasons to be recorded in writing, extend the period as afore said by such period not exceeding thirty days as the State Government may think fit.

(3) All executive powers of the Municipality shall vest in the Chairman-in-Council.

(4) The manner of transaction of business of the Chairman-in-Council shall be such as may be prescribed.

(5) The Chairman-in-Council shall be collectively responsible to the Municipality.

1. Sub-sec. (J) subs, by W.B. Act 16 of 2002, which was earlier as under : "(1) There shall be a Chairman-in-Council consisting of the Chairman, the Vice-Chairman and other members not exceeding, in the case of a municipal area included in Group A, five in the case of a municipal area included in Group B, four, in the case of a municipal area included in Group C. three, in the case of a municipal area included in Group D, two, and in the case of a municipal area Included in Group E. one."

2. Words subs, for the words "as soon as possible after he enters into office," by W.B. Act 22 of 2000.

3. Words, figures and letter subs, for the words "such oath of secrecy as may be prescribed." by W.B. Act 45 of 1994.

4. Proviso ins. by W.B. Act 22 of 2000.

16. Powers and functions of the Chairman :-

1. The Chariman shall be ²[the executive head of the Municipality and the municipal administration shall be under his control] and he shall exercise such powers and functions as conferred on him by or under this Act.

(2) The Chariman shall preside over the meetings of the Chariman-in- Council as well as the Board of Councillors.

(3) The Chairman shall allocate the business among the members of the Chairman-in-Council in case of Group A, Group Band Group C Municipalities.

(4) The matters to be discussed at a meeting of the Chariman-in-Council as well as the Board of Councillors shall be prepared under the direction of the Chairman and shall be circulated to the members of the Chairman-in- Council as well as the Board of Councillors, as the case may be, in such manner as the Chairman may determine.

(5) The Chairman shall, if he is of opinion that immediate execution of any work is necessary and the same ordinarily requires the approval of the Board of Councillors or the Chairman-in-Council, as the case may be, direct the execution of such work:

Provided that the Chairman shall report forthwith to the Board of Councillors or the Chairman-in-Council, as the case may be, the actions taken under this section and the reasons thereof.

3 (6) * * * * *

1. Sec. 16 subs, by W.B. Act 16 of 2002, which was earlier as under : "16. Chairman (1) The Chairman shall be the executive head of the Municipality, and the municipal administration shall be under his control. (2) The Chairman shall allocate the business among the members of the Chairman-in-Council. (3) The Chairman shall preside over the meetings of the Chairman-in-Council as well as the Board of Councillors. (4) The Chairman may transact any business or make any order authorised by any law for the time being in force, unless it is otherwise expressly provided in such law: Provided that the Chairman shall not act In opposition to or in contravention of any decision of the Board of Councillors."

2. Words subs, for the words "the whole-time functionary of the Municipality" by W.B. Act 8 of 2004.

3. Explanation om. by W.B. Act 8 of 2004 which was as under : "Explanation. The term 'whole-time functionary of the Municipality' shall mean the period for which a Councillor holds office of the Chariman and he shall not hold any office of profit unless he has obtained leave of absence from his place of employment, or he shall carry on or be associated with any business, profession or calling In such manner as shall interfere or likely to interfere with due exercise of his powers or due performance of his functions or due discharge of his duties.",

17. Election of Chairman :-

(1) The Board of Councillors, ¹[in its first meeting under section 50B,] shall elect in accordance with such procedure as may are prescribed, one of its ²[elected] members to be the Chairman who shall assume office forthwith ³[after taking oath of secrecy under section 50A:]

4* * * * *

(2) If the Board of Councillors fails to elect a Chairman in the manner presscribed, the State Government shall appoint by name one of the Councillors to be the Chairman.

(3) In the case of any casual vacancy in the office of the Chairman caused by death, resignation, removal or otherwise, the Board of Councillors shall, in accordance with such procedure as may be prescribed, elect one of the Councillors to fill up the vacancy.

(4) In the case of casual vacancies in the offices of both the Chairman and the Vice-Chairman caused by death, resignation, removal or otherwise, the State Government may appoint by name one of the Councillors to be the Chairman who shall hold office until a Chairman, elected under the provisions of sub-section (3),⁵[enters upon his office:]

6 Provided that the Chariman appointed under this sub-section shall hold meeting of the Board of Councillors within thirty days from the date of

1. Words, figures and letter subs, for the words "whether elected or appointed," by W.B. Act 45 of 1994.

2. Word ins. by W.B. Act 45 of 1994.

3. Words, figures and letter "after taking oath of secrecy under section 50A." first ins. by W.B. Act 45 of 1994, then the words figures and brackets within third brackets subs, for the words, figures and brackets "after taking oath of secrecy under section 50A." by W.B. Act 16 of 2002.

4. Proviso first ins. by W.B. Act 16 of 2002, then om. by W.B. Act 8 of 2004 which was as under : "Provided that a Councillor shall not be eligible for such election unless he declares in writing that on being elected he shall be the whole-time functionary of his office and that during the period for which he holds, or due to hold, such office, he shall not hold any office of profit unless, he has obtained leave of absence from his place of employment, or he shall carry on or be associated with any business, profession or calling, in such manner as shall Interfere or likely to Interfere with due exercise of his powers or due performance of his functions or due discharge of his duties."

5. Words subs, for the words "enters upon his office." by W.B. Act 16 of 2002.

6. Proviso ins. by W.B. Act 16 of 2002.

18. Terms of office of Chairman :-

(1) The Chairman shall cease to hold office as such if he ceases to be a Councillor of the ¹[municipal area.]

(2) The Chairman may, at any time, by giving a notice in writing to the Board of Councillors, resign his office, and the procedure for acceptance or otherwise of the resignation shall be such as may be prescribed.

(3) The Chairman may be removed from office by a resolution carried by a majority of the total number of ²[elected members] of the Board of Councillors holding office for the time being ³[present and voting by them,] at a special meeting to be called for this purpose in the manner prescribed upon a requisition made in writing by not less than one-third of the total number of ²[elected members] of the Board of Councillors, and the procedure for the conduct of business in the special meeting shall be such as may be prescribed:

Provided that no such resolution shall be moved before the expiry of six months from the date of assumption of office by a Chairman, and if such resolution is not carried by a majority of the total number of ²[elected members], no further resolution for such purpose shall be moved before the expiry of a period of six months from the date on which the former resolution was moved.

6 (4)* * * * *

1. Words, figures, letter and brackets "municipal area, or is removed from his office under sub-section (3) of section 429A, as the case may be." first subs, for the words "municipal area." by W.B. Act 16 of 2002, then again the words within third brackets subs, for the words, figures, letter and brackets "municipal area or is removed from his office under subs,ection (3) of section 429A, as the case may be." by W.B. Act 8 of 2004.

2. Words subs, for the word "members" by W.B. Act 13 of 1995.

3. Words ins. by W.B. Aet 16 of 2002.

6. Sub-sec. (4) om. by W.B. Act 22 of 2000, which was as under : "

(4) Notwithstanding anything contained in this section, the Chairman, whose office becomes vacant under any of the provisions of this section, shall continue to hold office as Chairman until his successor elected under the provisions of this Chapter enters upon his office."

19. Vice-Chairman :-

(1) The Vice-Chairman shall, in the absence of the Chairman, preside over the meetings of the Chairman-in-Council as well as the Board of Councillors.

1 (2) When

(a) the office of the Chairman falls vacant by reason of death, resignation, removal or otherwise, or

(b) the Chairman is, by reason of leave, illness or other cause, temporarily unable to exercise the powers, perform the functions

and discharge the duties of his office,

(3) The Vice-Chairman shall, at any time, perform such other duty or exercise such other power as may be delegated to him under the provisions of this Act.

1. Sub-section (2) subs, by W.B. Act 22 of 2000, which was earlier as under : "(2) The Vice-Chairman shall, during the absence of the Chairman for any reasons whatsoever, discharge all the duties, and exercise all the powers, of the Chairman unless otherwise expressly directed by the Chairman."

19A. Making over of charge by the Chairman :-

1

(1) On the election of the Chairman following a general election or on the office of the Chairman otherwise falling vacant, the Chairman holding office for the time being or the Vice-Chairman or any other authority, or any other member, exercising the powers, performing the functions, and discharging the duties, of the Chairman shall make over all the cash, assets, documents, registers and seals which he may have in his possession, custody or control as soon thereafter as possible on such date, place and hour as may be fixed by the District Magistrate or any other Executive Magistrate authorised by the District Magistrate in this behalf to the newly elected Chairman or, in the case of a vacancy occurring otherwise, to the Vice-Chairman or to the Chairman appointed under the provisions of sub-section (2), or sub-section (4), of section 17 or to such person or persons appointed under the provisions of sub-section (3) of section 431 or section 431A in the presence of the District Magistrate or any other Executive Magistrate authorised by the District Magistrate in this behalf.

(2) On the inclusion of municipal area in a Gram Panchayat under sub-section (1) of S.6A of the West Bengal Panchayat Act, 1973, the Chairman or the Vice-Chairman or any other authority, or any other member, exercising the powers, performing the functions, and discharging the duties, of the Chairman immediately before the inclusion of such municipal area in the Gram Panchayat, shall make over the properties, funds and liabilities of the Municipality in respect of the area so included to the Gram Panchayat, the Panchayat Samity, the Zilla Parishad or the Mahakuma Parishad, in accordance with such allocation as may be determined by the prescribed authority referred to in clause (a) of sub-section (3) of section 6A of that Act.

1. Sec. 19A ins. by W.B. Act 22 of 2000.

20. Members of Chairman-in-Council :-

The members of the Chairman-in-Council shall exercise such powers and perform such functions as may be assigned to them from time to time by the Chairman.

20A. Delegation of powers and functions :-

1

(1) The Board of Councillors may, by resolution, delegate, subject to such conditions as may be specified in the resolution, any of its powers or functions to the Chairman- in-Council or the Chairman.

(2) The Chairman-in-Council may, by resolution, delegate, subject to such conditions as may be specified in the resolution, any of its powers or functions to the Chairman or a member of Chairman-in-Council.

(3) Subject to such resolution as may be made by the Chairman-in-Council in this behalf, the Chairman may, by order, delegate, subject to such conditions as may be specified in the order, any of his powers or functions to the Vice- Chairman or to a member of the Chairman-in-Council or to the holder of any of the posts of officers referred to in sub-section (1) of section 53.

(4) Notwithstanding anything contained in this section, the Chairman- in-Council, the Chairman, the Vice-Chairman, a member of the Chairman- in-Council or a holder of any of the posts of officers referred to in sub,ection (1) of section 53 shall not delegate

(a) any of its or his powers or functions delegated to it or him under this section, or

(b) such of its or his powers as may be prescribed.

1. Sec. 20A ins. by W.B. Act 13 of 1995.

21. Term of office of Vice-Chairman and other members of Chairman-in-Council :-

The Vice-Chairman or any other member of the Chairman-in-Council shall hold office until

(a) he ceases to be a Councillor, or

(b) he resigns his office by writing under his hand addressed to the Chairman in which case the resignation shall take effect from the

date of its acceptance, or

1(c) he is removed from office by a written order of the Chairman,
or

2(d) a newly elected Chairman enters upon his office in the case of any casual vacancy in the office of the Chairman caused by death, resignation, removal or otherwise.

3 (e)* * * * *

1. Clause (c) first subs, by W.B. Act 16 of 2002. then again subs, by W.B. Act 8 of 2004. Previous clause(c) was as under : "(c) he is removed from office by a written order of the Chairman or if. in the case of the Vice-Chairman. he is removed from office under section 429A, or".

2. Clause (d) subs, by W.B. Act 22 of 2000. which was earlier as under : "(d) the Chairman ceases to hold office, or".

3. Clause (e) om. by W.B. Act 22 of 2000. which was as under : "(e) In the case of the death of the Chairman a newly elected Chairman enters upon his office.".

21A. Terms of office of Councillor :-

1A Councillor shall hold office for a period of five years from the date of the first meeting of the Board of Councillors under section 50B or for the period for which the new Board of Councillors referred to in the first proviso to sub-section (4) of section 431 shall continue thereunder or for the period for which a member chosen to fill a casual vacancy shall be chosen to serve under sub-section (2) of Section 3 of the West Bengal Municipal Elections Act, 1994 , unless

(a) the Board of Councillors is dissolved earlier, or

(b) he resigns his office by writing under his hand addressed to the Chairman and the resignation is accepted by the Board of Councillors

(c) **2***** his election is void under sub-section (1) of Section 31 of the West Bengal Municipal Elections Act, 1994 , or

(d) **2***** the entire area of the ward from which he has been elected is withdrawn from the operation of this Act under clause (a) of section 9, or is included in an existing Gram Panchayat, or is constituted one or more Gram Panchayats, under sub-section (1) of section 6A of **4**[the West Bengal Panchayat Act, 1973, or]

5(e) he is declared under section 21B to be disqualified for being a Councillor.

(f)**6*** * * * *

(g)**7** *

(h)

49b

1. Sec, 21A ins. by W.B. Act 13 of 1995.
2. Word if om. by W.B. Act 32 of 1997.
4. Words and figures subs, for the words and figures "the West Bengal Panchayat Act, 1973," by W.B. Act 32 of 1997.
5. Clause (e) first ins, by W.B. Act 32 of 1997, then the clause facing an amendment by W.B. Act 16 of 2002, was subs, by W.B. Act 8 of 2004. Previous clause(e) was as under : "(e) he is declared under section 21B to be disqualified for being a Councillor, or"
6. Clause (ft first ins. by W.B. Act 16 of 2002, then om. by W.B. Act 8 of 2004, which was as under : "(f) he is removed from the office of Councillor under section 21AA."
7. Sec. 21AA first ins. by W.B. Act 16 of 2002, then om. by W.B. Act 8 of 2004, which was as under : "21AA. Removal of a Councillor (1) The District Magistrate may, after giving a Councillor an opportunity to show cause against the action proposed to be taken against him, by order remove him from his office (a) if, after his election, he is convicted by a criminal court of an offence involving moral turpitude and is punishable with imprisonment for a term which exceeds six months: or (b) if he was disqualified to be a Councillor at the time of his election under section 30, or incurs any of the disqualifications to be a member of the Municipality under sub-section (1) of section 31. of the West Bengal Municipal Elections Act, 1994: or (c) if he Is absent from three consecutive meetings of the Board of Councillors without prior information to the Chairman: Provided that in the case of issue of an order under this sub-section, the District Magistrate concerned shall furnish a copy of such order to the State Government alongwith the related documents, (2) Any Councillor who is removed from his office by the District Magistrate concerned under sub-section (1) may, within thirty days from the date of the order appeal to the State Government and, thereupon. the State Government may stay the operation of such order till disposal of the appeal, and may, after giving the appellant an opportunity of being heard, modify or set aside or confirm the order. The order passed by the State Government shall be final."

21B. Disqualification for being a Councillor on change of political party by the Councillor :-

1(1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, such competent authority for a Municipality as may be appointed by the State Government by notification in this behalf (hereinafter referred to in this section as the competent authority), may, subject to the other provisions of this section, declare, for reasons to be recorded in writing, a Councillor of such Municipality to be disqualified for being a Councillor thereof, if

(a) he is an elected Councillor set up by a recognised political party and has

(i) voluntarily given up his membership of such recognised political party, or

2(iA) joined another recognised political party, or

(ii) exercised the voting right contrary to the manner of voting of the majority of the Councillors who are the members of such recognised political party in such Municipality, or

(b) **3**[he is an elected Councillor not set up by a recognised political party] and he has joined a recognised political party on the expiry of six months from the date of election:

Provided that the competent authority shall not declare any Councillor to be disqualified under this section without giving to such Councillor a reasonable opportunity to represent his case and to be heard in person:

Provided further that an elected Councillor **4**[referred to in sub-clause (iA), or sub-clause (ii), of clause (a)] shall not, on the competent authority being satisfied in this behalf, be declared to be disqualified, if

(a) the action of such Councillor was taken on obtaining prior permission of, or was condoned by, such recognised political party, or

(b) such Councillor claims that he and any other Councillors, who are the members, of such recognised political party, constitute in the Municipality a group representing a faction consisting of not less than one-third of the total number of Councillors set up by such recognised political party in the Municipality and that all the Councillors constituting such group have voluntarily given up their

membership of such recognised political party, or

(c) the former recognised political party of the Councillor merges with another recognised political party, and he claims that he and the other members of his former recognised political party

(i) have become members of such other recognised political party or of a new recognised political party formed out of merger, as the case may be, or

(ii) have not accepted the merger and from the time of such merger, he and such other Councillors constituting not less than one-third of the total number of Councillors set up by the former recognised political party in the Municipality, have opted to remain members of the former recognised political party or have formed a new recognised political party.

(2) On being declared to be disqualified under sub-section (1), a Councillor shall, subject to the provisions of sub-section (12), stand removed from the Board of Councillors from the date of such declaration.

(3) As soon as may be within one month from the date of the first meeting of the Board of Councillors or within one month from the date on which this section comes into force, as the case may be, the elected Councillors set up by the recognised political parties shall, by adopting a resolution, select one Councillor from amongst themselves to be the Leader and such Leader shall, within fifteen days from the date of such selection, furnish to the competent authority referred to in sub-section (1)

(i) a copy of the resolution,

(ii) a signed statement containing the names, addresses and constituencies of himself and other Councillors set up by such recognised political party, and

(iii) a copy of set of rules and regulations, if any, by whatever name called, of such recognised political party;

Provided that an office-bearer may also hold the office of the Leader;

Provided further that the competent authority shall not refuse to accept, or to rely on, the documents furnished by the Leader merely on the ground that the resolution selecting the Leader was

not adopted within one month from the date of the first meeting of the Board of Councillors or within one month from the date on which this section comes into force, as the case may be, or that the documents as aforesaid were not furnished to him within fifteen days from the date of such selection.

(4) Where there is only one elected Councillor set up by a recognised political party in a Municipality, he shall furnish the documents referred to in sub-section (3) in relation to himself:

Provided that in the event of any increase in the number of Councillors who are the members of such recognised political party, the provisions of sub-section (3) shall apply as if the first meeting of the Board of Councillors was held or this section came into force, as the case may be, on the date on which such increase took place.

(5) A Councillor not belonging to any recognised political party shall furnish a statement to that effect to the competent authority within one month from the date of the first meeting of Board of Councillors.

(6) In the event of any change of the information furnished under sub-section (3), sub-section (4) or sub-section (5), the Leader or the Councillor, as the case may be, shall, as soon as may be within fifteen days from the date of such change, furnish in writing such change of information to competent authority.

(7) The Leader referred to in sub-section (3), who is a member of a recognised political party, may at any time file a petition endorsed by the General Secretary or, if there is no General Secretary, the Secretary, of the district unit ⁵[or the Head of the district functioning in whatever designation he may be called] of such recognised political party to the competent authority, stating that

(a) one or more Councillors who are the members of such recognised political party have

(i) voluntarily given up his or their membership of such recognised political party, or

⁶(iA) joined another recognised political party, or

(ii) have exercised the voting right contrary to the manner of voting of the majority of the Councillors set up by such recognised political party in the Municipality, or

(b) the Councillors referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or

(c) the Councillor referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election, and that such Councillor or Councillors should be declared to be disqualified under sub-section (1) and should be removed from the Board of Councillors.

(8) Every petition referred to in sub-section (7)

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

(b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and where the petitioner relies on any information furnished to him by any person or persons, a statement containing the names and addresses of such person or persons and the gist of such information as furnished by such person or each of such persons.

(9) On receipt of the petition referred to in sub-section (7), the competent authority shall, as soon as possible within six weeks from the date of the receipt of such petition, proceed to make an enquiry to satisfy himself, among others, as to

(a) the common decision in regard to the manner of voting to be exercised by the majority of the Councillors set up by the recognised political party, and

(b) whether the Councillor or Councillors against whom such petition is filed, exercised the voting right in a meeting of the Board of Councillors contrary to such manner of voting.

(10) For the purpose of enquiry under sub-section (9) the competent authority may summon such members of the recognised political party or other persons, and may require such signed statement from, and production of such documents and records by, the members or other persons as aforesaid as he may deem necessary.

(11) As soon as possible within eight weeks from the date of receipt of the petition referred to in sub-section (7), the competent authority shall, in consideration of the statements, documents and records before it,

(a) reject the petition or

(b) admit the petition wholly or in part and declare any member or members of such recognised political party to be disqualified under sub-section (1) for being Councillor or Councillors of the Municipality.

(12) Any Councillor declared disqualified under sub-section (1) or the Leader of the recognised political party referred to in sub-section (7), if aggrieved by the decision of the competent authority, may, within thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf and, thereupon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the competent authority, and after giving the appellant and the opposite parties an opportunity of being heard, set aside or confirm the order or declare any Councillor or Councillors to be disqualified under, and in accordance with the provisions of, sub-section (1) ⁷ [within a period of eight weeks from the date of receipt of the appeal under this sub-section] and, upon such declaration, the Councillor or Councillors shall stand removed from the Board Councillors.

(13) The order passed by the authority referred to in sub-section (12) on the appeal shall be final.

(14) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force no court shall have any jurisdiction in respect of any matter arising out of a Councillor of a Municipality being declared to be disqualified under sub-section (1) for being a Councillor of such Municipality.

Explanation For the purposes of this section an elected Councillor shall be deemed to be set up by a recognised political party if he has contested election with the symbol reserved for such recognised political party or if he has contested election with a free symbol and joins a recognised political party and furnishes declaration to that effect to the competent authority before the expiry of six months from the date of election.

1. Sec. 21B ins. by W.B. Act 32 of 1997.

2. Sub-clause (iA) ins. by W.B. Act 22 of 2000,

3. Words subs,, for the words "he is an elected Councillor set up by a recognised political party" by W.B. Act 22 of 2000.

4. Words, figures, letters and brackets subs, for the words, figures,

letter and brackets "referred to in sub-clause (ii) of clause (a)" by W.B. Act 22 of 2000.

5. Words ins. by W.B. Act 13 of 2003.

6. Sub-clause (iA) ins. by W.B. Act 22 of 2000.

7. Words ins. by W.B. Act 13 of 2003.

21C. Leader of Opposition :-

1 There shall be a Leader of Opposition of a Municipality, who shall be a Councillor of the Municipality and who is for the time being, the Leader of the recognised political party in opposition in the Municipality having the greatest numerical strength and recognised as such by the Chairman:

Provided that where there are two or more recognised political parties in opposition in the Municipality having the same numerical strength, the Chairman shall, having regard to the status of the recognised political parties, recognise any one of the Leaders of such recognised political parties as the Leader of the Opposition, and such recognition shall be final and conclusive.

1. Sec. 21C ins. by W.B. Act 22 of 2000.

22. Borough Committee :-

1

(1) Every Municipality having a population of three lakhs or more may, at its first meeting after the election of members thereto or as soon as may be thereafter, group the wards of the Municipality into five Boroughs so that each Borough consists of not less than six contiguous wards and constitute a Borough Committee for each Borough.

(2) Each Borough Committee shall consist of Councillors elected from the wards constituting the Borough.

(3) A member of the Borough Committee representing a constituent ward shall hold office till he ceases to be the Councillor representing such ward.

(4) The members of each Borough Committee shall elect from amongst themselves one member to be its Chairman who shall not be a member of the Chairman-in-Council.

(5) The Chairman of a Borough Committee may at any time resign his office by giving notice in writing to the Chairman of the Municipality, and the resignation shall take effect from the date of acceptance by the Chairman.

(6) A Borough Committee shall, subject to general supervision and control of the Chairman-in-Council, discharge within the local limits of the Borough such functions of the Municipality as the Municipality may require it to discharge.

(7) The manner of transaction of business of the Borough Committee shall be such as may be determined by the Municipality by regulations.

1. Sec. 22 subs, by W.B. Act 45 of 1994, which was earlier as under : "22. Wards Committee (1) There shall be constituted Wards Committees, consisting of one or more wards within the territorial area of a Municipality having a population of three lakhs or more. (2) The composition and the territorial area of a Wards Committee and the manner in which the seats in a Wards Committee shall be filled shall be such as may be prescribed. (3) Where a Wards Committee consists of (a) one ward, the member representing that ward in the Municipality; or (b) two or more wards one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be the Chairperson of that Committee.".

23. Ward Committee :-

1

(1) Each ward of a Municipality ²[shall] have a Ward Committee.

* * * * *

(2) The composition and the functions of the Ward Committee shall be such ³ [as may be prescribed.]

(3) The Councillor elected from a ward shall be the Chairperson of the Ward Committee for that ward.

1. Sec. 23 subs, by W.B. Act 30 of 1994, which was earlier as under : "23. Borough Committee (1) There may be Borough Committees constituted in a municipal area in accordance with such rules as may be made by the State Government in this behalf. (2) The Borough Committees shall perform such functions and transact such business in such manner as may be prescribed.".

2. Word subs, for the word "may" by W.B. Act 32 of 1997.

3. Words subs, for the words "as the State Government may, by notification, determine." by W.B. Act 22 of 2000.

23A. Constitution of Standing Committee :-

1

(1) At the first meeting of the Board of Councillors or at the meetings subs,equent thereto, the Board of Councillors of every

Municipality shall constitute the following Standing Committees :

- (a) Finance and Resource Mobilisation Standing Committee;
- (b) Solid Waste Management Standing Committee;
- (c) Water Supply Standing Committee;
- (d) Public Works Standing Committee;
- (e) Health, Education and Urban Poverty Alleviation Standing Committee;
- (f) Public Health and Sanitation Standing Committee:

Provided that the Standing Committee, other than those mentioned above, may also be constituted by the Board of Councillors if they so think fit.

(2) Each Standing Committee shall consist of such number of Councillors, not being more than nine or less than three, as the Board of Councillors by a specific resolution determine and the number so determined shall be selected by the Board of Councillors from amongst themselves :

Provided that no Councillor shall be a member of more than two Standing Committees and the Chairman or the Vice-Chairman shall not be a member of any Standing Committee constituted under this section but he may attend any meeting of any Standing Committee.

(3) The Board of Councillors at a meeting may, by resolution, associate with any Standing Committee such persons, not being Councillors and not exceeding one-half of number of the Councillors in such Committee, and for such term as they may think fit. Any officer or other employee of the Municipality, and any officer of the State Government, having requisite expertise for development of civic services, municipal finance, and other areas related to municipal administration, as may be required by the Board of Councillors, may be associated with any Standing Committee constituted under this section.

(4) The Chairman shall nominate the President and the Vice-President of the Standing Committee constituted under this section. The term of the President and the Vice-President are coterminous to that of the Standing Committee concerned, unless removed earlier from office by the Chairman.

(5) The President or, in his absence, the Vice-President shall convene and preside over the meetings of the concerned Standing Committee.

(6) Any casual vacancy in the office of a member of a Standing Committee shall be filled by the Board of Councillors in the manner as specified in sub-section (2) or sub-section (3), as the case may be.

1. Secs. 23A, 23B and 23C ins. by W.B. Act 16 of 2002.

23B. Powers, functions and duties of Standing Committees

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(1) Each Standing Committee shall perform such functions, exercise such powers, and discharge such duties, as the Board of Councillors at a meeting delegate to it.

(2) The Board of Councillors at a meeting may, by specific resolution, refer to a Standing Committee for inquiry or report or for opinion on such subjects relating to the powers or duties of the Municipality as the Board of Councillors may think fit.

(3) The Standing Committee shall submit its report indicating the difficulties for implementation of development programme under its respective jurisdiction, and recommending measures to remove such difficulties.

(4) All proceedings of Standing Committees shall be subject to confirmation or modification by the Board of Councillors at a meeting unless the Board of Councillors at a meeting otherwise direct.

1. Secs. 23A, 23B and 23C ins. by W.B. Act 16 of 2002.

23C. Heritage Conservation Committee :-

1 (1) The Board of Councillors shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor.

(2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom

(a) one shall be a nominee of the District Magistrate of the district;

(b) one shall be a nominee of the Director of the Department of

Archaeology, Government of West Bengal ;

(c) one shall be an eminent architect;

(d) one shall be an artist;

(e) one shall be an environmentalist;

(f) one shall be a historian; and

(g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate.

(3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department.

(4) The Heritage Conservation Committee, constituted under sub-section (1), shall send all its proposals relating to preservation and conservation of heritage building or site to the West Bengal Heritage Commission constituted under the West Bengal Heritage Commission Act, 2001.

1. Secs. 23A, 23B and 23C ins. by W.B. Act 16 of 2002.

24. Formation of Special Committee :-

(1) The Board of Councillors may, from time to time, appoint a Special Committee to perform such specified functions, or conduct such enquiries, or undertake such studies including reports thereon, as may be contained in a resolution in this behalf.

(2) Any person who is not a Councillor but possesses special qualifications useful for the purpose of a committee as aforesaid may be associated therewith as its member.

(3) The manner of transaction of business in a Special Committee shall be such as may be laid down by the Board of Councillors.

25. Constitution of Joint Committee :-

(1) The State Government may, if it considers necessary so to do, constitute a Joint Committee for more than one Municipality, or for one or more Municipalities with other local authority or local authorities for any purpose in which they are jointly interested or for delegating to it any power or function which calls for joint action.

(2) The Joint Committee shall consist of the following members :

- (i) two nominees of each constituent Municipality or local authority,
- (ii) one nominee of each of the concerned departments of the State Government or of the concerned local authorities,
- (iii) such expert or experts as the State Government may nominate,
- (iv) Director of Local Bodies or his representative who shall also act as the convener of the committee.

(3) The procedure of transaction of business by a Joint Committee shall be such as may be prescribed.

CHAPTER 4

Election of Councillors

26. Holding of general election :-

(1) The first general election of the Board of Councillors of a municipal area newly constituted shall be held ¹[within a period of six months from the date of the notification under

(2) The general election in a municipal area to constitute the Board of Councillors shall be held before the expiration of the term of office of the existing Board of Councillors on such date, ²[not earlier than six months prior to the date on which the duration of its term of office would expire under sub-section (2) of section 14,] as the State Government may fix for the purpose.

(3) Each ward of a municipal area shall elect a Councillor during the general election ³* * * * *.

(4) Notwithstanding anything contained in this section, there shall be no bar to the constitution of a Board of Councillors after a general election on account of election not being held ⁴ [on account of natural calamity or orders of a court having jurisdiction] in award or in a number of wards not exceeding one-fourth of the total number of wards constituting the municipal area.

1. Words, figures and brackets subs, for the words "at such lime as the State Government may prescribe," by W.B. Act 30 of 1994.

2. Words, figures and brackets ins. by W.B. Act 30 of 1994.

3. Words "in accordance with the provisions of this Act and the rules made thereunder" om. by W.B. Act 30 of 1994.

4. Words ins. by W.B. Act 30 of 1994.

27. . :-

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1. Sec. 27 om. by W.B. Act 30 of 1994, which was earlier as under : "27. Reservation of seats for Scheduled Castes, Scheduled Tribes and Women. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality, and 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 to that Municipality as the population of the Scheduled Castes in the municipal area or of the Scheduled Tribes in the municipal area, as the case may be, bears to the total population of that municipal area and such seats may be allotted by rotation to different constituencies of that Municipality. (2) Not less than one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes. (3) Not less than one-third of the total number of seats, including the seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes, to be filled by direct election to a Municipality shall be reserved for women, and such seats may be allotted by rotation to different constituencies of that Municipality. (4) The office of Chairpersons of a Municipality shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as may be notified by the State Government from time to time. (5) The reservation of seats for the Scheduled Castes and the Scheduled Tribes under sub-sections (1) and (2) and the reservation of the office of Chairpersons for the Scheduled Castes and the Scheduled Tribes under sub-section (4) shall cease to have effect on the expiration of the period specified in article 334 of the Constitution of India."

28. Elections to the Municipalities :-

1 The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall vest in the State Election Commission.

1. Sec. 28 subs, by W.B. Act 30 of 1994, which was earlier as under :- "28. Elections to the Municipalities. - (1) Notwithstanding anything contained in this Act, the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the municipalities shall be vested in the State Election Commission constituted by the State Government by law made by the State Legislature in this behalf. (2) The State Election Commission shall perform its functions in accordance with such rules as the State Government may make from time to time."

29. . :-

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1. Sec. 29 om. by W.B. Act 30 of 1994, which was as under : "29. Electoral roll for a municipal area (1) For every municipal area, there shall be an electoral roll showing the names of persons qualified to vote. (2) The electoral roll for every municipal area shall be divided into several parts one for each ward of a municipal area. (3) The electoral roll for a municipal area shall be prepared, revised or corrected by the State Election Commission in accordance with such rules as may be made by the State Government in this behalf : Provided that there shall be a preliminary publication of such electoral roll after preparation or revision to be followed by final publication after hearing of objections in the manner prescribed. (4) Notwithstanding anything contained elsewhere in this Act, the electoral roll for the time being in force for the election of members of the West Bengal Legislative Assembly, so far as it relates to the area comprised in a municipal area, may be adopted as the electoral roll for that municipal area for the purposes of preliminary publication."

30. . :-

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31. . :-

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32. . :-

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1. Secs. 30, 31, 32 and 33 om. by W.B. Act 30 of 1994, which were as under:- "30. Condition for registration as a voter. - (1) Every person who - (a) is not less than 18 years of age on the qualifying date, and (b) is ordinarily resident in a municipal area, shall be entitled to be registered in the electoral roll for that municipal area. (2) No person shall be entitled to be registered in the electoral roll for any municipal area in more than one place. (3) No person shall be entitled to be registered in the electoral roll for any municipal area if his name has already been registered as a voter in the electoral roll of any other municipal area, municipal corporation or panchayat area. Explanation 1. - The expression "qualifying date" shall mean such date as the State Government may by notification specify for the purposes of this Act. [Foot-note 68 continued at page 52] Explanation II. - The expression "ordinarily resident" shall have the same meaning as assigned to it in section 20 of the Representation of the People Act, 1950. 31. Disqualification for registration in an electoral roll. - The disqualifications for registration in an electoral roll for a municipal area shall be the same as provided in section 16 of the Representation of the People Act, 1950. 32. Appeal. - Any person aggrieved by any entry in, or omission from, the electoral roll or by the order or decision of the State Election Commission, may, within fifteen days from the date of final publication of the electoral roll or from the date of the

decision or the order of the State Election Commission, as the case may be, appeal to such appellate authority as the State Government may by notification appoint and if, on such appeal the said appellate authority directs any modification or addition to be made in the electoral roll or the decision or the order of the State Election Commission, the electoral roll shall accordingly be corrected or the decision or the order shall be modified, as the case may be. Such decision on appeal shall be published in the manner provided for final publication of an electoral roll. 33. Offences in respect of electoral roll. - (1) Every person who by claiming a qualification, which he knows that he does not possess, to vote at a municipal election or by using a false document or by a false declaration or by any other deceitful means, procures or attempts to procure the improper entry of the name, whether of himself or of any other person, in the electoral roll or the improper omission of any name therefrom, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both. (2) Every municipal officer or employee or polling officer who wilfully makes or procures or attempts to make or procure any improper entry in the electoral roll or any improper omission therefrom shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both."

33. . :-

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1. Secs. 30, 31, 32 and 33 om. by W.B. Act 30 of 1994, which were as under:- "30. Condition for registration as a voter. - (1) Every person who - (a) is not less than 18 years of age on the qualifying date, and (b) is ordinarily resident in a municipal area, shall be entitled to be registered in the electoral roll for that municipal area. (2) No person shall be entitled to be registered in the electoral roll for any municipal area in more than one place. (3) No person shall be entitled to be registered in the electoral roll for any municipal area if his name has already been registered as a voter in the electoral roll of any other municipal area, municipal corporation or panchayat area. Explanation 1. - The expression "qualifying date" shall mean such date as the State Government may by notification specify for the purposes of this Act. [Foot-note 68 continued at page 52] Explanation II. - The expression "ordinarily resident" shall have the same meaning as assigned to it in section 20 of the Representation of the People Act, 1950. 31. Disqualification for registration in an electoral roll. - The disqualifications for registration in an electoral roll for a municipal area shall be the same as provided in section 16 of the Representation of the People Act, 1950. 32. Appeal. - Any person aggrieved by any entry in, or omission from, the electoral roll or by the order or decision of the State Election Commission, may, within fifteen days from the date of final publication of the electoral roll or from the date of the

decision or the order of the State Election Commission, as the case may be, appeal to such appellate authority as the State Government may by notification appoint and if, on such appeal the said appellate authority directs any modification or addition to be made in the electoral roll or the decision or the order of the State Election Commission, the electoral roll shall accordingly be corrected or the decision or the order shall be modified, as the case may be. Such decision on appeal shall be published in the manner provided for final publication of an electoral roll. 33. Offences in respect of electoral roll. - (1) Every person who by claiming a qualification, which he knows that he does not possess, to vote at a municipal election or by using a false document or by a false declaration or by any other deceitful means, procures or attempts to procure the improper entry of the name, whether of himself or of any other person, in the electoral roll or the improper omission of any name therefrom, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both. (2) Every municipal officer or employee or polling officer who wilfully makes or procures or attempts to make or procure any improper entry in the electoral roll or any improper omission therefrom shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both."

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1. Secs. 34, 35 and 36 om. by W.B. Act 30 of 1994, which were as under :- "34. Right to vote. - Save as otherwise provided in this Act, every person whose name is included in the electoral roll which is in force after final publication, shall be entitled to vote at an election for the ward where his name is so included : Provided that no person shall vote at an election of Councillors of municipal area if he - (a) has been adjudged to be a unsound mind, or (b) has voluntarily acquired the citizenship of a foreign State, or (c) has been sentenced by a criminal court for an electoral offence punishable under this Act or has been disqualified under any other law for the time being in force from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence or disqualification : Provided that the disqualification under this clause may at any time be removed by the State Government if it thinks fit. 35. Qualifications for election as a Councillor No person whose name is not included in the electoral roll for the election of

Councillors of a municipal area, shall be qualified to be elected a Councillor of that municipal area. 36. General disqualifications for a Councillor (1) A person shall not be eligible for election or appointment as a Councillor if such person (a) has been adjudged by a competent court to be of unsound mind; or (b) is under twenty-one years of age; or (c) is an undischarged insolvent; or (d) being a discharged insolvent, has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or (e) holds any office of profit under the Municipality; or (f) has, directly or indirectly by himself or by his partner or employer or any employee, any share or interest in any contract or employment with, by. or on behalf of, the Municipality; or (g) is in the service of, or receives remuneration from, the Central or the State Government or the Municipality; or (h) has been elected to, or appointed under, any other Municipality or any Municipal Corporation or any Gram Pranchayat or Panchayat Samiti or Zilla Parishad or the Council : Provided that notwithstanding anything contained in clause (f), no person shall be deemed to be disqualified thereunder by reason only of his having a share or interest in (1) any lease, sale or purchase of land or any agreement for the same; or (ii) any agreement for the loan of money or any security for the payment of money only; or (iii) any newspaper in which any advertisement relating to the affairs of the Municipality is inserted; or (iv) any incorporated or registered company which contracts with, or is employed by, the Municipality. (2) If any person is or has been convicted by a criminal court of an offence, punishable with imprisonment, for a period of not less than two years, such person shall not be eligible for election or appointment as a Councillor for five years from the date of expiration of the sentence. (3) If any question arises as to whether any person or any Councillor has become subject to any of the disqualifications mentioned in sub-section (1) and sub-section (2), the question shall be referred for decision to such authority and in such manner as may be notified by the State Government from time to time."

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1. Secs. 44, 45, 46 and 47 om. by W.B. Act 30 of 1994, which were as under :- "44. Setting aside of election. - If the District Judge after holding such inquiry as he deems fit in respect of an election petition, is satisfied that - (a) a candidate has committed any corrupt practice within the meaning of this Chapter, or (b) the result of the election has been materially affected by any act or omission in violation of the provisions of this Act or the rules made thereunder, or (c) the result of the election has been vitiated by any offence punishable under the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, he shall set aside the election of such candidate, if he has been elected and may, if the election is set aside for any cause which is the result of any act of a candidate or his agent, declare that candidate to be disqualified for the purpose of a fresh election caused by such setting aside :Provided that if the District Judge in setting aside the election holds a candidate guilty of any corrupt practice, he may declare such candidate disqualified for contesting an election to a Municipality for a period not exceeding six years. 45. Scrutiny of votes and declaration or confirmation of result. - (1) If the election petition is confined to the question of validity of votes cast or counting, the District Judge shall, after such scrutiny and computation of votes as may be deemed necessary, declare the result. (2) If there be only two candidates contesting the election in dispute and the election petition contains a claim by one of the candidates for declaring him elected, the District Judge may, while deciding upon the election petition, declare such candidate duly elected. (3) If after computation, there be an equality of votes, among two or more candidates the District Judge shall select one among them by drawing lots. (4) If the District Judge is satisfied that no ground exists for setting aside the election or modifying the results thereof, he shall confirm the election. 46. Bar to jurisdiction of Courts. - Save as provided in this Chapter, no Court shall entertain any application in any form whatsoever for adjudication of any matter relating to election to a Municipality. 47. Fresh election when an election is set aside. - If an election is set aside by the District Judge, a date shall forthwith be fixed and necessary steps shall be taken for holding a fresh election for filling up the vacancy, as though it has been a casual vacancy."

45. . :-

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1. Secs. 44, 45, 46 and 47 om. by W.B. Act 30 of 1994, which were as under :- "44. Setting aside of election. - If the District Judge after holding such inquiry as he deems fit in respect of an election petition, is satisfied that - (a) a candidate has committed any corrupt practice within the meaning of this Chapter, or (b) the result of the election has been materially affected by any act or omission in violation of the provisions of this Act or the rules made thereunder, or (c) the result of the election has been vitiated by any offence punishable under the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, he shall set aside the election of such candidate, if he has been elected and may, if the election is set aside for any cause which is the result of any act of a candidate or his agent, declare that candidate to be disqualified for the purpose of a fresh election caused by such setting aside :Provided that if the District Judge in setting aside the election holds a candidate guilty of any corrupt practice, he may declare such candidate disqualified for contesting an election to a Municipality for a period not exceeding six years. 45. Scrutiny of votes and declaration or confirmation of result. - (1) If the election petition is confined to the question of validity of votes cast or counting, the District Judge shall, after such scrutiny and computation of votes as may be deemed necessary, declare the result. (2) If there be only two candidates contesting the election in dispute and the election petition contains a claim by one of the candidates for declaring him elected, the District Judge may, while deciding upon the election petition, declare such candidate duly elected. (3) If after computation, there be an equality of votes, among two or more candidates the District Judge shall select one among them by drawing lots. (4) If the District Judge is satisfied that no ground exists for setting aside the election or modifying the results thereof, he shall confirm the election. 46. Bar to jurisdiction of Courts. - Save as provided in this Chapter, no Court shall entertain any application in any form whatsoever for adjudication of any matter relating to election to a Municipality. 47. Fresh election when an election is set aside. - If an election is set aside by the District Judge, a date shall forthwith be fixed and necessary steps shall be taken for holding a fresh election for filling up the vacancy, as though it has been a casual vacancy."

46. . :-

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1. Secs. 44, 45, 46 and 47 om. by W.B. Act 30 of 1994, which were as under :- "44. Setting aside of election. - If the District Judge after holding such inquiry as he deems fit in respect of an election petition, is satisfied that - (a) a candidate has committed any corrupt practice within the meaning of this Chapter, or (b) the result of the election has been materially affected by any act or omission in violation of the provisions of this Act or the rules made

thereunder, or (c) the result of the election has been vitiated by any offence punishable under the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, he shall set aside the election of such candidate, if he has been elected and may, if the election is set aside for any cause which is the result of any act of a candidate or his agent, declare that candidate to be disqualified for the purpose of a fresh election caused by such setting aside :Provided that if the District Judge in setting aside the election holds a candidate guilty of any corrupt practice, he may declare such candidate disqualified for contesting an election to a Municipality for a period not exceeding six years. 45. Scrutiny of votes and declaration or confirmation of result. - (1) If the election petition is confined to the question of validity of votes cast or counting, the District Judge shall, after such scrutiny and computation of votes as may be deemed necessary, declare the result. (2) If there be only two candidates contesting the election in dispute and the election petition contains a claim by one of the candidates for declaring him elected, the District Judge may, while deciding upon the election petition, declare such candidate duly elected. (3) If after computation, there be an equality of votes, among two or more candidates the District Judge shall select one among them by drawing lots. (4) If the District Judge is satisfied that no ground exists for setting aside the election or modifying the results thereof, he shall confirm the election. 46. Bar to jurisdiction of Courts. - Save as provided in this Chapter, no Court shall entertain any application in any form whatsoever for adjudication of any matter relating to election to a Municipality. 47. Fresh election when an election is set aside. - If an election is set aside by the District Judge, a date shall forthwith be fixed and necessary steps shall be taken for holding a fresh election for filling up the vacancy, as though it has been a casual vacancy."

47. . :-

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1. Secs. 44, 45, 46 and 47 om. by W.B. Act 30 of 1994, which were as under :- "44. Setting aside of election. - If the District Judge after holding such inquiry as he deems fit in respect of an election petition, is satisfied that - (a) a candidate has committed any corrupt practice within the meaning of this Chapter, or (b) the result of the election has been materially affected by any act or omission in violation of the provisions of this Act or the rules made thereunder, or (c) the result of the election has been vitiated by any offence punishable under the West Bengal Local Bodies (Electoral Offences and Miscellaneous Provisions) Act, 1952, he shall set aside the election of such candidate, if he has been elected and may, if the election is set aside for any cause which is the result of any act of a candidate or his agent, declare that candidate to be disqualified for the purpose of a fresh election caused by such setting aside :Provided that if the District Judge in setting aside the

election holds a candidate guilty of any corrupt practice, he may declare such candidate disqualified for contesting an election to a Municipality for a period not exceeding six years. 45. Scrutiny of votes and declaration or confirmation of result. - (1) If the election petition is confined to the question of validity of votes cast or counting, the District Judge shall, after such scrutiny and computation of votes as may be deemed necessary, declare the result. (2) If there be only two candidates contesting the election in dispute and the election petition contains a claim by one of the candidates for declaring him elected, the District Judge may, while deciding upon the election petition, declare such candidate duly elected. (3) If after computation, there be an equality of votes, among two or more candidates the District Judge shall select one among them by drawing lots. (4) If the District Judge is satisfied that no ground exists for setting aside the election or modifying the results thereof, he shall confirm the election. 46. Bar to jurisdiction of Courts. - Save as provided in this Chapter, no Court shall entertain any application in any form whatsoever for adjudication of any matter relating to election to a Municipality. 47. Fresh election when an election is set aside. - If an election is set aside by the District Judge, a date shall forthwith be fixed and necessary steps shall be taken for holding a fresh election for filling up the vacancy, as though it has been a casual vacancy."

48. . :-

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1. Secs. 48 and 49 om. by W.B. Act 30 of 1994, which were as under : 48. Saving of acts done by a Councillor before his election is set asideWhere a candidate, who has been elected to be a Councillor, is declared by the District Judge to have not been duly elected, no act done by him by virtue of the office of Councillor before such declaration, shall be invalidated by reason of such declaration. 49. Power of State Government to remove disqualifications or modify terms thereof Notwithstanding anything contained elsewhere in this Chapter, the State Government may, for reasons to be recorded in writing, remove any disqualification imposed on a candidate from contesting an election to a Municipality if, in its opinion, the offence does not involve moral turpitude, or may reduce the term of disqualification in any case whatsoever".

49. . :-

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1. Secs. 48 and 49 om. by W.B. Act 30 of 1994, which were as under : 48. Saving of acts done by a Councillor before his election is set asideWhere a candidate, who has been elected to be a Councillor, is declared by the District Judge to have not been duly elected, no act done by him by virtue of the office of Councillor

before such declaration, shall be invalidated by reason of such declaration. 49. Power of State Government to remove disqualifications or modify terms thereof Notwithstanding anything contained elsewhere in this Chapter, the State Government may, for reasons to be recorded in writing, remove any disqualification imposed on a candidate from contesting an election to a Municipality if, in its opinion, the offence does not involve moral turpitude, or may reduce the term of disqualification in any case whatsoever".

CHAPTER 5

Municipality and the Municipal Establishment

50. Oath of allegiance to be taken by Councillors :-

(1) Notwithstanding anything contained in the Indian Oaths Act, 1873, every person who is elected or appointed to be a Councillor shall, before taking his seat, make and subscribe before ¹ [the Chairman or the Vice-Chairman or the District Magistrate or the Magistrate-in-charge] of the sub-division in which the municipal area is situated or an officer of the State Government

(2) Any person who, having been elected or appointed a Councillor, fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under sub-section (1), shall cease to hold his office and his seat shall be deemed to have become vacant:

Provided that the State Government may, for reasons to be recorded in writing, extend in each case or class of cases the above period of three months by such period as it thinks fit.

1. Words substituted, for the words "the Chairman, the Vice-Chairman, the District Magistrate, the Magistrate-in-charge" by W.B. Act 13 of 1995. authorised in this behalf by the District Magistrate an oath or affirmation of his allegiance to the Constitution of India in the following form : "I, A.B., having been

50A. Oath of secrecy to be taken by Chairman, Vice-Chairman and members of Chairman-in-Council :-

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(1) The Chairman, the Vice-Chairman, and a member of the Chairman-in-Council shall assume office after taking the oath of secrecy in the following form :

"I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly commutate or reveal to any person or persons any matter which shall be brought under my consideration

or shall become known to me as Chairman/Vice-Chairman/a member of the Chairman-in- Council except as may be required for the due discharge of my duties as such Chairman/Vice-Chairman/member of the Chairman-in-Council."

(2) In the case of the Chairman, the oath of secrecy shall be administered by the District Magistrate or the Sub-divisional Magistrate in whose jurisdiction the Municipality is situated or an officer of the State Government authorised in the behalf by the District Magistrate. In the case of the Vice- Chairman or a member of the Chairman-in-Council, the oath of secrecy shall be administered by the Chairman.

1. Secs. 50A and 50B ins. by W.B. Act 45 of 1994.

50B. First meeting of the Board of Councillors :-

¹ The first meeting of the Board of Councillors after the general election of Councillors to the Municipality, shall be convened by the District Magistrate or any other Executive Magistrate authorised by the District Magistrate in this behalf for election of the Chairman under sub-section (1) of section 17, within thirty days from the date of publication of the names of elected members in the Official Gazette under Section 71 of the West Bengal Municipal Elections Act, 1994 . Seven days' notice shall be given for the meeting.

1. Secs. 50A and 50B ins. by W.B. Act 45 of 1994.

51. Meeting of the Board of Councillors :-

(1) The Board of Councillors shall meet not less than once in every month for the transaction of business: Provided that if there is no business to be transacted at any monthly meeting, the Chairman shall give notice of the fact to Councillors.

(2) The Chairman shall, upon a requisition in writing by not less than one-third of the members of the Board of Councillors, convene a meeting of the Board.

(3) All matters required to be decided at a meeting shall be determined by the majority of votes of the Councillors present and voting.

(4) The State Government may by rules provide for such other matters relating to conduct of business of the Board of Councillors as are not provided in this Act.

51A. Quorum :-

1(1) The quorum necessary for the transaction of business at any meeting of a Municipality under this Act shall be one-third of the total number of **2** [Councillors] of the Municipality.

(2) If at any time during a meeting of the Municipality there is no quorum, it shall be the duty of the Chairman or the person presiding over such meeting either to adjourn the meeting or to suspend it till there is a quorum.

(3) Where a meeting has been adjourned under sub-section (2), the business which would have been brought before such meeting if there had been a quorum, shall be brought before, and may be transacted at, an adjourned meeting, whether there is a quorum or not.

(4) All matters required to be decided by the Municipality at a meeting shall, save as otherwise provided in this Act, be determined by a majority of the members of the Municipality present and voting at such meeting.

1. Sec. 51A ins. by W.B. Act 45 of 1994.

2. Word subs, for the word "members" by W.B. Act 13 of 1995.

52. Remuneration and allowances :-

The Councillors of the municipal area including the members of the Chairman-in-Council may receive such remuneration or allowance as may be prescribed:

Provided that different rates may be prescribed for different groups of municipalities and for different classes of functionaries in each municipality.

53. Municipal establishments :-

(1) Save as otherwise provided in this Act, a Municipality may have the following officers :

(a) an Executive Officer;

(b) a Health Officer;

(c) an Engineer;

(d) a Finance Officer;

(e) a Medical Officer;

- (f) a Secretary;
- (g) an Office Superintendent;
- (h) one or more than one Sub-Assistant Engineer;
- (i) one or more than one Sanitary Inspector;
- (j) a Head Clerk;
- (k) a Head Assistant;
- (l) an Accountant;
- (m) a Surveyor;
- (n) a Draftsman;
- (o) such other officers as may be designated by the State Government in this behalf:

Provided that the State Government may reduce the number of posts of the officers as aforesaid for any Municipality:

Provided further that the State Government may by order redesignate any of the posts of the officers as aforesaid in respect of any Municipality.

(2) ¹[Subject to the provisions of sub-section(1)] of this section, the Board of Councillors may, at a meeting, determine which of the officers referred to in sub-section (1) of this section are necessary for a Municipality, and, with the prior sanction of the State Government, create posts of such officers and fix the salaries and allowances to be paid and granted to such officers.

(3) The Board of Councillors at a meeting may, subject to the norms regulating the size of the municipal establishment for each Municipality

(4) Subject to the norms regulating the size of a municipal establishment as may be fixed by the State Government under sub-section (3), no post of an officer or other employee shall be created under sub-section (3) by the Board of Councillors of a Municipality ²[without the prior sanction of the State Government.]³ * * * * *

(5) Notwithstanding anything contained in sub-section (1), sub-section (2), sub-section (3) or sub-section (4), the Board of

Councillors of a Municipality may, with the prior sanction of the State Government, create, if it considers necessary so to do form due discharge of municipal functions, a post of an officer or other employee which is not included in the norm as may be fixed by the State Government under sub-section (3), and fix the salaries and allowances to be paid and granted to such officer or other employee.

(6) Until norms are fixed under sub-section (3), no post of any officer or other employee shall be created by the Board of Councillors of any Municipality without the prior sanction of the State Government.

1. Words figure and brackets subs, for the words, figures brackets "Until the cadre of common municipal service for the State is constituted under sub-section (1) of section 54, and subject to the provisions of sub-section (1)" by W.B. Act 16 of 2002.

2. Words subs, for the words "without the prior sanction of the State Government if the number of posts to be so created in a year for a Municipality is more than one per cent of the total number of sanctioned posts of officers and other employees in existence in the year immediately preceding:" by W.B. Act 16 of 2002.

3. Proviso om. by W.B. Act. 16 of 2002, which was as under : "Provided that the number of posts so admissible for creation in a year without the prior sanction of the State Government after the commencement of this Act, if not created in that year, may be carried forward to the next year, subject to a minimum of one and a maximum of ten."

54. Cadre of common municipal service, appointments, etc :-

(1) The State Government may constitute cadres for the State in respect of Executive Officers, Health Officers, Engineers and Finance Officers referred to in sub-section (1) of section 53.

(2) The State Government shall be the appointing authority of all the officers borne in the cadres constituted under sub-section (1), and shall be the authority to transfer such officers from one municipal area to another:

1 Provided that until the cadre is constituted under sub-section (1), the Board of Councillors may, with the prior approval of the State Government, engage the officers to the posts of Health Officers and Engineers, sanctioned by the State Government, on contract basis or otherwise, and the qualifications and the recruitment procedure for such engagement shall be such as may be prescribed:

1 Provided further that the remuneration for such engagement shall be paid from the Municipal Fund.

(3) The appointment of all other officers and employees **3**[not included in sub-section (1),] shall be made by the Municipality **4**[with the approval of the State Government]: **5*** * * * *

6(3A) The recruitment to the posts of officers and other employees not required to be made through the Municipal Service Commission constituted under sub-section (1) of section 55, shall be made through the local employment exchange or through such other method as the State Government may determine from time to time.

(4) Save as otherwise provided in this Act, the State Government may by rules provided for the **7**[qualifications for] appointment, conditions of service and other allied matters relating to the officers and employees of Municipalities.

8 (5) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, but subject to the provisions of sub-section (2), the Board of Councillors may, by resolution, decide to engage, on contract basis with the prior approval of the State Government, officers and other employees of a Municipality against such posts of such officers and other employees as may be created under section 53:

Provided that the remuneration for, and the other terms and conditions of, such engagement shall be such as the State Government may approve.

1. Provisos ins. by W.B. Act 8 of 2004.

3. Words, figure and brackets ins. by W.B. Act 16 of 2002.

4. Words ins. by W.B. Act 13 of 2003.

5. Proviso first ins. by W.B. Act 45 of 1994, then om. by W.B. Act 16 of 2002, which was as under : "Provided that the State Government may determine the category and the scale of pay of a post to which no appointment shall be made by the Municipality without the prior sanction of the State Government even though the creation of such post is within the limit of one per cent of the total number of sanctioned posts of officers and other employees in existence in the year immediately preceding."

6. Sub-sec. (3A) ins. by W.B. Act 45 of 1994.

7. Words subs, for the words "mode of" by W.B. Act 45 of 1994.

8. Sub-sec. (5) ins. by W.B. Act 22 of 2000.

55. Municipal Service Commission :-

(1) The State Government may constitute a Municipal Service Commission consisting of a Chairman and two other members for selection of such personnel of municipal officers and employees as may be prescribed.

(2) The State Government may also by rules provide for (a) the salaries, allowances and conditions of service of the Chairman and other members of the Municipal Service Commission, (b) the manner in which the Municipal Service Commission shall perform the duties imposed upon it by or under this Act, (c) the number of officers and other employees of the Municipal Service Commission and their salaries and allowances, and (d) the terms and conditions of service including discipline, and control and conduct of officers and other employees of the Municipal Service Commission.

55A. Municipal Vigilance Authority :-

1 (1) The Municipal Vigilance Authority appointed under sub-section (1) of S.27A of the Kolkata Municipal Corporation Act, 1980 (hereinafter referred to in this section as the said Act), shall, by virtue of sub-section (1) and sub-section (6) of section 27A of the said Act, enquire into any complaint of corruption, misconduct, lack of integrity or any other kind of malpractice or misdemeanour on part of any officer or other employee of a Municipality as and when required by the Board of Councillors concerned.

1. Sec. 55A ins. by W.B. Act 16 of 2002.

56. Salaries and allowances of officers and employees :-

(1) All officers and employees of a Municipality including the officers referred to in section 53 shall receive salaries and allowances out of the Municipal Fund:

Provided that the State Government may make such contribution towards the salaries and allowances as it may, from time to time, determine by an order.

(2) The Municipality may also provide for pension, gratuity, provident fund, incentive, bonus, reward or penalty for its officers and employees in accordance with such rules, norms, scales and conditions as may be prescribed.

57. Leave and other conditions of service :-

All officers and employees of the Municipality shall be subject to such conditions of service including leave and other benefits or obligations, not specifically provided for in this Act, as may be prescribed.

58. Compulsory retirement of municipal officers and other employees :-

(1) Notwithstanding anything contained in this Chapter or elsewhere in this Act or in any rules made thereunder, a municipal officer or other employee shall retire from service compulsorily with effect from the afternoon of ¹ [the last day of month in which] he attains the age of sixty years.

(2) No municipal officer or other employee shall be re-employed after retirement in any post without the prior sanction of the State Government.

1. Words subs, for the words "the date on which" by W.B. Act 13 of 1995.

59. Power to declare essential service in municipalities :-

Notwithstanding anything to the contrary contained in any other law for the time being in force, the Board of Councillors may, with the sanction of the State Government, declare any cadre or class of municipal employees to be in essential service and upon such declaration, no employee of such cadre or class shall withdraw from his duties without the permission of the Chairman and, in no case, without giving prior notice of clear thirty days to the Chairman of his intention so to do.

60. Appointment of officers of State Government for Municipalities :-

¹ Notwithstanding anything contained elsewhere in this Act, the State Government may appoint an officer of that Government possessing such qualifications as may be determined by it for a Municipality or group of Municipalities as Executive Officer, Health Officer, Engineer or Finance Officer referred to in sub-section (1) of section 53 or with such designation as the State Government may consider necessary, in such manner, and on such terms and conditions of service, as may be determined by the State Government in this behalf. The expenditure on account of salaries and allowances of any such officer shall be borne by the State Government:

Provided that the officer so appointed shall be under the administrative control of the Board of Councillors of the Municipality and may be withdrawn by the State Government suo motu or if a resolution to that effect is passed by the Councillors at a meeting called for this purpose by a majority of the total number of members holding office for the time being and, in the case of a group of Municipalities, if such resolution is so passed by the Councillors of the majority of such group of Municipalities.

1. Sec. 60 subs, by W.B. Act 45 of 1994, which was earlier as under : "60. Enlargement of municipal establishment and recruitment (1) Subject to the size of a municipal establishment as determined under section 53, on person shall be appointed by any Municipality without the prior sanction of the State Government, if it means the enlargement of establishment by more than one per cent per year of the total number of sanctioned strength of the officers and employees existing in the year immediately preceding: Provided that the admissible enlargement of sanctioned strength in any year if not filled up in the year, may be carried forward to the next year, subject to a minimum of one for that year and a maximum of ten. Provided further that the State Government may prescribe the category or scale of pay of posts to which no appointment shall be made without the prior sanction of the State Government even though the creation of such posts are within the admissible limit of one per cent as aforesaid. (2) Recruitment to the posts of officers and employees not made through the Municipal Service Commission constituted under this Act. shall be made through the local employment exchange or through any other method as may be decided by the State Government from time to time.".

60A. Powers and functions of Executive Officer and Finance Officer :-

¹(1) The Executive Officer shall be the principal executive officer of the Municipality and all officers and other employees of the Municipality shall be subordinate to him. ²[He shall be present at a meeting of the Councillors or of any committee] to make a statement or to explain facts, but he shall not vote for or against, or make, any proposition at such meeting.

(2) Subject to the supervision and control of the Chairman, ³[the Executive Officer shall exercise such powers and perform such functions (as may be prescribed.)]

⁴(3) Subject to the supervision and control of the Chairman, the Finance officer shall exercise such power and perform such

functions ⁵[as may be prescribed.]

6 (4) In the case of absence of the Executive Officer or the Finance Officer, for any reason, the powers of the Executive Officer or the Finance Officer, as specified in the foregoing provisions of this section or elsewhere in this Act or the rules made under this Act, shall be exercised by the Chairman or by the Vice-Chairman or by any Councillor or by any officer of the Municipality as may be nominated by the Chairman in this behalf.

1. Sec. 60A ins. by W.B. Act 45 of 1994.
2. Words subs, for the words "He may be required to be present at a meeting of the Councillors or of any committee by the Chairman" by W.B. Act 22 of 2000.
3. Words "the Executive Officer shall exercise such powers and perform such functions in the matter of municipal establishment and in other matters" first subs, for the words "the Executive Officer and the Finance Officer shall exercise such powers and perform such functions" by W.B. Act 22 of 2000, then the words within first brackets again subs, for the words "in the matter of municipal establishment and in other matters as may be notified by the State Government from time to time." by W.B. Act 16 of 2002.
4. Sub-sec. (3) ins. by W.B. Act 22 of 2000.
5. Words subs, for the words "in the matter of municipal finance and in other matters as may be notified by the State Government from time to time." by W.B. Act 16 of 2002.
6. Sub-sec. (4) ins. by W.B. Act 16 of 2002.

61. Classification, control and appeal :-

(1) The Chairman shall be the executive head of the municipal administration and shall exercise control over all officers and employees in the matter of discipline.

(2) The Chairman may delegate his power to any other member of the Chairman-in-Council or an officer of the Municipality in such manner as he may specify by an order.

(3) The punishment for breach of discipline may include dismissal from service, reduction in rank, withholding of increment, suspension including suspension pending proceedings, fine and census.

1(4) In all disciplinary matters involving dismissal from service and reduction in rank, an appeal shall lie before the Board of Councillors which shall be the appellate authority.

1 (4A) No disciplinary action shall be taken by a Municipality against any officer borne in cadre of common municipal service for the State constituted under sub-section (1) of section 54 or any officer of the State Government appointed for a Municipality or group of Municipalities under section 60.

(5) The State Government may by rules provided for the norms of conduct of the officers and employees of the Municipalities and such other matters regarding discipline and control as it may think fit.

1. Sub-sees. (4) and (4A) subs, for original sub-sec. (4) by W.B. Act 45 of 1994, which was under : "(4) In all disciplinary matters involving dismissal from service and reduction in rank, an appeal shall lie before the Board of Councillors from an order passed by the Chairman or his delegate and, in all other cases. the appellate authority shall be the Chairman or his delegate.".

62. Appointment of a Pay Review Committee :-

Notwithstanding anything contained elsewhere in this Act, the State Government may, if it considers necessary for the purpose of rationalising the scale of pay and other terms and conditions of service, including leave and retirement benefits, in respect of all or any category of municipal officers and employees, appoint a Pay Review Committee, and the decision of the State Government upon the recommendations of such Committee shall be binding on all.

CHAPTER 6

Powers and Functions

63. Obligatory functions :-

It shall be the obligatory duty of every Municipality to make reasonable and adequate provision for the following matters within the territorial limits of the municipal area and the financial means at its disposal :

(1) in the sphere of public works,

(a) providing by itself or by an agency, means for supply of water for public and private purposes;

(b) construction, maintenance and cleansing of sewers and drains, sewerage and drainage works;

(c) construction, maintenance and cleansing of public latrines, urinals and similar conveniences;

- (d) construction, maintenance, alteration and improvement of public streets and street furniture, bridges and culverts, fly-overs, sub-ways, cause-ways and the like;
 - (e) naming of streets and numbering of premises;
 - (f) lighting of public streets and other public places;
 - (g) planting and care of trees on road-side and elsewhere;
 - (h) construction and maintenance of municipal markets and slaughter houses and the regulation of all markets and slaughter houses;
 - (i) maintenance of all monuments vested in the Municipality;
 - 1**(j) providing by itself or by an agency, means of supply of water for fire-fighting purposes;
- (2) in the sphere of public health and sanitation,
- (a) collection, removal and disposal of solid wastes including filth, rubbish and other obnoxious or polluted matters;
 - (b) disposal of solid and liquid wastes consistent with efforts to cause recovery and re-use of all that can be salvaged;
 - (c) reclamation of unhealthy localities, removal of noxious vegetation and abatement of all nuisances;
 - (d) regulating and abating offensive and dangerous trades or practices;
 - (e) cleansing of public streets and other public places;
 - (f) ensuring the wholesomeness of water supplied for drinking and domestic purposes;
 - (g) maintenance of all public tanks and regulating the re-excavation, repair and up-keep of all private tanks, wells and other sources of water supply on such terms and conditions as the Municipality may deem proper;
 - (h) provide for places for the disposal of the dead and the regulation and maintenance of such places;
 - (i) measures for preventing and checking the spread of dangerous diseases;

- (j) immunisation including public vaccination and inoculation;
 - (k) removal and disposal of the unclaimed dead bodies and carcasses of all dead animals;
 - (l) abatement of nuisances from birds and animals including dog menace;
 - (m) conversion of all service privies into sanitary latrines and providing adequate facilities for sanitation so that upon defecation may be completely done away with;
- (3) in the sphere of town planning and development,
- (a) devising town planning within the limits of the municipal area in accordance with the laws relating to town planning for the time being in force;
 - (b) planned development of the borders of the municipal area in accordance with the laws applicable for the purpose;
 - (c) improvement of bustees;
 - (d) control of regular lines of streets;
 - (e) control of all building operations and regulation of building uses;
 - (f) co-ordination of all overground rights enjoyed by service agencies;
 - (g) co-ordination of activities of agencies relating to laying and maintenance of underground pipelines, tubes, cables and the like;
 - (h) laying out and maintenance of public parks, squares, gardens or recreation areas;
 - (i) re-development of congested areas for providing better living conditions;
 - (j) planned development of new areas for human settlement;
 - (k) preservation of monuments and places of historical, artistic and other importance;
 - (l) measures for beautification of the township by setting up fountains and statues, providing recreational areas, improving river banks, landscaping and the like;

(4) in the sphere of administration,

(a) survey of buildings and lands and preparation and maintenance from time to time of survey maps and plans of the town and other records relating to survey;

(b) removal of unauthorised encroachment on, or obstruction and projections in or upon, streets, bridges and other public places;

(c) securing or removal of dangerous buildings and places;

(d) registration of births and deaths;

(e) providing boundary marks for the municipal area;

(f) drawing up an Annual Administration Report on the activities and performances of the Municipality and submission, in the manner prescribed, of such report to the State Government;

(g) compilation and maintenance of records and statistics relating to the administrative functions of the Municipality;

(h) maintenance and development of all properties vested in or entrusted with the management of the Municipality;

(i) checking the construction of unauthorised buildings and pulling down unlawful constructions;

(j) ensuring the stoppage of wastage of water supply and other civic facilities;

(k) protecting public properties in general and civic properties in particular;

(l) abatement of pollutions of all kinds;

2 (m) measures as may be required for fire prevention and fire safety under the West Bengal Fire Services Act, 1950 , and the rules made thereunder;

(n) providing for adequate training facilities for the municipal employees and equipping and motivating them for public service;

(o) observance of occasions of national importance.

1. Clause (j) ins. by W.B. Act 13 of 1995.

2. Clause (m) subs, by W.B. Act 13 of 1995. which was earlier as under : "(m) preventive measures against fire and assistance to fire extinction; ".

64. Discretionary functions of the Municipality :-

A Municipality may, at its discretion, provide, either wholly or partly, out of the municipal property and fund, for the following matters within the limits of the municipal area :

(1) in the sphere of public works,

(a) giving relief to, and establishing and maintaining, in time of ¹ [famine, flood or earthquake,] relief works for, destitute persons within the limits of the municipal area;

(b) construction or maintenance of, or providing or giving aids for, passengers' sheds, libraries, museums, community halls, offices, godowns, shops, markets, dharmashalas, rest houses, sports complex, place of entertainment, swimming pools, public wash houses and bathing places and homes for the disabled and destitute and other public buildings designed for convenience of the community;

(c) construction and maintenance of old age homes and orphanages, domiciliary care of the sick, orphan, destitute and aged people;

(d) construction or maintenance of, or providing aids to, hospitals, dispensaries, asylums, rescue homes, maternity houses, and child welfare centres;

(e) construction, purchase, organisation, maintenance, extension and management of mechanically propelled transport facilities for the conveyance of the public;

(f) construction, maintenance, repair, and purchase of any works for the supply of electrical energy or gas;

(g) construction of dwellings for the inhabitants, specially low-cost dwellings for the socially backward classes of citizens;

(h) providing accommodation for all classes of employees of the Municipality;

(2) in the sphere of education,

(a) establishing and maintaining pre-primary schools such as balwadies and creches;

(b) promotion of civic education, adult education, social education, non-formal education and the like;

(c) promotion of cultural activities including music, physical education, sports and theatres;

(d) advancement of science and technology in the way of life;

(e) advancement of civic consciousness of public health and general welfare by organising discourses, seminars and conferences;

(f) publication of municipal journals, periodicals and souvenirs, purchase of books, and subscriptions to journals, magazines and newspapers;

(3) in the sphere of public health and sanitation,

(a) construction and maintenance of cattle pounds;

(b) provision for unfettered water-supply for non-domestic uses;

(c) promotion of the use of bio-gas and other non-conventional energy sources;

(d) provisions for sewage treatment and preparation of compost manures from sewage and other refuse;

(e) abatement of smoke nuisances;

(f) setting up of milk dairies or farms (but not khatahs) for supply, distribution and processing of milk or milk products for the benefit of the people;

(g) ambulance service for carrying patients;

(4) in the sphere of administration,

(a) civic reception to persons of distinction and paying homage on death to persons of repute;

(b) installation of statues, portraits and pictures in appropriate manner;

(c) organisation and management of fairs and exhibitions;

(d) organisation, establishment and maintenance of art galleries and botanical or zoological collections;

(e) construction and maintenance of garages and sheds and stands for vehicles;

(f) measures for eradication of addiction of all kinds like liquors and drugs;

(g) organising voluntary labour and co-ordinating the activities of voluntary agencies for community welfare;

(5) in the sphere of development,

(a) encouraging formation of co-operative societies and, in particular, housing co-operative societies, and assistance to such cooperative societies in construction of residential buildings;

(b) providing shelter for the homeless;

(c) undertaking manufacturing of building materials and their distribution at fair prices;

(d) reclamation of waste lands and promotion of social forestry;

(e) establishing and maintaining nurseries for plants, vegetables and trees and promotion of greenery through mass participation;

(f) organisation of flower-shows and promotion of flower-growing as a civic culture;

(g) promotion of agriculture, pisciculture, horticulture, poultry and improvement of cattle breed;

(h) assistance to small-scale and cottage and craft industries;

(i) programme for liberation and rehabilitation of scavengers and their families;

(j) income-generating activities, particularly for the women belonging to the socially backward classes of citizens;

(k) collection of statistics and data significant to the community;

(l) integration of the development plans and schemes of the town with the district or regional development plan, if any;

(6) generally, taking all measures not specified in the foregoing provisions of this section, which are likely to promote public safety, health, convenience, education or welfare of the community.

1. Words subs, for the words "famine or scarcity," by W.B. Act 45 of 1994.

65. Transfer of functions of State Government :-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the State Government may, subject to such conditions as it may think fit to impose, transfer, by an

order, published in the Official Gazette, to a Municipality any such functions and duties relating to Government under any law which the State Legislature is competent to enact, or which is otherwise within the executive power of the State, and appear to relate to matters arising within a municipal area being of an administrative character, and shall, on such transfer, allot to the Municipality such fund and personnel as may be necessary to enable the Municipality to discharge the functions and duties so transferred.

(2) Without prejudice to the generality of the provisions of subsection (1), the State Government may transfer to the Municipality such functions and duties as are performed by the departments of the State Government on any of the following matters :

- (a) town and country planning;
- (b) urban development;
- (c) water supply and sanitation;
- (d) transport system including regulation of traffic terminus;
- (e) employment schemes and programmes;
- (f) health and family welfare;
- (g) relief and social welfare including social security schemes and programmes;
- (h) public works including road construction and housing;
- (i) cottage and small-scale industries, business and services including programme for skill development;
- (j) education including primary education, adult education, vocational education, social education, non-formal education, audiovisual education and library services;
- (k) food and supplies including rationing and distribution;
- (l) civil defence;
- (m) fire protection and fire fighting;
- (n) sports and youth services;
- (o) welfare of the Scheduled Castes and the Scheduled Tribes;
- (p) environmental safety and improvement;

(q) social forestry and plantation programme.

(3) Where any function or duty under any law is so transferred, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

66. Power to transfer any function of Municipality under the Act to any organisation :-

Notwithstanding anything contained in this Act or in any other law for the time being in force, the Municipality may, if it is of opinion that it is necessary so to do in the public interest, ¹[transfer by contract or otherwise,] with the prior approval of the State Government, any function or functions of the Municipality under this Act ²[to any individual or organisation,] including a Government organisation, in such manner, and on such terms and conditions, ³ [as may be determined by the Board of Councillors and approved by the State Government:]

"Provided that such transfer of function or functions of the Municipality to such organisation shall not absolve the Municipality from the responsibility of carrying out the provisions of this Act in relation to the function or functions so transferred.

Explanation "Government organisation" shall mean an organisation maintained or managed by the State Government.

1. Words subs, for the word "transfer," by W.B. Act 22 of 2000.

2. Words subs, for the words "to any organisation," by W.B. Act 22 of 2000.

3. Words subs, for the words "as may be prescribed." by W.B. Act 22 of 2000.

66A. Powers of the Municipality to enter into any business or venture :-

1

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Board of Councillors may, with the prior approval of the State Government, enter into any business alone, or a Joint Venture, or Partnership Business with any individual or organisation, on such terms and conditions as may be decided by the Board of Councillors and agreed to be the partners of such Joint Venture or Partnership Business after being approved by the State Government.

(2) The Municipality may, with the prior approval of the State Government, invest the Municipal Properties, under section 75, in the Joint Venture or Partnership Business mentioned in sub-section (1).

(3) For financial investment from the Municipal Fund either in any business proposed to be done by the Municipality alone or in the Joint Venture or Partnership Business mentioned in sub-section (1), existence of one of the following conditions shall be mandatory :

(a) the Municipality shall not have any deficit budget in the three preceding consecutive financial years; or

(b) the Municipality shall be sure of earning profit from such Joint Venture or Partnership Business before completion of one year from the date of entering into such venture or business; or

(c) the fund is required to be used for saving a certain Municipal Property, and the Board of Councillors is sure of earning profit within a period of five years from the date of such investment.

(4) After entering into any business alone or Joint Venture or Partnership Business, the Municipality shall send report once in every six months to the State Government detailing the progress of such business or Joint Venture or Partnership Business.

(5) If any Municipality, without showing proper reason, fails to fulfil the conditions specified in sub-section (3), the State Government may, by order withdraw the Municipality from such business or Joint Venture or Partnership Business, and State Government may compensate, the other partner or partners of such business or Joint Venture or Partnership Business or any other person or organisation affected by the loss made in such business or Joint Venture or Partnership Business by deducting from the fund of the Municipality concerned, after being satisfied that such loss has been caused by the default of the Board of Councillors.

1. Sec. 66A ins. by W.B. Act 16 of 2002.

PART 3

FINANCE

CHAPTER 7

Municipal Fund

67. Municipal Fund :-

There shall be constituted for the Municipality a fund to be called

Municipal Fund to be held by the Board of Councillors in trust for the purposes of this Act, and all moneys realised or realisable under this Act and all moneys otherwise received by the Municipality shall be credited thereto.

68. Custody of Municipal Fund :-

All moneys received on account of the Municipal Fund shall be paid into a Government treasury or into any bank in the municipal area, and shall be credited to an account to be called the account of the Municipality to which they belong:

Provided that the Chairman-in-Council may invest moneys not required for immediate use, either in Government securities or in any other form of security which may be approved by the State Government or in fixed deposit in the State Bank of India or in any nationalised bank or State Co-operative Bank, or in any other form as the State Government may direct.

Explanation "State Co-operative Bank" shall mean the West Bengal State Co-operative Bank Limited, and shall include any Co-operative Bank affiliated to the West Bengal State Co-operative Bank Limited.

69. Application of Municipal Fund :-

(1) All moneys credited to the Municipal Fund from time to time shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and the regulations made thereunder or for payment of all sums payable out of the Municipal Fund under any other law for the time being in force.

(2) No payment of any sum shall normally be made out of the Municipal Fund unless such expenditure is covered by a current budget grant and a sufficient balance of such budget grant is available for the purpose.

(3) Whenever any sum is paid for the purposes not covered by the budget grant, the matter shall forthwith be communicated to the Chairman-in-Council who shall take such action under the provisions of this Act as may appear to it to be feasible and expedient for covering the amount of such payments.

70. Exclusive use of fund for a particular purpose :-

Notwithstanding anything contained elsewhere in this Act, the

State Government may require a Municipality to earmark a particular portion of the Municipal Fund or a particular grant or a part thereof, or any item of receipt under any head or any percentage thereof, or any share of tax receivable by the Municipality under any other law for the time being in force or any part thereof, to be utilised exclusively for any specified purpose, and it shall be mandatory on the part of the Municipality to follow the same. The State Government may also formulate separate sets of rules for observance by different groups of municipalities in this regard.

71. Financial assistance from the State Government :-

(1) The State Government may, from time to time, give grants or financial assistance to a Municipality with or without direction as to the manner in which the sum shall be applied.

(2) The State Government may also lay down a pattern for distribution of such grants or assistance which may include the conditions of release of grants and classification of municipalities for the purpose.

1 (3) The State Government shall give grants to a Municipality or Notified Area Authority for implementation in full or in part of any scheme included in the Annual Development Plan.

1. Sub-sec. (3) ins. by W.B. Act 32 of 1997.

72. Loans :-

(1) Subject to the provisions of the Local Authorities Loans Act, 1914, the Municipality may, with the prior permission of the State Government, obtain loan from any public financial institution or any nationalised bank or such other lending institution as the State Government may approve in this behalf, and the State Government may, if it considers so necessary, stand as the guarantor for payment.

(2) The State Government may advance from the public funds or stand as guarantor for funds from any financial institution on the security of the Municipal Fund and, in the case of a joint scheme, on the security of the Municipal Fund and the fund of other local authorities, if any, to provide for LOCAL AUTHORITIES LOANS ACT, 1914 and the rules made thereunder.

(3) The State Government may require the Municipality to observe

such financial discipline in the matter of debt servicing, including creation of a sinking fund, as the State Government may think fit and proper and, in doing so, the State Government may prescribe different sets of rules for observance by different groups of Municipalities.

73. Power to incur expenditure beyond the limits of a municipality :-

Notwithstanding anything contained elsewhere in this Chapter, the Board of Councillors may, with the approval of the State Government, authorise expenditure to be incurred beyond the limits of a municipal area for creation of physical assets outside the limits of such municipal area as well as the maintenance thereof for carrying out the purposes of this Act.

73A. Approval of State Government in respect of work etc. estimated to cost more than rupees one lakh :-

¹ No expenditure for any work or for purchase of any material as may be necessary for the purposes of this Act shall be made without the approval of the Board of Councillors at a meeting, if the estimated cost of such work or purchase exceeds rupees five thousand but does not exceed rupees five lakh:

Provided that where the estimated cost of such work or purchase exceeds rupees five lakh, approval of the State Government shall be obtained.

1. Sec. 73A ins. by W.B. Act 32 of 1997.

CHAPTER 8

Municipal Property

74. Power to acquire and hold property :-

The Board of Councillors shall, for the purposes of this Act, have power to acquire, by gift, purchase or otherwise, and hold, movable and immovable property or any interest therein, whether within or outside the limits of the municipal area.

75. Vesting of property :-

Notwithstanding anything contained in any other law for the time being in force, the movable and immovable properties of the following categories within the limits of a municipal area shall vest in the Municipality, unless the State Government otherwise directs by a notification in the Official Gazette :

(a) all vested public lands not belonging to any Government

department of statutory body or corporation;

(b) all public tanks, streams, reservoirs, and wells;

(c) all public markets and slaughter houses;

(d) all public sewers and drains, channels, tunnels, culverts and water courses in, alongside, or under, any street;

(e) all public streets and pavements, stones and other materials thereof, and also trees on such public streets or pavements not belonging to any private individual;

(f) all public parks and gardens, including squares and public open spaces;

(g) all public ghats on rivers or streams or tanks;

(h) all public lamps, lamp-posts and apparatus connected therewith, or appertaining thereto;

(i) all public places for disposal of the dead, excluding those governed by any specific law in this behalf;

(j) all solid and liquid wastes collected on a public street or public place, including dead animals and birds;

(k) all stray animals not belonging to any private persons.

76. Acquisition of property by a Municipality by agreement, exchange, lease, grant, etc :-

(1) The Board of Councillors may on such terms and conditions as may be approved by it, acquire by agreement

(a) any immovable property,

(b) any easement affecting immovable property.

(2) The Board of Councillors may also acquire a property by exchange on such terms and conditions as may be approved by it.

(3) The Board of Councillors may also hire or take on lease immovable property on such terms and conditions as may be approved by it from time to time.

(4) The Board of Councillors may receive, on behalf of the Municipality, any grant or dedication by donor, whether in the form of any income or any movable or immovable property, by which any obligatory or discretionary function of the Municipality may be

benefited.

(5) It shall be lawful for the Municipality to be the beneficiary of any trust created under the Charitable and Religious Trusts Act, 1920 , or the Indian Trusts Act, 1882 .

77. Compulsory acquisition of land :-

(1) When any land, whether within or outside the limits of a municipal area, or any easement affecting any immovable property vested in the Municipality, is required for any public purpose under this Act, the State Government may, at the request of the Board of Councillors, proceed to acquire it under the Land Acquisition Act, 1894 **1* * * * ***

(2) The Board of Councillors shall be bound to pay to the State Government the cost including all charges in connection with the acquisition of the land under the Land Acquisition Act, 1894 **2* * ***
*** ***

1. Words, figures and brackets ". or to proceed under the West Bengal Land (Requisition and Acquisition) Act, 1948, or any other law for the time being in force" om. by W.B. Act 30 of 1994.

2. Words, figures and brackets ", or the West Bengal Land (Requisition and Acquisition) Act, 1948, or any other for the time being in force, as the case may be," om by W.B. Act 30 of 1994.

78. . :-

1* * * * *

1. Section 78 om. by W.B. Act 30 of 1994, which was as under :
"78. Power of Chairman to act as Collector for acquisition Notwithstanding anything contained in the West Bengal Land (Requisition and Acquisition) Act, 1948, the Chairman may be appointed by the State Government to perform the functions of the Collector under the said Act and, on such appointment, the Chairman may exercise all the powers of a Collector under the said Act."

79. Special provisions for acquisition of lands adjoining streets :-

Whenever the Board of Councillors makes a request ¹[to the State Government] for acquisition of land for the purpose of providing a new street or for widening or improving an existing street, it shall be lawful for the Board of Councillors to apply ¹ [to the State Government] for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing

street as is required for the sites of building to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act.

1. Words ins. by W.B. Act 30 of 1994.

80. Disposal of property :-

The property belonging to a Municipality may be disposed of in the manner provided in this section, namely

(a) the Chairman-in-Council ¹[may sell, or grant lease of or otherwise dispose of, by public auction, any movable property] belonging to the Municipality: ² * * * * *

(b) the Board of Councillors, with the prior approval of the State Government, may, for valuable consideration, let out on hire, grant lease of, or sell or otherwise transfer, any immovable property belonging to the Municipality but not required for carrying out the purposes of this Act;

(c) the Municipality shall not transfer any immovable property vested in it by virtue of this Act, but shall cause the same to be maintained, controlled and regulated in accordance with the provisions of this Act and the rules and the regulations made thereunder:

Provided that the State Government may authorise, in the public interest, the disposal of such immovable property by the Municipality if the Board of Councillors so requires for reasons to be recorded in writing.

1. Words subs, for the words "may, in its discretion, dispose of, by sale, lease or otherwise, any movable property" by W.B. Act 13 of 1995.

2. Proviso om. by W.B. Act 13 of 1995, which was as under : "Provided that the State Government may by rules prescribe the value which, if it increases during the process of sale, shall require the prior sanction of the State Government ;".

81. Inventory of properties of the Municipality :-

(1) The Chairman- in-Council shall maintain an inventory of the movable and immovable properties of the Municipality in such form and in such manner, as may be prescribed.

(2) The Chairman-in-Council shall, in the case of the inventory of an immovable property, prepare an annual statement along with

references therein and place the same before the Board of Councillors.

(3) Such statement shall be included as an appendix to the annual administration report of the Municipality.

CHAPTER 9

Budget, Accounts and Audit

82. Annual Budget Estimates of a Municipality :-

(1) The budget estimate of a Municipality for a year shall be prepared in the prescribed form and presented before the Board of Councillors at a meeting, specially convened for the purpose, not later than the tenth day of March every year:

Provided that no deficit shall be shown in the budget estimate so prepared.

(2) The budget estimate for the ensuing year shall be adopted after discussion by the Board of Councillors within two weeks of presentation.

(3) A copy of the budget estimate adopted by the Board of Councillors shall be sent to the Director of Local Bodies for information and shall be available for inspection by the members of the public in the manner prescribed.

(4) A revised budget for the current year shall be framed in the prescribed form during the middle of the year and presented before the Board of Councillors for adoption after the first day of October, but not later than the thirty-first day of December, each year.

(5) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, on the prayer of a Municipality, direct that the budget estimate, or the revised budget estimate, of a Municipality may be presented or adopted at a later date for reasons to be recorded in writing.

83. Power to alter budget grants :-

(1) The Board of Councillors may, on the recommendation of the Chairman-in-Council, from time to time during the year,

(a) increase or reduce the amount of any budget grant under any head;

(b) make additional provision in the budget to meet any special or

unforeseen requirement arising during the same year;

(c) transfer any amount or a portion of any amount of the budget grant under any head to the account of the budget grant under any other head.

(2) Every addition or alteration made in the budget grant under sub,ection (1) for any year shall be deemed to be included in the budget estimate finally adopted for that year.

84. Annual financial statement :-

(1) Within three months of the close of a year, a financial statement for the preceding year in respect of a Municipality shall be prepared in the form and manner prescribed, and presented before a meeting of the Board of Councillors.

(2) A copy of the financial statement shall be given to the Director of Local Bodies and shall be available for inspection by the members of the public in the manner prescribed.

(3) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, on the prayer of a Municipality, extend the date for presentation of the financial statement of a Municipality for reasons to be recorded in writing.

85. Balance-sheet :-

(1) Every Municipality shall cause to be prepared annually a balance-sheet of assets and liabilities in the prescribed form within six months of the close of a year.

(2) The balance-sheet shall be placed before a meeting of the Board of Councillors.

(3) A copy of the balance-sheet shall be given to the Director of Local Bodies.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, on the prayer of a Municipality, extend the date of preparation and presentation of the balance-sheet of a Municipality for reasons to be recorded in writing.

86. Appointment and power of the Auditor :-

(1) The municipal accounts as contained in the annual financial statement shall be examined and audited by an Auditor appointed

in the bahalf by the State Government.

(2) The Chairman-in-Council shall submit such further accounts to the Auditor as may be required by him.

(3) The Auditor so appointed may

(a) require, by written notice, the production before him or before any officer subordinate to him of any document which he considers necessary for the proper conduct of the audit,

(b) require, by written notice, any person accountable for, or having the custody or control of, any document, cash or article to appear in person before him or before any officer subordinate to him,

(c) require any person so appearing before him to make or sign a declaration with respect to such document, cash or article or to answer any question or prepare and submit any statement, and

(d) cause physical verification of any stock of articles in course of examination of accounts.

(4) The Auditor may, after giving the person concerned an opportunity of being heard, disallow any item of accounts contrary to the provisions of this Act, and surcharge the amount of any illegal payment on the person making or authorising it, and charge against any person responsible therefor the amount of any deficiency or loss incurred by the negligence or misconduct of such person or any amount which ought to have been, but is not, brought into accounts by such person, and shall, in every such case, certify the amount due from such person:

Provided that any person aggrieved by an order of payment of certified sums may appeal to the State Government whose decision on such appeal shall be final.

(5) Any person who wilfully neglects or refuses to comply with the requisition made by an Auditor shall, on conviction by a court, be punishable with fine which may extend to one hundred rupees in respect of each item included in the requisition.

87. Audit report :-

(1) As soon as practicable after the completion of the audit, but not later than three months thereafter, the Auditor shall prepare the report on the accounts audited and examined, and shall send such

report to the Chairman and a copy thereof to the Director of Local Bodies or such other officers as the State Government may direct.

(2) The Auditor shall include in his report a statement showing

(a) every payment which appears to him to be contrary to law,

(b) account of any deficiency [or defalcation] or loss which appears to have been caused by the gross negligence or misconduct of any person,

(c) the account of any sum received, which ought to have been, but have not been, brought into any account by any person,

(d) any other material impropriety or irregularity which may be observed in the accounts.

88. Chairman-in-Council to remedy the defects upon audit report :-

(1) The Chairman-in-Council shall forthwith remedy any defect or irregularity that may be pointed out by the Auditor in his audit report and shall report to the Director of Local Bodies or such other officer as the State Government may direct:

Provided that if there is a difference of opinion between the Chairman- in-Council and the Auditor, the matter may be referred to the Board of Councillors and, if difference still persists, to the Director of Local Bodies or to such other officer as the State Government may direct.

(2) The State Government may pass such order upon the audit report as it thinks fit for compliance by the Municipality.

89. Power of the State Government to enforce an order upon audit report :-

If any order made by the State Government under this Chapter is not complied with, it shall be lawful for the State Government to take such step as it thinks fit to secure the compliance of the order and direct that all expenses therefor shall be defrayed from the Municipal Fund.

90. Special audit :-

In addition to the audit of annual accounts, the State Government may, if it thinks fit, appoint an Auditor to conduct special audit pertaining to a specified item or series of items requiring thorough examination, and the procedure relating to audit shall also apply

mutatis mutandis to such special audit.

91. Internal audit :-

The State Government may by rules provide for internal audit of the day to day accounts of a Municipality in such manner as it thinks fit.

92. Municipal Accounts Committee :-

(1) The Board of Councillors shall, at its first meeting in each year¹[or in its next meeting which shall be held within a period of thirty days from the date of its first meeting in that year,] constitute a Municipal Accounts Committee:

²Provided that the State Government may, on an application by the Chairman and for reasons to be recorded in writing, extend the period as aforesaid by such period not exceeding thirty days as the State Government may think fit.

(2) The Municipal Accounts Committee shall consist of such number of Councillors, not being less than three and not more than seven, as the Municipality may determine, to be elected by the Councillors from amongst themselves :

³Provided that the Chairman, the Vice-Chairman or any other member of the Chairman-in-Council shall not be a member of the Municipal Accounts Committee.

⁴ (2A) The Board of Councillors may, from time to time, associate with the Municipal Accounts Committee such persons having special knowledge in public accounts and administration, not being Councillors and not exceeding one-half of the number of Councillors in such Committee, and for such term, as it thinks fit. Such persons shall not have the right to vote at the meeting of the Municipal Accounts Committee.

(3) The members of the Municipal Accounts Committee shall elect from amongst themselves one member to be its convenor.

(4) The member of the Municipal Accounts Committee shall hold office until a new Committee is constituted.

(5) Subject to the provisions of this Act and the rules and the bye-laws made thereunder, it shall be the duty of the Municipal Accounts Committee

- (a) to examine the accounts of the Municipality;
 - (b) to examine and scrutinise the report on the accounts of the Municipality by the Auditor appointed under this Chapter;
 - (c) to examine and scrutinise the report of special audit, if any;
 - (d) to examine and scrutinise the report of physical verification of stock, if any;
 - (e) to submit report to the Board of Councillors every year and from time to time on such examination and scrutiny;
 - (f) to discharge such other functions as may be entrusted to it by the Board of Councillors.
- (6) The Municipal Accounts Committee may call for any book or document and send for such officer of the Municipality as it may consider necessary for explaining any matter in connection with his work.
- (7) The manner of transaction of business of the Municipal Accounts Committee shall be such as may be determined by it from time to time.

1. Words subs, for the words "or as soon as may be at any meeting subsequent thereto." by W.B. Act 22 of 2000.
2. Proviso ins. by W.B. Act 22 of 2000.
3. Proviso ins. by W.B. Act 13 of 1995.
4. Sub-sec. (2A) ins. by W.B. Act 13 of 1995.

PART 4

MUNICIPAL TAXATION AND APPLICATION FEE

CHAPTER 10

Taxes and Fees

93. Power to impose taxes :-

- (1) The Board of Councillors shall, for the purposes of this Act, have the power to levy the following taxes :
- (a) a property tax on lands and buildings,
 - (b) a tax on advertisements, other than advertisements published in the newspapers,
 - (c) a tax on cart,
 - (d) a tax on carriage,

1(e) toll on

(i) ferry,

(ii) bridge, and

2 (iii) heavy truck which shall be a heavy goods vehicle within the meaning of clause (16) of Section 2 of the Motor Vehicles Act, 1988 , plying on a public street.

(2) The levy, assessment and collection of taxes mentioned in sub-section (1) shall be in accordance with the provisions of this Act and the rules and the bye-laws made thereunder.

1. Clause (e) subs, by W.B. Act 32 of 1997, which was earlier as under : "(e) toll on ferries and bridges.".

2. Sub-clause (Hi) subs, by W.B. Act 13 of 2003, which was earlier as under : "(iii) heavy truck which shall be a heavy goods vehicle, and bus which shall be a heavy passenger motor vehicle, within the meaning of the Motor Vehicles Act, 1988, plying on a public street.".

94. Levy on congregations :-

(1) The Board of Councillors may levy a fee per head or per vehicle for providing municipal services in connection with any congregation of whatever nature, including pilgrimage, fair, festival,

(2) The fee for the purpose of sub-section (1) shall be such as may be determined by the Board of Councillors from time to time which shall not exceed rupees two per person and rupees ten per vehicle besides the levy on passengers therein.

(3) The Board of Councillors may frame regulations specifying the occasions on which such levy may be imposed as well as the rate of levy, the mode of collection and other matters incidental thereto.

94A. Levy on tourist :-

1 (1) The Board of Councillors may levy a fee per head or per vehicle for providing municipal services for persons or vehicles visiting a municipal area for the purpose of sight-seeing:

Provided that such fee shall not be levied for persons or vehicles passing through the municipal area.

(2) The fee for the purpose of sub-section (1) shall be such as may

be determined by the Board of Councillors from time to time and shall not exceed rupees three per person and rupees fifty per vehicle besides the levy on passengers therein.

(3) The Board of Councillors may make regulations specifying the rate of such fee, the mode of collection thereof and other matters incidental thereto.

1. Sec. 94A ins. by W.B. Act 13 of 1995.

95. Levy of fees, charges, etc :-

(1) The Board of Councillors may, from time to time, levy fee for licenses issued or permissions granted under the provisions of this Act and may also impose charges for any specific services rendered in pursuance of the provisions of this Act.

(2) The State Government may, from time to time, prescribe the scale at which such fees may be levied or charges imposed.

1 (3) Notwithstanding the repeal of the Bengal Municipal Act, 1932 , under sub-section (1) of section 441, the fees which could have been levied and the charges which could have been imposed under the Bengal Municipal Act, 1932 , shall continue to be levied and imposed at the rate in force immediately before such repeal until the scale of such fees and charges are prescribed under sub-section (2) of this section.

1. Sub-sec. (3) ins. by W.B. Act 45 of 1994.

95A. Levy of toll on heavy truck and bus :-

1

(1) The Board of Councillors may levy toll on heavy trucks **2 * * * *** * referred to in sub- clause (iii) of clause (e) of sub-section (1) of section 93, plying on a public street.

(2) The rate of toll for the purposes of sub-section (1) shall be such as may be determined by the Board of Councillors from time to time.

(3) The Board of Councillors may make regulations specifying the rate of such toll, the mode of collection thereof and other matters incidental thereto.

1. Sees. 95A and 95B ins. by W.B. Act 32 of 1997.

2. Words "and buses" om. by W.B. Act 13 of 2003.

95B. Levy of special conservancy charge :-

1

(1) The Board of Councillors may levy a special conservancy charge **2 * * * * *** for providing municipal services in connection with removal of solid wastes.

(2) The charge for the purpose of sub- section (1) shall be such as may be determined by the Board of Councillors from time to time.

(3) The Board of Councillors may frame regulations specifying the occasions on which such charge may be imposed as well as the rate of charge, the mode of collection and other matters incidental thereto.

1. Sees. 95A and 95B ins. by W.B. Act 32 of 1997.

2. Words "on the commercial and industrial establishments" om. by W.B. Act 13 of 2003.

96. Property tax on lands and buildings :-

1

(1) For the purpose of this Act, a property tax on the annual value of lands and buildings as determined under this Chapter, shall be imposed by the Municipality.

(2) Such property tax shall be determined as follows:

(a) where the annual value of land and buildings does not exceed nine hundred and ninety-nine rupees, the property tax shall be determined in accordance with the following formula:

(b) where the annual value of lands and buildings exceeds nine hundred and ninety-nine rupees, the tax shall be determined in accordance with the following formula : $(\text{annual value}/1000 + 22 \text{ per cent of the annual value,})$

Provided that the property tax shall not exceed 30 per cent of the annual value of lands and buildings:

Provided further that the formula specified in this sub-section, shall come into effect at the time of fresh or next valuation of lands and buildings taken up in any Municipality after commencement of the West Bengal Municipal (Amendment) Act, 2002 :

Provided also that while calculating the percentage of property tax, the decimal figure below 0.5 shall be ignored and the decimal figure of 0.5 or above shall be rounded off to 1.

(3) The provisions of this section shall be made applicable for the Municipalities at the time of general valuation or revaluation of holdings under section 110 of the Act.

1. Sec. 96 subs, by W.B. Act 16 of 2002, which was earlier as under : "96. Property tax on lands and buildings (1) For the purposes of this Act, a property tax on the annual value of lands and buildings as determined under this Chapter, shall be imposed by the Municipality. (2) Such property tax shall be determined as follows: (a) where the annual value of lands and buildings does not exceed nine hundred and ninety-nine rupees, the property tax shall be determined in accordance with the following formula: annual value per cent of the annual value: (b) where the annual value of lands and buildings exceeds nine hundred and ninety-nine rupees, the tax shall be determined in accordance with the following formula: annual value Per cent of the annual value : Provided that the property tax shall not exceed 40 per cent of the annual value of lands and buildings: Provided further that while calculating the percentage of property tax, the decimal figure below 0.5 shall be ignored and the decimal figure of 0.5 or above shall be rounded off to 1: Provided also that the State Government may from time to time, by notification, revise the formula referred to in clause (a) and clause (b) of this sub-section and upon such revision, this Act shall be deemed to have been amended accordingly: Provided also that no such revision shall be made more than once in five years."

97. Levy of surcharge :-

A surcharge at such rate not less than 20 per cent and not exceeding 50 per cent of the total amount of the property tax imposed on a holding shall be levied if such holding is used wholly or in part for commercial, industrial or such other non-residential purposes as the Board of Councillors may, from time to time decide and the rate of surcharge shall form part of the property tax for the purpose of recovery.

98. . :-

1 * * * * *

1. Sec. 98 om. by W.B. Act 16 of 2002, which was as under : "98. Rebate for residential building Where a holding is used by the owner exclusively for his own residential purposes, a rebate, not exceeding 20 per cent of the property tax as determined under this Chapter, may be allowed by the Board of Councillors: Provided that the Board of Councillors may cause classification of building according to year of construction for the purpose of granting varying rates of rebate."

99. Exemption of Diplomatic Missions :-

The State Government may by order exempt any diplomatic or

consular mission of a foreign State and the diplomatic and consular officers of such mission from the payment of any rate, tax, toll or fee payable under the provisions of this Act.

99. Exemption of Central Government properties :-

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

100A. Exemption of properties of ex-servicemen :-

¹ Notwithstanding anything contained in the foregoing provisions of this chapter, the Board of Councillors may, by a resolution, exempt 25 per cent, of the property tax in respect of any holding belonging to an ex-serviceman, or family of deceased soldier, who has no other land or building in any part of the State of West Bengal and who is residing in that holding.

1. Sec. 100A ins. by W.B. Act 32 of 1997.

101. Exemption of holdings exclusively used for public worship etc :-

Notwithstanding anything contained in the foregoing provisions of this Chapter,

(a) lands or buildings or portions thereof exclusively used for the purpose of public worship, or

(b) lands or buildings exclusively used for the public burial or as burning ground, or any other place used for the disposal of the dead duly registered under this Act, or

(c) open spaces, including parade grounds, which are the ¹[properties of Government, or]

²(d) social welfare homes run by ³[the State Government, or]

⁴ (e) any Government, or Government sponsored, school or college which is serving the cause of education without generating any surplus funds, or without being run on commercial lines, shall be exempt from the property tax,

Explanation For the purpose of clause (a) of this section, any land or building used for the purpose of public worship shall not be deemed to be exclusively used for such purpose, if on such land or in such building any trade or business is carried on, or any rent or

fee is derived in respect of such land or building, or if the public do not have the right of free access to such land or building without payment.

1. Words subs, for the words "properties of Government," by W.B. Act 22 of 2000.
2. Clause (d) ins. by W.B. Act 22 of 2000.
3. Words subs, for the words "the State Government," by W.B. Act 16 of 2002.
4. Clause (e) ins. by W.B. Act 16 of 2002.

102. Exemption of holdings exclusively used for public charity or medical relief, or education of the poor, free of charge :-

The Chairman-in-Council may exempt from property tax, either wholly or in part, any holding which is exclusively used with the approval of the Chairman- in-Council for public charity or philanthropic purposes or for the purpose of medical relief to, or education of, the poor, free of charge.

103. Power to reduce rates in case of excessive hardship :-

Whenever from the circumstances of the case, levy of property tax on any holding in a municipal area amounts to excessive hardship to the person liable to pay the same, the Board of Councillors may reduce the amount payable on account of such holding, or may realise the sum by instalments:

Provided that such reduction or remission shall not, unless renewed by the Board of Councillors, have effect for more than one year.

104. Remission on account of vacant building :-

Where any building has remained vacant or unproductive of rent for ninety or more consecutive days, the Board of Councillors may, upon an application in writing from the owner, remit or refund one-half of the amount of tax due for the period of such vacancy.

105. Exemption of certain holdings from property tax :-

The Board of Councillors may exempt from property tax any holding, the annual valuation of which does not exceed ¹ [five hundred rupees.]

1. Words subs, for the words "three hundred rupees." by W.B. Act 16 of 2002.

106. Determination of annual valuation :-

- (1) Notwithstanding anything contained in the West Bengal

Premises Tenancy Act, 1956, or in any other law for the time being in force, for the purpose of assessment of the property tax, the annual value of a holding comprising land or building shall be deemed to be the gross annual rent including service charges, if any, at which such land or building might, at the time of assessment, be reasonably expected to let from year to year, less an allowance of ten per cent ¹* * * * * for the cost of repairs and other expenses necessary to maintain such land or building in a state to command such gross rent.

2(2) The annual value of a holding comprising land which is not built upon, shall be deemed to be an amount which may be equal to, but may not exceed, five per cent of the estimated market value of such land at the time of assessment:

Provided that such holding, if utilised for any gainful purpose, shall be deemed to be in commercial use for the purpose of levy of surcharge under section 97.

(3) If the gross annual rent of any class or classes of lands or buildings cannot be easily estimated, the annual value of a holding comprising such land or building shall be deemed to be an amount not less than five per cent, but not exceeding ten per cent, of the value of the holding obtained by adding the estimated cost of erecting the building at the time of assessment less ³[an amount to be deducted as per rates provided under the Income Tax Act, 1961, applicable for the financial year of assessment on account of depreciation,] if any, to the estimated present market value of the land ⁴ [comprised in the holding].

(4) The estimated cost of erecting a building shall not, for the purpose of determination of annual value, include the cost of any plant or machinery (except those enumerated in Schedule III) on the land or the building as aforesaid.

(5) The annual value as determined under this Chapter shall be rounded off to the nearest ten rupees.

1. Words "of such annual value" om. by W.B. Act 13 of 1995.

2. Sub-sec. (2) subs, by W.B. Act 13 of 1995, which was earlier as under: "(2)The annual value of a holding comprising land which is not built upon, shall be deemed to be an amount equal to, but not exceeding, five per cent of the estimated market value of such land at the time of assessment: Provided that such holding utilized for any gainful purpose shall be deemed to be in commercial use for

the purpose of levy of surcharge under section 97."

3. Words and figures subs, for the words "a reasonable amount to be deducted on account of depreciation," by W.B. Act 16 of 2002.

4. Words subs, for the words "valued with the buildings as the part of the same premises" by W.B. Act 13 of 1995.

107. Determination of annual valuation of holdings exempted from property tax :-

(1) Where any holding is exempt from property tax, the annual valuation thereof shall be determined in accordance with the provisions of this Chapter.

(2) Where any land is exempt from the property tax under this Chapter, the annual value of any building erected on such land, not entitled to any exemption from the property tax, shall be determined separately from the land in accordance with the provisions of this Chapter.

108. Unit of Assessment :-

(1) Every building together with the site and the land appurtenant thereto comprised in a holding shall be assessed as a single unit:

Provided that where portions of any building together with the site of the land appurtenant thereto are vertically divisible and are separately owned so as to be entirely independent and capable of separate enjoyment, notwithstanding the fact that access to such separate portions is made through a common passage or a common staircase, such separately owned portions may be assessed separately:

Provided further that the right of such access is protected by a registered deed of agreement.

(2) All lands or buildings, to the extent these are contiguous or are within the same curtilage or are on the same foundation and are owned by the same owner or co-owners as undivided property, shall be treated as one unit for the purpose of assessment under this Act.

(3) Each residential unit with its percentage of the undivided interest in the common areas and facilities, constructed or purchased and owned by or under the control of any housing co-operative society registered under the West Bengal Co-operative Societies Act, 1983 , shall be assessed separately.

(4) Each apartment and its percentage of the undivided interest in the common areas and facilities in a building within the meaning of the West Bengal Apartment Ownership Act, 1972 , a declaration in respect of which has been duly executed and registered under the provisions of that Act, shall be assessed separately :

1 Provided that if after enquiry it is found that the apartments have been built for the residential purpose and for the occupancy of individuals of families, such apartments shall be individually assessed even if registration under the West Bengal Apartment Ownership Act, 1972 , is delayed or avoided.

(5) Every land, which is not built upon, comprised in a holding shall be assessed separately as a single unit.

(6) Notwithstanding anything contained in the foregoing provisions of this section, the Chairman-in-Council may, on its own or upon an application, amalgamate or separate lands or buildings or portions thereof so as to ensure conformity with the provisions of this section and may also apportion the valuation and assessment among the co-owners according to the value of the respective shares when the entire land or building is treated as a single unit.

1. Proviso ins. by W.B. Act 16 of 2002.

109. Periodic assessment :-

(1) The annual value of a holding comprising land or building situate in a municipal area, which has been determined before and is in force on the date of the commencement of this Act, shall remain in force until a fresh valuation list is enforced under this Act.

(2) The Chairman-in-Council shall cause a general valuation of all the holdings in a municipal area in accordance with the provisions of this Chapter as soon as possible after the constitution of a new municipal area and at periodic intervals in the case of all other municipal areas, so as to ensure that there is a revision of annual valuation of all municipal area holdings at the termination of successive period of **1**[five years]:

Provided that it shall be lawful to divide a municipal area into groups of wards so that periodic assessment at the interval of **1** [five years] takes place in each such group instead of the entire municipal area at a time.

1. Words subs, for the words "six years" by W.B. Act 13 of 2003.

110. Preparation of valuation and assessment list :-

The ¹[general] valuation of holdings under this Chapter shall be made, unless otherwise directed by the State Government, by the Central Valuation Board, established under the West Bengal Central Valuation Board Act, 1978 , ²[and the preparation of valuation list, amount of property tax determined under section 96 on the basis of such valuation list, and disposal of all applications of review] shall abide by the provisions of that Act.

³(1A) The valuation list prepared under sub-section (1) shall be the assessment list of the Municipality.

(2) When the Chairman-in-Council is directed by the State Government to undertake the preparation of ⁴[general valuation,] it shall determine the annual value of all holdings within a municipal area in the manner provided in this Chapter and cause publication of the assessment list in the prescribed manner.

⁵(3) A new valuation list under sub-section (1) or sub-section (2) shall, unless otherwise directed by the State Government, be prepared in the same manner in which the original list was prepared, ⁶ [once in every five years:]

Provided that if an existing valuation list is not revised for any unavoidable reason, the validity of operation of such valuation list shall not be called in question until a new valuation list takes effect under this Act.

1. Word subs, for the words "annual" by W.B. Act 13 of 1995.

2. Words subs, for the words "and the preparation of valuation list including determination of all objections" by W.B. Act 45 of 1994.

3. Sub-sec. (1A) ins. by W. B. Act 13 of 1995.

4. Words subs, for the words " annual valuation." by W. B. Act 13 of 1995.

5. Sub-sec. (3) ins. by W. B. Act 45 of 1994.

6. Words subs, for the words "once in every six years:" by W.B. Act 16 of 2002.

111. Publication of assessment list and determination of objections :-

(1) When an assessment list is prepared or revised under the provisions of sub-section (2) of section 110, the Chairman shall cause the assessment list to be published by public notice of the place where the list may be available for inspection.

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

(3) The assessment list shall take effect from the beginning of the quarter of a year immediately following its publication.

(4) Any person, who is dissatisfied with the decision as entered in the assessment list ¹ * * * * *, may prefer an application for review before the Board of Councillors within a period of two months from the date of presentation of bill for payment of tax.

(5) No application under sub-section (4) shall be entertained unless the amount representing property tax on the holding comprising land or building, as the case may be, as previously determined (hereinafter referred to in this sub-section as the said amount), has been paid or deposited in the office of the Municipality before such application is filed, and every such application shall fail unless the said amount of property tax is continued to be paid or deposited in the office of the Municipality till such application is finally disposed of.

1. Word "determined" om. by W. B. Act 13 of 1995.

112. Hearing and determination of application by Review Committee :-

(1) Every application presented under sub-section (4) of section 111 shall be heard and determined by a Review Committee:

¹ Provided that where the Review Committee reduces the valuation of any land or building, such reduction shall not be more than twenty-five per centum of the annual valuation of such land or building except in the case of gross arithmetical or technical mistake, and the Review Committee shall, in every such case, record in writing the reasons for such reduction.

(2) Every Review Committee shall be presided by the Chairman or the Vice-Chairman of the Municipality and shall consist of not less than two, but not more than four, Councillors appointed by the Board of Councillors at a meeting:

Provided that no Councillor of the ward from which the application is made shall be a member of the Review Committee:

Provided further that no decision of the Review Committee shall be invalid or called in question merely by reason of any vacancy in the composition of the committee or absence of any member, other than the presiding officer, from a meeting thereof.

(3) The Review Committee shall give notice to the applicant of the time and place at which his application will be heard and the committee shall dispose of an application in such manner as may be prescribed:

Provided that in case of equality of votes, the person presiding shall have a second or casting vote:

Provided further that when the Board of Councillors is ²[dissolved,] the State Government shall appoint by notification a ³[Review Committee] consisting of such number of member or members as may be specified in the notification for the purpose of hearing applications for review presented under sub-section (4) of section 111:

Provided also that the member or members as aforesaid shall be appointed by the State Government from among the persons residing in the wards, other than the wards to which the matter relates, and the ⁴[Review Committee] shall pass such orders in each case as it thinks fit and the order of the ⁴[Review Committee] shall be final.

(4) The decisions of the Review Committee ⁶***** shall be final and no suit or proceeding shall lie in any civil court in respect of any matter which has been, or may be, referred to the Review Committee or has been decided by the Review Committee ⁷*****.

1. Proviso ins by W. B. Act 22 of 2000.
2. Word subs, for the word "supeseded," by W. B. Act 13 of 1995.
3. Words subs, for the words "Municipal Assessment Tribunal" by W. B. Act 13 of 1995.
4. Words subs, for the word "tribunal" by W. B. Act 13 of 1995.
6. Words "or the Municipal Assessment Tribunal, as the case may be," om. by W. B. Act 13 of 1995.
7. Words "or the Municipal Assessment Tribunal" om. by W. B. Act 13 of 1995.

113. Amendment and alteration of assessment list :-

(1) Notwithstanding anything contained in this Chapter or in any

other law for the time being in force, the Board of Councillors may, for reasons to be recorded in writing, at any time direct alteration and amendment of the assessment list in any of the following cases:

- (a) when the ownership of holding changes; or
- (b) when any tenancy or any rent in respect of the holding changes; or
- (c) when the nature of use of the holding changes; or
- (d) when the land and building comprised in the holding has been redeveloped or substantially altered or improved during the period the annual valuation remains in force; or
- (e) when the value of the land and building comprised in the holding has been substantially reduced owing to demolition or has suffered depreciation from any accident or calamity during the period the annual valuation remains in force; or
- (f) when the holding has been acquired by purchase or otherwise by the State Government during the period the annual valuation remains in force; or
- (g) when the valuation or assessment has been set aside or declared void by an order of the Court necessitating revaluation or reassessment of a holding; or
- (h) when it has been discovered that the holding has been grossly undervalued by reasons of any fraud, mis-representation, mistake or error; or
- (i) when an alteration has been necessitated to correct any patent error.

(2) No amendment or alteration of an assessment list shall be made without giving the person affected an opportunity of being heard.

(3) Any revision in the annual valuation of any holding or portion thereof as well as the assessment consequent on such revision shall come into force from the beginning of a quarter of a year immediately following an order passed in this behalf by the appropriate authority, and shall remain in force for the portion of the period during which but for such amendment or alteration such annual valuation would have remained in force.

114. Addition to the assessment list :-

(1) When a new building has been constructed or a new holding has been created by mutation ¹ [or by transfer or upon the inclusion of any local area within the municipal area] or otherwise during the period an assessment list remains in force, the Chairman-in-Council may, at any time, cause the annual valuation of such holding and make assessment thereon in accordance with the provisions of this Act.

(2) Before finalising the valuation and assessment of the holding as aforesaid, the Chairman-in-Council shall give the owner or the occupier of such holding an opportunity to prefer, within a specified time, an objection, if any, to the proposed valuation which shall be heard and determined by a person to be appointed by the Chairman-in-Council.

(3) An application for review of the valuation determined under subsection (2) may, within a fortnight of such determination be preferred to the Chairman-in-Council.

(4) The Chairman-in-Council shall, thereafter, finalise, as soon as may be, the valuation and assessment and make addition of such valuation and assessment to the assessment list, and such addition shall remain in force for the unexpired portion of the period during which the assessment list remains in force.

1. Words subs for the word "transfer" by W. B. Act 13 of 1995.

115. Submission of returns and inspection of holdings for the purpose of assessment :-

(1) The Chairman may, with a view to determining the annual value of any holding and the person primarily liable for the payment of tax on such holding, by a written notice, require the owner or the occupier of the land or the building comprised in such holding or portion thereof, to furnish a return in such form, within such period and in accordance with such procedure as may be prescribed.

(2) Every owner or occupier on whom any notice is served under subsection (1), shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of his knowledge and belief.

(3) The Chairman or any person subordinate to him and authorised

by him in writing in this behalf may, without giving any previous notice to the owner or the occupier of any land or building, enter upon, and make an inspection or survey and take measurement of, such land or building and verify the statement made in any return for such land or building submitted under this Chapter.

115A. Self-assessment and submission of return :-

1

(1) Notwithstanding anything to the contrary contained elsewhere in this Act, any owner or person liable to pay property tax on

(a) any existing building which has been assessed earlier, or

(b) any new building or existing building which has not been assessed, or

(c) any existing building which has been redeveloped or substantially altered or improved after the last assessment, but has not been subject to revision of assessment consequent upon such redevelopment or alteration or improvement, as the case may be, or

(d) any existing building or new building referred to in clause (a) or clause (b), the bills in respect of which have not been issued,

Provided that such self-assessment, shall be certified by a valuer, holding a diploma from the Institute of Surveyors and enlisted with the Municipality for such valuation, where the total floor area of such new building exceeds 400 square meters:

Provided further that the valuation on self-assessment, where the total floor area of a existing building or new building exceeds 400 square meters or not, shall be,

(a) where the value of lands and buildings does not exceed Rs. 2.00 lakh of the self-assessed value 1 per cent;

(b) where the value of lands and buildings exceeds Rs. 2.00 lakh of the self-assessed value 1.5 per cent.

Explanation For the purposes of this sub-section,

(1) "last assessment" shall mean the assessment where the annual value has been determined by the Municipality and communicated to the assessee;

(2) "Institute of Surveyors" shall mean the Institute of Surveyors

recognised as such by the Government of India;

(3) "value" shall, in the case of an apartment, mean the cost of the apartment and the proportionate cost of the land.

(2) Any owner or person shall furnish to the Municipality a return of self- assessment in such form, and in such manner, as may be prescribed. Every such return shall be accompanied by proof of payment of the amount of property tax and interest, if any.

(3) The payment of the amount of property tax and interest, if any, shall be made, and such return shall be furnished, within sixty days of the commencement of the West Bengal Municipal (Amendment) Act, 2002.

(4) In the case of any new building for which an occupancy certificate has been granted or which has been taken possession of immediately after the commencement of the West Bengal Municipal (Amendment) Act, 2002, such payment shall be made, and such return shall be furnished, within thirty days of the expiry of the quarter in which such occupancy certificate is granted or such possession is taken, whichever is earlier.

Explanation Occupancy certificate may be provisional or final and may be for the whole or any part of the building. Possession may be of the whole or any part of a building.

(5) The payment of property tax shall continue to be made for each subsequent quarter and the last date of such payment shall be thirty days after the expiry of each such quarter.

(6) After the assessment under section 109 or revision of assessment under section 112 has been made, any amount paid on self-assessment under this section shall be deemed to have been paid on account of the assessment under section 109 or section 112, as the case may be.

(7) If any owner or other person, liable to pay the property tax under this Act, fails to pay the same together with interest, if any, in accordance with the provisions of this Act, he shall, without prejudice to any other consequence to which he may be subject, be deemed to be a defaulter in respect of the property tax or the interest or both remaining unpaid, and all the provisions of this Act applicable to such defaulter shall apply to him accordingly.

(8) After the assessment is finally made under this Act, if the

payment on self-assessment is found to be less than that of the amount payable by the assessee, in such case, the assessee shall pay up the difference within two months from the date of final assessment, failing which recovery shall be made in accordance with the provisions of this Act but, after the final assessment, if it is found that the assessee has paid excess amount, in such case, such excess amount shall be adjusted against the actual tax payable by the assessee.

1. Sec. 115A ins. by W.B. Act 16 of 2002.

116. Notice of transfer :-

(1) Whenever the title of any person to any land or building is transferred, such person, if primarily liable for the payment of property tax on such land or building, and the person to whom the title is so transferred, shall, within three months ¹[of the registration of the instrument] give notice of such transfer in writing to the Chairman.

(2) On the death of any person primarily liable for the payment of property tax as aforesaid, the person on whom the title of the land or the building referred to in sub-section (1) devolves shall, within six months from the date of death of the former, give notice, in writing, of such devolution to the Chairman.

(3) The notice under this section shall be in such form as may be prescribed, and the transferee or the person on whom the title devolves shall, if so required, be bound to produce before the Chairman any document evidencing the transfer or devolution.

(4) If any person, who transfers his title to any land or building, fails to give any notice under this section to the Chairman, he shall, in addition to any penalty to which he may be subject under this Act, continue to be liable for payment of property tax on such land or building until he gives such notice, but nothing in this section shall be deemed to affect the liability of the transferee for payment of the property tax on such land or building.

(5) The Chairman shall, on receipt of a notice of transfer or devolution, cause such transfer to be recorded in such form and in such manner as may be prescribed.

²(6) The District Registrar of the district or the Sub-Registrar of the local registration office shall co-operate with the Chairman or his

representatives, sent in this behalf, for collecting the particulars regarding the registration of instrument, transfer of immovable property and periodical returns containing the detailed periodical list of registration of instruments.

3 (7) * * * * *

1. Words subs for the words "after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, as the case may be," by W. B. Act 32 of 1997.

2. Sub-sec. (6) subs by W. B. Act 32 of 1997, which was earlier as under : "(6) On a request by the Chairman the District Registrar of the district or the Sub-Registrar of the local registration office shall furnish such particulars regarding the registration of instrument and transfer of immovable property in the municipal area as the Chairman may from time to time require."

3. Sub-sec. (7) om. by W. B. Act 32 of 1997, which was as under : "(7) Notwithstanding anything contained in sub-section (6), the District Registrar of the district or the Sub-Registrar of the local registration office shall furnish to the Chairman such particulars soon after the registration of instruments of transfer is effected, or, if the Chairman so requests, such periodical returns at such intervals, as the Chairman may fix."

117. Levy of surcharge on transfer of lands :-

1

(1) The Board of Councillors shall levy a surcharge on the transfer of immovable property situated within the municipal area, in the form of additional stamp duty.

(2) The rate of the surcharge, and the manner of

(a) collection of the surcharge,

(b) payment of the surcharge to the Municipality, and

(c) deduction of the expenses, if any incurred by the State Government in course of collection of the surcharge, shall be such as may be prescribed.

1. Sec. 117 subs by W. B. Act 32 of 1997, which was earlier as under : "117. Certificate of approval for transfer of land or building (1) Notwithstanding anything contained in section 115, no deed of transfer of any land or building in respect of which a layout plan is required to be approved by the Chairman-in-Council prior to registration under section 193, or of any land curved out of an existing holding, shall be registered under the Registration Act, 1908, unless a certificate of approval to the proposed transfer has

been issued by the Chairman in this regard. (2) The registering authority shall not proceed for registration without sending a copy of the deed of transfer to the Chairman. (3) If the Chairman communicates his refusal to issue a certificate of approval, a deed of transfer shall not be registered: Provided that if no such communication is received within a period of thirty days from the date of sending the copy of the deed of transfer the registering authority may proceed with registration."

CHAPTER 11

Application fee and other taxes

118. Certificate of enlistment for profession, trade and calling :-

Every person engaged or intending to be engaged in any profession, trade or calling in a municipal area as specified in Schedule I, either by himself or by an agent or representative, shall obtain a certificate of enlistment or get the same renewed annually, as the case may be, from the Executive Officer of the Municipality or, in his absence, from the officer authorised to function as the Executive Officer upon presentation of an application together with such application fee, ¹[not exceeding rupees one thousand and five hundred,] as may be determined by the Board of Councillors ² [by regulations :]

Provided that such enlistment or renewal thereof shall not absolve such person from any liability to take out any licence under this Act or any other law for the time being in force.

1. Words "not exceeding rupees five hundred," first subs, for the words "not exceeding rupees ten" by W, B. Act 32 of 1997, then again the words within third brackets subs for the words "not exceeding rupees five hundred," by W.B. Act 13 of 2003.

2. Words subs for the words "at a meeting:" by W. B. Act 22 of 2000.

119. Grant of certificate of enlistment :-

The Executive Officer or, in his absence, the officer authorised to function as the Executive Officer shall, after making such enquiry as may be necessary and within thirty days of the receipt of the application under section 118, grant him a certificate of enlistment if the application is in order, or shall reject the application if it is not in order.

120. Certificate of enlistment to be obtained within six months of coming into force of the Act :-

(1) Notwithstanding anything contained in section 118 or section 119 or elsewhere in this Act or in any other law for the time being in force, within a period of six months from the date of coming into force of this Act (hereinafter in this sub-section referred to as the said date), every person engaged on the said date in any profession, trade or calling in a municipal area as specified in Schedule I, either by himself or by an agent or representative, shall obtain the certificate of enlistment referred to in section 118 in respect of the period from the 1st April, 1990 till the date immediately before the said date in accordance with the provisions of section 118 and the rules, if any, made under this Act.

(2) Whoever commits any offence by contravening the provisions of subsection (1) shall be punished with fine in accordance with the provisions of section 440 .

121. Prohibition of advertisement without written permission of Chairman :-

(1) No person shall erect, exhibit, fix or retain upon or

(2) The Chairman shall not grant such permission if

(a) a licence for the use of the particular site for the purpose of advertisement has not been taken out, or

(b) the advertisement contravenes any provisions of this Act or the rules or the regulations made thereunder, or

(c) the tax, if any, due in respect of the advertisement has not been paid.

(3) No person shall broadcast any advertisement, except on radio or television, without the written permission of the Chairman.

122. Licence for use of site for the purpose of advertisement :-

(1) Except under and in conformity with the terms and conditions of a licence, no person, being the owner, lessee, sub-lessee, occupier or an advertising agent, shall use or allow to be used any site in any land, building, wall or erect or allow to be erected on any site any hoarding, frame, post, kiosk, structure, neon-sign or sky-sign for the purpose of display of any advertisement.

(2) For the purpose of advertisement, every person

(a) using any site prior to the commencement of this Act, within ninety days from the date of commencement of this Act, or

(b) intending to use any site, or

(c) whose licence for the use of any site is about to expire, shall apply for a licence or renewal of a licence, as the case may be, to the Chairman in such form as may be specified by the Board of Councillors.

(3) The Chairman shall, after making such inspection as may be necessary and within thirty days of the receipt of the application, grant, refuse, renew or cancel a licence, as the case may be, on payment of such fee as may be determined by the Board of Councillors by regulations.

(4) If the Chairman, having regard to public safety, traffic hazard or aesthetics, is of opinion that the proposed site for any advertisement is unsuitable, he may refuse a licence or refuse to renew any existing licence.

(5) Every licence shall be for a period of one year except in the case of sites used for temporary fairs, exhibitions, sports events or cultural or social programmes.

(6) The Chairman shall cause to be maintained a register wherein the licences issued under this section shall be recorded in such manner as may be determined by regulations.

123. Tax on advertisements :-

(1) Every person, who exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post, kiosk or structure any advertisement, or displays any advertisement to public view in any manner whatsoever, visible from a public street or public place (including any advertisement exhibited by means of cinematograph), shall pay for every advertisement, which is so erected, exhibited, fixed or retained or displayed to public view, a tax calculated at such rate as the Board of Councillors may determine by regulations:

1 [Provided that the minimum of such rate shall be,]

(a) in the case of posters, rupee one per square metre per month;

(b) in the case of non-illuminated rupees one hundred per square advertisements, metre per year;

(c) in the case of illuminated rupees two hundred per square advertisements, metre per year;

(d) in the case of others, the rate which the State Government may determine from time to time:

Provided further that a surcharge, not exceeding fifty per cent of the rate applicable to any case, may be imposed on any advertisement on display in temporary fairs, exhibitions, sports events or cultural or social programmes.

(2) Notwithstanding anything contained in sub-section (1), no tax shall be levied under this section on any advertisement which

(a) relates to a public meeting or to an election to Parliament or the State Legislature or a Municipality or any other local authority or to any candidature in respect of such election; or

(b) is exhibited within the window of any building, if the advertisement relates to any trade, profession or business carried on in that building; or

(c) relates to any trade, profession or business carried on within the land or the building upon or over which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein or to any sale, entertainment or meeting to be held on or upon or in the same; or

(d) relates to the name of the land or the building upon or over which the advertisement is exhibited or to the name of the owner or the occupier of such land or building; or

(e) relates to the business of a railway administration and is exhibited within any railway station or upon any wall or other property of a railway administration; or

(f) relates to any activity of or in aid of the Government or a Municipality.

(3) The tax on any advertisement leviable under this section shall be payable in advance in such number of instalments and in such manner as the Board of Councillors may by regulations determine:

Provided that the Board of Councillors may, under the terms and conditions of a licence, require the licensee to collect and pay to the Municipality, subject to a deduction, not exceeding ten per cent to

be kept by him as collection charges, the amount of tax in respect of such advertisements as are displayed on any site for which he is the licensee.

1. Words subs, for the words "Provided that such rate shall not exceed, -" by W.B. Act 13 of 2003.

124. Presumption in case of contravention :-

Where any advertisement has been erected, exhibited, fixed or retained upon or over any land, building, wall, hoarding, frame, post, kiosk or structure or displayed to public view from a public street or public place in contravention of the provisions of this Act or the regulations made thereunder, it shall be presumed, unless the contrary is proved, that the contravention has been committed by the person or persons on whose behalf the advertisement purports to be or the agent or agents of such person or persons.

125. Power of Chairman in case of contravention :-

If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of this Act or the regulations made thereunder, the Chairman may require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk or structure upon or over which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement or may enter any land, building or property and cause the advertisement to be dismantled, taken down, removed, spoiled, defaced or screened.

Explanation I The word "structure" in this Chapter includes any movable board on wheels used as an advertisement or advertisement medium.

Explanation II The word "advertisement", in relation to a tax on advertisement under this Act, shall mean any word, letter, model, sign, sky- sign, placard, notice, device or representation, whether illuminated or not, in the nature of, and employed wholly or in part for the purposes of, advertisement, announcement or direction.

126. Fine for not paying tax on advertisements :-

If any person erects, exhibits, fixes or retains any advertisement referred to in this Chapter without paying the tax due, he shall be punished with fine to be imposed by the Chairman-in-Council which

(i) may extend to an amount equal to three times the amount payable as such tax, and

(ii) shall not ordinarily be less than an amount equal to one and a

half times such tax:

Provided that such fine shall be recovered from such person or persons as the Chairman may adjudge responsible for not paying the tax.

127. Registration and numbering of carts and carriages :-

(1) When it has been determined that a tax on carts and carriages shall be imposed, the Board of Councillors may make and publish an order that every cart or carriage, which is kept or is used in the ordinary course of business within a municipal area, shall be registered by the Chairman-in-Council with the name and residence of the owner and shall bear the number of registration:

Provided that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced.

(2) This section shall not apply to

(a) carts or carriages which are the property of the Government or of the Municipality;

(b) carts or carriages which are kept without the limits of a municipal area and are only temporarily and casually used within such limits.

(3) The registration of carts and carriages shall be made and the number assigned yearly or half-yearly on such days as the Chairman-in-Council may notify.

128. Tax for registration :-

The tax payable for registration for every cart or carriage shall be such as the State Government may fix for carts and carriages of different types:

Provided that such tax shall not exceed rupees two hundred per annum, if the registration has effect for one year, or rupees one hundred for half year, if the registration has effect for half year.

129. Carts or carriages not to be kept without being registered and without number :-

No person shall keep, or be in possession of, a cart or carriage not duly registered under this Act, nor shall any person, being the owner or the driver of any cart or carriage, fail to affix thereto the registration number under this Act.

130. Seizure and sale of unregistered carts or carriages :-

(1) If any person owns or keeps any cart or carriage without registering the same as required by this Act, the Chairman, or any person authorised by him in this behalf, may seize and detain such cart or carriage (provided the same is not employed at the time of seizure in the conveyance of any passenger or goods) together with the animals, if any, drawing the same, and every police-officer shall, at the request of the Chairman or the person authorised by him in this behalf, assist in such seizure.

(2) After the seizure under sub-section (1), the Chairman shall forthwith issue notice in writing that after the expiration of ten days, such cart or carriage and animals, if any, shall be sold by auction at such place as stated in the notice; and, if any tax, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Chairman may sell the cart or the carriage and the animals, if any, seized for payment of the tax as aforesaid and the cost arising from such seizure, custody and sale.

(3) The surplus sale-proceeds (if any) shall be credited to the Municipal Fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Chairman:

Provided that if, at any time before the sale is concluded, the person, whose cart or carriage and animals, if any, have been seized, tenders to the Chairman or the person authorised by him to sell the property the amount of all the expenses incurred and the tax payable by him, the Chairman shall forthwith release the cart or the carriage and the animals, if any, seized under sub-section (1).

(4) Notwithstanding anything contained in the foregoing provisions of this section, the surplus of the sale-proceeds of a cart or carriage and animals, if any, seized under sub-section (1), may be applied to the payment of any fine imposed for a breach of any provision of this Chapter; and any cart or carriage and animals, if any, which have been seized under sub-section (1), may be sold for the realization of such fine.

131. Incidental provisions relating to carts and carriages :-

The State Government may by notification make rules on the following matters for the purposes of carrying out the provisions of this Chapter :

- (1) mode of registration and numbering of carts and carriages;
- (2) levy of tax at varying rates for registration of different types of carts and carriages;
- (3) mode of apportionment of tax between local authorities when carts or carriages are used or registered in the area of more than one local authority;
- (4) transfer of ownership of registered carts and carriages;
- (5) other matters not specifically provided in this Chapter.

132. Ferries may be declared as municipal ferries :-

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(1) Where ferry plies between two points on a water course within the limits of different municipal areas, the State Government, after considering the views of the Board of Councillors of the respective municipal areas, may declare such ferry to be a municipal ferry, and direct that the profits derivable from the plying of such ferry shall be shared equally by the Municipalities governing the terminal points of such ferry and shall be credited to the Municipal Funds of the concerned Municipalities:

Provided that the leasing of such ferry shall be made by the concerned Municipalities by turns.

(2) Where a ferry plies between two points on a water course and both the points are situated within one municipal area or one point as situated within the limits of a municipal area and the other point is situated within the limits of any other local authority, not being a Municipality, the State Government, after considering the views of the concerned Board of Councillors of such municipal area and the other local authority as aforesaid, may declare such ferry to be a municipal ferry, and, thereupon, the profits derivable from the plying of such ferry shall be credited to the Municipal Fund of the concerned Municipality:

Provided that every such ferry including the terminal points shall be maintained by the concerned Municipality.

(3) Due compensation to any person for the loss which he may have sustained as a result of a ferry being declared to be a municipal ferry shall be given by the concerned Board of Councillors in the case of any ferry being declared to be a municipal ferry

under sub-section (2), and in equal shares by the concerned Boards of Councillors in the case of any ferry being declared to be a municipal ferry under sub-section (1):

Provided that the amount of compensation due in each such case shall be ascertained and awarded by an Executive Magistrate under Section 17 of the Bengal Ferries Act, 1885 , or any other law for the time being in force.

1. Sec. 132 subs, by W. B. Act 22 of 2000. which was earlier as under : "132. Ferries may be declared to be municipal ferries The Board of Councillors may, with the sanction of the State Government, declare that any ferry, not being vested in any other local authority within or adjacent to the limits of a municipal area, is a municipal ferry, and the profits derivable therefrom shall, upon such declaration, be credited to the Municipal Fund: Provided that due compensation shall be made by the Board of Councillors to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry. Provided further that the amount of compensation due in such case shall be ascertained and awarded by the Executive Magistrate under section 17 of the Bengal Ferries Act, 1885, or any other law for the time being in force."

133. Duties of Chairman-in-Council in regard to municipal ferries :-

Every municipal ferry shall be maintained by the Chairman-in-Council. The Chairman-in-Council shall do all things necessary to provide for the safety and convenience of travellers and the safety of property to be conveyed on such ferry.

134. Rate of tolls to be established and published :-

When it has been determined to impose tolls on municipal ferries, the Chairman-in- Council shall, from time to time, make and publish an order specifying the ferries and, with the sanction of the State Government, the rates at which such toll shall be levied, and shall cause a copy of such order to be permanently affixed on some conspicuous place at the ferry ghat.

135. Keeping of unauthorised ferry-boat :-

No person shall keep a ferry-boat, whether or not playing for hire, within a distance of two miles above or below any municipal ferry without the previous sanction

(i) of the Board of Councillors, if he plies within the limits of a municipal area,

(ii) of the Magistrate of the district, if he plies outside the limits of a municipal area, or

(iii) of the Magistrate of the district, if one of the two banks between which he plies is within and the other bank is outside the limits of a municipal area.

136. When persons crossing river not liable to toll :-

No person shall be liable to pay any toll for crossing any river or stream at or near a municipal ferry, if he crosses the river or stream in a boat or other appliance which is kept for the personal or non-commercial use of such person:

Provided that he shall be liable for payment of such charges as may be fixed by the Municipality for use of jetty, ghat, stairs, or any other facility provided by the Municipality.

137. Cancellation of ferry lease etc :-

Every lease of a ferry given by the Board of Councillors as hereinafter provided shall be liable to be cancelled at once, if it appears to the Board of Councillors that the lessee has failed to make due provision for the safety or convenience of travellers or the safety of property to be conveyed on the ferry, within fifteen days after being required to do so by a notice in writing from the Board of Councillors. On cancellation of the lease, the Chairman-in-Council may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry and deal with the same in the manner prescribed.

138. Ferries concerning more than one Municipality etc :-

Notwithstanding anything contained in this Chapter, ¹ [whenever matters relate to] a municipal ferry and a public, or private ferry, such matters shall be governed by the provisions of the Bengal Ferries Act, 1885 and the rules made thereunder.

1. Words subs, for the words "whenever matters relating to ferries concern more than one Municipality or" by W.B. Act 22 of 2000.

139. Power of Board of Councillors to establish toll-bars :-

The Board of Councillors, with the sanction of the State Government, may establish a toll-bar and levy tolls on any bridge or at any place within a municipal area adjacent to any bridge at which tolls may conveniently be levied on vehicles, carriages, carts and animals passing over such bridge; and the profits derivable therefrom shall be credited to the Municipal Fund:

Provided that no such toll-bar shall be established or tolls levied, otherwise than for the purpose of recovering the expenses incurred in constructing such bridge and in maintaining such bridge in repair for five years next after the construction thereof together with interest on such expenses.

140. Existing toll-bars :-

The State Government may, with the consent of the Board of Councillors, make over to the Board of Councillors any existing toll-bar on a bridge within the limits of a municipal area to be administered by the Board of Councillors until the State Government otherwise directs. Every such toll-bar, while so administered, shall be deemed to be a municipal toll-bar, and the profits derivable therefrom or such parts thereof as shall be agreed upon between the State Government and the Board of Councillors shall be credited to the Municipal Fund.

141. Prohibition of taking unauthorized tolls :-

No person authorised under this Act to collect tolls shall demand or take any tolls higher than the tolls fixed under this Act.

142. Seizure and sale consequent on non-payment of toll :-

(1) If the toll due on any vehicle, carriage, cart or animal is not paid on demand, the person authorised to collect the same may seize such vehicle, carriage, cart or animal, or any part of its load of sufficient value to defray the toll, and shall give immediate notice of such seizure to the Chairman.

(2) Upon such seizure, the Chairman shall forthwith issue a notice in writing that after the expiration of ten days, he will sell the property seized by auction at such place as he may state in the notice; and if any toll together with the cost arising from such seizure and custody remains undischarged for ten days after the issue of such notice, the Chairman may sell the property seized for the discharge of the toll and the expenses occasioned by such nonpayment, seizure, custody and sale.

(3) If the load or sufficient part thereof consists of articles which are subject to speedy and natural decay or consists of livestock, such load or part thereof may forthwith be sold under the orders of the Chairman.

(4) The surplus sale-proceeds, if any, after realisation of all dues or expenses shall be credited to the Municipal Fund, and may he paid

on demand to any person who establishes his right to the surplus sale-proceeds as aforesaid to the satisfaction of the Chairman:

Provided that if, at any time before the sale has been concluded, the person whose property has been seized tenders to the Chairman or the officer appointed by him to sell the property the amount of all the expenses incurred and the toll payable, the Chairman shall forthwith release the property seized.

143. Prohibition as to the refusal to pay, or the avoidance of payment of, toll :-

¹ No person taking through a toll-gate any vehicle, carriage, cart or animal (not exempted from toll) shall refuse to pay the toll, nor shall any person fraudulently avoid taking through a toll-gate any such vehicle, carriage, cart or animal with intent to evade payment of the toll.

1. Words subs, for the words "Penalty for refusing to pay or avoiding payment of toll." by W. B. Act 30 of 1994.

144. Exemptions :-

(1) No toll shall be paid for the passage of

(a) Government stores or persons in charge of them; or

(b) an officer of the State Government or of the Central Government or of any local authority on duty, or of any person in his or its custody or of any property belonging to him or it or in his or its custody, or of any vehicle, carriage, cart or animal employed by him or it, for the transport of such property; or

(c) conservancy carts or other carriage, carts or animals belonging to the Municipality or of persons in charge of the Municipality.

(2) The Board of Councillors may, from time to time, exempt any class of persons or things not specified in sub-section (1) from payment of toll and may, while granting a lease of any ferry or toll-bar, stipulate that any municipal employee or municipal property or any other person or thing shall be allowed to pass without payment of toll.

145. Board of Councillors to collect tolls in a navigable channel :-

(1) If the State Government at any time declares that the provisions of the Canals Act, 1864, or any other similar law for the

time being in force, are applicable to any navigable channel which passes through the limits of a section 8 of the said Act until the State Government otherwise directs, and the profits derivable therefrom or such part thereof as may be agreed upon between the State Government and the Board of Councillors, shall be credited to the Municipal Fund.

(2) In every such case, the Board of Councillors shall exercise all the powers vested in the Collector under this said Act.

146. Police-officers to assist :-

In any case of resistance to the person authorised to collect tolls or exercise the power to cause seizure and sale, the police-officers shall assist such person when required by him, and, for such purpose, shall have the same powers as they have to exercise their ordinary police duties.

CHAPTER 12

Recovery of taxes

147. Manner of recovery of taxes under the Act :-

Save as otherwise provided in this Act, any tax levied under this Act may be recovered in accordance with the following procedure and in such manner as may be prescribed :

- (a) by presenting a bill, or
- (b) by serving a notice of demand, or
- (c) by distraint and sale of a defaulter's movable property, or
- (d) by the attachment and sale of a defaulter's immovable property, or
- (e) in the case of property tax on land and buildings, by attachment of rent due in respect of the land or the building, or
- (f) as a public demand under the Bengal Public Demands Recovery Act, 1913.

148. Incidence of property tax :-

(1) The property tax on land or building shall be leviable in equal shares upon the owner and the occupier:

Provided that the surcharge under section 97 shall be leviable upon the occupier.

(2) On the failure to recover any sum due on account of property

tax from the owner, such sum shall, notwithstanding anything contained in the West Bengal Premises Tenancy Act, 1956, be recoverable from the occupier by attachment of rent payable by him to the owner.

(3) An occupier from whom any sum is recovered under sub-section (2) shall be entitled to reimbursement by the owner for the payment of such sum or adjustment of such sum against the rent payable.

149. Presentation of bill :-

(1) When a property tax becomes due on any land or building, the Chairman shall cause to be presented to the owner or the occupier thereof a bill for the amount due.

Explanation A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting to the person liable for payment of the amount included in the bill, and in such case, the date borne on such certificate of posting shall be deemed to be the date of presentation of the bill to such person.

(2) Every such bill shall specify the particulars of the tax and the period for which it is due.

150. Amount of tax payable, and tax to be paid, in advance

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(1) Unless the amount entered in the assessment list is subsequently altered as provided in this Act, the amount entered in the list, the notice relating to which is published under sub-section (1) of section 111 , shall be deemed to be the amount due on account of property tax on the annual value of holdings. In the case of subsequent alteration, if any, the amount in relation to which the assessment or rating is so altered shall be deemed to be the amount due.

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

(3) If any amount due is paid within thirty days from the date of presentation of the bill under section 149 , a rebate, not exceeding ten per cent of such amount as may be determined by the Board of Councillors, shall be allowed.

(4) Subject to the provisions of sub-section (2), the payment of taxes may be made in such manner as may be prescribed.

1. Sec. 150 subs, by W.B. Act 45 of 1994, which was earlier as under: "150. Time and manner of payment of taxes (1) Save as otherwise provided in this Act. any tax levied under this Act shall be payable on such date, in such number of instalments, and in such manner, as may be prescribed. (2) If any amount due is paid on or before the date determined under sub-section (1), such rebate, not exceeding ten per cent of such amount as may be determined by the Board of Councillors, shall be allowed.".

151. Notice of demand and notice fee :-

(1) Save as otherwise provided in this Act, if the amount of the property tax for which a bill has been presented under section 149 , is not paid within thirty days from the presentation thereof or if the tax on advertisements is not paid after it has become due, the Chairman may cause to be served upon the person, liable for the payment of the same, a notice of demand in such form as may be ¹[prescribed].

(2) For every notice of demand which the Chairman causes to be served on any person under this section, a fee of such amount, not exceeding twenty- five rupees, as the Board of Councillors may ²[determine,] shall be payable by such person and shall be included in the cost of recovery.

(3) If any person liable for payment of any tax under this Act does not, within thirty days of the service of the notice of demand, pay the sum due, he shall be deemed to be in default.

(4) When a person liable for payment of any tax under this Act is deemed to be in default under sub-section (3), such sum, not exceeding fifteen per cent of the amount of tax, as may be determined by ³[the Board of Councillors,] may be recovered from him by way of penalty, in addition to the amount of the tax and the fee payable under sub-section (2).

⁴(5) On the amount of a bill remaining unpaid after its presentation under sub-section (1) of section 149 , simple interest shall be payable at such rate, not exceeding 10 per cent per annum, as may be determined by ⁵[the Board of Councillors] from time to time, on the said amount from the day next after the expiry of thirty days from the commencement of the quarter following that in which the bill is presented :

6 Provided that the Board of Councillors may, with the prior approval of the State Government, waive the interest as specified in this sub-section in respect of one or more holdings, either wholly or in part.

Explanation In calculating the interest payable under this sub-section, a fraction of a rupee in the amount of a bill on which interest is to be calculated shall,

(a) where it is less than 50 paise, be left out of account, and

(b) where it is not less than 50 paise, be taken as one rupee.

(c) The amount due as penalty or interest under this section shall be recoverable as an arrear of tax under this Act.

1. Words subs, for the words "specified by the Board of Councillors by regulations" by W.B. Act 13 of 1995.

2. Word subs, for the words "determine by regulations" by W.B. Act 13 of 1995.

3. Words subs, for the words " the Board of Councillors by regulations" by W.B. Act 13 of 1995.

4. Sub-sec.(5) subs, by W.B. Act 45 of 1994, which was earlier as under : "(5) Simple Interest at such rate, not exceeding ten per cent per annum, as may be determined by the State Government from time to time may also be imposed on any amount of tax remaining unpaid with effect from the date from which the person liable for the payment is deemed to be in default under sub-section (3).".

5. Words subs, for the words "the State Government" by W. B. Act 13 of 1995.

6. Proviso ins. by W.B. Act 16 of 2002.

152. Recovery of tax :-

(1) If any person liable for payment of any tax does not, within sixty days of the service of notice of demand under section 151 , pay the amount due, such sum together with costs, interest due and penalty may be recovered under a warrant issued in such form as may be specified by the State Government in this behalf, either by distress and sale of movable property, or by attachment and sale of immovable property, of the defaulter as the Chairman may decide:

Provided that the Chairman shall not recover any sum the liability of which has been remitted on review under the provisions of this Act.

(2) Every warrant issued under sub-section (1) shall be signed by the Chairman or any other officer authorised by him in this behalf.

153. Distress :-

(1) It shall be lawful for any officer or other employee of the Municipality, to whom a warrant issued under this Chapter is addressed, to distrain, wherever it may be found in any place within the municipal area, any movable property belonging to the person therein named as defaulter, subject to the following conditions, exception and exemptions :

(a) the following property shall not be distrained :

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children and their cooking and eating utensils;

(ii) tools of artisans;

(iii) books of accounts;

(b) the distress shall not be excessive, that is to say, the property distrained shall be, as nearly as possible, equal in value to the amount recoverable under warrant, and if any property has been distrained which, in the opinion of the Chairman, should not have been distrained, it shall forthwith be released.

(2) The person charged with the execution of a warrant shall, in the presence of two witnesses, forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give to the person in possession thereof at the time of seizure a notice in writing in such form as may be specified by the State Government in this behalf that the said property shall be sold on the expiry of the period as therein mentioned.

(3) If there is reason to believe that any property seized under a warrant of distress, if left in the place where it is found, is likely to be removed by force, the officer executing the warrant may take it to the office of the Municipality or to any other place appointed by the Chairman.

154. Disposal of distrained property :-

(1) When the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Chairman shall give notice to the person in whose possession the

property was at the time of seizure that it will be sold at once, and he shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

(2) If the warrant is not, in the meantime, suspended by the Chairman or discharged, the property seized shall, after the expiry of the period mentioned in the notice served under sub-section (2) of section 153 , be sold by public auction by order of the Chairman.

155. Attachment and sale of immovable property :-

(1) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge and declaring that such property shall be sold in auction unless the amount of tax due with costs of recovery is paid within the date specified in the warrant.

(2) A copy of the order under sub-section (1) shall be affixed on a conspicuous part of the property and upon a conspicuous part of the office of the Municipality.

(3) Any transfer of or charge on, the property attached, or any interest therein, made without written permission of the Chairman, shall be void against all claims of the Municipality enforceable under the attachment.

(4) The surplus of the sale proceeds, if any, shall, immediately after the sale of the property, be credited to the Municipal Fund, and notice of such credit shall be given at the same time to the person whose property has been sold or his legal representative, and if the same is claimed by written application to the Chairman within one year from the date of the notice, a refund thereof shall be made to such person or representative.

(5) All sales of property under this section shall, as far as practicable, be regulated by the procedure in force for the time being in the civil court with respect to sale after attachment.

(6) No officer or employee of the Municipality shall directly or indirectly purchase any property at any such sale.

(7) Any surplus, not claimed within one year as aforesaid, shall be the property of the Municipality.

156. Fee for distraint and attachment :-

For every distraint and attachment made in accordance with the foregoing provisions of this Chapter, a fee of such amount, not exceeding two and a half per cent of the amount of the tax due, as shall, in each case, be fixed by the Chairman shall be charged and included in the costs of recovery.

157. Recovery from a person about to leave jurisdiction of Municipality :-

(1) If the Chairman has reason to believe that any person, from whom any sum is due or is about to become due on account of any tax, is about to move from the jurisdiction of the Municipality, he may direct the immediate payment by such person of the sum so due or about to become due and to cause a notice of demand for the same to be served on such person.

(2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress or attachment and sale in the manner hereinbefore provided, and the warrant of distress or attachment and sale may be issued and executed without any delay.

158. Sale of movable property situate beyond limits of municipal area :-

If the Chairman is unable to recover any sum due upon distraint, the Judicial Magistrate having jurisdiction may, on the application of the Chairman, issue an warrant to any officer of the Court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the Judicial Magistrate or forward the warrant for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other Judicial Magistrate exercising jurisdiction within West Bengal, and such other Judicial Magistrate shall endorse the warrant so issued, and cause it to be executed and the amount, if recovered, to be remitted to the Judicial Magistrate issuing the warrant who shall remit the same to the Chairman.

159. Recovery under Ben. Act 3 of 1913 :-

After a defaulter has been proceeded against unsuccessfully under the foregoing provisions of this Chapter or with partial success, any sum due or the balance of any sum due may be recovered by the Chairman as a public demand under the Bengal Public Demands Recovery Act, 1913, together with interest and cost of recovery.

160. Distraint not unlawful for want of form :-

No distress under this Act shall be deemed to be unlawful nor shall any person making the same be deemed to be a trespasser on account of

(a) any defect or want of form in the notice, summons, notice of demand, warrant of distress, inventory or other proceeding relating thereto, or

(b) any irregularity committed by such person :

Provided that any person aggrieved by such defect or irregularity may, by order of a court of competent jurisdiction, recover the full satisfaction of any special damage sustained by him.

161. Occupiers to pay rent towards satisfaction of property tax :-

(1) For the purposes of recovery of any property tax, the Chairman may cause to be served on any occupier a notice requiring him to deposit in the Municipal Fund any rent due or falling due from him in respect of the land or the building to the extent necessary to satisfy the sum due on account of property tax in respect of such land or building.

(2) Every notice under sub-section (1) shall operate as an attachment of rent as aforesaid unless the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in the account with the person to whom such rent is due, any sum paid by him to the Municipality in pursuance of such notice:

Provided that if the person to whom such rent is due is not the person primarily liable for payment of the property tax, he shall be entitled to recover from the person primarily liable for the payment of such tax any amount for which credit is claimed as aforesaid.

(3) If any occupier fails to deposit in the Municipal Fund any rent due or falling due which he is required to deposit in pursuance of a notice served upon him as aforesaid, the amount of such rent may be recovered from him by the Municipality as an arrear of tax under this Act.

162. Recovery of tax from unauthorised occupier of land or building :-

(1) Where any land or building is in the occupation of any person

not being the owner or occupier of such land or building, the amount of any tax, toll, fee, rate or other money due under this Act and assessed on the annual value of such land or building may be recovered from such person as if he were an occupier of such land or building.

Provided that no sum shall be recovered from such person if it is not due in respect of the period during which such person has been in occupation of such land or building;

(2) The assessment or recovery made under this section shall not be itself be deemed to confer upon such person any right or title as the lawful occupier of the land or the building as aforesaid.

163. Recovery of property tax on land or building or any other tax or charge in the case of unknown owner of land or premises or disputed ownership :-

(1) If any money is due under this Act from the owner of any land or premises on account of property tax or any other tax, expenses or charges recoverable under this Act, and if the owner of such land or premises is unknown or the ownership thereof is disputed, the Chairman may publish twice, at an interval of not less than two months, a notification of such dues and of sale of such land or premises for realisation thereof and after the expiry of not less than one month from the date of last publication of the notification, unless the amount recoverable is paid, may sell such land or premises by public auction to the highest bidder, who shall deposit, at the time of sale, twenty-five per cent of the purchase money, and the balance thereof within thirty days of the date of sale. Such notification shall be published in the Official Gazette and in local newspapers and by displaying on the land or the premises concerned.

(2) After deducting the amount due to the Municipality as aforesaid, the surplus sale proceeds, if any, shall be credited to the Municipal Fund and may be paid, on demand, to any person who establishes his right thereto to the satisfaction of the Chairman or a court of competent jurisdiction.

(3) Any person may pay the amount due at any time before the completion of the sale, whereupon the sale shall be abandoned. Such person may recover such amount by a suit in a court of competent jurisdiction from any person beneficially interested in such land or premises.

164. Taxes not invalid for defect of form :-

(1) No assessment and no charge or demand of the property tax or of any other tax made under this Act shall be called in question or shall in any way be affected by reason of

(a) any clerical or arithmetical mistake arising from any accidental slip or omission

(i) in the name, residence, place of business or occupation of any person liable to pay such tax, or

(ii) in the description of any property or thing liable to such tax, or

(iii) in the amount of assessment of such tax, or

(b)

(i) any clerical error, or

(ii) any defect of form, not being of a substantial nature :

Provided that the Chairman may, either of his own motion or on the application of any aggrieved person, correct any clerical or arithmetical mistake or clerical error or defect of form as aforesaid.

(2) It shall suffice for the purpose of levying any tax under this Act or of any assessment or valuation of any property under this Act, if the property taxed or assessed or valued is so described as to be generally known, and it shall not be necessary to name the owner or the occupier thereof.

165. Writing off irrecoverable dues :-

The Board of Councillors may by order strike off the books of the Municipality any sum due on account of the property tax or any other tax or on any other account, which may appear to it to be irrecoverable and shall, within one month thereof, communicate it to the State Government.

PART 5

REGULATORY JURISDICTION

CHAPTER 13

Streets and public places

166. Power to classify public and private street :-

The Board of Councillors may classify public or private street into arterial road, connecting road, passage, pathway, lane and by-lane

and specify the width of each class in accordance with such rules as may be made in this behalf.

167. Vesting of public streets, parking terminals, squares, parks and gardens in the Municipality :-

(1) All public streets, bus, taxi or rickshaw stands or other parking or transportation terminals, squares, parks and gardens within the municipal area including the soil, subsoil, side-drains, footpaths, pavements, stones and other materials, and all erections, materials and trees provided therein shall vest in the Municipality.

(2) The State Government may, for reasons to be recorded in writing, by notification withdraw from a Municipality any public street, square, park or garden, or transportation terminal and transfer the same for a limited period to any other agency for development or maintenance thereof in the public interest.

(3) The Chairman shall maintain a register in such form and in such manner as may be prescribed showing a list of all public streets, parking or transportation terminals, squares, parks and gardens and other properties vested in the Municipality including those transferred to other agencies under sub-section (2).

168. Power to the Municipality in respect of control of public streets, etc :-

(1) All public streets, parking or transportation terminals, squares, parks and gardens vested in the Municipality shall be under the control of the Board of Councillors who shall cause the same to be maintained, controlled and regulated in accordance with the provisions of this Act and the rules and the regulations made thereunder.

(2) The Board of Councillors shall, from time to time, cause all public streets vested in the Municipality to be levelled, metalled or paved, channelled, altered or repaired, widened, extended or otherwise improved or cause the soil thereof to be raised, lowered or altered, and may place and repair fences and posts for the safety of pedestrians.

(3) The Board of Councillors shall, from time to time, cause various items of street furniture, including guard rails, traffic lights and traffic signs, street markings, median strips and similar other items, to be installed or done for public safety, convenience and

expeditious movement of traffic, including pedestrian traffic.

(4) The Board of Councillors may, for any public purpose turn, divert or temporarily or permanently close any public street or part thereof or permanently close any public square or garden:

Provided that the Board of Councillors so closing any street, shall not do so for mere financial gain and shall be bound to provide reasonable means of access to persons occupying premises adjacent to such street.

169. Rights of way for underground utilities :-

Subject to the provisions of the Indian Telegraph Act, 1885, the Indian Electricity Act, 1910 and such other Act as may be notified by the State Government for the purposes of this section, the State Government may by rules provide for the following :

(a) the sanction by the Board of Councillors of specific rights of way in the subsoil of public and private streets within the municipal area for different public utilities, including electric supply, telephone or other telecommunication facilities, gas pipes, water-supply, sewerage and appurtenances related thereto, provided by Government or any statutory body or any licensee under any of the said Acts;

(b) the levy of any fee or charges permissible under any of the said Acts;

(c) the furnishing to the Municipality of maps, drawings and statements which shall enable it to compile and maintain precise records of the placement of the underground utilities within or without the limits of the municipal area.

170. Power to maintain maps of underground utilities :-

The Chairman shall cause to be maintained complete survey maps, drawings, and descriptions of all the underground utilities within the municipal area, in such form and in such manner as may be prescribed, and shall ensure the secrecy of the same in conformity with provisions of the Official Secrets Act, 1923.

171. Power to acquire lands and buildings for public streets, public parking places and transportation terminals :-

(1) The Board of Councillors may, subject to the other provisions of this Act,

(a) ¹[require] any land together with structure, if any, standing thereon ²[to be acquired] for the purpose of opening, widening, extending or otherwise improving any public street, parking or

(b) ³[require], in relation to any land or building as aforesaid, such land or building ⁴[to be acquired] as the Board of Councillors may think expedient, outside the regular line or projected regular line of the public street as aforesaid.

(2) Where a land or building is ⁵[required to be] acquired under subsection (1) and the Board of Councillors is satisfied that the remaining portion of the land will not be suitable or fit for any beneficial use to the owner, it shall, at the request of the owner, ⁶[proceed for the acquisition, in addition, of] such remaining portion of the land which shall, on acquisition, vest in the Municipality.

⁷ (3) Where any land or building is required to be acquired under sub-section (1) or sub-section (2), the procedure laid down in section 77 shall apply.

1. Word subs, for the word "acquire" by W.B. Act 30 of 1994.

2. Words subs, for the word "required" by W.B. Act 30 of 1994.

3. Words subs, for the word "acquire" by W.B. Act 30 of 1994.

4. Words ins. by W.B. Act 30 of 1994.

5. Words ins. by W.B. Act 30 of 1994.

6. Words subs, for the words "acquire, in addition," by W.B. Act 30 of 1994.

7. Sub-sec. (3) ins. by W.B. Act 30 of 1994.

172. Power to prescribe building line and street alignment

:-

(1) If the Board of Councillors considers it expedient to make regulation for any public street a building-line or a street alignment, or both a building- line and a street alignment, it shall give public notice of its intention to do so.

(2) Every such notice shall specify a period within which objections will be received, and a copy of such notice shall be sent by post to every owner of premises abutting on such street who is registered in respect of such premises on the books of the Municipality:

Provided that the failure or omission to serve such notice on any of the owners shall not invalidate the proceedings under this section.

(3) The Board of Councillors shall consider all objections received within such period as it may fix in this behalf, and may then make regulation determining a building-line or a street alignment or both a building-line and a street alignment for such public street.

(4) A register or book with plans attached shall be maintained by the Chairman showing all public streets within the municipal area including, in particular, those in respect of which a building-line or street alignment has been determined by regulation, and such register shall maintain such particulars as the Board of Councillors may determine and shall be open to inspection by any person upon payment of such fee as may, from time to time, be fixed by the Board of Councillors.

173. Restrictions on erection of, or addition to, buildings or walls within street alignment or building-line :-

(1) No portion of any building section 172 :

Provided that the Board of Councillors may, in its discretion, permit addition to a building to be made within a street alignment, if such additions merely add to the height of, and rest upon, an existing building or wall, upon the owner of the building executing an agreement binding himself and his successors in interest

(a) not to claim compensation in the event of the Board of Councillors at any time thereafter calling upon him or such successors, by written notice, to remove any addition made to any building in pursuance of such permission, or any portion thereof, and

(b) to pay the expenses of such removal.

(2) If the Board of Councillors refuses to grant the permission to add to any building on the ground that the proposed site falls wholly or in part within a street alignment referred to in section 172 , and if such site or the portion thereof which falls within such alignment is not acquired by the Municipality within one year after the date of such refusal, it shall pay reasonable compensation to the owner of the site.

(3) No person shall erect or add to any building between a street alignment and the building-line without first obtaining the permission of the Board of Councillors to do so.

(4) If the Board of Councillors grants permission under sub-section

(3), it may require the applicant to execute an agreement in accordance with the proviso to sub-section (1).

174. Power to take possession of, and add to street, land situated within street alignment or covered by projecting buildings :-

(1) The Board of Councillors may, at any time, give notice to the owner of any land or building of its intention to take possession of

(a) any land abutting on a public street upon which any portion of any building or wall projects beyond the front of the adjoining building or wall on either side; or

(b) any land not covered by building (including land on which a building has collapsed or been demolished or burnt down) which is situated within a street alignment referred to in section 172 .

(2) The Board of Councillors may come to an agreement with the owner, upon whom a notice under sub-section (1) has been given, to release such land for addition to street on condition of such relaxation in the enforcement of building regulations as the Board of Councillors may decide, and thereupon the building-line or street alignment referred to in section 172 may be enforced.

175. Power of setting back building to regular line of street :-

(1) If any part of a building abutting on a public street is within the regular line of that street, the Board of Councillors may, whenever it is proposed

(a) to repair, rebuilt or construct such building or to pull down such building to an extent measured in cubic metre exceeding one-half thereof above the ground level, or

(b) to repair, remove, construct or reconstruct or make any additions to, or structural alterations of, any portion of such building which is within the regular line of the street, by an order, as respects the additions to or rebuilding, construction, repair or alteration of such building, require such building to be set back to the regular line of such street.

(2) When any building or any part thereof within the regular line of a public street falls down or is burnt down or is, whether by reason of any order of the Board of Councillors or otherwise, taken down,

the Board of Councillors may forthwith take possession of the portion of the land within the regular line of the street heretofore occupied by such building and, if necessary, clear the same.

(3) Any land acquired under this section shall be deemed to be a part of the public street and shall vest in the Municipality.

(4) The Board of Councillors may, while giving an order to set back building under sub-section (1), allow such relaxation, including a concession in floor area ratio, in building regulations as respects the addition to or rebuilding, construction, repair or alteration of the building as it may consider appropriate.

176. Power of compulsory setting back of building to regular line of street :-

(1) Where any building or any part thereof is within the regular line of a public street and, in the opinion of the Board of Councillors, it is necessary to set back such building or part thereof to the regular line of such street in pursuance of any development plan, it may, by a notice served on the owner of such building in accordance with the provisions of this Act, require him to show cause within such period as may be specified in the notice as to why such building or part thereof, which is within the regular line of such street, should not be pulled down and the land within the regular line acquired by the Municipality.

(2) If such owner fails to show satisfactory cause under sub-section (1), the Board of Councillors may require the owner by another notice to be served on him in accordance with the provisions of this Act to pull down the building or part thereof, which is within the regular line of the street, within the period specified in the notice.

(3) If the owner fails to comply with the requirements of the notice under sub-section (2), the Board of Councillors may pull down the building or part thereof and all expenses incurred in so doing shall be paid by the owner and recoverable from him as an arrear of tax under this Act.

(4) The Board of Councillors shall immediately after any building or part thereof is pulled down under sub-section (3), take possession of the portion of the land within the regular line of the street occupied by such building or part thereof, and such land shall, thereupon, be deemed to be a part of the public street and shall vest in the Municipality.

177. Setting forward of building to regular line of street :-

(1) If any building, which abuts on a public street, is in the rear of the regular line of such street, the Board of Councillors may, whenever it is proposed

(a) to rebuild such building, or

(b) to alter or repair such building in such manner as will involve the removal or re-erection of such building or portion thereof which abuts on such street and to an extent measured in cubic metre exceeding one-half of such building or portion thereof above the ground level, by an order, as respects the rebuilding, alteration or repair of such building or portion thereof, permit or require such building to be set forward to the regular line of such street.

(2) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building, and it shall be deemed to be a sufficient compliance with the permission or the requirement to set forward a building to the regular line of a street, if a wall of such materials and dimensions as are approved by the Board of Councillors is erected along such line.

178. Payment of compensation :-

¹ The Board of Councillors shall, for any acquisition made under this Chapter, pay compensation as awarded under the Land Acquisition Act, 1894.

1. Sec. 178 subs, by W.B. Act 30 of 1994, which was earlier as under : "178. Payment of compensation The Board of Councillors shall for any acquisition made under this Chapter, pay reasonable compensation to the person adversely affected. In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public street, square, park or garden at or about the same time that public street, square, park or garden on account of which the compensation is paid is closed.".

179. Projected public streets :-

(1) The Board of Councillors may, from time to time, prepare schemes and plans of projected public streets, showing the direction of such street, the street alignment and the building- line on each of them, their intended width, and such other details as may appear desirable. The provisions of section 172 shall, with all necessary modifications, apply to public streets projected under this

section.

(2) The width of such projected streets, inclusive of footpath, shall not be less than ten metres:

Provided that

(a) the Board of Councillors may, for special reasons, reduce the requirement of width of any projected street; so, however, that the width of any such projected street shall not be less than six metres; and

(b) the Board of Councillors may relax the requirement of width to any extent in case the projected street is, in effect, an widening of an existing street.

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

(1) The Board of Councillors may, for sufficient reasons,

(a) prohibit vehicular traffic in any public street or any portion thereof so as to prevent danger construction or inconvenience to the public or to ensure quietness in any locality;

(b) prohibit, in respect of all public streets or any particular public street, the transit of any vehicle of such type, form, construction, weight, emission or size, or of any vehicle laden with such heavy or un-wieldly object, as is likely to cause injury to the roadways or any construction thereon, or of any vehicle for public convenience, except under such conditions as to time, mode of traction or locomotion, use of appliances for the protection of roadways, number of lights and assistants, and other general precautions and upon the payment of such charges as may be specified by the Board of Councillors generally or specifically in each case;

(c) prohibit, at all times or during any particular hours, entry from or exit to premises of vehicular traffic from any particular public street carrying such traffic.

(2) Notices of prohibition under sub-section (1) shall be posted in conspicuous places at or near both ends of public streets or portions thereof to which they relate, if such prohibition applies generally to all public streets otherwise such notices may be advertised.

181. Temporary closure of public street :-

The ¹[Chairman] may temporarily close the whole or any part of a

public street to permit development and maintenance work, and may, subject to such conditions as may be determined by the ¹ [Chairman] authorise such closure for other purposes for any period not exceeding a month.

1. Word subs, for the words "Board of Councillors" by W.B. Act 13 of 1995.

182. Closure of public street for parking purposes :-

(1) The Board of Councillors may declare a public street or a portion of it, as a fee parking area.

(2) Parking fee may be levied for each hour at such rate, and for such types of vehicles parked in different areas or for parking on different categories of streets at different hours of the day, as the Board of Councillors may determine:

Provided that such fee for each hour shall not exceed rupees two in the case of passenger vehicles and rupees five in the case of goods vehicles.

183. Sanction of Board of Councillors to projection over streets and drains :-

(1) No person shall put up any platform, verandah, balcony, sunshade, weather-frame or the like to project over any public street without the written permission of the Board of Councillors.

(2) Subject to any rules made by the State Government in this behalf, the Board of Councillors may, in its discretion, give to the owners or occupiers of buildings abutting on public streets written permission to erect or re- erect platform, verandah, balcony, sunshade or weather-frame projecting on a public street or drain on such conditions as it may think fit and on payment of such fees or rent as it may, from time to time, fix.

184. Removal of encroachments over public streets, etc :-

(1) The Board of Councillors

(a) may, without notice, itself or by any officer authorised by it in writing in this behalf, remove, alter or otherwise deal with any structure, wall, hoarding, scaffolding, fence, rail, post, platform or other projection, obstruction or encroachment which has, without first obtaining its written permission, been erected or set up in, over, above or upon any public street, house-gully, sewer, drain,

aquaduct, water-course or ghat;

(b) may, itself or by any officer authorised by it in writing in this behalf, remove without notice any materials or goods or any movable property which has, without its permission, been deposited in a public street or in, over, above, or upon any house-gully or any public sewer, drain, aquaduct, water-course or ghat, or which remains so deposited, when the period covered by any permission given in this behalf has expired, whether or not the offender is prosecuted under this Act or the rules or the regulations made thereunder ¹(c) * * * * *.

2 (1A) Any expenditure incurred for the removal of any projection, obstruction or encroachment referred to in sub-section (1) shall be recovered as an arrear of tax under this Act from the person who erects or sets up such projection, obstruction or encroachment.

(2) If the person, who erects or sets up any of the projections, obstructions or encroachments, referred to in sub-section (1), is not known or cannot be found, the Board of Councillors may cause a notice to be posted up in the neighbourhood of the said projection, obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition.

(3) No person shall be entitled to any compensation in respect of the removal of any projection, obstruction or encroachment under this section. If the expenses of removing or altering any such projection, obstruction or encroachment are paid by the occupier of the building in any case in which such projection, obstruction or encroachment was not erected or set up by himself, he shall be entitled to deduct from the rent payable by him to the owner of the building any reasonable expense incurred for such removal or alteration.

1. Words ", and the offender shall be liable to pay the expenses of such removal which shall be recoverable as an arrear of tax under this Act" om. by W.B. Act 30 of 1994.

2. Sub-sec. (1A) ins. by W.B. Act 30 of 1994.

185. Penalty for encroachment of street or open space :-

Whoever removes, not being duly authorised in that behalf, any earth, sand or other material from, or makes any encroachment in or upon, any street or open space which is not a private property, shall, on conviction, be punished with fine which may extend to one

hundred rupees and, in the case of continuing offence, with further fine which may extend to twenty rupees for every day after the first during which such offence continues.

186. Prohibition of causing damage to street or street furniture :-

(1) No person shall, without the permission of the Board of Councillors or any other lawful authority, displace, dig up or make any alteration in, or otherwise damage, the pavement, gutter, flags or other materials of any public street, or any street furniture like posts, fences and walls, including lamp-posts, lamps, brackets, water-posts, hydrants and accessories thereto, or any other municipal property on a public street or public place, park, square or garden.

(2) Every person to whom any permission is granted under sub-section (1) shall abide by such conditions as the Board of Councillors may impose in this behalf.

(3) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with a fine which may extend to one hundred rupees and, in the case of a continuing offence, with a further daily fine extending to twenty rupees:

Provided that such person shall, in addition to any penalty that may be imposed on him, be liable to pay the expenses which the Board of Councillors may incur in replacement or restoration consequent on such contravention, and such expenses shall be recoverable as an arrear of tax under this Act.

187. Board of Councillors may require owners of land to repair damage to streets, etc :-

Whenever any public street or drain or any other municipal property is damaged, washed away or eroded by any activity within any land or building (including tank) which exists by the side of such street, drain or property, the Board of Councillors may, by written notice, require the owner or occupier of such land or building to repair the damage and to restore the street, drain or property to its original condition as far as possible within a specified time, and it shall be incumbent upon such owner or occupier to comply with it, failing which the Board of Councillors itself may carry out the work of repair or restoration and the expenses thereof shall be recoverable from the owner or the occupier as an arrear of tax under this Act.

188. Naming and numbering of streets and numbering of premises :-

(1) It shall be lawfull for the Board of Councillors to

(a) give a name or a number to every public street;

(b) cause to be put up or painted on a conspicuous part of any building, wall or any other place the name or the number by which such street is to be known;

(c) determine the number or sub-number by which any premises or part thereof shall be known; and

(d) require the owner of any premises or part thereof by a written notice, to put up a plate showing the number or sub-number of such premises or part determined under clause (c) in such position and manner as may be specified in such notice.

(2) Any person, who destroys, pulls down or defaces any such name or number of a public street or number or sub-number of any premises or part thereof or puts up any name, number or sub-number different from that determined by the Board of Councillors, or any owner of any premises or part thereof who does not, on being so required, put up at his own expense such number or sub-number of such premises or part thereof, shall, on conviction, be punished with a fine which may extend to fifty rupees.

189. Power to require owner to upgrade private street :-

(1) The Board of Councillors may require any owner or owners of land or building within a municipal area to upgrade a private street within such land or building in respect of such items of work and in conformity with such standard as may be prescribed.

(2) If such requirements are not complied with, the Chairman-in-Council may cause the execution of the work by its own agency and recover the expenses incurred, either in whole or in part, from the owner or owners, as the case may be.

190. Power of access over private street :-

The Board of Councillors shall have access over any private street for the purpose of extending civic services or providing civic amenities.

191. Power to take over private streets :-

(1) If any private street has been upgraded under section 189 and the majority of the owners of such street or the owners of lands or buildings on such street express their consent in writing, the Board of Councillors shall declare the same to be a public street.

(2) If a private street has been in existence for not less than twenty years and used by the people of the locality as a thoroughfare, the Board of Councillors may, notwithstanding anything contained in this section, declare such street to be a public street.

(3) If the Board of Councillors decides, for reasons to be recorded in writing, to take over a private street, whether upgraded or not, it may, notwithstanding anything contained in this section, declare such street to be a public street.

(4) Upon a private street being declared by the Board of Councillors under sub-section (1) or sub-section (2) or sub-section (3), as the case may be, to be a public street, such private street shall vest in the Municipality, free from all encumbrances, with effect from the date of such declaration.

192. New private street :-

(1) Every person intending to layout or make a new street within a municipal area, shall give notice thereof in writing to the Chairman and shall furnish along with such notice plans and sections showing

(a) the intended level, direction and width of the street;

(b) the situation and the boundaries of any buildings or plots abutting on such street or likely to be served by such street;

(c) the position of any public street or streets to which the new street may have an access;

(d) the arrangements to be made for the levelling, paving, metalling, flagging, channelling, draining or lighting of the street; and

(e) such other particulars as may be required by regulations, if any, made in this behalf.

(2) Within sixty days of receipt by the Chairman of the information and the documents hereinafter specified or, if any further information or documents have been called for, within sixty days of the receipt of such further information or documents, the Board of

Councillors may either

(a) sanction the laying out or making of the new street, subject to such modifications or conditions as it may think fit; or

(b) disallow it for reasons which shall be communicated to the applicant in writing.

(3) If the Board of Councillors fails to issue any order under sub-section (2) within the specified period, the person giving notice shall be entitled to lay out and make the proposed street in such manner as may have been specified in the notice under sub-section (1) and in a manner not inconsistent with any provision of this Act or any rules or regulations for the time being in force.

(4) If any person, who is entitled to proceed with any work under sub-section (2) or sub-section (3), fails to carry out such work within one year from the date on which he becomes so entitled, his right to proceed with such work shall lapse.

(5) If any person lays out or makes a new street in contravention of the provisions of this section, the Chairman-in-Council shall forthwith cause the work to be stopped and may execute its order for such stoppage with the help of the police.

(6) Whoever lays out or makes any such street in any manner contrary to the provisions of this Act or of any rules or regulations made thereunder or violates any order for stoppage of work under sub-section (5) shall, on conviction, be punished with imprisonment for six months or with fine which may extend to five thousand rupees or with both, and the Chairman-in- Council may cause any street so laid out or made to be altered and any building constructed on such street to be altered or removed and the expenses thereby incurred shall be paid to the Municipality by the offender, and shall be recoverable as an arrear of tax under this Act.

193. Layout plans :-

(1) Before utilizing, selling, leasing out or otherwise disposing of any land ¹[, which has not been converted into agricultural land under Section 4C of the West Bengal Land Reforms Act, 1955] or building as plots for construction of buildings thereon, the owner thereof shall send to the Chairman a written application with a layout plan of the land showing the street or streets giving access

to the plots into which the land may be divided and connections of such street or streets with any existing public or private streets and the following particulars :

(a) the size or sizes and the number of plots into which the land is proposed to be divided for the erection of buildings thereon and the purpose or purposes for which such buildings are to be used;

(b) the land use pattern depicting reservation or allotment of any site for any street, parking lot, open space, park, recreation ground, school, market or any other public purpose;

(c) the intended level, direction and width of street or streets, including foot-paths;

(d) the arrangement for water-supply, energy supply, drainage, sanitation and conservancy as respects the plot;

(e) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewerage, draining, conserving and lighting street or streets.

(2) Within ninety days of receipt of any application under subsection (1), the Chairman-in-Council shall, after obtaining such technical views as it may deem proper, either accord approval to the layout plan on such conditions as it may think fit or disallow it or ask for further information with respect to it.

(3) Such approval shall be refused,

(a) if the particulars shown in the layout plan are in conflict with any arrangements which have been made or are likely to be made for carrying out any general scheme of development of the municipal area, whether or not such scheme is contained in the development plan or the development scheme prepared under any law in force for the time being;

(b) if the layout plan does not conform to the provisions of this Act and the rules and the regulations made thereunder; or

(c) if any street proposed in the layout plan is not so designed as to connect it at one end with a street which is already open.

(4) No person shall utilize, sell or otherwise deal with any land or layout or make any new street, nor shall any person make any construction on any plot comprised in such land without or otherwise than in conformity with the orders of approval of the

Chairman-in-Council; and, if further information is asked for, no step shall be taken to utilize, sell or otherwise deal with the land or to layout or make the street until an order has been passed by the Chairman-in-Council upon receipt of such information:

Provided that the passing of any such order shall not, in any case, be delayed for more than ninety days after the Chairman-in-Council has received such information as it considers necessary to enable it to deal with the application.

2 (5) Where the transfer of any land or building is executed before the layout plan has been approved, no plan for erection of a building within the section 197 on the said land or building shall be approved:

Provided that the Chairman may, after considering the case, by order approve the plan for erection of such building in relaxation of the provisions of this sub-section.

1. Words, figures and letter ins. by W.B. Act 32 of 1997.

2. Sub-sec. (5) subs, by W.B. Act 32 of 1997, which was earlier as under : "(5) No sale deed shall be registered under any law for the time being in force for any land governed by this section until the layout plans have been approved under this section.".

194. Lighting of streets and public places and measures for lighting :-

The Board of Councillors may

(a) take measures for lighting, in a suitable manner, such public streets and public places as may be considered necessary;

(b) procure, erect and maintain such number of lamps, lamp posts and other appurtenances as may be necessary for the purpose as aforesaid;

(c) cause such lamps to be lighted by such means as may be determined by them;

(d) place and maintain

(i) electric wires for the purpose of lighting such lamps under, over, along or across, or

(ii) posts, poles, standards, stays, struts, brackets and other contrivances for carrying, suspending or supporting lamps or electric wires in or upon, any immovable property without being

liable to any claim for compensation thereof:

Provided that such wires, posts, poles, standards, stays, struts, brackets or other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person:

Provided further that the Chairman-in-Council may, for carrying, suspending or supporting any lamps or electric wires, enter into an agreement with any firm or company or other Government agency for using, on terms and conditions mutually agreed upon, any posts, poles or standards erected and maintained by such firm, company or other Government agency.

195. Power to take measures for generation of electricity :-

(1) The Municipality may, on its own or in collaboration with any one, erect plants for generation of electric power, subject to such rules as may be made in this behalf.

(2) Notwithstanding anything contained in this Chapter, all matters relating to generation, transmission, supply or use of electrical energy in a municipal area shall be regulated by the provisions of the Indian Electricity Act, 1910.

196. Power to prohibit removal etc. of lamps :-

(1) No person shall, without the written permission of the Chairman or any lawful authority, take away or wilfully or negligently break or throw down or damage

(a) any lamp or any appurtenances of any lamp or lamp-post or lamp-iron set up in any public street or any public place;

(b) any electric wire for lighting such lamp;

(c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any electric wire or lamp.

(2) No person shall wilfully or negligently extinguish the light of any lamp set up in any public street or any public place.

(3) If any person wilfully or through negligence breaks, or causes any damage to, anything referred to in sub-section (1), he shall, in addition to any penalty to which he may be subject under this Act, pay the expenses of repairing the damage so caused by him.

CHAPTER 14

Building

197. Definitions :-

(1) In this Chapter, unless the context otherwise requires, the expression "to erect a building" means

(a) to erect a new building on any site, whether previously built upon or not;

(b) to re-erect

(i) any building of which more than one-half of the cubical contents above the level of plinth have been pulled down, burnt or destroyed, or

(ii) any building of which more than one-half of the superficial area of the external wall above the level of plinth has been pulled down, or

(iii) any frame building of which more than half of the number of posts or beams in the external walls have been pulled down;

(c) to convert into a dwelling house any building or any part of a building not originally constructed for human habitation, subsequently appropriated for any other purpose;

(d) to convert into more than one dwelling house a building originally constructed as one dwelling house only;

(e) to convert into a place of religious worship or a sacred building any place or building not originally constructed for such purpose;

(f) to roof or cover an open space between walls or buildings to the extent of the structure formed by the roofing or covering of such space;

(g) to convert two or more tenements in a building into a greater or lesser number of such tenements;

(h) to convert into a stall, shop, office, warehouse or godown, workshop, factory or garage any building not originally constructed for use as such, or to convert any building constructed for such purpose by sub-division or addition, in greater or lesser number of such stalls, shops, offices, warehouses or godowns, workshops, factories or garages;

(i) to convert a building, which, when originally constructed, was legally exempt from the operation of any building regulation contained in this Act or under any rules or regulations made under

this Act or contained in any other law for the time being in force, into a building which, had it been originally erected in its converted form, would have been subject to such building regulations;

(j) to convert into or use as a dwelling house, any building which has been discontinued as, or appropriated for any purpose other than, a dwelling house;

(k) to make any addition to a building;

(l) to close permanently any door or window in any external wall;

(m) to remove or reconstruct the principal staircase or to alter its position.

(2) For the purposes of this Act, "use group" or "occupancy" shall mean the purpose for which a building or part of a building is used or intended to be used. For the purpose of classification of a building according to occupancy, occupancy shall be deemed to include subsidiary occupancies which are contingent upon it. The classification of occupancy shall include residential, educational, institutional, assembly, business, mercantile (retail), mercantile (wholesale), industrial storage and hazardous. The principal occupancy shall be the occupancy covering more than 50 per cent of the floor area of a building. In case no single occupancy covers more than 50 per cent of the floor area of a building, the building shall be classified as "mixed use building". The classification of buildings based on principal occupancy, shall be as follows : "residential building", "educational building", "institutional building", "assembly building", "business building", "mercantile building (retail)", "mercantile building (wholesale)", "industrial building", "storage building", and "hazardous building".

198. Power of State Government to make building rules and to classify municipal areas for the purpose of application of building rules :-

(1) The State Government may make rules to provide for (a) the regulation or restriction of the use of sites for buildings, and (b) the regulation or restriction of building.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :

(a) information and plans to be submitted together with application under any of the provisions of this Chapter;

- (b) requirements of sites;
- (c) means of access;
- (d) development of land into sub-division and layout;
- (e) land use classification and uses;
- (f) open spaces, area and height limitation;
- (g) parking spaces;
- (h) requirements of parts of building plinth, habitable room, kitchen, pantry, bathroom and water closet, loft, ledge, mezzanine floor store-room, garage, roof, basement, chimney, lighting and ventilation of room, parapet, wells, septic tanks, and boundary wall;
- (i) provision for lifts;
- (j) exit requirements including doorways, corridors passageways, staircases, ramps and lobbies;
- (k) fire protection requirements including materials and designs for interior decoration;
- (l) special requirements of occupancies for residential building, educational building, institutional building, assembly building, business building, mercantile building, industrial building, storage building and hazardous building (including those for assembly, movement, parking, loading, unloading, public conveniences, water supply and vendors' plazas);
- (m) structural designs;
- (n) quality of materials and workmanship;
- (o) alternative materials, methods of design, construction and tests;
- (p) building services including electric supply, airconditioning or heating, and telephone and telex;
- (q) plumbing services;
- (r) signs and outdoor display structures;
- (s) compliance with the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 relating to land and building;

(t) compliance with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979 and such other Act or rules made thereunder as the State Government may direct;

1 (tt) special provision for buildings in the hill areas;

(u) any other matter considered necessary in relation to building activities.

(3) The State Government may by notification exempt a municipal area or a group of municipal areas as classified under section 7 from the operation of all or any of the provisions of this Chapter or of the rules made under this section.

(4) While such exemption as aforesaid remains in force in any municipal area or group of municipal areas, the State Government may make rules consistent with the provisions of this Chapter for application to such municipal area or group of municipal areas.

1. Clause (tt) ins. by W.B. Act 45 of 1994.

199. Power to regulate future construction of building in particular streets or localities :-

(1) The Board of Councillors may give public notice of its intention to declare

(a) that in any street or portion thereof specified in such notice, the elevation and construction of the frontage of all building or any classes of buildings erected or re-erected after such notice shall, in respect of their architectural features, be such as the Board of Councillors may consider suitable to the locality; or

(b) that in any locality specified in such notice, there shall be allowed the erection of only detached or semi-detached buildings or both or row-houses and that the land appurtenant to each such building shall be of an area not less than that specified in such notice; or

(c) that the division or sub-division of building plots in a particular locality shall be of a specified size; or

(d) that in any locality specified in the notice, the construction of more than a specified number of building on each acre of land shall not be allowed; or

(e) that in any street, portion of street or locality specified in such

notice, the construction of any one or more of the different classes of buildings like residential, commercial, business, assembly, mercantile, industrial, institutional, storage or hazardous building, shall not be allowed without the special permission of the Board of Councillors.

(2) The Board of Councillors at a meeting shall consider all the suggestions or objections received within a period of three months of the publication of such notice, and may confirm the declaration or may modify it; so, however, that no such modification shall extend the effect of such declaration.

(3) The Board of Councillors shall, in the manner prescribed, publish any declaration so confirmed or modified and the declaration shall take effect from the date of such publication.

(4) No person shall, after the date of publication of such declaration, erect or re-erect any building in contravention of such declaration.

(5) The Board of Councillors shall ensure that such declaration is in conformity with the provisions of any Development Plan, if in force, under the West Bengal Town and Country (Planning and Development) Act, 1979.

200. Power to prohibit change of authorised use of building

:-

(1) No person shall, without the written permission of the Chairman or otherwise than in conformity with the conditions of such permission,

(a) use or permit to be used for the purpose of human habitation any building or part thereof not originally erected or authorised to be used for such purpose;

(b) change or allow the change of the use of a building for any purpose other than that specified in the sanctioned plan;

(c) change or allow the change of the use of any building erected before the commencement of this Act contrary to the use for which such erection was originally sanctioned;

(d) convert or allow the conversion of a tenement within a building to an occupational use, other than the use intended in the original sanctioned plan, nor materially alter, enlarge or extend the

permitted use.

(2) If, in any case, such permission is given, no change of occupancy or use shall be allowed before necessary alterations or provisions have been made to the satisfaction of the Chairman and in accordance with the provisions of this Act or the rules or the regulations made thereunder or any other law for the time being in force.

(3) Any change of use made before the commencement of this Act, except in so far as such use is permissible under the provisions of the Bengal Municipal Act, 1932, shall be deemed to be an unauthorised change and shall be dealt with under the provisions of this Act.

(4) Without prejudice to any other action that may be taken against any person, whether owner or occupier, contravening any provision of this section, the Board of Councillors may levy on such person, in accordance with such scale as may be prescribed, a fine not exceeding in each case rupees one hundred per square metre per month for the area under unauthorised use throughout the period during which such contravention continues.

(5) The Chairman may, if he deems fit, order that the unauthorised use be stopped forthwith:

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

(6) Any person aggrieved by an order of the Chairman under sub-section (5) may, within thirty days from the date of the order, prefer an appeal against the order to the Board of Councillors whose decision in the matter shall be final and conclusive.

(7) Where an appeal is preferred under sub-section (6), the Board of Councillors may stay the enforcement of the order made by the Chairman under sub-section (5) on such terms and for such period as it may think fit.

(8) Save as otherwise provided in this section, no court shall entertain any suit, application or other proceeding for injunction or other relief against the Chairman or the Board of Councillors to restrain from taking any action or making any order in pursuance of the provisions of this section.

Explanation For the purposes of this Chapter, "unauthorised use" shall mean change or conversion of a building without sanction from one occupancy or use to another, such "occupancy" or "use" being for purposes, namely, residential, commercial, business, mercantile, storage, institutional, assembly and hazardous (dangerous and offensive):

Provided that any change or conversion, which is considered not to be of material significance under the rules made under this Act, shall not be deemed to be an "unauthorised use" for the purposes of this Chapter.

201. Licence to be obtained for use of premises for non-residential purposes :-

(1) No person shall use or permit to be used any premises for any of the non-residential purposes as mentioned in Schedule II without or otherwise than in conformity with a licence granted by the Chairman in this behalf on such terms and conditions as may be determined by regulations.

(2) The Board of Councillors shall determine by regulations a scale of fee to be paid for the issue of licence in respect of premises used for non- residential purposes under sub-section (1):

Provided that no such fee shall exceed five hundred rupees per month in respect of any premises.

202. Power to prevent use of premises for specified purpose in particular area for environmental reasons :-

(1) The Board of Councillors may give public notice of its intention to declare that in any area specified in the notice, no person shall use any premises for any purpose specified in the notice and for reasons stated therein.

(2) Any objection to any such notice shall be received within a period of one month from the publication of the notice.

(3) The Board of Councillors shall consider all objections received within the period as aforesaid, giving any person affected by the notice an opportunity of being heard, and may, thereupon, make a declaration in accordance with the notice published under sub-section (1), with such modifications, if any, as it may think fit.

(4) Every such declaration shall be published in the manner

prescribed and shall take effect from the date of such publication.

(5) No person shall, in any area specified in the declaration published under sub-section (4), use any premises for any purpose specified in the declaration, and the Chairman shall have the power to stop the use of any such premises by such means as he considers necessary.

(6) The Board of Councillors shall ensure that such declaration is in conformity with the provisions of any Development Plan, if in force, under the West Bengal Town and Country (Planning and Development) Act, 1979.

203. Approval of building-sites and sanction of plan for erection of buildings :-

No piece of land shall be used as a site for the erection of a building unless such site has been so approved within the prescribed period, and no building shall be erected unless a building plan has been sanctioned for such erection in accordance with the provisions of this Chapter and of the rules and the regulations made under this Act:

Provided that no price of land shall be approved for the erection of a building and no building plan shall be sanctioned unless a certificate from the competent authority, as defined in clause (d) of S.2 of the Urban Land (Ceiling and Regulation) Act, 1976, to the effect that there is no objection to the transfer of the land under sub-section (3) of section 5 of that Act, has been submitted along with the application for sanction of building plan under the rules made under this Act :

Provided further that if the competent authority as aforesaid does not issue the certificate within three months from the date of application for such certificate, it shall be presumed that the "no objection certificate" has been issued by it and no further reference to it shall be necessary.

204. Prohibition of building without sanction :-

No person shall erect or commence to erect any building or execute any specified building work, except with the previous sanction of the Board of Councillors and in accordance with the provisions of this Chapter and of the rules and the regulations made under this Act in relation to such erection of building or execution of work.

204A. Construction of building in contravention of the

provisions of the Act or the rules made thereunder :-

1

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

Explanation "Person" shall include an owner, occupier, lessee, mortgagee consultant, promoter or financier, or a servant or agent of an owner, occupier, lessee, mortgagee, consultant, promoter or financier, who supervises or causes the construction of any building or additional floor or floors of any building as aforesaid.

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

(3) Where an offence under sub-section (1) has been committed by a company every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Explanation For the purposes of this section,

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

1. Sec. 204A ins. by W.B. Act 32 of 1997.

205. Application with building plan to erect or re-erect building :-

Every person, who intends to erect or re-erect a building, shall first submit an application with a building plan in such form, accompanied by such plans and specifications, and containing such information, as may be prescribed or as may be required by the rules made under section 198 .

206. Purpose for which building to be used and conditions of validity of notice :-

(1) Every person making an application to erect or re-erect a building shall specify the purpose for which such building is intended to be used.

(2) The Board of Councillors may require that a building may not be erected or re-erected for more than one occupancy or use or contrary to such mixed uses as the Board of Councillors may, for time to time, determine consistent with the provisions of this Act or any other law for the time being in force.

207. Sanction of building plan and permission to execute work :-

(1) Within sixty days after the receipt of any application with building plan or of any information or document which the ¹[Board of Councillors] may reasonably require the applicant to furnish before deciding whether sanction shall be accorded in this regard, the ¹[Board of Councillors] shall, by written order,

(a) either accord sanction to the building plan conditionally or unconditionally and give permission to execute the work, or

(b) refuse, on one or more of the grounds mentioned in section 210 , to accord such sanction, or

(c) accord sanction but impose conditions for compliance before permission to execute the work.

(2) A building plan sanctioned under this section shall remain valid for three years from the date of such sanction, and may be renewed ³ [for such period, and on payment of such fee, as may be prescribed.]

1. Words subs, for the word "Chairman" by W.B. Act 13 of 1995.

3. Words subs, for the words "for another two years on payment of such fees as may be levied by the Boards of Councillors by regulations." by W.B. Act 16 of 2002.

208. Sanction to be deemed to have been granted if the Board of Councillors defaults in according sanction :-

If, within the period referred to in section 207 , the Board of Councillors has neither accorded nor refused to accord sanction to a building plan, nor granted permission to execute a work, less gap ¹[the applicant may appeal to the Municipality, in writing, in this regard, and if the appeal as aforesaid is not disposed of within 30 days from the date of appeal, this section,] such sanction or permission shall be deemed to have been granted; and the applicant may proceed to execute the work; so, however, that nothing in ² [* * * *] shall be deemed to have permitted the applicant to contravene any of the provisions of this Act or of the rules made under section 198 or of any rules or regulations applying to such work.

1. Words and figures ins. by W.B. Act 32 of 1997.

2. Words "this section" om. by W.B. Act 22 of 2000.

208A. Validity and duration of permission for erection or construction of structure or building under West Ben. Act 41 of 1973 :-

¹Notwithstanding anything contained in this Chapter or elsewhere in this Act or in the West Bengal Panchayat Act, 1973, permission granted under that Act for erection or construction of any new structure or building or addition to any structure or building in any area shall, upon the constitution of such area a municipal area,

(a) be deemed to have been granted under this Act, and

(b) remain valid for one year from the date of constitution of such area a municipal area ²[or for such period for which it was granted under the West Bengal Panchayat Act, 1973, whichever is greater.]

3 (c) * * * * *

1. Sec. 208A ins. by W.B. Act 13 of 1995.

2. Words and figures subs, for the words "unless the Board of Councillors, on an application made in this behalf, allows an extension of such period." by W.B. Act 16 of 2002.

3. Proviso first ins. by W.B. Act 32 of 1997, then om. by W.B. Act 16 of 2002, which was as under : "Provided that if such structure or building under the plan approved under the West Bengal Panchayat

Act, 1973, has not been constructed, either in full or in part, before the constitution of the Municipality under this Act, the plan shall be revalidated by the Municipality before the completion of the work in respect of part construction or before the commencement of the work in respect of new construction."

209. Notice to Board of Councillors before commencement of work :-

Not less than seven days before any person commences to erect or re-erect a building, the owner of the building shall send to the Chairman a written notice specifying the date on which he proposes to commence the work.

210. Grounds on which sanction may be refused :-

The sanction of a building plan may be refused on any of the following grounds :

- (a) that the approval of the building site has not been obtained as required under the provisions of this Act and the rules and the regulations made thereunder;
- (b) that the ground plan, elevation, section or specification would contravene any of the provisions of this Act or the rules or the regulations made thereunder or of any other law for the time being in force;
- (c) that the application with building plan does not contain the necessary particulars and has not been prepared in the manner as required under the rules and the regulations made in this behalf;
- (d) that any information or document required by the Board of Councillors in this behalf has not been duly furnished, and, in the cases requiring a lay-out plan under section 193 , such lay-out plan has not been sanctioned as required under this Act;
- (e) that the building or the work would be an encroachment of Government land or land vested in the Municipality;
- (f) that for the use of the building for non-residential purposes, if any, a licence for permission has not been obtained for such use as required under the provisions of this Act or any other law for the time being in force :

Provided that a provisional sanction may be given in this regard for erection or re-erection of a building which may be confirmed by final sanction upon production of necessary licence or permission from the Municipality or the Government or the appropriate

statutory body, as the case may be.

211. Period for completion of building work :-

The Board of Councillors shall, when granting permission conditionally or unconditionally to execute the work, specify a reasonable period within which the building or the work is to be completed, if the building or the work is not completed within the period so specified, it shall not be continued thereafter without fresh permission unless the Board of Councillors, on an application made in this behalf, allows an extension of such period:

Provided that the Board of Councillors may, if it considers necessary, require a modification of the building plan, for reasons to be recorded in writing, in the case of inordinate delay in completion of the work.

212. Completion certificate :-

(1) Every person submitting an application with building plan or a work to which such application relates shall, within one month after the completion of erection of such building or execution of such work, deliver or send or cause to be delivered or sent to the Municipality a notice, in writing, of such completion accompanied by a certificate in such form as may be prescribed and shall give to the Municipality all necessary facilities for inspection of such building or work.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used any building of any part thereof affected by any such work until permission has been granted by the Municipality in this behalf in accordance with the rules and the regulations made under this Act :

Provided that if the Municipality fails, within a period of thirty days of receipt of the notice of completion, to communicate its refusal to grant such permission, ¹ [such person may make a representation in writing to the Chairman, and the Chairman shall, after such inquiry as he may think fit and after giving such person an opportunity of being heard, grant such permission, or communicate his refusal to grant such permission stating the reasons therefor, within a period of thirty days from the date of receipt of the representation as aforesaid failing which] such permission shall be deemed to have been granted.

1. Words ins. by W.B. Act 16 of 2002.

213. Power in cases of buildings at corners of streets :-

(1) Notwithstanding anything contained in this Act or the rules and the regulations made thereunder or any other law for the time being in force, the Board of Councillors may, in the case of any building which is intended to be erected at the corner of two streets,

(a) refuse sanction for such reasons as may be recorded in writing; or

(b) impose restrictions on its use; or

(c) impose special conditions concerning exit to or entry from any street; or

(d) require it to be rounded off or splayed off or cut off to such height and to such extent as may be determined; or

(e) acquire whether by an agreement under section 76 or otherwise, such portion of the site at the corner as may be considered necessary for public convenience or amenity.

(2) The Board of Councillors may also require any alteration to be carried out for conformity to any of the provisions in clauses (b) to (c) of sub-section (1) in respect of any building completed before the commencement of this Act.

214. Power to prevent the use of inflammable materials for building, etc :-

(1) No roof, verandah, pandal or wall of a building or no shed or fence shall be constructed or reconstructed of cloth, grass, leaves, mats or other inflammable materials except with the written permission of the Chairman, nor shall any such roof, verandah, pandal, wall, shed or fence, constructed or reconstructed, be retained beyond a period of three months after such construction or re-construction except with the fresh permission obtained in this behalf. Every permission granted under this sub-section shall expire at the end of the period of three months for which it is granted.

(2) The Board of Councillors may regulate the use of materials, design or construction, or other practices or interior decoration in accordance with such regulations as may be made in this behalf.

215. Inspection of building or work requiring sanction :-

(1) The Chairman or any other person duly authorised by him in

this behalf may, at any time and without notice, inspect any building or work in respect of which an application with building plan has been submitted, while the work is in progress, and shall cause such inspection ¹ [on receipt of the notice] of completion or credible information regarding such completion.

(2) If, on making any inspection under sub-section (1), the Chairman or the other person as aforesaid finds that the building is being or has been erected

(a) otherwise than in accordance with the building plan as sanctioned, or

(b) in such a way as to contravene any of the provisions of this Act or the rules or the regulations made thereunder, the Chairman may, by written notice, require the owner of the building either to make such alterations within such time as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, as the case may be, or to appear before the Chairman and show cause why such alterations should not be made.

(3) If the owner does not appear and show cause under sub-section (2), he shall be bound to make the alterations specified in such notice.

(4) If the owner appears and shows cause under sub-section (2), the Chairman shall, after hearing him, either

(a) cancel the notice issued under that sub-section, or

(b) confirm the same, subject to such modifications, if any, as he may think fit.

(5) On the failure of the owner to comply with such order within the period specified therein, the Chairman may require any police officer or any employee of the Municipality to seal such area after evicting all persons, including the workmen, therefrom to prevent further work till such alterations are made.

1. Words subs, for the words "within two months of the receipt of such notice" by W.B. Act 16 of 2002.

216. Provisions of this Chapter not to apply in certain cases of additions and alterations :-

The provisions of this Chapter and the rules and the regulations made thereunder relating to erection of buildings shall not apply to

necessary repairs not involving any of the works which constitute a material addition or alteration.

Explanation An addition to, or alteration of, a building shall be deemed to be material if it

(a) increases or diminishes the height of the area covered by, or affects the cubical contents of, the building or any part thereof; or

(b) affects or is likely to affect prejudicially the stability and safety of building in respect of sewerage, drainage, ventilation, and environmental safety; or

(c) converts the building or any part thereof from one "occupancy" or "use" to another "occupancy" or "use"; or

(d) is an addition or alteration as defined in the rules and the regulations made under this Chapter.

217. Power to Board of Councillors to cancel permission on the ground of material misrepresentation by applicant :-

If, at any time, sanction or provisional sanction to erect any building has been given and the Board of Councillors is satisfied that such sanction was given in consequence of any material misrepresentation or fraudulent statement contained in the plans, elevation sections or specifications or land or any material particulars submitted in respect of such building, it may cancel such sanction, and any work done thereunder shall be deemed to have been done without sanction.

218. Order for demolition or alteration of buildings in certain cases :-

(1) If the Board of Councillors is satisfied-

(a) that the erection of any building-

(i) has been commenced without obtaining sanction or permission under the law, or

(ii) is being carried on or has been completed otherwise than in accordance with the particulars on which such sanction or permission was based, or after such sanction or permission has been lawfully withdrawn, or

(iii) is being carried on or has been completed in breach of any provision contained in this Act or in the Schedule or in any rules or

regulations in this behalf, or

(b) that any building or projection exists in violation of any condition, direction or requisition lawfully given or made under this Act or the rules or the regulations made thereunder, or

(c) that any material alteration of, or addition to, any building has been commenced or is being carried on or has been completed in breach of any provision contained in this Act or the Schedule or in any rules or regulations in this behalf, it may, after giving the owner of the building a reasonable opportunity of being heard, make an order directing that such erection, alteration, addition or projection, as the case may be, or so much thereof as has been executed unlawfully, be demolished or altered and, upon such order, it shall be the duty of the owner to cause such demolition or alteration to the satisfaction of the Board of Councillors within such period as may be fixed in this behalf. In default, such erection, alteration, addition or projection, as the case may be, may be demolished or altered by the Board of Councillors at the expense of the said owner.

(2) The procedure relating to the opportunity of hearing to be given to the owner of the building under sub-section (1) shall be such as may be prescribed.

(3) An appeal against an order made by the Board of Councillors in this behalf shall lie with the ¹[Court having jurisdiction.]

2 (4)* * * * *

(5) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Chapter, if the -Chairman-in-Council is of opinion that immediate action is necessary in respect of any building being constructed, or any work being carried on, in contravention of the provisions of this Act, it may, for reasons to be recorded in writing, cause such building or work to be demolished forthwith.

1. Words subs, for the words "Municipal Appellate Tribunal constituted under this Act." by W.B. Act 13 of 1995.

2. Sub-sec. (4) om. by W.B. Act 13 of 1995, which was as under :-
"(4) The order of the Tribunal shall be final and conclusive and shall not be questioned in any court of law."

219. Power to stop excavation :-

If, during excavation or any other operation for the purpose of

construction of any building or execution of any work, any of the underground utilities (such as electric or telephone cables, water-supply, sewerage and drainage mains, and gas pipe) is touched or is likely to be touched or if the Chairman is of opinion that such excavation may cause danger to public, he may, by a written order, stop forthwith any such excavation or other work till the matter is investigated and decided to his satisfaction.

220. Power of Chairman to stop unauthorised construction :-

(1) In any case in which the erection of a building or any other work connected therewith has been commenced or is being carried on unlawfully, the Chairman may, by written notice, require the owner or the person carrying on such erection or unlawful work to discontinue the same forthwith, pending further proceedings as respects such unauthorised construction.

(2) If any notice issued under sub-section (1) is not duly complied with, the Chairman may, with the assistance of the police or any employee of the Municipality, if necessary, take such steps as he may deem fit to stop the continuance of the unlawful work.

(3) If it appears to the Chariman that it is necessary, in order to prevent the continuation of the unlawful work, to depute any police or employee of the Municipality to watch the premises, the cost of providing the same shall be borne by the person to whom the said notice was addressed.

221. Power to require alteration of existing buildings :-

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

Provided that before making any such order, the Board of Councillors shall give a reasonable opportunity to the owner to show cause why such order should not be made.

(2) An appeal against an order made by the Board of Councillors under this section shall lie with the Municipal Appellate Tribunal constituted under this Act.

222. Maintenance of buildings :-

(1) The Board of Councillors may, for sufficient reasons, by an order require the owner or the occupier of any building, on a public or private street to keep the external parts of the building, including the roof thereof, in proper repair with lime plaster or other material or properly painted to the satisfaction of the Board of Councillors.

(2) If such owner or occupier makes persistent default in carrying out an order made in this behalf, the Board of Councillors may itself carry out the work and recover the cost thereof from the owner or the occupier of the building, as the case may be.

(3) Notwithstanding anything contained in any other law for the time being in force, the Board of Councillors may apportion the costs incurred under sub-section (1) or sub-section (2) between the owner and the occupier in such manner as it may consider just and reasonable.

(4) The Board of Councillors may create and administer a special fund for maintenance as well as improvement of buildings in any area on corporate basis in accordance with such procedure as may be prescribed.

223. Power to order demolition of buildings, dangerous, ruinous or unfit for human habitation :-

(1) Where the Board of Councillors, upon any information in its possession, is satisfied that any building is unfit for human habitation and is not capable, at a reasonable expense, of being rendered fit, it shall serve upon the owner of the building and upon any other person having an interest in the building, whether as lessee, mortgagee or otherwise, a notice to show cause within such time as may be specified in the notice as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under sub-section (1) appears, in pursuance thereof, before the Board of Councillors and gives an undertaking that such person shall, within a period specified by the Board of Councillors, execute such work of improvement in relation to the building as will, in the opinion of the Board of Councillors, render the building fit for human habitation or that the building shall not be used for human habitation until the Board of Councillors, on being satisfied that it has been rendered fit for human habitation, cancels the

undertaking, the Board of Councillors shall not make an order of demolition of the building.

(3) If no such undertaking as is referred to in sub-section (2) is given or if, in a case where any such undertaking has been given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is used in contravention of the terms of the undertaking, the Board of Councillors shall forthwith make an order of demolition of the building requiring that the building shall be vacated within such period, not being less than sixty days from the date of the order, as may be specified in the order, and demolished within ninety days after the expiration of that period.

(4) Where an order of demolition of a building under this section has been made, the owner of the building or any other person having an interest shall demolish the building within the period specified in the order, and if the building is not demolished within such period, the Board of Councillors shall demolish the building and sell the materials thereof.

(5) Any expenses incurred by the Board of Councillors under sub-section (4), which cannot be met out of the proceeds of sale of materials of the building, shall be recovered from the owner of the building or any other person having an interest therein as an arrear of tax under this Act.

(6) In determining, for the purposes of this section, whether a building is unfit for human habitation, regard shall be had to its condition in respect of the following matters, that is to say,-

(a) repair;

(b) stability;

(c) freedom from damp;

(d) natural light and air;

(e) water supply;

(f) drainage and sanitary conveniences;

(g) facilities for storage, preparation and cooking of food and for the disposal of rubbish, filth and other polluted matter;

(7) For the purpose of this section, "work of improvement" in

relation to a building shall include any one or more of the following works, namely :-

- (a) necessary repairs ;
- (b) structural alterations;
- (c) provision of light points and water taps;
- (d) construction of drains, open or covered;
- (e) provision of latrines and urinals;
- (f) provision of additional or improved fixtures and fittings;
- (g) opening up or paving of courtyard;
- (h) removal of rubbish, filth and other polluted and obnoxious matter;
- (i) any other work, including the demolition of any building or any part thereof, which, in the opinion of the Board of Councillors, is necessary for executing any of the works specified in clauses (a) to (h).

224. Power to fix lamps, brackets, etc. to buildings :-

The Board of Councillors may erect or fix to the outside of any building, brackets for lamps to be lighted with oil or, subject to the provisions of the Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or, subject to the provisions of the Indian Telegraph Act, 1885, for telegraph wires or telephone wires or wires for the conduct of electricity for locomotive purposes. Such brackets shall be so erected or fixed as may not occasion any inconvenience or nuisance to the occupants of the said building or of any other building in the neighbourhood or to the public.

225. Powers to make regulations regarding buildings :-

(1) The Board of Councillors may make regulations, consistent with the provisions of this Act and the rules made by the State Government thereunder.

(2) Such regulations may supplement the provisions of this Act and the rules as aforesaid on the following matters, namely:-

- (a) plans, specifications and other documents or particulars to be furnished with any application for building plan;
- (b) alteration or addition of any specific description, not falling

within the scope of the provisions of this Chapter;

(c) fees in accordance with such scale for plans, specifications, and information as are not otherwise provided for;

(d) type or description of building which, and the purposes for which a building, may or may not be erected in any specified area or areas;

(e) licensing of builders, surveyors and plumbers for erection of buildings as well as fees to be paid by builders, surveyors and plumbers for obtaining such licence and the qualifications to be possessed by them for the purposes of this Act;

(f) precautions to be taken during construction of a building, including scaffolding, fencings and storing of materials;

(g) materials and method of construction to be used for external party-walls, roofs and floors;

(h) materials and method of construction of fireplace, chimneys, drains, privies, urinals and cesspools;

(i) ventilation and flushing of drains, latrines, urinals and cesspools, and the provision of access thereto from streets, and where a sewerage system has been provided, the connection of service privies with a sewer and the method of connection;

(j) the proportion of any building-site, which shall not be built over, the amount of space to be left at the sides and back of any building and the areas of courtyards in proportion to the floor area of rooms abutting thereon;

(k) height of any building or portion of a building in relation to the width of the street or streets on which it abuts;

(l) width of foundation, height of plinth, and stability of structure;

(m) minimum floor area, minimum height and ventilation of rooms used or intended to be used for human habitation; and any other matter affecting the ventilation or sanitation of the building;

(n) regulation by specific rules of special classes of buildings, taking fire safety and health safety into account;

(o) laying out of huts in a bustee in accordance with alignment lines, prescribed and demarcated on the grounds;

- (p) distance to be kept open between huts and alignment lines;
- (q) special provisions for buildings above 13.5 metres in height, taking construction safety, circulation space, and fire escape into account;
- (r) greenery, beautification and landscaping to be provided in erection of a building;
- (s) regulating in any manner not specifically provided for in this Act the erection of any enclosure, wall, fence, tent, awning or other structure, of whatever kind or nature on any land within the limits of a municipal area;
- (t) special rules for buildings which are used or intended to be used as storage buildings, institutional buildings, congregational buildings, industrial buildings or hazardous buildings to the extent not specifically provided for in this Chapter or in the Schedules or in the rules made under this Act.

CHAPTER 14A

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225A. . :-

1 * * * * * *

1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or ooeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee. 225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the

recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council. is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors. 225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed. 225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building

to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent. 225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality

considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition.

225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site.

225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site.

225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine.

225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to

acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site.

225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act.

225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or

causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225B. . :-

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1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or oeeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee. 225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council. is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors. 225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed. 225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of

the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting.

225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis.

225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken.

225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and

with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality.

225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality.

225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent.

225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition.

225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site.

225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The

agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site.

225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not. willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine.

225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site.

225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may. with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act.

225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and. in default, with further rigorous imprisonment for six months. (2) Any court convicting any person

under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225C. . :-

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1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or oeeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything

contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee.

225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council, is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors.

225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed.

225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting.

225E. Powers

and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on

sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent.

225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition.

225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site.

225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site.

225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine.

225N. Taking over management and control of heritage building or site

(1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site.

225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act.

225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in subsection (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or

other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225D. . :-

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1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or ooeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee. 225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council. is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors. 225C. Gradation of heritage building The gradation of a heritage building

according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed. 225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the

West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent. 225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of subsection (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition. 225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment

or rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site. 225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site. 225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not. willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine. 225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site. 225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may. with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act. 225P.

Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and. in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

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change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee.

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225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed.

225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-

Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality.

225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent. 225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of subsection (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition. 225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site. 225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site. 225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management

and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine. 225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site. 225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act. 225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-

section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225F. . :-

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1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or oeeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee. 225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council. is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site :

Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors. 225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed. 225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made

thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent. 225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the

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225G. . :-

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to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal

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225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site; (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or

site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site. 225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not. willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine. 225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site. 225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may. with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act. 225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and. in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for

the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225H. . :-

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1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or oeeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager

or trustee. 225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council. is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors. 225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed. 225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of

building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent.

225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition.

225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site.

225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site.

225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine.

225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation

thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site.

225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act.

225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in subsection (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in

the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225I. . :-

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addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting.

225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply *mutatis mutandis*.

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thousand rupees and. in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

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conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee.

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225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed.

225D. Heritage Conservation Committee. (1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site,

provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a

heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent.

225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition.

225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site.

225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site.

225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms

and conditions as the Chairman-in-Council may determine. 225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site. 225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act. 225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in subsection (3), where an offence under this section has been committed by a company and it is proved that the offence has been

committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

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1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or oeeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee. 225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council. is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage

without the prior approval of the Board of Councillors. 225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed. 225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for

the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken.

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receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine. 225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site. 225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act. 225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of

the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225M. . :-

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1. Chapter XIVA containing secs. 225A to 225Q first ins. by W.B. Act 22 of 2000, then om. by W.B. Act 16 of 2002. Chapter XIVA with its secs, is as follows:- CHAPTER 14A Preservation and Conservation of Heritage Buildings 225A. Owner to maintain, preserve and conserve heritage building or site Every owner or ooeupier of any heritage building or site declared as such by the Municipality shall maintain, preserve and conserve it and shall not change its use in contravention of the provisions of this Act or the rules or the regulations made thereunder for its maintenance, preservation or conservation. Explanation I The word "maintain", with its grammatical variations and cognate expressions, shall include fencing, covering, repairing, restoring or cleansing, or doing of any act which may be necessary for the purpose of preserving or conserving, of, or securing convenient access to, a heritage building or site. Explanation II "Owner" shall, notwithstanding anything contained elsewhere in this Act, include, for the purposes of this chapter (a) a joint owner of a heritage building or site vested with the power of management thereof on behalf of himself and any other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee. 225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council. is of the opinion that any building or site in the municipal area should be preserved and conserved for

historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors. 225C. Gradation of heritage building The gradation of a heritage building according to its historical, architectural, environmental or cultural purpose shall be such as may be prescribed. 225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting. 225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor,

facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent. 225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-

section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition. 225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site. 225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site. 225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine. 225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any

person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site.

225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act.

225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in subsection (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

225N. . :-

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shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting.

225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis.

225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken.

225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage

building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality.

225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality.

225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent.

225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition.

225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site.

225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage

building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site. 225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine. 225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site. 225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act. 225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a

continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

2250. . :-

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other joint owner, or successor-in-title of any such joint owner; or (b) a manager, or trustee, vested with the power of management of a heritage building or site, or successor-in-office of such manager or trustee.

225B. Power of Municipality to declare a building or site as a heritage building or site. Where the Municipality, on the recommendation of the Heritage Conservation Committee and also of the Chairman-in-Council, is of the opinion that any building or site in the municipal area should be preserved and conserved for historical, architectural, environmental or cultural purpose, it may declare such building or site as a heritage building or site : Provided that during the period when any proposal for declaring a building or site as a heritage building or site is under consideration of the Heritage Conservation Committee or the Chairman-in-Council, no owner of such building or site, or no lessee or sub-lessee to whom such building or site has been leased out, shall transfer such building or site by way of sale, lease or mortgage without the prior approval of the Board of Councillors.

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225D. Heritage Conservation Committee.(1) The Chairman-in-Council shall constitute a Committee to be called the Heritage Conservation Committee with the Chairman as its Chairman and an officer of the Municipality as its Convenor. (2) The Committee shall have, in addition to the Chairman and the Convenor, seven other members of whom- (a) one shall be a nominee of the District Magistrate of the district, (b) one shall be a nominee of the Director of the Department of Archaeology, Government of West Bengal, (c) one shall be an eminent architect, (d) one shall be an artist, (e) one shall be an environmentalist, (f) one shall be a historian, and (g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate. (3) The Committee may co-opt one person to be nominated by the concerned department of the State Government while dealing with any land or building under the management of the said department. (4) The Committee shall, in accordance with the provisions of this Act and the rules and the regulations made thereunder, scrutinize every application or proposal for declaration of a building or site as a heritage building or site, and recommend to, and also advise, the Chairman-in-Council in respect of the preservation and conservation of such building or site as a heritage building or site. (5) The Committee shall meet at such periodical interval as may be determined by the Chairman-in-Council. (6) The Chairman shall, in the case of emergency, take such measures as may be necessary for the preservation and conservation of a heritage building or site, provided that such measures shall be required to be approved by the Heritage Conservation Committee at its meeting.

225E. Powers and functions of Heritage Conservation Committee The Heritage Conservation Committee shall have the power to function independent of the Board of Councillors for the purpose of

preservation, conservation and maintenance of heritage buildings in so far as such power does not offend any other provisions of this Act or the rules made thereunder relating to construction or use of building : Provided that for erection or re-erection in a heritage building or part thereof, or for restoration of any heritage building to its old shape, design or beauty in the case of unlawful demolition, or for making any change of internal or external wall, structural pattern, floor, roof, interior or exterior architectural floor, facade or skyline, or for any other change, of a heritage building, the provisions of chapter XIV of this Act and the rules made thereunder shall apply mutatis mutandis. 225F. Power of Municipality to require, purchase or take on lease heritage building or site Subject to the other provisions of this Act, the Municipality may acquire, purchase or take on lease any heritage building or site for the purpose of preservation and conservation thereof : Provided that in the case of a heritage building or site declared as such for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, the approval of the concerned department of the State Government shall be taken. 225G. Transfer of right of development for the purpose of acquisition by agreement When the owner of any heritage building or site is not willing to preserve or conserve any heritage building or site, the Chairman may, for the purpose of acquisition of such heritage building or site by agreement and on the recommendation of the Heritage Conservation Committee and with the approval of the Chairman-in-Council, allow the transfer of right of development of such heritage building or site, which shall be heritable and transferable, to the owner of such heritage building or site in such manner, and subject to such conditions, as may be prescribed. Explanation I "Development" shall have the same meaning as in clause (7) of section 2 of the West Bengal Town and Country (Planning and Development) Act, 1979. Explanation II "Right of development" in relation to a heritage building or site shall mean the right of development, in the prescribed manner, of such potentials as may be available in respect of such heritage building on a plot of land or such site different from the land and building comprising the heritage building or from the site but in the same ward of the Municipality. 225H. Right of access to heritage building or site acquired by Municipality Subject to such rules or regulations as may be made under this Act, every person shall have the right of access to any heritage building or site acquired by the Municipality. 225I. Sub-lease of heritage building or site The Municipality shall have the right to allow the transfer of right of development to the lessee of a heritage building or site where the unexpired period of the term of lease is for 90 years, and to take the heritage building or site on sub-lease by agreement, if there is provision for such sub-lease in the deed executed between the owner and the lessee, provided that the question of payment of premium or rent in such case to

the owner shall not, notwithstanding any agreement in this behalf, arise, and if the owner as confirming party to the agreement waives the right to receive any further payment of such premium or rent.

225J. Permission of concerned department of State Government before acquisition of heritage building or site If the Municipality considers that it is necessary to acquire any building or site as a heritage building or site for the purpose of preservation and conservation as required under sub-clause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979, by agreement or under the Land Acquisition Act, 1894, permission of the concerned Department of the State Government shall be taken before such acquisition.

225K. Power to exempt rates and taxes, etc. on heritage building or site If the owner of a heritage building or site enters into an agreement with the Municipality to maintain, preserve and conserve such heritage building or site properly at his own expenses, the Municipality may, in such case, exempt wholly or partly the owner of such heritage building or site from payment of rates or taxes or fees for supply of water or any other charges in respect of such heritage building or site.

225L. Agreement with owner of heritage building or site pending acquisition (1) The Chairman may, pending acquisition of a heritage building or site by the Municipality under this Act and with approval of the Chairman-in-Council, propose to the owner of such heritage building or site to enter into an agreement with the Municipality for a specified period for the maintenance of such heritage building or site. (2) The agreement as aforesaid may provide for all or any of the following matters:- (a) maintenance of the heritage building or site by the owner or by any other person willing to maintain the said heritage building or site: (b) custody of the heritage building or site and the duties of the person who may be employed to watch it; (c) the restrictions on the owner's right- (i) to use the heritage building or site for any other purpose detrimental to its conservation, (ii) to charge any fee for entry into, or inspection of, the heritage building or site, and (iii) to build on or near the site of the heritage building or site.

225M. Voluntary contribution and agreement with any voluntary organisation, person or company (1) the Chairman may receive voluntary contributions towards the cost of maintaining any heritage building or site and may give order as to the management and application of such contributions for the purpose of preservation and conservation of such heritage building or site. (2) Subject to the approval of the Chairman-in-Council, the Chairman may enter into any agreement with any person or voluntary organisation or company, whether incorporated or not, willing to preserve and conserve any heritage building or site on such terms and conditions as the Chairman-in-Council may determine.

225N. Taking over management and control of heritage building or site (1) If the Chairman, on receipt of any information, is satisfied that the owner of a heritage building or site fails to preserve or conserve the heritage building or site, the Chairman may, when the heritage

building or site is vacant and after hearing the owner, by order in writing, take over the management and control of such heritage building or site for the purpose of preservation and conservation thereof, suspending the right of the owner to transfer such heritage building or site for a maximum period of five years, subject to acquisition either by agreement or under the provisions of the Land Acquisition Act, 1894. (2) The Chairman shall thereafter notify the heritage building or site for letting it out by agreement to any person as tenant for the purpose as aforesaid, and the owner shall be entitled to an amount equal to the reasonable letting value of the heritage building or site as rent less the cost on account of preservation and conservation of the heritage building or site.

225O. When heritage building or site ceases to be heritage building or site If the Municipality decides that any heritage building or site has ceased to be of public interest or has lost its importance for any reason whatsoever, it may, with the approval of the State Government, declare that such heritage building or site has ceased to be a heritage building or site for the purposes of this Act.

225P. Penalty (1) Any person who destroys, removes, alters defaces or misuses any heritage building or site or does any act, or abets in the commission thereof, in contravention of any provision of this chapter or the rules or the regulations made thereunder, shall be punishable with rigorous imprisonment for a term which may extend to three years and also with fine which may extend to fifty thousand rupees and, in default, with further rigorous imprisonment for six months. (2) Any court convicting any person under this section shall, by order, direct such person to restore the heritage building or site to its former shape and beauty at his cost, and any failure to comply with such order shall be deemed to be a continuing offence and such person shall be punishable with an additional fine of rupees two hundred and fifty for every day during which such contravention or failure continues after conviction for the first such contravention. (3) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly : Provided that nothing contained in this subsection shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. (4) Notwithstanding anything contained in subsection (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation For the purposes of this section (a) "company" means any body corporate and includes a firm or other association of individuals: (b) "director" in relation to a firm means a partner in the firm; and (c) "person" shall include an owner, occupier, lessee, mortgagee, consultant, promoter or financier who supervises or causes erection, destruction, removal, defacement or misuse of any heritage building or site.

PART 6

CIVIC SERVICES

CHAPTER 15

Water-supply

226. The Municipality to provide water-supply :-

(1) It shall be the duty of every Municipality to provide a supply of wholesome water for the domestic use of the inhabitants.

(2) The supply of water for domestic and non-domestic uses may be charged for at such scale of fee, or price, as may be prescribed:

1 Provided that in the case of Water Supply Projects, implemented in any municipal area with external aid or on joint venture basis or through private participation, the Municipality may make regulations fixing fees for supply of water and other allied matters associated with the project, as may be necessitated by the terms and conditions of the project.

(3) The Board of Councillors, for the purpose of measuring or recording the quantity of water consumed, may provide for devices of attachment of meter in the premises or adopt a system of calculation by the size or number of ferrules through which the supply is made or any other method of measurement or recording in such manner and in accordance with such procedure as may be prescribed.

1. Proviso ins. by W.B. Act 13 of 2003.

227. Public tanks, sub-soil water, etc., to vest in the Municipality :-

(1) All public tanks, reservoirs, cisterns, wells, tube-wells, aqueducts, conduits, tunnels, pipes, taps and other water-works, whether made, laid or erected at the cost met from the Municipal Fund or otherwise, and all bridges, buildings, engines, works, materials, and things, connected therewith or appertaining thereto, and any adjacent land (not being private property) appertaining to

any public tank, which is situated within the municipal area, shall vest in the Municipality.

(2) All rights over the sub-soil water resources within a municipal area shall vest in the Municipality.

228. Construction of water-works :-

(1) Subject to the approval of the State Government, the Board of Councillors may, either singly or jointly with any other Board of Councillors or local authority, within or without a municipal area, undertake construction of water-works and operate, manage or maintain any water-works intended to serve the inhabitants of the municipal area.

(2) Whenever the State Government has approved any work outside the limits of municipal area, the Board of Councillors may exercise all the powers for construction, maintenance and repair throughout the line of the country in which such work is situated or through which it is to run, as if such work is situated within the municipal area.

229. Power to lay or carry pipes through public or private land :-

The Board of Councillors may lay or carry any water-main or service-main or any pipe or channel of any kind for the purpose of providing or carrying out or maintaining a system of water-supply on, across, under or over any street or public place, and after giving a reasonable notice of not less than a month to the owner or the occupier, across, under or over any street or public place, and after giving a reasonable notice of not less than a month to the owner or the occupier, across, under or over any private land or building whatsoever, situated within the limits of a municipal area, may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such pipe or channel, as the case may be, in an effective state for the purpose for which such pipe or channel, as the case may be, may be used or intended to be used :

Provided that in the case of sudden water-logging of any area within a municipal area, the Board of Councillors may, if it considers it necessary so to do in the interest of public health and convenience, take such action as is necessary under this sub-section for draining out the water across, under, over or up the side of any land or building within a municipal area without prior service

of any notice on the owner or the occupier of such land or building
:

Provided further that a reasonable compensation shall be paid to the owner or the occupier for any damage at the time sustained by him through, or in consequence of, any such operation.

230. Control of constructions on land through which water-main etc. passes :-

No building or private street shall be constructed over any municipal water-main or service-main, except with the written permission of the Board of Councillors which may impose such conditions for such construction as it may deem fit.

231. Power to permit connection to houses and lands :-

(1) Subject to such conditions and restrictions as may be prescribed and such terms as the Chairman-in-Council may, from time to time, determine, the Chairman-in-Council may, on the application of the owner or the occupier of any house or land in respect of which property tax is paid, make or cause or permit to be made communication or connection from any main, service-main or distribution pipe, belonging to the Municipality or from any channel maintained, owned or vested in the Municipality.

(2) The Chairman-in-Council may require the amount necessary for the execution of any work under this section and other charges or fees, if any, to be paid or deposited before such work is executed by it.

232. Power to require water supply to be taken :-

1

(1) If, at any time, it appears to the Chairman-in-Council that any building or land in the require-Municipal area is without a proper supply of wholesome water, the Chairman may, by written notice, require the owner or the lessee or the occupier of the building or the land or any person having any interest therein, as the case may be, to obtain from municipal water-mains such quantity of water as may be adequate for the requirement of the person usually occupying or employed upon the building or the land, and provide connection pipes of such size, materials and description, and take such necessary steps for the purpose, as may be provided by regulations within such period as may be specified in the notice.

(2) On receipt of the written notice under sub-section (1), the

owner or the lessee or the occupier of the building or the land, or the other person having an interest therein, as the case may be, shall-

(a) obtain from the municipal water-mains such quantity of water as may be adequate for the requirement of the persons usually occupying in, or employed upon, the building or the land, as the case may be, and

(b) provide connection pipes of such size, materials and description and take such necessary steps for the purpose, as may be provided by regulations, within such period as specified in the notice.

(3) If the owner or the lessee or the occupier of the building or the land or the other person, as the case may be, having an interest therein, does not comply with the notice within the period specified therein, the Board of Councillors shall -

(a) obtain from the municipal water-mains such quantity of water as may be adequate for the requirement of the persons occupying in, or employed upon, the building or the land, as the case may be, and

(b) provide connection pipes of such size, materials and description and take such necessary steps for the purpose, as may be provided by regulations, and the cost incurred therefor by the Board of Councillors shall be recovered from the owner or the occupier of the building or the land or the other person having an interest therein, as the case may be, as an arrear of tax under this Act.

1. Sec. 232 subs, by W.B. Act 16 of 2002, which was earlier as under :- "232. Power to require water-supply to be taken If, at any time, it appears to the Chairman-in-Council that any building or land in the municipal area is without a proper supply of wholesome water, the Chairman may, by written notice, require the owner or the lessee or the occupier of the building or the land, as the case may be, to obtain from municipal water-mains such quantity of water as may be adequate for the ment of the persons usually occupying or employed upon the building or the land, and provide communication pipes of such size, materials and description, and take such necessary steps for the purpose, as may be provided by regulations."

233. Water supply through hydrants, stand-posts and other conveniences :-

(1) The Chairman-in-Council may erect hydrants or stand- posts for

supply of wholesome water to the public within a municipal area.

(2) The Board of Councillors may, by regulation provide for safety, maintenance and use of such public hydrants or stand-posts; or it may place

(3) The Board of Councillors may fix hydrants on water-mains at such places as may be most convenient for affording a supply of water for extinguishing any fire in the locality and denote the situation of every such hydrant with marks or figures prominently displayed on any convenient structure near such hydrant :

Provided that on deposit of requisite expenses by any owner or occupier of any factory, workshop, trade premises or place of business situated in or near a street in which a water main is laid, the Board of Councillors shall fix such hydrants to be used only for extinguishing fire.

(4) The operation and maintenance of hydrants for extinguishing fire shall be in accordance with such procedure as may be prescribed.

234. Vesting of private connections to premises in the Municipality :-

(1) All private connections of premises to the mains of a Municipality for the supply of water thereto and all pipes, taps, and other fittings used for such supply shall be made, maintained and regulated in the manner prescribed.

(2) The Municipality may, if it things fit, take charge of all communication-pipes and fittings of any existing private service connected with water-supply system within a municipal area up to and including the stopcock nearest to the doorstep of the concerned premises and such communication-pipes and fittings shall thereafter vest in, and shall be maintained at the expenses of, the Municipality as part of the water-works of the Municipality.

235. Owner to bear expenses of repairs of works connected with the supply of water :-

Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expenses of repairs of all works connected with the supply of water thereto and, if he fails to do so, ¹ [the occupier may give to the owner and the Chairman three days' notice in writing in such form as may be approved by

the Municipality, and if the Municipality fails to get the repairs of all works done connected with the supply of water to the premises within three days from the date of receipt of the notice, the occupier may] himself have the repairs done and deduct the expenses for such repairs from any rent due from him to the owner in respect of such premises.

1. Words subs, for the words "the occupier may. after giving the owner and the Chairman three days' notice in writing in such form as may be approved by the Municipality." by W.B. Act 16 of 2002.

236. Permission to person outside the municipal area to take water :-

The Board of Councillors may, with the sanction of, and on such terms as may be approved by, the State Government, supply water to a local authority or other person outside the municipal area.

237. Power to State Government to take control over imperfect, inefficient or unsuitable water-works etc :-

(1) If, at any time, it appears to the State Government that any water-works executed by, or vested in, the Board of Councillors, are maintained or run in an imperfect, inefficient or unsuitable manner, the State Government may, by order, direct the Board of Councillors or other local authority to show cause within the period specified in the order as to why the water-works with all plants, fittings and appurtenances thereof should not be handed over to the control and management of any other agency belonging to the State Government or any statutory body for such period as the State Government may fix.

(2) If no cause is shown to the satisfaction of the State Government within the period specified in the order under sub-section (1), the State Government may, by order, direct that the water-works with all plants, fittings and appurtenances thereof shall be made over to such agency or statutory body as the State Government may fix, and for such period, and on such terms and conditions, as the State Government may determine.

238. Water not to be wasted :-

(1) No person, being the occupier of any premises to which water is supplied by the Board of Councillors under this Chapter, shall, on account of negligence or other circumstances under the control of the said occupier, allow the water to be wasted, or allow the pipes, works or fittings for the supply of water in his premises to be out of

repair causing thereby waste of water.

(2) No person shall unlawfully flood, draw off, divert or take water from, any water-works belonging to, or under the control of, the Board of Councillors, or from any water-course or stream by which such waterworks are supplied.

(3) Any person, who contravenes the provisions of this section, shall be liable to such fine imposed by the Board of Councillors, not exceeding three hundred rupees, as may be prescribed.

239. Power to cut off or to turn off supply of water to premises :-

(1) Notwithstanding anything contained in this Chapter, the Chairman-in-Council may cut off the connection of water-supply to any premises, or may turn off such supply, in any of the following cases, namely :-

(a) if the premises are unoccupied or prohibited for human habitation; or

¹(aa) if, in respect of the premises, any taxes or rates or fees or charges are in arrear for payment for more than one year; or

(b) if, after receipt of a written notice from the Chairman requiring him to refrain from so doing, the owner or the occupier of the premises continues to use the water or permit the same to be used in contravention of the provisions of this Act or the rules or the regulations made thereunder; or

(c) if any pipe, tap, works or fittings connected with the supply of water to the premises be found, on examination by any officer of

(d) if there is any water-pipe situated within the premises to which no tap or other efficient means of turning the water off is attached; or

(e) if, by reason of a leak in the service-pipe or the fittings, damage is caused to the public street and immediate prevention is necessary:

Provided that no action under clause (a) ² [or clause (aa)] or clause (b) shall be taken without giving a notice of not less than three days to the owner or the occupier, as the case may be.

(2) The expenses of cutting off the connection or of turning off the

water and of restoring the same, as determined by the Chairman-in-Council in any case referred to in sub-section (1), shall be paid by the owner or the occupier of the premises.

(3) No action taken under, or in pursuance of, this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

1. Clause (aa) ins. by W.B. Act 13 of 1995.

2. Words, letters and brackets ins. by W.B. Act 13 of 1995.

240. Digging of wells etc. without permission prohibited :-

(1) No new well, tube-well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission, in writing, of the Chairman-in-Council.

(2) If any such work is begun or completed without such permission, the Chairman-in-Council may-

(a) by written notice require the owner or the other person who has done such work to fill up or demolish such work; or

(b) grant permission to retain such work or portion thereof on such terms and conditions as the Chairman-in-Council may consider fit to impose.

241. Power to set apart wells, tanks etc. for drinking, culinary, bathing and washing purposes :-

The Board of Councillors may, by order published at such places as it thinks fit, set apart any tank, well, spring or water-course or any part thereof, vested in it or, by an agreement with the owner thereof, any private tank, well, spring or water-course or part thereof, subject to any rights which the owner may retain with the consent of the Board of Councillors, for any of the following purposes, namely :-

(a) for the supply of water exclusively for drinking or for culinary purposes or for both, or

(b) for the purpose of bathing, or

(c) for washing animals or clothes, or

(d) for any other purpose connected with the health, cleanliness or comfort of the inhabitants,

242. Analysis of water for drinking or culinary purposes :-

The State Government may make rules to provide for the proper analysis of the water of any water-works, tank, well, spring or any water-course or other source, unused or likely to be used for drinking or culinary purposes in any municipal area and, in particular, may require the Chairman-in-Council to take samples of water in the manner prescribed and make it over at such time and place, and to such person or persons, as the State Government may appoint in this behalf.

243. Power to make rules :-

The State Government may make rules to provide for-

- (a) the preparation of plans and estimates for water-works or for introduction of a public distribution net-work;
- (b) the power of the Board of Councillors or the State Government to accord sanction to such plans and estimates;
- (c) the publication of the particulars and the nature of any water-work or scheme, its cost, and the manner in which it is to be financed and carried out;
- (d) the size and nature of water-works, mains, service-mains, pipes or channels to be constructed or laid by the Board of Councillors for the supply of water;
- (e) the maintenance of municipal water-works and of pipes and fittings in connection therewith;
- (f) the size and nature of the stand-posts or pumps to be erected by a Municipality and of the ferrules and all pipes, stand-pipes, stopcocks, taps, hydrants and other fittings, whether within or outside any premises, that may be necessary for the regulation of the supply and use of water;
- (g) the mains or pipes in which fire plugs are to be fixed and the places at which keys of the fire plugs are to be deposited;
- (h) the periodical analysis by a qualified analyst of the water supplied by a Municipality ;
- (i) the conservations of, and the prevention of injury or contamination to, sources and means of water supply and appliances for the distribution of water, whether within or without the limits of a municipal area;
- (j) the manner in which connections with water-works or supply-

system shall or may be constructed, altered or maintained, the fees to be levied for such connections and the person by whom they shall be paid, and the agency to be employed for such construction, alteration or maintenance;

1 (k) the rates at which the charges for water supplied for domestic purposes and for various non-domestic purposes may be levied by the Board of Councillors and the use, maintenance and testing of meters and ferrules;

(l) the regulation of all matters and things connected with the supply and use of water, and the turning on, and turning off, and preventing the waste, of water; and

(m) any other matter relating to the supply of water in respect of which this Act or any other law for the time being in force makes no provision or makes insufficient provision and further provision is, in the opinion of the State Government, necessary.

1. Clause(k) subs, by W.B. Act 8 of 2004, which was earlier as under :- "(k) the rates at which the charges for water supplied in excess of the prescribed quota for domestic purposes and for water supplied for various non-domestic purposes may be levied by the Board of Councillors and the use. maintenance and testing of meters and ferrules:".

244. Power to make regulations :-

The Board of Councillors may make regulations, not inconsistent with the provisions of this Act and the rules made thereunder for carrying out the purposes of this Chapter.

CHAPTER 16

Drainage and sewerage

245. The Municipality to provide drainage, sewerage, etc :-

The Municipality shall provide and maintain a system of drainage or sewerage as well as safe and sufficient outfall in or outside the municipal area.

246. Public drains, trunk-sewers etc. to vest in the Municipality :-

(1) All public drains, and all drains in, alongside, or under any public street, whether made out of Municipal Fund or otherwise, and all trunk-sewers, sewage treatment plants, drainage and pumping stations and all works, materials and things appurtenant to the drainage system, which are situated within the municipal

area, shall vest in the Municipality.

(2) For the purpose of enlarging, deepening or otherwise repairing or maintaining any drain as aforesaid, so much of the sub-soil appertaining to the drain as may be necessary shall be deemed to vest in the Municipality.

(3) The Municipality may, with the approval of the State Government, make over the trunk-sewers, sewage treatment plants, pumping stations and other materials and things appurtenant thereto to any agency belonging to the Government or a statutory body, and it shall be lawful for such agency to exercise control over all such items for their maintenance and development.

247. Control of Board of Councillors over drainage :-

(1) All drains, sewers, privies, water-closets, toilets, 'house-gullies, gutters and cesspools within the municipal area, whether private or public, shall be under the survey and control of the Board of Councillors.

(2) All covered drains, sewers and cesspools, whether public or private, shall be provided with proper taps, coverings or other means of ventilation; and the Chairman may, by written notice, call upon the owner of any such covered drains, sewers and cesspools to make provision accordingly.

248. Cleaning of drains :-

The Chairman-in-Council shall provide for the municipal drains to be cleansed, flushed and emptied from time to time.

249. Provision for treatment and disposal of sewage :-

The Chairman-in-Council may, for the purpose of receiving, treating, storing, disinfecting, distributing, or otherwise disposing of, sewage, construct, operate, maintain, develop and manage any plant or other device within or outside the municipal area.

250. Construction or maintenance of drainage and sewerage systems etc :-

Subject to the sanction of the State Government and the rules made in this behalf, the Board of Councillors, either singly or jointly with any other local authority, may, within or without a municipal area,-

(a) construct or maintain a system of drainage, sewers, drainage or sewage outfall, sewage treatment plants or devices, drainage and

pumping stations, or

(b) from time to time, alter the size and course of, or otherwise modify or discontinue, close up or remove, the system of drainage, sewers, drainage or sewage outfall, sewage treatment plants or devices, drainage and pumping stations.

251. Power of Board of Councillors to lay or carry pipes through private and public land :-

The Board of Councillors may carry any drain, sewer or channel of any kind for the purpose of establishing or maintaining a system of drainage or sewerage upon, across, under or over any street or public place and, after giving a reasonable notice in writing to the owner or the occupier, upon, across, under, over or up the side of any private land or building whatsoever, situated within the limits of a municipal area, and, for the purpose of the outfall of sewage, or for drainage outfall, 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 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 in the case of sudden water-logging of any area within a municipal area or any nuisances, the Chairman-in-Council may, if considered necessary so to do in the interest of public health and convenience, take such action as is necessary for draining out the water upon, across, under, over or up the side of any private land or building within a municipal area without prior service of any notice on the owner or the occupier of such land or building :

1 Provided further that a reasonable compensation shall be paid to the owner or the occupier of such private land or building for any damage sustained by him in consequence of any act or thing done by the Board of Councillors or any action taken by the Chairman-in-Council under this section.

1. Proviso ins. by W.B. Act 13 of 1995.

252. Use of public drains by private owners :-

The owner or the occupier of a building or land shall be entitled to cause his drains to empty into the municipal drains after obtaining the written permission of the Chairman and he shall comply with such conditions as the Chairman may deem fit to impose relating to the communications between private drains and municipal drains.

253. Power to order demolition of drain constructed without consent :-

No person shall, without the written consent of the Chairman-in-Council first obtained, make or cause to be made, or alter, or cause to be altered, any drain or branch drain leading into any of the municipal sewers or drains or into any water-course, street or land vested in the Municipality, and the Chairman-in-Council may cause any drain or branch drain, so made or altered, to be demolished, altered, remade or otherwise dealt with at the expenses of the persons making or altering such drain.

254. Draining of group or block of buildings etc. by combined operation :-

If it appears to the Chairman-in-Council that a group or block of buildings may be drained more economically and advantageously in combination than separately, and if a municipal sewer or drain of sufficient size already exists or is about to be constructed within the reasonable reach of such group or block of buildings, the Chairman-in-Council may cause such group or block of buildings to be so drained, and the expenses thereby incurred shall be recovered from the owners of such buildings in such proportions as the Chairman-in-Council may deem fit.

255. Power to enforce drainage of undrained premises and separate drainage in any premises :-

The Chairman-in-Council may, by written notice, require drainage to be provided for any undrained premises and also require separate provisions to be made for drainage of sewage and other offensive matters as distinct from rain-water and other unpolluted sub-soil water in accordance with such rules as may be made in this behalf.

256. Power of State Government to exercise control over imperfect, inefficient or unsuitable drainage work :-

(1) If, at any time, it appears to the State Government that any drainage works or sewerage works, executed under 'the provisions of this Chapter, or vested in the Municipality, are maintained or worked in an imperfect, inefficient or unsuitable manner, the State Government may, by written order, direct the Municipality or other local authority within the period specified in the order to show cause why the drainage works or sewerage works with all plants, fittings and appurtenances thereof should not be handed over for

such period as the State Government may fix to the control and management of such agency belonging to the Government or a statutory body as may be specified in the order.

(2) If cause is not shown within the period specified in the order issued under sub-section (1) or the cause shown appears untenable, the State Government may, by order, direct that the drainage works or sewerage works with all plants, fittings and appurtenances thereof shall be handed over for such period as it may fix to the control and management of such person or authority as it may appoint. During the period so fixed, the complete control and management of the drainage works or sewerage works, as the case may be, shall be vested in the person or the authority so appointed, who shall engage such establishment for the purpose of maintaining and working such drainage or sewerage works as the State Government may, from time to time approve. Such establishment may include the employees of the Municipality who were employed in the maintenance or working of such drainage or sewerage works. The cost of such establishment, including that of all materials, implements, and stores, shall be paid within such period as may be fixed by the State Government from the Municipal Fund.

257. Encroachment on municipal drains :-

(1) No person shall-

(a) construct a building, wall, fence or any structure or any private street over any municipal drain, culvert or gutter or bed, bank or embankment of any sewage works or storm water channel vested in the Municipality; or

(b) otherwise encroach upon drainage and sewerage system in the municipal area :

Provided that the Board of Councillors may give consent to any such construction only for the purpose of securing access to any abutting land or building on such conditions as the Board of Councillors may think fit to impose.

(2) The Chairman may, without notice, cause to be removed or altered, any building, wall, fence or structure constructed in contravention of the provisions of this section or any unauthorised encroachment, whatsoever, at any time for reasons to be recorded in writing.

(3) The Chairman by written notice may require any person to pull down or otherwise deal with any building, fencing, wall or structure or any encroachment whatsoever constructed or erected in contravention of sub-section (1), and the expenses in doing so shall be paid by the person at whose instance the unauthorised construction or encroachment was made.

(4) Any person who fails to act in accordance with the provisions of sub-section (2) shall, on conviction, be punished with a fine which may extend to five hundred rupees and, in the case of continuing offence, with further fine which may extend to one hundred rupees for every day during which such offence continues. In addition, such person shall also be liable for all expenses that the Municipality may incur in removing or otherwise dealing with the unauthorised construction or encroachment.

258. Power to make rules :-

The State Government may make rules to provide for-

(a) the preparation of plans and estimates for the introduction of a system of drainage or sewerage, where such work or system is to be partly or wholly constructed or carried out at the expense of the Municipality;

(b) the power of the Board of Councillors or the State Government in the matter of sanction to such plans and estimates and responsibilities for financing and execution;

(c) the size and other particulars of drains, sewerage or channels to be constructed or laid for drainage or sewerage;

(d) the manner in which connections with the drainage or sewerage system shall be constructed, altered or maintained, the fees to be levied for such connections and the person by whom such fees shall be payable, and the agency to be employed for such construction, alteration or maintenance;

(e) the items of trade effluents or noxious chemicals which may not ordinarily be passed into municipal drains, or the mode of treatment of such chemicals before they can be so passed, or such other steps as may be necessary to control environmental pollution arising out of such chemicals;

(f) any other matter relating to the drainage or sewerage in respect of which this Act makes no provision or makes insufficient provision

and further provision is, in the opinion of the State Government, necessary.

259. Power to Board of Councillors to make regulations :-

The Board of Councillors may make regulations-

- (a) requiring every person, who intends to construct, repair, add to or alter a house-drain or cess-pool, to submit an application to the Municipality with such plans and other particulars as may be determined, and providing for conditions for giving and refusing of sanction to such application;
- (b) providing for the materials, size, slope, level or position of drains generally and their construction, repair and maintenance;
- (c) not inconsistent with this Act and the rules made thereunder, to provide for any item not specifically laid down but which is necessary to carry out the purposes of this Act.

CHAPTER 17

Solid Wastes Functions in relation to solid wastes

260. Collection, removal and disposal of solid wastes :-

For the purpose of securing the efficient scavenging and cleansing of all streets, public places and premises within a municipality, the Board of Councillors shall provide for the functions of collection, removal and disposal of solid wastes.

261. Provision of receptacles, depots and places for temporary deposit :-

(1) The Municipality shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit of-

- (a) rubbish;
- (b) offensive matter;
- (c) trade refuse;
- (d) carcasses of dead animals;
- (e) excrementitious and polluted matter.

(2) Different receptacles, depots or places may be provided or appointed for the temporary deposit of any of the matters specified in sub-section (1).

262. Duties of owners and occupiers to collect and deposit rubbish, etc :-

It shall be the duty of the owners or the occupiers, as the case may be, of all premises-

- (a) to have the premises swept and cleaned;
- (b) to cause all rubbish and offensive matters to be collected from their respective premises and to be deposited, at such time as the Chairman may by public notice, specify, in public receptacles, depots or places provided or appointed by the Municipality or in receptacles provided under clause (c) for the temporary deposit or final disposal thereof;
- (c) to provide receptacles of the type and in the manner specified by the Chairman for the collection therein of all rubbish and offensive matters from such premises and to keep such receptacles in good condition and repair.

263. The Municipality to provide for cleansing of streets and removal of solid wastes :-

(1) The Chairman shall take measures for securing-

- (a) the daily surface-cleansing of all streets within a municipal area and removal of sweeping therefrom;
- (b) the removal of the contents of all receptacles and depots and of the accumulations at all places provided or appointed by the Municipality under the provisions of this Act for the temporary deposit of rubbish, trade refuse, carcasses of dead animals and excrementitious and polluted matters;
- (c) the removal of special wastes and hazardous wastes and other solid wastes from premises.

(2) The Chairman may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (1) may be removed along a street or may be deposited or otherwise disposed of.

(3) The Chairman shall make adequate provision for preventing receptacles, depots, vehicles and vessels referred to in this Chapter from becoming sources of nuisance.

264. Solid wastes to be municipal property :-

All matters deposited in public receptacles, depots and places

provided or appointed by the Municipality and all solid wastes collected shall be the municipal property.

265. Provision of vehicles or other suitable means for removal of solid wastes :-

(1) The Municipality shall provide vehicles or other suitable means and, where necessary, covered vehicles or vessels for the removal of solid wastes.

(2) The Municipality may construct, acquire, operate, maintain, develop or manage any garage or work for proper maintenance of the vehicles or vessels or means for removal of solid wastes under sub-section (1).

266. Removal of solid wastes accumulated on non-residential premises :-

The Chairman-in-Council may, if it thinks fit,-

(a) by written notice, require the owner or the occupier of any premises used-

(i) as factory, workshop or for carrying on any manufacture, or

(ii) as a trade premises or shop or as a market or slaughter house, or

(iii) as a hotel, eating-house or restaurant, or

(iv) as a hospital or nursing home, or

(v) as a warehouse or godown, or

(vi) as a place to which large number of persons resort, or

(vii) in any other way, where rubbish, offensive matter, filth, trade refuse, special wastes, hazardous wastes, or excrementitious and polluted matters are accumulated in large quantities, to collect such matters accumulating thereon by such means of receptacles or construction on the premises as may be determined, or to remove the same at such time and in such trailers or receptacles and by such routes as may be specified in the notice to a depot or place provided or appointed by the Municipality, or

(b) after giving the owner or the occupier of any premises notice of its intention so to do, cause all rubbish including building rubbish, offensive matter, trade refuse, special wastes, hazardous wastes, or excrementitious and polluted matters accumulated in such premises

to be removed, and charge the said owner or the occupier, as the case may be, for such removal such fee as may be determined by the Board of Councillors and specified in such notice.

267. Appointment of places for disposal and final disposal of solid wastes :-

The Chairman may cause the solid wastes to be disposed of at such place or places within or outside the municipal area and in such manner as it considers suitable:

Provided that no place, which has not been before the commencement of this Act used for the purpose specified in this section, shall be used except in conformity with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979.

268. Provision for processing and disposal of solid wastes :-

(1) The Board of Councillors may, for the purpose of receiving, storing, treating, processing and disposing solid wastes or converting such solid wastes into compost or other matter, construct, acquire, operate, maintain, develop, and manage any work within or outside the municipal area run it on a commercial basis.

(2) The Board of Councillors may cause to be utilised solid wastes for filling up any well, tank or low land on a commercial basis within or outside the municipal area.

269. Special sanitary arrangements at certain places :-

(1) The Chairman may make such special arrangements, whether permanent or temporary, as he considers adequate for maintaining sanitation in the vicinity of any place of religious worship or institutions or places to which large number of persons resort on particular occasions or in any place used for holding fairs, festivals, sports or cultural or social events.

(2) The Chairman may require any person having control over any such place to pay to the Municipality fees at such rates as the Board of Councillors may, from time to time, determine.

270. Prohibition against deposit of solid wastes :-

(1) No person shall deposit or cause or permit to be deposited or throw upon or along any public street, public place, land belonging

to the Municipality or any land on the bank of a water-course any solid waste except in accordance with the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provisions of this section, no person shall deposit or cause or permit to be deposited any building rubbish or scraps in or along any street, public place or land except with the prior permission of the Chairman :

Provided that no such permission shall be given until an advance payment of a fee for the removal of such rubbish or scraps has been made in accordance with such rates as may be determined by the Board of Councillors from time to time.

270. Presumption as to offender :-

(1) No person shall deposit or cause or permit to be deposited or throw upon or along any public street, public place, land belonging to the Municipality or any land on the bank of a water-course any solid waste except in accordance with the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provisions of this section, no person shall deposit or cause or permit to be deposited any building rubbish or scraps in or along any street, public place or land except with the prior permission of the Chairman :

Provided that no such permission shall be given until an advance payment of a fee for the removal of such rubbish or scraps has been made in accordance with such rates as may be determined by the Board of Councillors from time to time.

272. Depositing or throwing any solid waste in contravention of the provision of this Act :-

Whoever deposits or throws or causes or permits to be deposited or thrown any solid waste on any place in contravention of the provisions of this Act shall, subject to such rules and regulations as may be made in this behalf, be punishable with fine which shall not be less than fifty rupees or more than five thousand rupees for each of such offences.

273. Power of the Municipality to get certain places scavenged and cleansed :-

If any street or public place under the control of Government or any statutory body is not properly or regularly scavenged or is, in

the opinion of the Chairman, in a filthy and unwholesome condition, the Chairman may, by written notice, require the owner or the occupier to do the scavenging or cleansing or may cause scavenging or cleansing to be done and the cost of such scavenging or cleansing shall be recovered from the owner or the occupier thereof, as the case may be.

CHAPTER 18

Markets and slaughter houses

274. Provision of municipal markets and slaughter houses

:-

(1) The Board of Councillors may provide and maintain municipal markets, slaughter houses or stockyards in such number as it may think fit together with stalls, shops, sheds, pens and other buildings and conveniences for the use of persons carrying on trade or business in, or frequenting, such markets or slaughter houses.

(2) Any municipal slaughter house or municipal stockyard may be situated within or, with the sanction of the State Government, outside the municipal area.

(3) A municipal market or a slaughter house or a stockyard shall be under the control of the Chairman.

275. Use of municipal markets :-

(1) No person shall, without the general or special permission in writing of the Chairman-in-Council, sell or expose for sale any commodity or article or animal or bird in any municipal market or utilise any space within the municipal market for any other purpose.

(2) Any person contravening the provisions of sub-section (1), and any commodity, animal or article exposed for sale by such person, may be summarily removed from the market by or under the orders of the Chairman.

276. Levy of stallage, rent and fee :-

The Board of Councillors may-

(a) charge such premium, stallage, rent or fee as may, from time to time, be fixed in this behalf-

(i) for the occupation or use of any stall, shop, stand, shed or pen in a municipal market or municipal slaughter house,

- (ii) for the right to expose articles for sale in a municipal market,
- (iii) for the use of machines, weights, scales and measures provided for in any municipal market, and
- (iv) for the right to slaughter animals in any slaughter house, and for the feed of such animals before they are ready for slaughter; or
- (b) farm out the stallage, rent or fee chargeable as aforesaid or any portion thereof for such period as it may think fit; or
- (c) put up to public auction, or dispose of by private sale, the privilege of occupying or using any stall, shop, stand, shed or pen in a municipal market or municipal slaughter house for such period and on such conditions as it may think fit.

277. Premium, stallage, rent, etc. to be published :-

- (1) The Board of Councillors shall publish the terms and conditions for premium to be charged in such manner as it may decide.
- (2) A copy of the table of stallage, rent and fee, if any, chargeable in any municipal market or municipal slaughter house, and of the regulations made under this Act for the purpose of controlling the use of such market or slaughter house, printed in such language or languages as the Board, of Councillors may direct, shall be affixed in some conspicuous place in the market or the slaughter house, as the case may be.

278. Private markets and slaughter houses :-

- (1) No place, other than a municipal market, shall be used as a market unless such place has been licensed as a market by the Board of Councillors under the provisions of this Chapter on such terms and conditions as the Board of Councillors may determine.
- (2) No place, other than a municipal slaughter house, shall be used as a slaughter house :

Provided that nothing in this sub-section shall be deemed -

- (a) to restrict the slaughter of any animal in any place on the occasion of any religious festival or ceremony, subject to such conditions as the Chairman-in-Council may, by public or special notice, impose in this behalf, or
- (b) to prevent the Board of Councillors from setting apart any place for the slaughter of animals in accordance with the religious custom

in vogue.

(3) The Chairman-in-Council may require the owner or the occupier of any licensed private market to provide approach road or passage or pave, drain or light or to provide such conveniences for the use of persons resorting to such markets as it may deem fit.

279. Power to expel person contravening regulations :-

(1) The Chairman-in-Council may, after giving the parties concerned an opportunity of being heard and in accordance with such rules and regulations as may be made in this behalf,-

(a) expel from any municipal market, municipal slaughter house or municipal stockyard, for such period as it may think fit, any person who or whose employee has been found contravening any regulations made under this Act and in force in such market, slaughter house or stockyard;

(b) prevent such person as aforesaid from further carrying on any trade or business in such market, slaughter house or stockyard or occupying any stall, shop, standing, shed, pen or other place thereon;

(c) close the stall or shop of the person found to be in default in payment of the stallages or rents or any other dues to the Municipality till payment is made or recovered under the provisions of this Act; or

(d) determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

(2) If the tenant or the agent of the tenant of any owner or lessee of any private market or slaughter house has been convicted for contravening any regulation made under this Act, the Chairman-in-Council may require such tenant or agent to remove himself from such market or slaughter house within such time as may be mentioned in the requisition, and if such tenant or agent fails to comply with such requisition, he may, in addition to any penalty which may be imposed on him under this Act, be summarily removed from such premises by the owner or the lessee thereof or by the employee of such owner or lessee.

(3) If it appears to the Chairman-in-Council that in any case the owner or the lessee is acting in collusion with a tenant or an agent, convicted as aforesaid, who fails to comply with any requisition

under sub-section (2), the Chairman-in-Council may, if it thinks fit, cancel the licence of such owner or lessee in respect of such premises.

280. Prohibition of business and trade near a market :-

(1) No commodity or article or animal or bird shall be sold or exposed for sale by a hawker or squatter within a distance of forty-five metres from the outward confines of any municipal market or licensed private market without the permission of the Board of Councillors.

(2) Any person contravening the provisions of sub-section (1) and any commodity or article or animal or bird exposed for sale by such person may be summarily removed by or under the order of the Chairman.

281. Municipal licence specially for sale of flesh, fish or poultry :-

(1) No person shall, without or otherwise than in conformity with a licence from the Board of Councillors, carry on the trade of butcher, fishmonger, poulterer or importer of flesh intended for human food or use any place for the sale of flesh, fish or poultry intended for human food :

Provided that no person shall sell or expose for sale any flesh obtained from an animal unless the skinned carcass of the animal is stamped in such manner as the Board of Councillors may, by general order made in this behalf, require in token of the fact that the animal has been slaughtered in a municipal or licenced slaughter house :

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

(2) The Board of Councillors may, by order and subject to such conditions as it may, upon supervision and inspection, think fit to impose, grant a municipal licence or may, by order and for reasons to be recorded in writing, revoke the name.

(3) The Board of Councillors may, by regulation, determine the procedure for the issue of licence and its renewal, fix the standard of edibility of meat and fish, and provide for inspection and analysis of samples of such meat and fish.

(4) If any place is used from the sale of flesh, fish or poultry in contravention of the provisions of this section, the Chairman may stop the use thereof by such means as he may consider necessary.

282. Municipal licence for hawking articles, etc :-

No person shall, without or otherwise than in conformity with the terms of a licence granted by the Board of Councillors in this behalf,-

(a) hawk or expose for sale in any place any article whatsoever, whether it is for human consumption or not; or

(b) use in any place his skill in any handicraft or render service to the public for their convenience for the purpose of gain or making a living.

283. Power to inspect places where unlawful slaughter of animals, etc. is suspected :-

(1) If the Chairman-in-Council or any person authorised by it in this behalf has reason to believe that any animal intended for human consumption is being slaughtered or that the flesh of any such animal is being sold or exposed for sale in any place or manner not duly authorised under this Act, he may, at any time by day or night without notice, inspect such place for the purpose of satisfying himself as to whether any provision of this Act or of any rule or regulation made thereunder is being contravened thereat and may seize any such animal or the carcass of such animal or such animal or such flesh found therein.

(2) The Chairman-in-Council may remove and sell by auction or otherwise dispose of any animal or carcass of any animal or any flesh seized under sub-section (1).

(3) If, within one month of such seizure, the owner of the animal, carcass or flesh fails to appear and prove his claim to the satisfaction of the Chairman or if the owner is convicted of an offence under this Act in respect of such animal, carcass or flesh, the proceeds of any sale under sub-section (2) shall be credited to the Municipal Fund.

(4) Any person slaughtering any animal or selling or exposing for sale the flesh of any such animal in any place or manner not duly authorised under this Act may be arrested by any police officer without a warrant.

(5) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

284. Power to seize food or drug etc :-

(1) Subject to the provisions of the Prevention of Food Adulteration Act, 1954, or any other law for the time being in force, the Chairman-in-Council may cause inspection and analysis of any food, drug, edible oil, milk or similar item of human consumption or any utensil or vessel used for preparing or storing any such thing.

(2) If, upon inspection or analysis, any such item for consumption as aforesaid is, in the opinion of the Chairman or the officer or the employee authorised by him in this behalf, including a police-officer, unwholesome or unfit for human consumption, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as may render any food or drug prepared, manufactured or stored therein unwholesome or unfit for human consumption, he may seize, seal or carry away such food or drug or utensil or vessel.

(3) If any food or drug seized under sub-section (2) is, in the opinion of the Chairman, unfit for human consumption, he shall cause the same to be forthwith destroyed in such manner as may prevent its being again exposed for sale or used for human consumption, and the expenses thereof shall be paid by the person in whose possession such food or drug was at the time of its seizure.

285. Commercial projects etc. of a Municipality :-

(1) The Board of Councillors may, ¹ [with the prior approval of the State Government,] un-

(2) All the provisions of this Chapter shall apply mutatis mutandis to the commercial ventures undertaken by the Board of Councillors under this section.

1. Words subs, for the words "with the prior information to the State Government, by W.B. Act 13 of 2003.

CHAPTER 18A

Fire prevention and fire safety

285A. Arrangement for fire prevention and fire safety :-

¹ On the coming into force of the West Bengal Fire Services Act,

1950, in any municipal area, the Municipality shall, in consultation with the Director of Fire Services or any officer authorised by him in this behalf by general or special order, require the owner or the occupier of all or any of the premises in the municipal area to make, or to carry, such arrangements as may be necessary for fire prevention and fire safety in the municipal area, and issue a fire safety certificate on such conditions as the State Government may prescribe from time to time.

Explanation "Director of Fire Services" shall mean the Director of Fire Services referred to in clause (e) of Section 2 of the West Bengal Fire Services Act, 1950 .

1. Chapter XVIII A containing section 285A ins.by W.B. Act 13 of 1995.

PART 7

URBAN AND REGIONAL PLANNING AND DEVELOPMENT

CHAPTER 19

Urban Renewal and Regional Development

286. Power of Board of Councillors to define and alter limit of bustee or slum :-

(1) The Board of Councillors may define the external limits of any bustee or slum and may, from time to time, alter such limits.

(2) The Board of Councillors shall maintain a list of all bustees or slums within the municipal area with such particulars thereof as may be prescribed.

287. Power to prepare improvement schemes :-

(1) Notwithstanding anything contained in any other law for the time being in force, the Board of Councillors may, subject to the approval of the State Government, prepare such improvement schemes for any bustees or slum for the purpose of effecting environmental or general improvement of bustees or slums as it may consider necessary, and publish a copy of such scheme in such manner as may be prescribed.

(2) The improvement scheme may include lay-out plan for the entire bustee or slum or a part of it, relocation of existing huts or structures on the basis of such layout plan, diminution of individual holdings and compulsory acquisition of land or building for the purpose of providing common facilities and amenities in the bustee

or slum area, temporary shifting of inhabitants

(3) While preparing any improvement scheme, the Board of Councillors shall abide by the Development Plan prepared under any other law for the time being in force, and shall take into account the activities of other agencies or authorities affecting all or any of the matters referred to in sub-section (2), and may, for such purposes, call for any paper, map, document or data from such agencies or authorities who shall comply with such requisition.

(4) The approved improvement scheme shall be binding on the agencies and authorities referred to in sub-section (3), and the owners, occupiers, thika tenants and other residents within the bustee or slum.

288. Notice for participation of owners and occupiers :-

After the publication of an approved improvement scheme, under sub-section (1) of section 287, the Board of Councillors shall cause a notice to be served on such owners or occupiers of huts and structures within the bustee or slum as are on municipal record, inviting participation in the implementation of the scheme.

289. Management of areas of common uses and facilities :-

Upon an improvement scheme being implemented the Board of Councillors may provide for management of the common areas and facilities created in course of such implementation, by establishment of a users committee or a cooperative society of the owners or the occupiers on the model of a housing co-operative society under the West Bengal Co-operative Societies Act, 1983, and such management shall be binding on the owners or the occupiers, as the case may be, coming within the purview of the scheme.

290. Lay-out plan for sanction of erection of hut or structure in a bustee :-

Notwithstanding anything contained elsewhere in this Act, the Board of Councillors may require a person intending to erect a hut or structure within a bustee or slum to conform to the lay-out plan as may be prepared by the Board of Councillors in respect of any bustee or slum or any part thereof.

291. Removal of congested buildings :-

(1) Where it appears to the Board of Councillors that any block of buildings is in an unhealthy condition by reason of the manner in

which the buildings are crowded together or the narrowness, closeness, or faulty arrangement of streets or the want of proper drainage and ventilation or the impracticability of cleansing the buildings or any other similar cause, the Chairman shall cause the block to be inspected by a public health engineer who shall make a report in writing regarding the sanitary condition of the block.

(2) If, upon receipt of such report, the Board of Councillors considers that the sanitary condition of the block is likely to cause risk of disease to the inhabitants of the buildings or the neighbourhood or to endanger otherwise the community health or safety, it may select the buildings which, in its opinion, should wholly or in part be removed in order to abate the unhealthy condition of the block, and may, thereupon, by notice in writing, require the owners of such buildings to remove them within such period as may be specified in the notice :

Provided that before issuing the notice, a reasonable opportunity shall be afforded to the owner to show cause any the building should not be removed :

Provided further that the Board of Councillors shall make compensation to the owner for any building so removed which may have been erected under proper authority.

(3) If a notice under sub-section (2) requiring any owner of a building to remove it is not complied with, then, after the expiration of the period specified in the notice, the Board of Councillors may cause the building to be removed and recover from the owner of the building the expenses of such removal as an arrear of tax under this Act.

292. Power to require improvement of buildings unfit for human habitation :-

(1) Where the Board of Councillors, upon information in its possession, is satisfied that any building is, in any respect, unfit for human habitation, it may, unless, in its opinion, the building is not capable of being rendered fit at a reasonable expense, serve upon the owner of the building a notice requiring him to execute the works of improvement specified in the notice within such period, not being less than sixty days, as may be specified in the notice.

(2) In addition to the service of notice on the owner of the building under sub-section (1), the Board of Councillors may serve a copy of

the notice on any other person having an interest in the building, whether as a lessee or mortgagee or otherwise.

(3) If a notice requiring the owner of the building to execute the works of improvement is not complied with, then, after the expiration of the period specified in the notice, the Board of Councillors may execute the works of improvement and recover the expenses incurred in connection therewith as an arrear of tax under this Act.

293. Area development :-

Where the Board of Councillors, upon information in its possession, is satisfied as respects any area within a municipal area-

(a) that the buildings in that area are, by reason of disrepair or sanitary defects, unfit for human habitation or are, by reason of their bad arrangement or the narrowness or bad arrangement of the streets or the want of light, air, ventilation or proper conveniences, dangerous or injurious to the health of the inhabitants of the area, or

(b) that the most satisfactory method of dealing with the conditions in the area is the re-arrangement and reconstruction of the streets and buildings in the area in accordance with an area development programme, it may frame a project in respect of the area in accordance with the rules made in this behalf.

294. Matters to be provided in an area development project :-

An area development project may provide for such matters as may be prescribed by rules.

295. Execution of an area development project :-

(1) The provisions of this Chapter in so far as they relate to the implementation of an improvement scheme in a bustee or slum, shall apply mutatis mutandis in the case of execution of an area development project.

(2) The Board of Councillors may, if it considers necessary and with the sanction of the State Government, provide for corporate funding for execution or maintenance of an area development project and channelise fund through an association of inhabitants or voluntary organisation of the area and also secure financial resources from banks or similar institutions to augment such fund which may

be administered by such association in accordance with such procedure as may be prescribed.

296. Power to acquire land or building for orderly growth :-

Subject to the provisions of this Act, the Board of Councillors may acquire any land or building, whether situated within or outside the municipal area, for the purpose of-

- (i) opening out any congested or unhealthy area or otherwise improving any portion of the municipal area; or
- (ii) erecting sanitary dwellings or providing site and services for the working and poorer people; or
- (iii) executing any development plan or scheme to provide for the growth of the municipal area in an orderly manner, including housing programme for 'different section of the community.

297. Preparation of Draft Development Plan :-

1

(1) The Board of Councillors shall prepare a Draft Development Plan for the municipal area or notified area, as the case may be, in consultation with the District Planning Committee for a period of five years, and shall submit to the Urban

Provided that a Municipality or Notified Area Authority shall prepare the first Draft Development Plan in accordance with the directions of the District Planning Committee.

(2) The Draft Development Plan for any municipal area or notified area shall be a written statement and shall include-

- (a) the schemes of the Municipality or the Notified Area Authority for the development and other use of land or for any description of development or other use of such land including, in either case, such measures as the Municipality or the Notified Area Authority thinks fit for the improvement of the physical environment;
- (b) detailed and specific scheme of the Municipality or the Notified Area Authority for conducting development programmes on all or any of the points specified in clauses (1), (2) and (3) of section 63 , section 64 and sub-section (2) of section 65 ;
- (c) such maps and diagrams as the Municipality or the Notified Area Authority thinks appropriate;

- (d) existing land use pattern in maps or documents;
- (e) the scheme for future land use control by way of-
 - (i) identification and preservation of open spaces;
 - (ii) prohibition of filling up of tanks or water courses;
 - (iii) filling up of insanitary water courses;
 - (iv) protection of land surface through which sub-soil water sources are re-charged;
 - (v) provision for drainage network and outfalls;
 - (vi) provision of dumping grounds for solid wastes disposal;
 - (vii) street alignment;
 - (viii) provision for burning and burial grounds;
 - (ix) reclamation of waste lands; or
 - (x) providing activities of similar nature;
- (f) regulation and restriction of sites for construction of buildings, huts or structures for the purposes of safety disinfection, density control or pollution control;
- (g) scheme for environmental improvement by way of restriction on felling of trees, planting of new trees and flowering of plants in public places and adding of house greenary and the like;
- (h) scheme for control of pollution relating to water, soil, air noise and odour;
- (i) scheme for acquisition of land for the purpose of ensuring that the benefits of development activities are reaped by public institutions for community-welfare and not for speculative gains by private individuals.

(3) If the preceding Draft Development Plan has not been fully implemented, a statement shall be annexed with the Draft Development Plan showing the due quantum of work and the reasons for such non-completion.

1. Sec. 297 subs, by W.B. Act 32 of 1997, which was earlier as under :- "297. Power of Municipality to plan for the region (1) Subject to the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979, the State Government

may, by notification, declare an area to be an Urban Development Region of a Municipality comprising- (i) the area within the jurisdiction of the Municipality, and (ii) such other fringe areas adjoining and around the municipal area as may be deemed necessary to be included therein by the State Government. (2) Whenever an Urban Development Region of a Municipality has been so declared, the Municipality may prepare a master plan for upgradation of the human settlements within such region."

298. Financial statement in regard to Draft Development Plan :-

¹ A financial statement shall be submitted with the Draft Development Plan containing-

(a) detailed particulars about the quantum of finance available for conducting the development programme under the said Draft Development Plan from-

(i) own resources of the Municipality or the Notified Area Authority, as the case may be, with source-wise break-ups; and

(ii) corporate sector or household sector;

(b) the following particulars in detail:-

(i) credit plan or the terms and conditions for availing of the finance from corporate sector or household sector;

(ii) sources of fund for repayment of credit, if taken from corporate sector or house-hold sector and the manner of repayment; and

(c) if the Municipality or the Notified Area Authority, as the case may be, thinks it proper to transfer any function of the Municipality or the Notified Area Authority in relation to the implementation of the Draft Development Plan to any organisation including Government organisation within the meaning of section 66 , a statement containing the list of the function or the functions to be transferred, the manner of transfer and the terms and conditions of such transfer.

1. Sec. 298 subs, by W.B. Act 32 of 1997. which was earlier as under :- "298. Preparation of a master plan A master plan for the Urban Development Region may provide for all or any of the following:- (a) existing land use pattern in maps or documents; (b) future land use control by way of- (i) identification and preservation of open spaces, or (ii) prohibition of filling up of tanks or water-sources, or (iii) filling up of insanitary water-sources, or (iv) protection of land surface through which sub-soil water-sources are

re-charged, or (v) provision for drainage network and outfalls, or (vi) provision for dumping grounds for solid wastes disposal, or (vii) street alignments, or (viii) provision for burning and burial grounds, or (ix) reclamation of waste lands, or (x) providing activities of similar nature; (c) regulation and restriction of sites for construction of buildings, huts or structures; (d) regulation or licensing of premises to be used for non-residential purposes; (e) regulation of construction of buildings, huts or structures for purposes of safety and densification or density control; (f) environmental improvement by way of restriction on felling of trees, planting of new trees and flowering plants in public places and adding to house greenery and the like; (g) control of pollution relating to water, soil, air, noise, and odour etc.; (h) land acquisition for the purpose of ensuring that the benefits of developmental activities are reaped by public bodies for community welfare and not for speculative gains by private individuals."

299. Modification of Draft Development Plan :-

1 The Board of Councillors may at any time but not more than once in every three years, propose to the District Planning Committee any revision or modification of the Draft Development Plan.

1. Sec. 299 subs, by W.B. Act 32 of 1997, which was earlier as under:- "299. Urban Development Committee (1) The State Government may, for the purpose of formulation of a master plan for an Urban Development Region or implementation of any project or scheme in pursuance thereof or for carrying out any activity arising out of it, constitute an Urban Development Committee or Urban Development Committees for any area or areas outside the municipal area. (2) Whenever any Urban Development Committee is constituted, it shall be incumbent upon the Board of Councillors to consult it in all matters of preparation of any master plan and entrust to it all items of implementation so far as they relate to areas outside the municipal area."

300. Annual Development Plan :-

1

(1) The Board of Councillors shall prepare an Annual Development Plan for a period of one financial year, covering only the relevant portion of the Draft Development Plan for the concerned period in consultation with the District Planning Committee and submit the same to the State Government within the last week of the month of October of the year preceding the period for which the Annual Development Plan shall be prepared.

(2) The Annual Development Plan shall be prepared in accordance with the provisions of sub-section (2) of section 297 and section 298 , which shall apply mutatis mutandis.

(3) The State Government shall, on receipt of the Annual Development Plan, consider it in the light of the availability of fund for the purpose and shall, thereafter, approve the Annual Development Plan with necessary modification, if any.

(4) The Board of Councillors shall within six months from the date of receipt of plan grant under sub-section (3) of section 71 , submit a report, stating the progress of work towards implementing the Annual Development Plan either in full or in part for which the said grant was sanctioned.

(5) The Board of Councillors may, at any time but not more than once, revise or modify the Annual Development Plan with the approval of the State Government:

Provided that any modification or revision of the Annual Development Plan shall not contain anything which is not included in the Draft Development Plan for the period to which the Annual Development Plan relates.

1. Sec. 300 subs, by W.B. Act 32 of 1997, which was earlier as under:- "300. Panchayats as Urban Development Committees Notwithstanding anything contained in the West Bengal Panchayat Act, 1973, the State Government may vest the powers of an Urban Development Committee in a Gram Panchayat constituted under section 4, or a Joint Committee appointed under section 30, or a Panchayat Samiti constituted under section 94, of that Act. Upon the vesting of such powers, the exercise thereof by the Gram Panchayat or the Joint Committee or the Panchayat Samiti, as the case may be, shall be deemed to be the performance of the function assigned to the Gram Panchayat or the Joint Committee or the Panchayat Samiti, as the case may be, in respect of the matter referred to in clause (o) of sub-section (1) of section 20, or item (ii) of clause (a) of sub-section (1) of section 109, as the case may be, of that Act : Provided that the State Government may associate representatives from other authorities or experts in different fields with the Urban Development Committee for rendering of necessary advice or guidance.".

301. Board of Councillors in charge of Urban Development Region :-

(1) All planning and developmental activities in an Urban Development Region under this Chapter shall be carried out under the overall supervision and control of the Board of Councillors of the concerned municipality.

(2) The Board of Councillors may, by a written notice, require the

owner or the occupier of any land or building situated within an Urban Development Region to submit such particulars relating to land or building, and such other information, as the Board of Councillors may deem necessary.

(3) It shall be incumbent upon every owner or occupier to comply with the requirement of the notice under sub-section (2) and to carry out all instructions given by the Board of Councillors in furtherance of the provisions of this Chapter.

(4) The Board of Councillors may, in carrying out the purposes of this Chapter, involve the participation of such voluntary organisations or public participation in such manner as it may deem fit and proper.

302. Power to make rules :-

The State Government may make rules providing for-

- (a) the procedure of functioning of an Urban Development Committee,
- (b) the method of preparation and enforcement of a master plan,
- (c) the conditions of involvement of voluntary organisations, and
- (d) such other matters as may be necessary to carry out the provisions of this Chapter.

CHAPTER 20

Municipalities in hill areas

303. Application of the Act to Municipalities in hill areas :-

Notwithstanding anything contained elsewhere in this Act, but subject to the proviso to sub-section (5) of section 1 , the provisions of this Chapter shall apply only to the Municipalities in the hill areas and shall be construed to be in modification of, or to be supplementing, the other provisions of this Act in their application to such Municipalities.

304. Extension of definitions of "drain" and "masonry building." :-

(1) The word "drain" as defined in clause (16) of section 2 shall, in the case of a Municipality in the hill area, include a jhora, or water-course of natural drainage line, and the State Government may, for the purposes of this Act, specify, by notification, the limits of any jhora, water-course, channel or natural drainage line within a

municipal area in the hill areas.

(2) For the purposes of Chapter XIV, in its application to the Municipalities in the hill areas, the expression "masonry building" shall include a framed building.

305. Definitions :-

In this Chapter,-

(i) "Government road" means a road, street, square, court, alley or passage maintained by the Central or the State Government or at the public expense;

(ii) "private bridge" means any bridge which is not a public bridge as defined in this section;

(iii) "private drain" means any drain which is not a public drain as defined in this section;

(iv) "private road" means any road, street, square, court, alley or passage which is not a public road or Government road as defined in this section;

(v) "public bridge" means a bridge on or over which a public road or any public work is carried, and which is, for the time being, vested in the Board of Councillors;

(vi) "public drain" means any drain which is vested in the Board of Councillors;

(vii) "public road" means a "public street" as defined in clause (51} of section 2 , but does not include a Government road.

306. Absolute closing of public roads :-

(1) If it appears to the Board of Councillors that any public road or part thereof-

(a) threatens the stability or security of any hillside or bank or any immovable property thereon, or

(b) cannot, in consequence of its condition or its situation with reference to any adjacent hillside or bank, be efficiently maintained or repaired except at a cost which, in its opinion, is unreasonable, the Board of Councillors may, by public notice, declare such public road or part thereof to be absolutely closed after providing other reasonably sufficient means of access to holdings adjacent to such public road or part thereof, if no such means or access already

exists.

(2) From the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Board of Councillors shall not be bound to maintain or repair such public road or part thereof, and the site thereof may be disposed of or otherwise dealt with in such manner as the Board of Councillors may determine:

Provided that if the Board of Councillors determines to sell or to let on lease or otherwise transfer any part of the site as aforesaid which is adjacent to any private land or building, the owner of such land or building shall have prior right to buy or take on lease such part of such site at a reasonable rate and on such terms and conditions as the Board of Councillors may decide.

307. Power to close private road :-

If it appears to the Board of Councillors that the existence of any private road threatens the stability or security of any hillside or bank or any immovable property thereon, it may, by written notice, require the owner of such private road to close the road and to take such measures as may be considered necessary for the stability or security of such hillside, bank or property or as may be specified in the notice:

Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Board of Councillors, another road affording a suitable approach to the building can be constructed at reasonable expense.

308. Power to close temporarily a road or part of a road for repairs or other public purpose :-

The Board of Councillors may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the purpose of constructing any sewer, drain or bridge, or for any other purpose:

Provided that the Board of Councillors shall provide reasonable means of access to persons occupying holdings adjacent to such road.

309. Control over private roads and bridges :-

All private roads and bridges shall be subject to the inspection and control of the Board of Councillors.

310. Control over construction or alteration of private roads

:-

(1) Every person who intends to construct, reconstruct or alter a private road shall send to the Board of Councillors an application for permission to execute the work.

(2) Every such application shall be accompanied by such document and particulars as may be prescribed.

(3) Every person applying for permission to construct, reconstruct or alter a private road shall further mark out on the ground the alignment of the road for inspection by the Board of Councillors or an officer authorised by it in this behalf.

(4) The permission referred to in sub-section (1) may be granted or refused or granted subject to any condition which the Board of Councillors may think fit to impose in accordance with such rules as may be made in this behalf.

(5) No work referred to in sub-section (1) shall be commenced without the written permission of the Board of Councillors.

311. Reconstruction etc. of private road :-

If it appears to the Board of Councillors that any private road is so situated or is in such condition that it threatens the stability or security of any hillside or bank or any immovable property thereon, it may, by written notice, require the owner of such private road,-

(a) to reconstruct, regard, diver, alter or repair such private road, or

(b) to make a revetment or retaining-wall on either side or both sides of such private road, or

(c) to take such other measures as may be specified in the notice.

312. Provision for enlargement of waterway on private road

:-

If it appears to the Board of Councillors that it is necessary to provide any waterway on any private road or to enlarge any waterway provided on any private road, it may, by written notice, require the owner of the such private road-

(a) to provide and maintain such waterway, or

(b) to enlarge the existing waterway, as the case may be.

313. Rules as to construction etc. of private road etc :-

Whenever any private road is to be constructed, reconstructed, regarded, diverted, altered or repaired, or whenever any waterway on any private or enlarged, the work shall be executed in accordance with such rules, in so far as they are applicable to such private road or waterway, as may be made in this behalf.

314. Removal of materials falling upon or into road or drains :-

Whenever any building, wall, revetment or other erection or any part thereof, or any stone, tree, soil or debris from private premises falls down and obstructs any public or private road or drain, the Board of Councillors may cause the obstruction to be removed and take all measures incidental thereto, and recover the expenses thereof from the owner of the premises from which those have fallen, unless the owner himself causes such removal.

315. Control over construction or alteration of private drains :-

(1) Every person who intends to construct, reconstruct, alter stop up or obstruct any private drain, shall send to the Board of Councillors an application for permission to execute the work.

(2) Every such application shall be accompanied by a general description of the drain.

(3) The permission referred to in sub-section (1) may be granted or refused or granted subject to any conditions which the Board of Councillors may think fit to impose in accordance with such rules as may be made in this behalf.

(4) No work referred to in sub-section (1) shall be commenced without the written permission of the Board of Councillors.

316. Reconstruction, repair, etc. of private drains, gutters, etc :-

(1) The Board of Councillors may, by written notice, require the owner of any land or building-

(a) to reconstruct, enlarge, extend, alter, repair, make efficient, stop up or remove any drain belonging to such land or building, or

(b) to alter the inclination or direction of any such drain, or

(c) to provide for any such drain or such movable covers or gratings

as may be specified in the notice, or

(d) to carry any such drain to such point of outlet, or junction with some other drain, as may be specified in the notice.

(2) The Board of Councillors may, by written notice, require the owner or the occupier of any building-

(a) to provide and maintain a sufficient number of suitable roof-gutters and down pipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified in notice, or

(b) to renew, alter, repair or remove any such gutters, pipes or platforms already provided for the building.

(3) The gutters as aforesaid shall be of such dimensions and shall have such slope, and the pipes as aforesaid shall be of such dimensions and the bends in such pipes shall be made at such angles, as may be prescribed.

317. Power to require provision of private drain :-

If any land or building is not drained to the satisfaction of the Board of Councillors, it may, by written notice, require the owner to provide a drain therefor, at such inclination, and to such point of outlet or of junction with some other drain, as may be specified in the notice.

318. Private drainage in combination :-

(1) If it appears to the Board of Councillors that any land or building belonging to different owners may be drained or the drainage thereof may be improved more economically or advantageously in combination than separately, the Board of Councillors may cause such lands or buildings to be drained, or the drainage thereof to be improved, in such manner as it may consider, fit.

(2) The Board of Councillors may cause any drain, which has been provided or improved under sub-section (1), to be maintained or repaired in such manner as it may consider fit.

(3) All expenses incurred under sub-section (1) or sub-section (2) shall be paid by the owners of the lands or the buildings, as the case may be, in proportion to the benefits derived by them, in such manner as may be determined by the Board of Councillors.

319. Power where buildings etc. threaten the stability of other immovable property :-

If it appears to the Board of Councillors that any building or portion of a building or any thing affixed to a building or any wall or structure on any land is in such condition as threatens the stability or security of any hillside or bank or any immovable property thereon, the Board of Councillors may, by written notice, require the owner of such land or building-

(a) to take down such building, portion, thing, wall or structure and remove the materials, or

(b) to secure or repair such building, thing, wall or structure in such manner as may be specified in the notice, or to make a revetment for the support thereof or to take such other measures as may be specified in the notice, and

(c) in the case of the matter referred to in clause (a), also take such measures with regard to the site of such building, wall or structure, for ensuring the stability or security of any hillside or bank or any immovable property thereon as may be specified in the notice.

320. Power where hillside or bank threatens the safety of building :-

If it appears to the Board of Councillors that the condition or situation of any hillside or bank, being private property, is such as threatens the safety of any building or the safety of such building cannot be ensured by taking action under any other provision of this Act or such building threatens the safety of some other buildings, it may, by written notice, require the owner of the first mentioned building-

(a) to take down the building and remove the materials, or

(b) to secure the building in such manner as may be specified in the notice or to make a revetment for the support thereof or to take such other measures as may be specified in the notice, and may also, by written notice, require the owner of the other building to secure the same in such manner as may be specified in the notice or to make a revetment for the support thereof or to take such other measures as may be specified in the notice.

321. Power to require revetting, turfing or sloping :-

(1) If it appears to the Board of Councillors that the condition or the situation of any land, being private property, is such as threatens the stability or security of any hillside or bank or any immovable property thereon, the Board of Councillors may, by written notice, require the owner of the land to do all or any of the following things, namely:-

(a) to construct and maintain a revetment, retaining-wall or toe-wall upon any part of the land; or

(b) to reconstruct, enlarge, strengthen, alter or repair any revetment, retaining-wall or toe-wall already standing on the land; or

(c) to turf the land or any portion thereof; or

(d) to slope the land or any portion thereof.

(2) If any owner to whom a notice is issued, represents to the Board of Councillors, within fifteen days of the service of the notice, that the work required by the notice will directly or substantially benefit the owners of any adjacent buildings or land, the Board of Councillors may, after hearing all the owners concerned, cause the said work to be executed; and the expenses thereby incurred shall be recovered from all or any of such owners in such proportion as the Board of Councillors may direct.

322. Power to execute work in combination :-

If it appears to the Board of Councillors that lands or buildings belonging to two or more owners may be protected by the execution of works more economically or advantageously in combination than separately, the Board of Councillors may cause such works or any of them to be executed, maintained and kept in repairs; and the expenses thereby incurred shall be recovered from the said owners in such proportion as the Board of Councillors may direct.

323. Power to execute works where public road, drain, revetment or retaining-wall is affected :-

The Chairman-in-Council may, at any time, for reasons to be recorded in writing, cause any revetment, retaining-wall or toe-wall to be constructed, reconstructed, enlarged, strengthened, altered or repaired on any private land immediately abutting upon any public road, drain, revetment or retaining-wall; and the expenses thereby incurred shall be shared by the Municipality with the owner

of such land in such proportion as the Chairman-in-Council may direct.

324. Rules as to revetting, turfing and sloping :-

Whenever any revetment, retaining-wall or toe-wall is to be constructed, reconstructed, enlarged, strengthened, altered or repaired, or any land is to be turfed, or sloped, the work shall be executed in accordance with such rules, in so far as they are applicable to such work, as may be made in this behalf.

325. Power to prohibit occupation of unsafe or insanitary building :-

(1) If it appears to the Chairman-in-Council that any building or the site thereof is, in consequence of its condition or of its situation with reference to any hillside or bank, unsafe, it may, by written notice, prohibit the owner or any other person from occupying or continuing to occupy such building or from permitting it to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Chairman-in-Council.

(2) If it appears to the Chairman-in-Council that the drainage of, or the latrine accommodation provided for, any masonry or framed building is defective, it may, by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to its satisfaction.

326. Additional power to Board of Councillors in hill areas to make regulations :-

(1) In addition to any rule that the State Government may make under this Act, the Board of Councillors in the hill areas may, at a meeting, make regulations-

(a) prohibiting the cutting or destroying of trees or shrubs, planting and maintenance of particular kinds of trees or shrubs, prohibiting the making of excavations or removal of soil or quarrying, providing for the alteration, repair and proper maintenance of buildings and compounds, closing of roads and by-paths, and general protection of the surface land on any hillside, where such regulations appear to the Board of Councillors to be necessary for the maintenance of water-supply, preservation of soil, prevention of landslides or of formation of ravines or torrents, and protection of land against erosion or deposit thereon of sand, gravel or stones;

- (b) providing for road, or land, or building abutting thereon;
- (c) providing for licenses necessary within the municipal area for animals, vehicles and other conveyances let out on hire for a day or part thereof;
- (d) prescribing the conditions subject to which such licenses may be granted, refused, suspended or withdrawn;
- (e) providing for the charges to be made for the hire of animals, vehicles and other conveyances referred to in clause (c);
- (f) preventing the straying of poultry;
- (g) preventing the grazing or straying of cattle on hillsides or banks; and
- (h) providing for any of the matters necessary for environmental protection of the hills.

(2) The word "cattle" referred to in clause (g) of sub-section (1) shall have the same meaning as in the Cattle-trespass Act, 1871.

PART 8

COMMUNITY HEALTH

CHAPTER 21

Public Safety and Nuisances

327. Precautions in case of dangerous structures :-

(1) If any structure is deemed by the Board of Councillors to be in ruinous state and dangerous to the passers-by or to the occupiers of neighbouring structures, the Board of Councillors may by notice require the owner or the occupier to fence off, take down, secure or repair such structure to prevent any danger therefrom within such period as may be specified in the notice.

(2) If immediate action is necessary, the Board of Councillors shall, before giving such notice or before the period specified in the notice expires, fence off, take down, secure or repair such structure or fence off a part of any street or take such temporary measures as it may think fit to prevent danger, and the cost of doing so shall be recoverable from the owner or the occupier as an arrear of tax under this Act.

(3) If, in the opinion of the Chairman-in-Council, the structure as aforesaid is imminently dangerous to the inmates thereof, it shall

order immediate evacuation thereof, and any person disobeying the order may be removed by any police-officer.

328. Precautions in case of dangerous trees :-

(1) If any tree or any branch of a tree or the fruit of any tree overhangs or is likely to fall and thereby endanger any person or any structure, well or tank, the Chairman may by notice require the owner of such tree to secure, lop or cut down the tree to prevent any danger therefrom.

(2) If immediate action in respect of any tree or any branch of a tree or the fruit of any tree referred to in sub-section (1), is necessary, the Chairman shall, before giving such notice or before the period specified in the notice expires, secure, lop or cut down such tree or remove the fruit thereof or fence off a part of any street or take such other temporary measures as he may think fit to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree as an arrear of tax under this Act.

329. Precautions in case of dangerous tanks, well, holes, etc :-

(1) If any tank, pond, well, hole stream, dam, bank or other place appears to the Board of Councillors to be, for want of sufficient repair, protection or enclosure, dangerous to the passers-by or to persons living in the neighbourhood, the Board of Councillors may by notice require the concerned owner to fill in, remove, repair, protect or enclose such tank, pond, well, hole, stream, dam, bank or other place, as the case may be, to prevent any danger therefrom within such period as may be specified in the notice.

(2) If immediate action in respect of any tank, pond, well, hole, stream, dam, bank or other place referred to in sub-section (1), is necessary, the Chairman-in-Council shall, before giving such notice or before the period specified in the notice expires, take such temporary measures as it may think fit to prevent danger, and the cost of doing so shall be recoverable from the owner as an arrear of tax under this Act.

330. Power to stop dangerous quarrying :-

If, in the opinion of the Board of Councillors, the working of any quarry or the removal of stone, earth, coal or other material from any. place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create

a nuisance, the Board of Councillors may require the owner or the person having control of such quarry or place to discontinue the working of the same or to discontinue the removal of stone, earth, coal or other material from such place or to take such order with such quarry or place as it may deem necessary, for the purpose of preventing danger or abating the nuisance arising or likely, to arise therefrom.

331. Precautions against fire :-

(1) The Board of Councillors may by notice require the owner of any structure, booth or tent partly or entirely composed of, or having external roof, verandah, pandal or wall partly or entirely composed of, cloth, grass, leaves, mats, or other inflammable materials, to remove or later such tent, booth, structure, roof, verandah, pandal or wall, or may grant him permission to retain the same on such conditions as the Board of Councillors may think necessary to prevent danger from fire.

(2) The Board of Councillors may by notice require any person using any place for the storage for private use of timber, firewood, or other combustible things to take special steps to guard against danger from fire.

(3) Where the Chairman-in-Council is of opinion that the means of egress from any building are insufficient to allow safe exit in the event of fire, it may by notice require the owner or the occupier of the building to alter or reconstruct any staircase in such manner, or to provide such additional or emergency staircase, as it may direct; and when any building, booth or tent is used for purposes of public entertainment, the Chairman-in-Council may require, subject to the foregoing provisions of this section, that it shall be provided with an adequate number of clearly indicated exits so placed and maintained as may readily afford the audience ample means of safe egress, that the seating shall be so arranged as may not interfere with free access to the exits, and that gangways, passages and staircases leading to the exit shall, during the presence of the public, be kept clear of obstruction.

332. Prohibition of construction of wells, tanks, etc. without permission of Board of Councillors :-

(1) No new well, tube-well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the Board of Councillors.

(2) The Board of Councillors may grant such permission, subject to such conditions as it may deem necessary, or may, for reasons to be recorded in writing, refuse such permission.

(3) If any work is begun or completed without permission as aforesaid, the Chairman-in-Council may-

(a) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chairman-in-Council may direct, or

(b) grant permission to retain such work for reasons to be recorded in writing, in exceptional circumstances if such retention is not otherwise objectionable:

Provided that the Board of Councillors may impose such fine not exceeding five hundred rupees for such contravention, as it may deem fit.

333. Prevention of mosquito-breeding :-

1

(1) If, in the opinion of the Chairman-in-Council, any pool, ditch, tank, well, pond, swamp, quarry, hole, drain, cesspool, watercourse, pit, cistern, desert or air-cooler, ground, underground, or overhead tank or any collection of water, or any land on which water may at any time, accumulate is or likely to become a breeding place of mosquitoes or in any other respect, becomes a nuisance, the Chairman-in-Council may by notice require the owner or the person having control thereof to take all or any of the following actions:-

(a) to clean, or drain off or remove water therefrom, or to provide cover thereto, or

(b) to have any courtyard, lane, passage, or open space paved with such material, and in such manner, as may be directed by the Chairman-in-Council, to keep such paving in proper repair, or to raise the level of such courtyard, lane, passage, or open space, or

(c) to fill up unwholesome waterbody:

Provided that any unwholesome waterbody may be filled up only after compliance with the provisions of Section 4C of the West Bengal Land Reforms Act, 1955, by the owner or the person having control thereof.

(2) No person shall keep or permitted to be kept or maintained, within any premises or land any collection of stagnant or flowing water which, in the opinion of the Chairman-in-Council, is, or is likely to be, a breeding place for mosquitoes, unless such collection of water is treated in such manner as may effectively prevent the breeding of mosquitoes.

(3) All borrow pits dug in the course of construction and repairs of buildings, roads, or embankments shall be deep and connected with each other in the formation of a drain directed towards the lowest level and properly

(4) The owner or occupier of any premises shall not keep therein any bottle, tyre (old or new) vessel, can container or receptacle in such manner as may allow it to collect, or to retain, water which may breed mosquito, and shall clean and dry such bottle, tyre (old or new) vessel, can, container or receptacle at the interval of seven days.

(5) The owner or occupier of any premises shall wrap the openings of the vent-pipes and the outlets of septic tanks with proper mosquito-proof nets and shall maintain covering slabs of septic tanks to prevent entry and exit of mosquitoes.

(6) The owner or occupier of any premises shall seal the overhead tanks, cisterns or water receptacles to prevent mosquito breeding, and shall provide safe ladder for making the overhead tanks or cisterns or water receptacles approachable in order to facilitate inspection of the water in the container by the municipal authorities.

(7) For construction of permanent water collections such as swimming pools, artificial fountains or water reservoirs constructed for the purpose of beautification,-

(a) an application shall be submitted to the Municipality stating therein the anti-larval measures, which shall be taken by the applicant to keep the water free of mosquito larvae;

(b) the Board of Councillors, after considering the application shall issue a license to the applicant;

(c) the applicant shall receive the said license on payment of such fee as may be determined by the Board of Councillors, and the license shall be renewed annually.

(8) The owner or the occupier of any private pond or water reservoir shall keep such pond or water reservoir free from water hyacinth or allied weeds to prevent mosquito breeding.

(9) If any person contravenes any provision of this section or fails to comply with any requirement under this section, he shall be punished with fine which may extend to one thousand rupees, and a daily fine of fifty rupees in the case of continuance of such contravention commences from the day on which such contravention is brought to the notice of such person by the municipal authority.

1. Sec. 333 subs, by W.B. Act 22 of 2000, which was earlier as under:- "333. Filling in of pools, etc., which are a nuisance (1) If, in the opinion of the Chairman-in-Council,- (a) any pool, ditch, tank, well, pond, swamp, quarry, hole, drain, cesspool, watercourse or any collection of water, or (b) any land on which water may, at any time, accumulate, is or is likely to become a breeding place of mosquitoes or, in any other respect, becomes a nuisance, the Chairman-in-Council may by notice require the owner or the person having control thereof, to fill up, cover over, weed, or stock with larvicidal fish, drain, or drain off the same in such manner and with such materials, or to take such steps for removing or abating the nuisance, as the Chairman-in-Council direct, within such period as may be specified in the notice. (2) If a person to whom a notice is issued under sub-section (1) to fill up, cover over, or drain off a well, delivers to the Chairman within the period specified in the notice for compliance therewith, written objections to such notice, the Chairman shall make further Inquiry into the case, and shall not institute any prosecution for failure to comply with such notice. The Chairman may, nevertheless, if he deems the execution of the work called for by such notice to be of urgent importance, cause such well to be securely covered over to prevent breeding of mosquitoes and, in every such case, the Chairman shall determine whether the expenses of any work already done as aforesaid shall be paid by such owner or shall be met out of the Municipal Fund or shall be shared and, if so, in what proportions."

334. Regulation or prohibition of certain practices relating to cultivation :-

The Board of Councillors, on the report of the Director of Health Services or the Chief Medical Officer of Health of the district or upon any expert opinion that the cultivation or practices relating to the cultivation of any description of crop or the use of any kind of pesticide or manure or the irrigation of any land in any place within the limits of the municipal area is injurious to the public health, may, with the previous sanction of the State Government, by public

notice regulate or prohibit the cultivation or any practice relating to cultivation, or use of any pesticide or manure or irrigation so reported to be injurious.

335. Cleansing of insanitary private tank or well used for drinking purposes :-

(1) The Chairman-in-Council may by notice require the owner of, or the person having control over, any private water course, spring, tank, well or other place, the water of which is used for drinking, bathing, or washing purposes, to keep the same in good repair and to cleanse it of silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the Chairman-in-Council may think fit.

(2) If the water of any place which is used for drinking, bathing or washing purposes, as the case may be, is proved to the satisfaction of the Chairman- in-Council to be unfit for any such purpose, the Chairman-in-Council may by notice require the owner or the person having control thereof-

(a) to refrain from using, or permitting the use of, such water, or

(b) to close or fill up such place or enclose it with a substantial wall or fence.

336. Duty of the Chairman-in-Council in respect of public well or receptacle of stagnant water :-

(1) The Chairman-in-Council shall maintain in a clean condition all wells, tanks and reservoirs which are not private property and may fill them up or drain them when it appears necessary so to do.

(2) All wells, tanks and reservoirs and aforesaid, when maintained by the Municipality, shall be open to use and enjoyment by all members of the public.

337. Prohibition against, or regulation of, washing animals or clothes or fishing in public water courses, tanks, etc :-

The Chairman- in-Council may, in the interest of public health, regulate or prohibit the washing of animals, clothes or other things or fishing in any public spring, tank, well, public water course or part thereof within the municipal area and may set apart any such place for drinking or bathing or washing clothes or animals or for any other specified purpose.

338. Provision of public toilets and wash houses :-

(1) The Board of Councillors may construct or provide and maintain public toilets and wash-houses or places for bathing or washing of clothes, and may require the payment of such rents, and fees for the use of any such toilet, wash- house or place as it may determine.

(2) The Board of Councillors may farm out the collection of such rents and fees for any period, not exceeding three years at a time, on such terms and conditions as it may think fit.

339. Provision against washing by washermen at unauthorised places :-

(1) The Chairman-in-Council may by public notice prohibit the washing of clothes by washermen in pursuance of their calling, within the municipal area except at-

(a) public wash-houses or places maintained or provided for the purpose, or

(b) such other places as the Chairman-in-Council may appoint for the purpose, if sufficient number of public wash-houses are not maintained or provided.

(2) When any such prohibition has been made, no person who is by calling a washerman shall, in contravention of such prohibition, wash clothes, except for himself or for personal and family service or for hire on and within the premises of the hirer, at any place within the limits of the municipal area other than a public wash-house or place maintained or appointed under this Act.

340. Prohibition against defilling water of tanks etc., whether public or private :-

No person shall-

(a) bathe in, or in any manner defill, water in any place set apart by the Municipality or by the owner thereof for drinking only; or

(b) deposit any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purpose; or

(c) wash clothes in any place set apart as aforesaid for drinking or bathing purposes; or

(d) wash any animal or any cooking utensils or wool, skins or other

foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing purpose or washing clothes; or

(e) cause or suffer to drain into or upon any place set apart as aforesaid for drinking, or bathing purpose or washing clothes or cause or suffer anything to be brought thereinto or do anything whereby the water may be fouled or corrupted.

Unoccupied buildings or lands. Prohibition against defilling water of tanks etc., whether public or private :-

342. Abatement of overcrowding in dwelling house or dwelling place :-

(1) If it appears to the Chairman-in-Council that any dwelling-house or other building, which is used as a dwelling-place, or any room in such dwelling-house or building, is generally so overcrowded as endangers the health or safety of the inmates thereof, it may, by a written notice, require the owner or the occupier of the building or the room to abate such overcrowding by reducing the number of lodgers, occupants or other inmates of the building or room within such time, not exceeding four weeks, as may be specified in the notice, or may pass such order as it may deem just and proper.

(2) The Chairman-in-Council may, by written order, declare the extent of surface or cubic space which shall be deemed, for the purposes of sub-section (1), to be necessary for each occupant a building or room.

(3) It shall be incumbent on every tenant, lodger or other inmate of a building or room to abate over-crowding or vacate, on being required by the owner so to do, in pursuance of any notice issued under sub-section (1).

(4) Nothing in this section shall apply to over-crowding of a casual nature or on a festive occasion.

343. Prohibition against feeding certain animals on filth :-

No person shall feed any animal, or permit any animal, which is kept for dairy purpose or may be used for food, to be fed, on filth.

344. Premises not to be used for keeping animals, birds, etc., without licence :-

No person shall use, or permit to be used, any land or premises for

keeping cattle, horse, pig, dog, or other quadruped or any kind of bird for any purpose whatsoever without, or otherwise than in conformity with, the terms of a license granted by the Board of Councillors on payment of such fees as may be determined by the Board of Councillors by regulation:

Provided that the Board of Councillors may, by a written order, exempt any class of animal or bird from such licence or from any purpose for which such class of animal or bird may be kept.

345. Seizure of certain animals or birds :-

(1) If any cattle, horse, pig, dog, or other four-footed animal or bird is kept on any land or premises in contravention of the provisions of this Chapter or is found roaming or straying or tethered on any street or public place or is found causing nuisance or danger to the public, the Chairman may direct any officer or employee of the Municipality to seize such cattle, horse, pig, dog or other four-footed animal or bird and may cause it to be impounded or removed to and maintained in such place as may be appointed by the Municipality for this purpose; and the cost of such seizure and impounding or removing and maintenance shall be recoverable by sale of such animal or bird, as the case may be, by auction:

Provided that any person claiming such animal or bird may, within seven days of such seizure, get it released on his paying all the expenses incurred by the Municipality in seizing, impounding or removing, or maintaining such animal or bird and on his producing such evidence in support of his claim as the Chairman may think sufficient.

(2) The proceeds of sale of any animal or bird by auction under sub-section (1) shall be applied in meeting the expenses incurred on account of seizure, impounding or removal, and maintenance of such animal or bird and of holding such sale; and the surplus, if any, shall be held in deposit by the owner of such animal or bird within a period of ninety days from the date of sale, be credited to the Municipal Fund.

346. Power to deal with infected dogs or animals :-

The Chairman may-

(a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by

any dog or other animal suffering or suspected to be suffering from rabies;

(b) by public notice direct that after such date as may be specified in the notice, dogs which are without a licence distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be confined and cause them to be otherwise dealt with or destroyed, if necessary.

347. Power to stop nuisances from animals within premises :-

(1) Whenever the Chairman is of opinion that the user of any premises for keeping any animal or bird, even if licensed, is causing a nuisance and that such nuisance should immediately be stopped, the Chairman may, by order, require the owner or the occupier of such premises to stop such nuisance within such period as may be specified in the order.

(2) If, at the end of such period, the nuisance is not stopped, the Chairman or any other officer authorised by him in this behalf may cause such use of such premises to be stopped forthwith by such means as he thinks fit and direct such owner or occupier to show cause why the licence for keeping the animal or the bird, as the case may be, shall not be cancelled.

(3) If such owner or occupier does not show cause to the satisfaction of the Chairman or if the nuisance is not abated, the nuisance shall be stopped by the seizure and auction of the animal or the bird found in the premises after cancellation of the licence therefor.

348. Control and removal of khatala :-

Subject to the provisions of any other law for the time being in force for removal of khatala, the Board of Councillors may make regulations specifically for control of khatala within the municipal area or removal of khatala therefrom. Such regulations may provide for restricting the khatala within a specified zone or zones or setting up of milk colony exclusively for rearing of cattle within or outside the municipal area and seizure of animals for violation of regulations and penalty for offenders.

349. Power to require repair, alteration, removal or conversion of latrines etc :-

(1) The Chairman-in-Council may require, by written notice, the owner or the occupier of any land or building to comply with any of the following within such period as may be specified in the notice:-

(a) to close, remove, alter, repair, cleanse, disinfect or otherwise put to order any cesspool, drain, receptacle for sewage, septic tank or any other type of latrine;

(b) to require such cesspool, drain, receptacle for sewage, septic tank or other type of latrine to be provided for any land or building, whether or not, in addition to the existing ones;

(c) to cause any service privy or urinal in any land or building to be converted into or replaced by sanitary latrine of specified design, model or standard;

(d) to provide specified devices to the existing cesspool, drain, receptacle for sewage, septic tank or latrine to abate the mosquito menace.

(2) Upon the issue of notice under sub-section (1), it shall be incumbent upon every owner or occupier to comply with the same within the period specified in the notice.

(3) On the failure of the owner or the occupier to comply with the notice, the Chairman-in-Council may cause the work to be done and recover the expenses thereof from the owner or the occupier of the land or the building or from both in such proportions as it may deem reasonable.

350. Power to abate nuisances caused by pollution :-

Subject to the provisions of this Act and of any other law for the time being in force, the Board of Councillors may take measures for abatement of any nuisance caused by the pollution of noise, foul odour, visual irritation, sensory annoyance, respiratory affection or the like in such cases and manners, and by fixing such standards, as may be prescribed.

CHAPTER 22

Restraint of infection

351. Board of Councillors to take measures for prevention and checking of dangerous diseases :-

It shall be the duty of the Board of Councillors to take such measures as are necessary for preventing or checking the spread of any dangerous disease in the municipal area or of any epidemic

disease among any animal therein by way of mass inoculation, vaccination, immunisation, and disinfection.

352. Obligation to give information of dangerous disease :-

Any person being in charge of, or in attendance upon, whether as a medical practitioner or otherwise, any other person whom he knows or has reason to believe to be suffering from a dangerous disease, or being the owner, lessee, or occupier of any building in which he knows that any such person is so suffering, shall forthwith give information as respects the existence, of such disease to the Chairman.

353. Power of Chairman to cause inspection of a place and take measures to prevent spread of dangerous disease :-

The Chairman may at any time, by day or by night and without notice or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, cause inspection of any place in which any dangerous disease is reported or suspected to exist, and take such measures as he may think fit to prevent the spread of such disease beyond such place, and shall forthwith submit a report to the State Government.

354. Power of Chairman to cause disinfection of building, tank, pool or well :-

(1) If the Chairman is of opinion that the cleansing or disinfection of any building or any part thereof or of any article in such building or part thereof will tend to prevent or check the spread of any dangerous disease, he may by notice require the owner or the occupier to cleanse and disinfect such building or part thereof or of any article therein in such manner and within such time as may be specified in the notice.

(2) The Chairman may, if he thinks fit, cause such cleansing or disinfection to be done by the employees of the Municipality and may by notice require the occupier of such building or part thereof to vacate the same for such time as he may specify in the notice.

(3) The cost of cleansing or disinfecting under sub-section (2) shall be paid,-

(a) in the case of any building or any part thereof or any article contained therein, by the occupier of such building or part thereof, and

(b) in any other case, by the person in actual possession thereof or, if there is no such person, by the owner:

Provided that if, in the opinion of the Chairman, such occupier or person or owner is, owing to poverty, unable to pay the cost, he may direct the payment thereof to be made from the Municipal Fund.

355. Power of Chairman to destroy infectious building, structures, huts or sheds :-

(1) Where the destruction of any building; structure, hut or shed is, in the opinion of the Chairman-in-Council, necessary to prevent the spread of any dangerous disease, it may by notice in writing require the owner to destroy the building, structure, hut or shed and the materials thereof within such time as may be specified in the notice.

(2) Where the Chairman-in-Council is satisfied that the destruction of any building, structure, hut or shed is immediately necessary for the purpose of preventing the spread of any dangerous disease, he may, order the owner or the occupier thereof to destroy the same forthwith or may cause it to be destroyed after giving not less than six hours' notice to the owner or the occupier as the case may be.

(3) Compensation may be paid by the Board of Councillors, in such case as it may think fit, to any person who sustains substantial loss by the destruction of any such building, structure, hut or shed, but, except otherwise provided in this sub-section, no claim for compensation shall lie for any loss or damage caused by the exercise of any power under this section.

356. Power of Chairman to close lodging and eating houses :-

The Chairman may, on being satisfied that it is in the public interest so to do, by written order direct that any lodging house or any place where articles of food and drink are sold, prepared, stored or exposed for sale, being a lodging house or place in which a case of dangerous disease exists or has recently occurred, shall be closed for such period as may be specified in the order:

Provided that such lodging house or place may be declared to be open if the Chief Medical Officer of Health of the district certifies that it has been disinfected or is free from infection.

357. Power of Chairman to restrict or prohibit sale of fish, flesh, food, drink, articles, etc :-

When the municipal area or any part thereof is visited or threatened by an outbreak of any dangerous disease, the Chairman may, by public notice, restrict in such manner, or prohibit for such period, as may be specified in the notice, the sale or preparation of any article of food or drink or drug for human consumption, or the sale of any fish, flesh, fruit or vegetable of any description, or the use of any container or packages, as may be specified in the notice.

358. Control over well and tanks, etc :-

If the Chairman is of opinion that the water in any tank or other place is likely to endanger human life or cause the spread of any disease, he may-

(a) by public notice prohibit the use of such water for consumption; or

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

(c) take such other steps as he may consider expedient to prevent the outbreak or spread of any such disease.

359. Special measures in case of outbreak of dangerous or epidemic diseases :-

(1) In the case of any municipal area or any part thereof being visited or threatened by an outbreak of any dangerous disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Chairman, if he thinks that the other provisions of this Act and the provisions of any other law for the time being in force are insufficient for the purpose, may, with the previous approval of the Board of Councillors,- (a) take such special measures, which may extend to destruction of

the sources of infection like foodstuff, drugs, drinks, flesh, fish, fruits, vegetables, articles, containers, packages, or clothing, as may be necessary, and

(b) by public notice, give such directions to be observed by the public or by any class or section of the public as he thinks necessary, to prevent the outbreak or spread of the disease:

Provided that where, in the opinion of the Chairman, immediate measures are necessary, he may take action without such approval as aforesaid and, if he does so, shall forthwith report such action to the Board of Councillors:

Provided further that no compensation shall be claimed by any one affected by the measures taken under clause (a).

(2) No person shall commit a breach of any direction given under sub-section (1) and if he does so, he shall be deemed to have committed an offence under Section 188 of the Indian Penal Code, 1860 .

360. Disposal of infectious corpses :-

Where any person dies from any dangerous disease, the Chairman may, by notice in writing,-

(a) require any person having charge of the corpse to carry the same to mortuary for being disposed of in accordance with law, or

(b) prohibit the removal of the corpse from the place where death occurred, except for the purpose of being burnt or buried or being carried to a mortuary.

361. Prohibition of making or selling of food etc. or washing of clothes by infected persons :-

No person shall, while suffering from, or in circumstances in which he is likely to spread, any dangerous disease,-

(a) make, carry or offer for sale, or take any part in the business of making, carrying or offering for sale, any article of food or drink or any medicine or drug for human consumption or any article of clothing or bedding for personal use or wear, or

(b) take any part in the business of washing or carrying of clothes.

362. Duty of persons suffering from dangerous disease :-

No person shall,-

(a) knowing that he is suffering from a dangerous disease, expose other persons to the risk of infection by his presence or conduct in any public street or public place;

(b) having the care of a person who he knows to be suffering from a dangerous disease, cause or permit such person to expose other persons to the risk of infection by his presence or conduct in any street or place as aforesaid;

(c) place or cause to be placed in a dustbin or other receptacle for the deposit of rubbish, any matter which he knows to have been exposed to infection from a dangerous disease and which has not been disinfected properly;

(d) throw or cause to be thrown into any latrine or urinal any matter which he knows to have been exposed to infection from a dangerous disease and which has not been disinfected properly.

CHAPTER 23

Vital Statistics

363. Registration of births and deaths :-

Subject to the provisions of the Registration of Births and Deaths Act, 1969, the Board of Councillors shall cause ¹[registration of] births and deaths taking place within the municipal area ²[* * * *] and extracts of information therefrom shall be supplied, on application, in such form of a certificate and on payment of such fees as may be ³ [determined by regulations.]

1. Words subs, for the words "a register to be maintained wherein the" by W.B. Act 22 of 2000.

2. Words "shall be entered" om. by W.B. Act 22 of 2000.

3. Words subs, for the word "prescribed" by W.B. Act 22 of 2000.

364. Information of births :-

It shall be the duty of the father or the mother of every child born within the municipal area or, in default of the father or the mother, of any relation of the child living in the same premises or, in default of such relation, of the person having charge of the child to give, to the best of his or her knowledge and belief, to the officer empowered in a municipal area in this behalf, ¹[twenty-one days] of such birth, information containing such particulars as may be ² [required under the Registration of Births and Deaths Act, 1969:]

Provided that -

(a) in the case of an illegitimate child, no person shall, as father of such child, be required to give any information under this Act containing the particulars of birth of such child, and the officer empowered under this section shall not enter in the register the name of any person as father of such child except at the joint request of the mother and of the person acknowledging himself to be the father of such child; and such person shall, in such case, sign the register together with the mother;

(b) a person required to give information only in default of some other person shall not be bound to give such information if he believed and had reasonable grounds for believing that such information had been given;

(c) when a child is born in hospital or a nursing home or a maternity home, none but the officer-in-charge thereof shall be bound to forward forthwith to the officer empowered under this section a report of such birth in such time and in such form as may, from time to time, be specified by the State Government.

1. Words subs, for the words "eight days" by W.B. Act 22 of 2000.
2. Words and figures subs, for the word "prescribed:" by W.B. Act 22 of 2000.

365. Information respecting finding of new-born child :-

In case any new-born child is found exposed, it shall be the duty of any person finding such child or of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the officer empowered under section 364 , within ¹ [twenty-one days from the date] of finding of such child, such information containing the particulars of birth of such child as such person possesses.

1. Words subs, for the words "eight days" by W.B. Act 22 of 2000.

366. Information regarding death :-

It shall be the duty of the nearest relation present at the time of the death or in attendance during the last illness of any person dying within the municipal area and, in default of such relation, of any person present or in attendance at the time of the death and of the occupier of the premises in which, to his knowledge, the death took place and, in default of the person hereinbefore mentioned, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of to give, ¹[within twenty-one days from the date of its occurrence and] to the best of his knowledge and belief, to the officer specially empowered in this behalf for the area within which the death took place, information containing such particulars ² [as may be required under the Registration of Births and Deaths Act, 1969:]

Provided that -

(a) if the cause of death is known to be a dangerous disease, the information as aforesaid shall be given within twelve hours of its

occurrence;

(b) if the death of any person occurs in a hospital or a nursing home or a maternity home, it shall be the duty of none but the medical officer or other officer-in-charge thereof to forward forthwith a report of such death in such form as may, from time to time, be specified by the State Government.

1. Words ins. by W.B. Act 22 of 2000.

2. Words and figures subs, for the words "as may be prescribed within twenty-four hours of its occurrence:" by W.B. Act 22 of 2000.

367. Medical practitioner to certify cause of death :-

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

368. Duties of police in regard to unclaimed corpses :-

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

369. Sextons, etc., not to bury, etc., corpse :-

No sexton or keeper of a registered burial or burning ground or other place for disposal of the dead, whether situated within the municipal area or not, shall bury, burn or otherwise dispose of or allow to be buried, burnt or otherwise disposed of any corpse, unless such corpse is accompanied by a certificate in such form as may be prescribed and signed by an officer specially empowered in this behalf or by a registered medical practitioner or any other medical practitioner authorised by the State Government in this behalf.

CHAPTER 24

Disposal of the Dead

370. Registration of places for disposal of the dead :-

(1) Every owner or person having the control of any place already used for burying, burning or otherwise disposing of the dead, but which is not vested in, or owned by, the Municipality or any board appointed by the State Government for administration of such place, shall apply to the Board of Councillors within a period of three months from the commencement of this Act to register the name of such place and the Board of Councillors shall cause the same to be registered.

(2) Such application shall be accompanied by a plan of the place to be registered, showing the locality, boundaries and extend of the same, and shall bear the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor. The application shall also contain information as regards the name of the owner or the person or the community interested therein, the system of management and such further particulars as the Board of Councillors may require.

(3) The Board of Councillors may, on receipt of such application and plan, register the name of the place as aforesaid in a register which shall be maintained for such registration.

(4) If the Board of Councillors is not satisfied with the plan or the information or the other particulars referred to in sub-section (2), it may refuse or postpone registration until such plan or information or other particulars are furnished to its satisfaction.

(5) Every place vesting in the Municipality or a board appointed by the State Government for administration of any place used for burying, burning or otherwise disposing of the dead shall be registered in the register maintained under sub-section (3) and shall be classified as public or private, and a plan showing the locality, extent and boundaries thereof and bearing the signature of an officer authorised by the Board of Councillors in this behalf shall be deposited in the office of the Municipality.

371. Provision for, and registration of, new places for disposal of the dead :-

(1) If any existing place for the disposal of the dead appears, at any time, to be insufficient, the Board of Councillors shall, with the sanction of the State Government, provide other fit and convenient place, either within or outside the municipal area, for the said purpose, and shall cause the same to be registered under the provisions of this Chapter.

(2) All the provisions of this Act or the rules or the regulations made thereunder shall apply to any place provided under sub-section (1) outside the municipal area and vesting in the Municipality, as if such place were situated within the municipal area.

372. Permission for opening new place for disposal of the dead or reopening of place :-

(1) No place, which has not previously been lawfully used or registered as a place for the disposal of the dead, shall be opened by any person for the said purpose except in conformity with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979, and without the written permission of the Board of Councillors who, with the approval of the State Government, may grant or withhold such permission.

(2) Such permission may be subject to such conditions as the Board of Councillors may think fit to impose for the purpose of preventing any annoyance to, or danger to the health of, any person residing in the neighbourhood.

(3) No place for the disposal of the dead, which has fallen into disuse, shall be used again as such.

373. Power to require closing of burning and burial grounds :-

(1) Where the Board of Councillors, after making, or causing to be made, any local enquiry, is of opinion that any burning or burial ground or other place for the disposal of the dead has become offensive to, or dangerous to the health of, persons residing in the neighbourhood or for any other reasons to be recorded in writing, it may, with the previous approval of the State Government and by notice in writing, require the owner or the person in charge of such ground or place to close the same from such date as may be specified in the notice.

(2) No corpse shall be burnt or buried or otherwise disposed of at the burning or burial ground or place in respect of which a notice has been issued under this section.

374. Power to direct reopening of any place closed for the disposal of the dead :-

If, at any time after inspection, the Board of Councillors is of

opinion that any place formerly used for the disposal of the dead, which has been closed under the provisions of this Chapter or under any other law or authority, has, by lapse of time, become no longer injurious to health and may, without inconvenience or risk of danger, be again used for the said purpose, it may direct that such place may be reopened for the disposal of the dead.

375. Prohibitions regarding burials within places of worship and exhumation :-

(1) No person shall, without the written permission of the Board of Councillors under sub-section (2),-

(a) make any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah, of any place of worship;

(b) make any interment or otherwise dispose of any corpse in any place which is closed under the provisions of this Chapter;

(c) build or dig, or cause to be built or dug, any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered under this Chapter;

(d) exhume any body from any place for the disposal of the dead except under the provisions of the Code of Criminal Procedure, 1973 , or any other law for the time being in force.

(2) The Board of Councillors may, in special cases, grant permission for any of the purposes as aforesaid, subject to such general or special orders as the State Government may, from time to time, make in this behalf.

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

376. Acts prohibited in connection with disposal of dead :-

No person shall-

(a) retain a corpse on any premises without burning, burying or otherwise lawfully disposing of the same for so long a time after death as creates a nuisance:

Provided that after the expiration of not less than twenty-four hours from the death of any person, the Board of Councillors may, with the assistance of the police, if necessary, cause the corpse of

such person to be burnt or buried. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets, if any, of the deceased:

Provided further that the Board of Councillors may charge from the person or persons responsible for the disposal of the dead body such fees as may be determined by regulations;

(b) carry a corpse or part of a corpse along any street without having the same decently covered or without taking such precautions to prevent risk of infection or injury to the community health as the Board of Councillors may, by public notice from time to time, require;

(c) carry a corpse or part of a corpse along any street along which the carrying of corpse is prohibited by a public notice issued by the Board of Councillors in this behalf, except where no other route is available;

(d) remove a corpse or part of a corpse, which has been kept or used for purpose of dis-section, otherwise than in a closed receptacle or vehicle;

(e) place or leave a corpse or part of a corpse, while conveying the same, on or near any street without urgent necessity;

(f) bury or cause to be buried any corpse or part of a corpse in a grave or vault or otherwise in such manner as may cause the surface of the coffin or, when no coffin is used, of the corpse or part of the corpse to be at a depth of less than two metres from the surface of the ground;

(g) build or dig, or cause to be built or dug, any grave or vault in any burial ground at a distance of less than one half of a metre from the margin of any other grave or vault;

(h) build or dig, or cause to be built or dug, a grave or vault in any burial ground in any line not marked out for such purpose by or under the order of the Board of Councillors;

(i) reopen, for the interment of a corpse or of any part of a corpse, a grave or vault already occupied without the written permission of the Board of Councillors.

377. Disposal of dead animals :-

(1) Whenever any animal in charge of any person dies, the person

in charge thereof shall, within twenty-four hours, either-

(a) convey the carcass to a place provided or appointed under this Act for the final disposal of carcasses of dead animals, or

(b) give notice of the death to the Chairman whereupon he shall cause the carcass to be disposed of.

(2) The Board of Councillors may charge such fees as may be determined by regulations for the disposal of the carcass of a dead animal under clause (b) of sub-section (1).

PART 9

OTHER AUTHORITIES

CHAPTER 25

Notified Area

378. Constitution of notified area :-

(1) Whenever, in the opinion of the ¹[Governor], it is necessary to make provisions for all or any of the purposes of this Act in respect of-

(i) any urbanised area which does not fulfil the conditions for being immediately constituted a municipal area under this Act, or

(ii) any area which is comprised in a newly developing town, or

(iii) any area in which new industries have been or are being established, the ¹[Governor] may, by notification, specify such area and declare ³[his] intention so to do.

(2) Any inhabitant of the area in respect of which a notification has been published under sub-section (1) may, if he objects to the making of any provision as aforesaid, submit his objection in writing to the ¹[Governor] within three months from the date of publication of the notification.

(3) The ¹[Governor] may, after considering the objections, if any, received by ⁶[him] during the period referred to in sub-section (2), make an order-

(a) withdrawing the notification under sub-section (1), or

(b) constituting the area specified in the notification or any part thereof as a notified area for the purposes of this Chapter.

(4) The ¹[Governor] may, by order made after declaration by

notification of ² [his]intention so to do followed by the consideration of any objection thereto received within three months from the date of publication of the notification, add new areas to a notified area constituted under this section.

1. Word subs, for the words "State Government" by W.B. Act 30 of 1994.

3. Word subs, for the word "its" by W.B. Act 30 of 1994.

6. Word subs, for the word "it" by W.B. Act 30 of 1994.

379. Application of provisions relating to Municipality to Notified Area Authority. :-

¹²Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, all the provisions of this Act, except the provisions of section 3 , section 4 , ³[section 5 , section 6 and section 9 ,] which apply to a Municipality, shall also apply to a ² [Notified Area Authority].

1. Sec. 379 subs, by W.B. Act 30 of 1994, which was earlier as under:- "379. Power to apply enactments to, and constitute. authority in, notified area (1) The State Government may, by order to be published in the Official Gazette (a) extend to a notified area with such incidental or consequential modifications as the State Government may consider necessary for giving effect to the provisions of this Chapter-(i) any provisions of this Act which applies to a Municipality, or (ii) any rule or regulation in force in any municipal area; and (b) appoint, for a notified area, a committee consisting of not less than five and not more than nine members, to be known as the Notified Area Authority, to carry out all or any of the purposes of this Chapter. (2) The State Government shall appoint a Chairman and may also appoint a Vice-Chairman from amongst the members of a Notified Area Authority referred to in clause (b) of sub-section (1).".

2. Words subs, for the words "notified area" by W.B. Act 13 of 1995.

3. Words and figures subs, for the words and figures "section 5 and section 6," by W.B. Act 22 of 2000.

380. . :-

¹ [* * * * *]

1. Sec. 380 om. by W.B. Act 30 of 1994. which was as under:- "380. Consequences of application of the Act to a notified area (1) When any tax is imposed in a notified area under any of the provisions of this Act as extended to such area, the proceeds of such tax shall be expended in the same manner in which, and for the same purposes for which, the Municipal Fund may be expended by a Municipality. (2) When any provision of this Act or the rules or the regulations made thereunder is extended with or without

modification to a notified area, such provision or rule or regulation shall, unless a different intention appears, operate as if the notified area were a municipal area and the powers and duties of the Chairman-in-Council were vested in the Chairman appointed under sub-section (2) of section 379 and those of the Board of Councillors, in the Notified Area Authority."

381. Declaration of notified area as municipal area :-

¹ Notwithstanding anything contained in chapter II or elsewhere in this Act, if, at any time, the Governor is satisfied, having regard to the provisions of section 3 , that a notified area may be constituted a municipal area, the Governor may, by notification, declare such notified area to be a municipal area.

1. Sec. 381. subs, by W.B. Act 13 of 1995, which was earlier as under:- "381. Abolition or alteration of a notified area The State Government may, at any time and in accordance with the provisions of this Act, by notification,- (a) constitute a notified area or any part thereof to be a municipal area, or (b) include a notified area or any part thereof within a municipal area."

382. Consequences of constitution of notified area to be municipal area :-

12

(1) When the whole of a notified area is declared to be a municipal area under section 381 , the Notified Area Authority for the notified area declared to be a municipal area shall be deemed to be the

3 (1A) When the whole of a notified area is constituted to be a municipal area, the notified area shall cease to exist and the properties, funds and other assets vested in the Notified Area Authority and all the rights and liabilities of the Notified Area Authority shall vest in, and shall devolve on, the Municipality.

(2) When a part of a notified area is constituted to be, or is included in, a municipal area, such part shall be deemed to have been excluded from such notified area, and so much of the properties, funds and other assets vested in, and such of the rights and liabilities of, the Notified Area Authority, as may be allocated by the State Government by order in this behalf shall vest in, and shall devolve on, the Municipality.

1. Words subs, for the words "Consequences of abolition or alteration of notified area. " by W.B. Act 13 of 1995.

2. Sub-sec. (1) renumbered as sub-sec. (1A) and present sub-sec. (1) ins. by W.B. Act 13 of 1995.

3. Sub-sec. (1) renumbered as sub-sec. (1A) and present sub-sec, (1) ins. by W.B. Act 13 of 1995.

383. . :-

1 * * * * *

1. Sec. 383 om. by W.B. Act 30 of 1994, which was as under:-
"383. Officers and other employees A Notified Area Authority may, subject to the approval of the State Government, appoint such officers and other employees as may be necessary for the purpose of giving effect to the provisions of this Chapter."

384. Special provision relating to non-municipal urban area :-

(1) Whenever, in the opinion of the State Government, it becomes necessary to make provisions for regulation of urban growth in any non-municipal urban area, identified as such in the latest Census Report, the State Government may, by notification, entrust a Gram Panchayat or a Panchayat Samiti, as the case may be, constituted under the West Bengal Panchayat Act, 1973, with powers and duties to enforce all or any of the provisions of this Act or the rules made thereunder on matters relating to-

(a) building regulations,

(b) street alignment,

(c) conversion of land or building from one use to another, and

(d) public safety and nuisance.

(2) The exercise of any power or discharge of any duty entrusted on a Gram Panchayat or a Panchayat Samiti under sub-section (1) shall, notwithstanding anything contained in the West Bengal Panchayat Act, 1973, be deemed to be the performance of the functions assigned to the Gram Panchayat or the Panchayat Samiti, as the case may be, in respect of the matter referred to in clause (o) of sub-section (1) of section 20 , or item (ii) of clause (a) of sub-section (1) of section 109 , as the case may be, of that Act.

385. Power to make rules :-

(1) The State Government may, by notification, make rules for carrying out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the

following matters, namely:-

(a)¹* * * * *

(b)¹* * * * *

(c)¹* * * * *

(d) the manner in which powers and duties are to be exercised by a Gram Panchayat or a Panchayat Samiti with regard to non-municipal urban areas.

1. Clauses (a), (b) and (c) om. by W.B. Act 30 of 1994, which were as under:- "(a) the qualifications for appointment of members of a Notified Area Authority and the manner of filling casual vacancies in the office of such members; (b) the term of office of the Chairman, and the other members, the Vice- Chairman of a Notified Area Authority; (c) any other matter relating to the constitution and functions of a Notified Area Authority;".

CHAPTER 25A

Industrial Township

385A. Constitution of Industrial township :-

1 (1) Whenever, in the opinion of the Governor, it is necessary to make provisions for all or any of the purposes of this Act in respect of any area in which industries have been or are being established, the Governor may, by notification, specify such area to be an industrial township and declare his intention so to do.

(2) Any inhabitant of the area in respect of which a notification has been published under sub-section (1) may, if he objects to the making of any provision as aforesaid, submit his objection in writing to the Governor within three months from the date of publication of the notification.

(3) The Governor may, after considering the objection, if any, received by him during the period referred to in sub-section (2), make an order-

(a) withdrawing the notification under sub-section (1), or

(b) constituting the area specified in the notification or in part thereof as an industrial township for the purposes of this Chapter.

(4) The Governor may, by order made after declaration by notification of his intention so to do followed by the consideration of any objection thereto received within three months from the date

of publication of the notification, add new areas to an industrial township constituted under the section.

(5) Where the area in question has already been declared as a notified area under the Bengal Municipal Act, 1932, or under this Act, it shall not be necessary to issue any notification declaring the intention of the Governor to specify such area as an industrial township before constituting under S.385B of the Industrial Township (Authority) or to invite objections from the inhabitants of the area. In such case, the Governor may, by notification, constitute such area as an industrial township and, upon the publication of such notification, such area shall be deemed to have been duly constituted as an industrial township for the purposes of this Chapter.

1. Chapter XXVA containing sees. 385A to 385G ins. by W.B. Act 30 of 1994.

385B. Application of the Act and the rules made thereunder

:-

1

(1) The Governor may, by order to be published in the Official Gazette,-

(a) extend to an industrial township with such incidental and consequential modification as the State Government may consider necessary for giving effect to the provisions of this Chapter-

(i) any provision of this Act which applies to a Municipality, or

(ii) any rule or regulation in force in any municipal area; and

(b) appoint, for an industrial township, a Committee consisting of not more than 13 and not less than 9 members, to be known as the Industrial Township Authority, to carry out all or any of the purposes of this Chapter.

(2) The State Government shall appoint a Chairman and may also appoint a Vice-Chairman from among the members of an Industrial Township Authority referred to in clause (b) of sub-section (1). Such Authority shall include representatives of such industry as may be supplying municipal services in such area, and such representatives shall not be more than three.

1. Chapter XXVA containing sees. 385A to 385G ins. by W.B. Act 30 of 1994.

385C. Consequences of application of the Act to an industrial township :-

1

(1) When any tax is imposed in an industrial township under any of the provisions of this Act as extended to such township, the proceeds of such tax shall be expended in the same manner in which, and for the same purposes for which, the Municipal Fund may be expended by a Municipality.

(2) When any provision of this Act or the rules or the regulations made thereunder is extended with or without modification to an industrial township, such provision or rule or regulation shall, unless a different intention appears, operate as if the industrial township were a municipal area and the powers and duties of the Chairman-in-Council were vested in the Chairman appointed under sub-section (2) of section 385B and those of the Board of Councillors, in the Industrial Township Authority.

1. Chapter XXVA containing sees. 385A to 385G ins. by W.B. Act 30 of 1994.

385D. Abolition or alteration of an industrial township :-

1 The State Government may at any time and in accordance with the provisions of this Act, by notification,-

(a) constitute an industrial township or any part thereof to be a municipal area, or

(b) include an industrial township or any part thereof within a municipal area.

1. Chapter XXVA containing sees. 385A to 385G ins. by W.B. Act 30 of 1994.

385E. Consequences of abolition or alteration of an industrial township :-

1

(1) When the whole of an industrial township is constituted to be a municipal area, the industrial township shall cease to exist and the properties, funds and other assets vested in the Industrial Township Authority and all the rights and liabilities of the Industrial Township Authority shall vest in, and shall devolve on, the Municipality.

(2) When a part of an industrial township is constituted to be or is

included in a municipal area such part shall be deemed to have been excluded from such industrial township, and so much of the properties, funds and other assets vested in, and such of the rights and liabilities of, the Industrial Township Authority, as may be allocated by the State Government by order in this behalf, shall vest in, and shall devolve on, the Municipality.

1. Chapter XXVA containing secs. 385A to 385Gins. by W.B. Act 30 of 1994.

385F. Officers and other employees :-

¹ An Industrial Township Authority may, subject to the approval of the State Government, appoint such officers and other employees as may be necessary or the purpose of giving effect to the provisions of this Chapter.

1. Chapter XXVA containing secs. 385A to 385Gins. by W.B. Act 30 of 1994.

385G. Power to make rules :-

¹

(1) The State Government may, by notification, make rules for carrying out the purposes of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the qualifications for appointment of members of an Industrial Township Authority and the manner of filling casual vacancies in the office of such members;

(b) the term of office of the Chairman, the Vice-Chairman, and the other members, of an Industrial Township Authority;

(c) any other matter relating to the constitution and functions of an Industrial Township Authority.

1. Chapter XXVA containing secs. 385A to 385Gins. by W.B. Act 30 of 1994.

PART 10

POWERS, PROCEDURES, PENALTIES AND SAVINGS

CHAPTER 26

Procedure

386. Signature, conditions, duration, suspension, revocation, etc. of licences and written permissions :-

(1) Wherever it is provided in this Act or the rules or the regulations made thereunder that a licence or a written permission shall be issued by the Board of Councillors or by any other officer empowered to grant the same under this Act or the rules or the regulations made thereunder or by any other officer of the Municipality authorised by the Board of Councillors or the officer empowered as aforesaid in this behalf, the same shall specify, in addition to any other matter

(a) the date of the grant thereof;

(b) the purpose and the period (if any) for which it is granted;

(c) the restrictions or conditions, if any, subject to which it is granted;

(d) the name and address of the person to whom it is granted; and

(e) the fee, if any, paid for the licence or the written permission.

(2) Except as otherwise provided in this Act or the rules or the regulations made thereunder, for every licence or written permission as aforesaid, a fee may be charged at such rate as may, from time to time, be fixed by the Board of Councillors, and such fee shall be payable by the person to whom the licence or the written permission is granted.

(3) Save as otherwise provided in this Act or the rules or the regulations made thereunder, any licence or written permission granted under this Act or the rules or the regulations made thereunder may, at any time, be suspended or revoked by the Board of Councillors or the officer by whom it was granted, if he is satisfied that it has been secured by the grantee through misrepresentation or fraud, or if any of its restrictions has been infringed or evaded by the grantee, or if the grantee has been convicted for the contravention of any of the provision of this Act or the rules or the regulations made thereunder relating to any matter for which the licence or the permission was granted:

Provided that -

(a) before making any order of suspension or revocation of the licence or the written permission, a reasonable opportunity shall be accorded to the grantee to show cause why it should not be suspended or revoked;

(b) every such order shall contain a brief statement of the reasons for the suspension or the revocation of the licence or the written permission.

(4) When any such licence or written permission is suspended or revoked, or when the period for which the same was granted has expired, the grantee shall, for the purposes of this Act or the rules or the regulations made thereunder, be deemed to be without a licence or written permission until the licence or the written permission is renewed.

(5) Every grantee of any licence or written permission under this Act shall, at all reasonable times while such licence or written permission remains in force, if so required by the Board of Councillors or by the officer by whom it was granted, produce such licence or written permission.

387. Powers of entry and inspection :-

The Board of Councillors or any officer or other employee of the Municipality authorised by the Board of Councillors or empowered by or under this Act in this behalf may enter into or upon any land or building with or without assistants or workmen-

(a) for the purpose of ascertaining whether, in connection with the land or the buildings there is or has been any contravention of the provisions of this Act or the rules or the regulations made thereunder;

(b) for the purpose of ascertaining whether or not circumstances exist which render it necessary, or require the Board of Councillors or any officer or other employee of the Municipality authorised or empowered in this behalf, to take any action or execute any work under this Act or the rules or the regulations made thereunder;

(c) for the purpose of taking any action or executing any work authorised or required by this Act or the rules or the regulations made thereunder;

(d) to make such inquiry, inspection, examination, measurement, valuation or survey as may be authorised or required by or under this Act or as may be necessary for the proper administration of this Act;

(e) generally for the purpose of efficient discharge of the functions by any of the authorities under this Act or the rules or the

regulations made thereunder.

388. Power to enter land or adjoining land in relation to any work :-

(1) The Board of Councillors or any person authorised by it or empowered by or under this Act in this behalf may enter upon any land within one hundred metres of any work authorised by or under this Act with or without assistants or workmen for the purpose of depositing thereon any soil, gravel, stone or other materials or for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(2) Every person as aforesaid shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the Municipality in accordance with the rules or the regulations made under this Act in this behalf to the owner or the occupier of such land or to both for any such damage, whether permanent or temporary.

389. Breaking into building :-

(1) It shall be lawful for the Board of Councillors or any person authorised by it or empowered by or under this Act in this behalf to make any entry into any place and to open or to cause to be opened any door, gate or other barrier,-

(a) if he considers the opening of such door, gate or other barrier necessary for the purpose of such entry; and

(b) if the owner or the occupier is absent or, being present, refuses to open such door, gate or other barrier.

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

390. Time of making entry :-

Save as otherwise provided in this Act or the rules or the regulations made thereunder, no entry into any place authorised by

or under this Act shall be made except between the hours of sunrise and sunset:

Provided that if the Chairman-in-Council is satisfied that the erection of any building or the execution of any other work has been commenced, or is being carried on, in any premises in contravention of the provisions of this Act or any other evasion of the provisions of this Act or the rules or the regulations made thereunder is being committed between the period of sunset and sunrise, it may, for reasons to be recorded in writing, enter such premises during such period to make an inspection thereof and take such action as may be necessary under this Act.

391. Notice for entry :-

Save as otherwise provided in this Act or the rules or the regulations made thereunder, no land or building shall be entered without giving the owner or the occupier thereof, as the case may be, not less than twenty-four hours' written notice of the intention to make such entry:

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

392. Public notices how to be made known :-

Every public notice given under this Act or the rules or the regulations made thereunder shall be in writing under the signature of the Chairman or any officer of the Municipality authorised in this behalf by the Board of Councillors, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within such locality or by advertisement in local newspapers or by publishing the same otherwise as the Chairman-in-Council may think fit.

393. Proof of consent etc. of Board of Councillors or any officer of the Municipality :-

Wherever under this Act or the rules or the regulations made thereunder the doing of, or the omission to do, or the validity of, anything depends upon the approval, sanction, consent, concurrence, declaration, opinion or satisfaction of-

(a) the Board of Councillors, or

(b) the Chairman-in-Council, or

(c) the Chairman or any officer of the Municipality, as the case may be, a written document signed,-

(i) in the cases referred to in clause (a), by the ¹ [Chairman,] and

(ii) in the cases referred to in clause (b) or clause (c), by the Chairman or such officer of the Municipality, purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

1. Word subs, for the words "Municipal Secretary," by W.B. Act 45 of 1994.

394. Notices etc. to fix reasonable time :-

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

395. Signature on notices etc. to be stamped :-

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

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

396. Notice etc. by whom to be served or issued :-

Every notice, bill, summons or other document required by this Act or the rules or the regulations made thereunder to be served upon, or issued to, any person, shall be served or issued by an officer or other employee of the Municipality or by any person authorised by the Chairman in this behalf.

397. Service of notices etc :-

(1) Every notice, bill, summons, requisition or other document required or authorised by this Act or the rules or the regulations made thereunder to be served or issued by or on behalf of the Municipality or by any of the other municipal authorities or any

officer or other employee of the Municipality shall, save as otherwise provided in this Act or the rules or the regulations made thereunder, be deemed to be duly served-

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at its registered office or at its principal office or place of business and is-

(i) sent under certificate of posting, or

(ii) delivered at the registered office or at the principal office or place of business of the company;

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

(i) sent under certificate of posting, or

(ii) delivered at the place of business of the partnership;

(c) where the person to be served is a corporation, society or any other body or authority, if the document is addressed to the secretary, treasurer or other officer of such corporation, society or other body or authority at its principal office and is-

(i) sent under certificate of posting, or

(ii) delivered at the principal officer of such corporation, society or other body or authority;

(d) if such notice, bill, summons, requisition or other document is, in any other case, addressed to the person to be served and-

(i) is given or tendered to him, or

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

(iii) is sent under certificate of posting to such person.

(2) Any notice, bill, summons, requisition or other document required or authorised to be served on the owner or the occupier of any land or building may be addressed to the owner or the

occupier, as the case may be, of such land or building (naming such land or building) without further name or description, and shall be deemed to be duly served,-

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

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

(3) Where a notice, bill, summons, requisition or other document is served on a partnership under this section, such notice, bill, summons, requisition or other document shall be deemed to be duly served on each partner.

(4) For the purpose of enabling any notice, bill, summons, requisition or other document to be served on the owner of any premises, the Chairman may, by notice in writing, require the occupier of such premises to state the name and address of the owner thereof.

(5) Where the person on whom a notice, bill, summons, requisition or other document is to be served is a minor, the service thereof upon his guardian or any adult members of his family shall be deemed to be service upon the minor.

398. Time for complying with requisition or order, and power of Board of Councillors to enforce requisition or order in default :-

(1) When, under this Act or the rules or the regulations made thereunder, any requisition or order is made by a written notice issued to any person or persons by any municipal authority or any officer of the Municipality, such authority or officer shall specify in such notice a period within which-

(a) such requisition or order shall be complied with, and

(b) any written objection thereto shall be received by such authority or officer.

(2) If any such requisition or order or any part thereof is not complied with within the period specified under sub-section (1), the Board of Councillors may, subject to such regulations as may be

made by the Board of Councillors in this behalf, take such measures or cause such work to be executed or such thing to be done as may, in its opinion, be necessary for causing due compliance with such requisition or order; and, except as otherwise expressly provided in this Act or the rules or the regulations made thereunder, the expenses, if any, incurred by such authority or officer in causing such compliance with Such requisition or order, shall be paid by the person or persons to whom such notice is issued.

(3) The Board of Councillors may take any measure, execute any work or cause anything to be done under this section, notwithstanding any prosecution or punishment or liability to punishment of any person under this Act or the rules or the regulations made thereunder for his failure to comply with such requisition or order.

399. Submission of objections to comply with notice :-

(1) Any person who has been served with a written notice under sub-section (1) of section 398 in which a period for receiving objections has been specified may, within such period, deliver to the municipal authority or the officer of the Municipality, as the case may be, a written objection setting forth the reasons which he may desire to urge for the withdrawal or modification of such notice.

(2) Every such objection shall be placed before the Chairman for determination.

400. Power of Board of Councillors to enter into agreement for payment of expenses in instalments :-

(1) When, under this Act or the rules or the regulations made thereunder, any expenses of any measures taken or work executed or thing done by or under the order of any municipal authority or any officer of the Municipality are incurred by such authority or officer in the event of any person not complying with any requisition or order under this Act or the rules or the regulations made thereunder, the Chairman may, if he thinks fit and with the approval of the Board of Councillors, notwithstanding anything to the contrary contained in this Act or the rules or the regulations made thereunder, enter into an agreement with such person for payment of the same in such instalments and at such intervals as will secure the recovery of the whole amount due with interest

thereon at such rate of interest as may be determined by the State Government from time to time within such period, not exceeding six years, as the Board of Councillors may determine.

(2) Every such agreement shall provide for adequate security against the whole amount due from such person.

401. Execution of work by occupier on the failure of owner :-

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

402. Relief to receivers, agents and trustees :-

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

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

(b) being such receiver or agent or trustee would receive the rent if such property were let to a tenant, bound to discharge any obligation imposed on the owner of such property but has not, at his disposal, funds belonging or payable to such owner or sufficient for the purpose of discharging such obligation, he shall, within a period of six weeks from the date of service upon him by any municipal authority or officer of the Municipality empowered in this behalf under this Act of any notice requiring him to discharge such obligation, apply to a court of competent jurisdiction for leave to raise such funds or for such directions as he may consider necessary for such purpose.

(2) If such person fails to apply to a court of competent jurisdiction under sub-section (1) or, after the court has granted leave to raise funds or has issued directions, fails to discharge such obligation or to comply with such directions within twelve months of such leave or such directions, he shall be personally liable to discharge such obligation.

403. General power of Municipality to pay compensation :-

In any case not otherwise expressly provided for in this Act or the rules or the regulations made there under, the Board of Councillors may pay compensation to any person who sustains damage by reason of the exercise of any power under this Act or the rules or the regulations made thereunder by any municipal authority or any officer of the Municipality.

404. Compensation to be paid for damage to property of Municipality :-

Any person who has been convicted of an offence punishable under this Act or the rules or the regulations made thereunder shall, without prejudice to any punishment to which he may be subject, be liable to pay such compensation for any damage to any property of the Municipality resulting from such offence as the Board of Councillors may consider reasonable.

405. Recovery of certain dues of Municipality :-

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

Provided that no proceedings for the recovery of any such sum under this section shall be commenced after the lapse of three years from the date on which such sum becomes due.

406. Power to institute etc. legal proceedings and obtain legal advice :-

The Board of Councillors may-

(a) initiate, or withdraw from, any proceedings against any person who is charged with-

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

(ii) any offence which affects or is likely to affect any property or interest of the Municipality, or

(iii) committing any nuisance whatsoever;

(b) institute, or withdraw from, or compromise, any proceedings under this Act;

- (c) contest or compromise an appeal against assessment of any property tax or other tax;
- (d) withdraw or compromise any claim against any person in respect of a penalty payable under a contract entered into with such person by the Municipality;
- (e) defend or compromise any suit or other legal proceeding or claim brought against the Municipality or against any municipal authority or any officer or other employee of the Municipality in respect of anything done or omitted to be done by the Municipality or such authority or officer or other employee under this Act or the rules or the regulations made thereunder;
- (f) institute or prosecute any suit, proceeding or claim, or withdraw from, or compromise, any suit, proceeding or claim, instituted or made, as the case may be, in the name of the Municipality or the Board of Councillors or the Chairman;
- (g) obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing lawful exercise or discharge of any power or duty vesting in, or imposed upon, any municipal authority or any officer or other employee of the Municipality, such legal advice and assistance as it may, from time to time, consider necessary or expedient.

407. Notice, limitation and tender of relief in suits against Board of Councillors etc :-

(1) No suit shall be instituted in any court having jurisdiction against any municipal authority or any officer or other employee of the Municipality or any person acting under the direction of any municipal authority or any officer or other employee of the Municipality in respect of any act done or purporting to be done under this Act or the rules or the regulations made thereunder until after the expiration of one month next after a notice in writing has been delivered or left at the office of such authority or at the office or the residence of such officer or other employee or person, stating-

- (a) the cause of action,
- (b) the name and residence of the intending plaintiff, and
- (c) the relief which such plaintiff claims.

(2) 1 * * * * *

(3) If the municipal authority at the office of which, or the officer or the other employee of the Municipality or the person acting under the direction of any municipal authority or any officer or other employee of the Municipality at the office or the residence of whom, a notice has been delivered or left under sub-section (7), satisfies the court having jurisdiction that the relief claimed was tendered to the plaintiff before the institution of the suit, the suit shall be dismissed.

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

1. Sub-sec. (2) om. by W.B. Act 30 of 1994. which was as under:-
"(2) Every such suit shall be commenced within four months next after the accrual of the cause of action, and the plaint therein shall contain a statement that a notice has been delivered or left as required by sub-section (1).".

408. Indemnity :-

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

409. Co-operation of the police :-

(1) The Director General and Inspector-General of Police, West Bengal, and the police-officers subordinate to him shall-

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

(b) assist the Board of Councillors, the Chairman-in-Council or the Chairman or any officer or other employee of the Municipality in carrying out any order made by a Magistrate under this Act.

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

(i) to communicate without delay to the Chairman or any officer of the Municipality any information which he receives in respect of any design to commit, or any commission of, any of

(ii) to assist the Board of Councillors, the Chairman-in-Council or the Chairman or any officer or other employee of the Municipality reasonably demanding his aid for the lawful exercise of any power vesting in the Municipality or the Board of Councillors or the Chairman or such officer or other employee under this Act or the rules or the regulations made thereunder.

(3) Any officer or other employee of the Municipality may, when empowered by a general or special order of the Director General and Inspector-General of Police, West Bengal, on the recommendation of the Chairman-in-Council or the Chairman in that behalf, exercise the powers of a police-officer for such of the purpose of this Act as may be specified in such order.

410. Power of police to arrest offenders :-

(1) Any police-officer may arrest any person who commits, in his view, any offence under this Act or the rules or the regulations made thereunder, provided the name and address of such person are unknown to him and such person declines to give, on demand, his name and address or gives a name or address which the police-officer has reason to believe to be false.

(2) No person arrested under sub-section (1) shall be detained in custody after his true name and address are ascertained or without the order of a Magistrate for a period longer than twenty-four hours from the time of arrest, excluding the period necessary for the journey from the place of arrest to the court of the Magistrate.

(3) On the written application of the Chairman, any police-officer above the rank of a constable shall arrest any person who obstructs the Chairman or any member of the Chairman-in-Council or any officer or other employee of the Municipality in the exercise of any power or performance of any function or discharge of any duty under this Act or the rules or the regulations made thereunder.

411. Validity of notices and other documents :-

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

412. Admissibility of document or entry as evidence :-

A copy of any receipt, application, plan, notice, order or other document or any entry in a register in the possession of any municipal authority shall, if duly certified by the lawful keeper

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

413. Evidence of officer or other employee of Municipality :-

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

414. Prohibition against removal of mark :-

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

415. Prohibition against removal or obliteration of notice :-

No person shall, without any authority in that behalf, remove, destroy, deface or otherwise obliterate any notice exhibited by or under the order of the Board of Councillors or any municipal authority or any officer or other employee of the Municipality empowered in this behalf.

416. Prohibition against unauthorised intermeddling with property of the Municipality :-

(1) No person shall, without any authority in that behalf, remove earth, sand or other material form, or deposit any matter in, or make any encroachment on, any land vested in that Municipality, or in any way obstruct such land.

(2) No person shall interfere with, or encroach upon, or otherwise damage, any property belonging to, or vested in, the Municipality.

CHAPTER 27

Rules and Regulations

417. Power to make rules :-

(1) The State Government may, after previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the

foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by rules.

(3) All rules made under this Act shall be laid for not less than fourteen days before the State Legislature as soon as possible after they are made and shall be subject to such modification as the State Legislature may make during the session in which they are so laid. Any modification of the said rules made by the State Legislature shall be published in the Official Gazette, about shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

(4) Notwithstanding anything contained in sub-section (1), and subsection (2), of this section or elsewhere in this Act, till such time as the State Government makes rules under this Act, the rules made under the Bengal Municipal Act, 1932, and in force immediately [before the commencement] of this Act, shall, so far as they are not inconsistent with the provisions of this Act, be deemed to be the rules made under this Act, and the provisions of sub-section (3) shall not apply to any rules deemed under this subsection to be the rules made under this Act.

418. Power to amend Schedule :-

The State Government, on its own or on the recommendation of a Municipality or number of Municipalities, may by notification add to, amend, or alter any Schedule to this Act.

419. Power to make regulations :-

(1) The Board of Councillors may, after previous publication ¹[in accordance with, and subject to, the provisions of sub-section(2)], make regulations not inconsistent with the provisions of this Act or the rules made thereunder for discharging its functions under this Act.

2(2)

(a) A notice relating to the draft regulations shall be published in one or more of the local newspapers circulated within the jurisdiction of the Municipality to which such regulations relate or, if there be no such newspaper, in such manner as the Board of Councillors may direct.

(b) Such draft shall not be further proceeded with until the

expiration of a period of one month from the date of such publication or such longer period as the Board of Councillors may decide.

(c) For not less than one month during such period, a copy of such draft shall be kept in the office of the Municipality for public inspection, and any person shall be permitted at any reasonable time to peruse the same, free of charge.

(d) Copies of such draft shall be made available to any person requiring the same on payment .of such fee as the Board of Councillors may fix.

3 (3) Notwithstanding anything contained in sub-section (1) or this section or elsewhere in this Act, till such time as the Board of Councillors makes regulations under this Act, the regulations made under the Bengal Municipal Act, 1932 , and in force immediately before the commencement of this Act, shall, so far as they are not inconsistent with the provisions 'of this Act or the rules made thereunder, be deemed to be the regulations made under this Act, and the provisions of sub-section (2) of this section or section 420 shall not apply to any regulations deemed under this sub-section to be the regulations made under this Act:

Provided that the provisions of section 421 shall apply to any regulations deemed under this sub-section to be the regulations made under this Act.

Explanation "Regulation" shall include by law.

1. Words ins. by W.B. Act 13 of 1995.

2. Sub-sec. (2) subs, by W.B. Act 13 of 1995, which was earlier as under:- "(2) The draft of regulations shall be published in the manner prescribed and shall not be proceeded with until after the expiration of a period of one month from the date of such publication or such longer period as the Board of Councillors may appoint."

3. Sub-sec. (3) ins. by W.B. Act 30 of 1994.

420. Regulations to be subject to approval of State Government :-

No regulation made by the Board of Councillors under this Act shall have any validity unless and until it is approved by the State Government.

421. Power of State Government to cancel or modify regulations :-

(1) If the State Government is, at any time, of opinion that any regulation

(2) On receipt and consideration of any such representation or, if no such representation is received, after the expiry of the period as aforesaid, the State Government may, at any time, by notification, cancel or modify such regulation, either wholly or in part.

(3) The cancellation or modification of any regulation under the sub-section (2) shall take effect from such date as the State Government may specify in the notification under that sub-section or, if no such date is specified, from the date of publication of such notification, provided such cancellation or modification shall not effect anything done or suffered or omitted to be done under such regulation before such date.

(4) Any notification under sub-section (2) shall be published in local newspapers or in such other manner as the State Government may decide.

422. Penalty for breach of rules or regulations :-

(1) Any rule or regulation made under this Act may provide that a contravention thereof shall be punishable-

(a) with fine which may extend to one thousand rupees;

(b) with an additional fine in the case of a continuing contravention, which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention; and

(c) with additional fine which may extend to fifty rupees for everyday during which the contravention continues after receipt of a notice from the Municipality requiring the offender to discontinue such contravention.

(2) Any rule or regulation made under this Act may further provide that the offender shall be required to remedy, in so far as such remedy lies in his power, the mischief, if any, caused by the contravention of any rule or regulation made under this Act.

423. Rules and regulations to be available for inspection and purchase :-

(1) A copy of all rules and regulations made under this Act shall be

kept at the office of the Municipality and shall, during office hours, be open, free of charge, to inspection by any inhabitant of the municipal area.

(2) Copies of all such rules and regulations shall be kept at the office of the Municipality and shall be sold to the public at such price as the Board of Councillors may determine.

424. Doubts as to powers, duties or functions of municipal authorities :-

If any doubt arises as to the municipal authority to which any particular power, duty or function appertains, the Chairman shall refer the matter to the State Government and the decision of the State Government thereon shall be final.

CHAPTER 28

Delegation, Co-ordination and Control

425. Delegation of power by the State Government :-

(1) The State Government may, with regard to the Municipalities generally or to any Municipality or group of Municipalities in particular and subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies [or the District Magistrate or the Sub-divisional Magistrate] any of the powers vested in, or the functions imposed upon, the State Government by or under this Act, and thereupon, the Director of Local Bodies [or the District Magistrate or the Sub-divisional Magistrate] shall exercise such power or perform such functions as if he were the State Government.

(2) The State Government may, by notification, appoint one or more Deputy Director or Assistant Director of Local Bodies to exercise the powers and perform the functions of the Director of Local Bodies.

(3) * * * * *

426. Supervision by Director of Local Bodies :-

(1) The Director of Local Bodies [or the District Magistrate or the Sub-Divisional Officer], in addition to the powers or functions delegated to him, may-

(a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Municipality or any work in progress under the direction of a municipal authority;

(b) inspect or examine any department of the Municipality or any office, service, work or thing under the control of the Board of Councillors;

(c) record, in writing, for the consideration of the Board of Councillors, any observation he thinks proper in regard to the proceedings or duties of any of the municipal authorities.

(2) For the purpose of inspection or examination, the Director of Local Bodies [or the District Magistrate or the Sub-Divisional Officer] may require the Chairman or any officer of the Municipality-

(a) to produce any book, record, correspondence, plan or other document,

(b) to furnish any return, plan, estimate, statement, account or statistics, or

(c) to furnish or obtain any report.

(3) When a requisition is made under sub-section (2), the Chairman or any officer of the Municipality, as the case may be, shall comply with such requisition.

427. Power of State Government to call for documents, returns or information from Chairman or any officer of Municipality :-

The State Government may, at any time,-

(a) call for any document in the possession or under the control of the Chairman or any officer of the Municipality;

(b) require the Chairman or any officer of the Municipality to furnish any return, plan, estimate, statement, account, report or statistics, or any information whatsoever.

428. Inspection of municipal works and institutions by Government officers :-

Any work or institution constructed or maintained, or any programme undertaken in whole or in part, at the expense of the Municipality and all registers, books, accounts or other documents relating thereto shall, at all times, be open to inspection by such officers as the State Government may appoint in this behalf.

429. Power to suspend action under the Act :-

(1) The State Government may, after giving the Board of Councillors a reasonable opportunity of being heard, annul any proceeding or resolution or order which it considers to be not in conformity with the provisions of this Act or the rules made thereunder and may do all things necessary to secure such conformity:

Provided that pending the hearing to be given to the Board of Councillors, the State Government may suspend the operation of such proceeding or resolution or order.

(2) The State Government, on receiving any information that the Board of Councillors or any other municipal authority is about to pass an order or instruction or implement any act in excess of any power conferred by this Act, may forthwith prohibit the passing of such order or instruction or implementation of such act, and such prohibition shall be binding on the Municipality:

Provided that the State Government shall immediately thereafter give an opportunity to the Board of Councillors to make its representation in the matter upon which the State Government shall give its final order with reasons in writing.

429A. . :-

* * * * *

429B. Directions by the State Government :-

In the discharge of their functions, the Municipalities shall be guided by such directions as may be given to them by the State Government in conformity with the provisions of this Acts.

430. Powers of State Government in case of default :-

(1) If, at any time, it appears to the State Government that the Board of Councillors has made default in performing any duty¹[including the duty in relation to the Municipal Fund,] imposed on it by or under this Act or any other law for the time being in force, the State Government may, by order in writing, fix a period for due performance of such duty.

² (2) If such duty is not performed within the period so fixed, the State Government may, in the public interest, by order do, or cause to be done by any Officer of the State Government or any authority appointed by it, anything for due performance of such duty notwithstanding anything to the contrary contained elsewhere in

this Act or in any other law for the time being in force.

1. Words ins. by W.B. Act 13 of 1995.

2. Sub-sec. (2) subs, by W.B. Act 13 of 1995, which was earlier as under:- "(2) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform it, any may direct that the expenses of performing it shall be paid to such agency from the Municipal Fund within such time as it may fix."

431. Power of the State Government to intervene in case of gross neglect or serious irregularity :-

(1) If, in the opinion of the State Government, the Board of Councillors has shown gross neglect in the performance of the duties imposed upon it by or under this Act or any other law for the time being in force, or has committed serious irregularities in the performance of such duties, the State Government may by order direct the Board of Councillors to show cause within the period specified in the order why it shall not be dissolved on grounds of charges mentioned in this order.

(2) If the Board of Councillors fails to answer the charges within the period specified in the order or within such further time as may be allowed by the State Government, or if the answers do not convince the State Government, ¹[or where more than two-thirds of the total number of Councillors holding office for the time being have, for any reason, resigned] the State Government may dissolve the Board of Councillors by an order published in the Official Gazette with effect from the date of the order.

(3) When an order of dissolution has been passed, all the power and functions vested upon the municipal authorities under this Act or any other law for the time being in force, shall be exercised by such person or persons to be designated as Administrator or Board of Administrators as the State Government may appoint for the purpose.

(4) ²[A general election to the Municipality shall be held within six months of its dissolution] for the constitution of a new Board of Councillors immediately thereafter:

³Provided that the new Board of Councillors shall continue only for the remainder of the period for which the dissolved Municipality would have continued had it not been so dissolved:

3 Provided further that when the period for which the Board of Councillors would have continued is less than six months, it shall not be necessary to hold any elections for constituting a new Board of Councillors for such period.

(5)⁵ * * * * *

(6)⁴ * * * * *

(7) If any question arises as to what constitutes a gross neglect or a serious irregularity under this section, the opinion of the State Government as recorded in writing in the order, under this section shall be final and conclusive and the same shall not be questioned in any court of law.

1. Words ins. by W.B. Act 45 of 1994.

2. Words subs, for the words "The State Government shall hold a general election to the Municipality within six months of its dissolution and shall take steps" by W.B. Act 22 of 2000.

3. Provisos subs, by W.B. Act 30 of 1994 for the original proviso which was as under:- "Provided that the period of six months as aforesaid may be extended by an order to be made by the State Government in this behalf by a further period, not exceeding six months, in circumstances considered unavoidable by the State Government and recorded in the order."

5. Sub-sees. (5) and (6) om. by W.B. Act 30 of 1994, which were as under:- "(5) If, in the opinion of the State Government, instead of an order of dissolution, the neglect or irregularity in the affairs of the Municipality can be remedied by temporary supersession, partial or total, the State Government may, by order and for reasons to be recorded in writing, take over the administration of the municipal area either entirely or in respect of specified departments or area of activities for a period not exceeding six months and appoint the Director of Local Bodies or such other authority as it deems fit to discharge the functions of the municipal authorities with regard to such department or area of activity or the Municipality at large in accordance with such procedure as may be prescribed: Provided that the State Government may by order extend the period of six months as aforesaid by a further period, not exceeding six months, for reasons to be recorded in the order. (6) On the expiry of the period of supersession, the Board of Councilors and the other municipal authorities shall be restored to their respective offices to enable them to complete their normal tenure in office for the rest of the term."

431A. Special provision in the case of prohibitory order from court :-

¹ Where by reason of any order of a competent court, the Board of

Councillors is unable to exercise the powers or perform the duties or discharge the functions conferred or imposed on it by or under any provision of this Act or the rules or the regulations made thereunder, the State Government may appoint any authority or any person or persons, to exercise the powers or perform the duties, or discharge the functions, as the case may be, during the period of such inability in such manner, and on such conditions as the State Government may, by order, direct.

1. Sec. 431A ins. by W.B. Act 22 of 2000.

432. Co-ordination for purposes of planning and development :-

(1) The State Government may require the Municipalities to be integrated

(2) When so required, it shall be the duty of the Municipality to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

433. Civic participation :-

(1) The Board of Councillors shall convene a meeting of the citizens in each area covered by ¹[one or more wards, as the Board of Councillors may decide,] once a year for placing its annual administration report and annual financial statement ²[of the preceding year] for public information and deliberation thereon.

(2) The views of the citizens on the said report and statement shall be recorded and considered in such manner as may ³ [determined by the Board of Councillors.]

1. Words subs, for the words "a borough committee" by W.B. Act 13 of 1995.

2. Words ins. by W.B. Act 13 of 1995.

3. Words subs, for the word "prescribed." by W.B. Act 13 of 1995.

433A. Member, officers and employee to be public servants :-

¹ All the members of a Board of Councillors and all the officers and other employees of a Municipality shall, while acting or purporting to act, in pursuance of or in exercise of any power conferred by or under, any provision of this Act or the rules or the regulations made thereunder, to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860

1. Secs. 433A and 433B ins. by W.B. Act 22 of 2000.

433B. State Government to place officers and employees at the disposal of Municipalities :-

1

(1) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force,-

(a) upon the issue of any direction to any Municipality to exercise any power or to perform any function or to discharge any duty, or

(b) upon the transfer to any Municipality of any function, or control and management, of any property, under any provisions of this Act, the State Government shall, subject to such conditions as it may deem fit to impose, place at the disposal of the Municipality the services of such officers and other employees as may be necessary to enable it to exercise such power or perform such function or discharge such duty, as the case may be.

(2) The officers and other employees whose services are so placed at the disposal of the. Municipality, shall continue to be the officers and other employees of the State Government and their salary, allowances and other benefits shall be met from the Consolidated Fund of the State:

Provided that where any disciplinary or other action is required to be taken against any such officer or other employee, the Municipality shall, make a reference to the State Government for appropriate action.

(3) Where any power or function or duty as conferred or imposed on any Municipality by or under any other law for the time being in force, such law shall have effect as if this section had formed a part of such law, and thereupon such law shall be deemed to have been amended accordingly.

1. Secs. 433A and 433B ins. by W.B. Act 22 of 2000.

434. Services of Municipal Engineering Directorate :-

(1) The State Government may require the Municipality to avail of the Services of the Municipal Engineering Directorate of the State Government ¹ [, or the Calcutta Metropolitan Development Authority, or any other development authority or development organisation or any department of the State Government, or any undertaking of the State Government] in all matters in which the

State Government considers such services necessary.

(2) The power of the State Government under sub-section (1) shall include the power to post a technical officer, namely, an engineer, architect, or town planner, from the pool of the Municipal Engineering Directorate, with or without supporting staff, for a Municipality or a group of Municipalities who shall discharge his functions in such manner as the State Government may decide.

1. Words ins. by W.B. Act 22 of 2000.

435. Training and Research Programmes of Institute of Local Government and Urban Studies :-

(1) The State Government may require the Municipality to participate in such training and research programmes as may be organised by the Institute of Local Government and Urban Studies from time to time in aid of the municipal functionaries and personnel.

(2) It shall be obligatory on the part of the Municipality to furnish such papers, reports, documents, information, data and statistics as may be called for by the Institute of Local Government and Urban Studies from time to time.

435A. Financial and technical help by Darjeeling Gorkha Hill Council to Municipality :-

1 The Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988, may provide to a Municipality in the hill areas such financial and technical assistance as it may require in any emergent circumstances.

1. Sec. 435A ins. by W.B. Act 45 of 1994.

436. . :-

1 * * * * *

1. Sec. 436. om. by W.B. Act 45 of 1994. which was as under:-
"436. Appointment of officers for Municipalities from cadres of State Government Notwithstanding anything contained elsewhere in this Act, the State Government may appoint, from its own cadre, an officer to be posted for a Municipality or a group of Municipalities by way of support service on such terms and conditions as the State Government may decide: Provided that an officer so appointed shall be under the administrative control of the Chairman-in-Council and shall be withdrawn if the Board of Councillors so desires.".

437. Withdrawal of sections extended by State Government

:-

Where there is any specific provision in any section of this Act for its being extended by the State Government to any municipal area, the State Government may, at any time, by order, withdraw such section if extended to any municipal area, from operation in such municipal area, and thereupon such section shall cease to be in force in the said municipal area from the date of such order.

438. Disputes :-

If any dispute arises on any matter between the Board of Councillors and any other local authority or between the municipal authorities themselves, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any Court.

439. Savings as to certain suits and proceedings :-

(1) Any suit or other legal proceeding instituted, or any action taken, which but for the passing of this Act would have been instituted or taken by or against any Municipality or other municipal authority under the Bengal Municipal Act, 1932, may be continued or instituted by the Municipality or the Board of Councillors, as the case may be, constituted or appointed under this Act.

(2) For the purposes of such suit or legal proceedings and of all matters incidental thereto, the powers and the duties of the Commissioners or the Board of Commissioners under the Bengal Municipal Act, 1932, shall vest in the Board of Councillors constituted or appointed under this Act.

(3) Save as provided in sub-section (2), the procedure laid down in this Act shall be followed in all proceedings relating to a contravention of the provisions of the Bengal Municipal Act, 1932.

440. Penalties and punishments :-

Save as otherwise provided in this Act, whoever contravenes any provision of any of the section, sub-section, clauses or provisos, or any other provision of this Act as mentioned in column 1 of Schedule IV or fails to comply with any order or direction lawfully given to him or any requisition lawfully made to him under any of the aforesaid provisions, shall be punishable-

(i) with fine which may extend to the amount, or with imprisonment for a term which may extend to the period, specified

in that behalf in column 3 of the said Schedule or with both, and

(ii) in the case of a continuing contravention or failure, with an additional fine which may extend to the amount specified in column 4 of the said Schedule for every day during which such contravention or failure continues after conviction upon first such contravention or failure.

441. Repeal and saving :-

1

(1) With effect from the date of commencement of this Act the Bengal Municipal Act, 1932, shall stand repealed.

(2) Notwithstanding such repeal, every Municipality, and every notified area authority; constituted under the Bengal Municipal Act, 1932, and in existence immediately before the commencement of this Act shall, at the date of commencement of this Act, be deemed to have been constituted under this Act, and, in respect of such Municipality or notified area authority,-

(a) every Commissioner continuing in office as such immediately before the commencement of this Act shall be deemed to be a Councillor under this Act and shall hold office as such unless he vacates or is removed from, his office, or a new Councillor is elected and assumes office under this Act, whichever is earlier;

(b) the Board of Commissioners shall be deemed to be the Board of Councillors under this Act;

(c) every Chairman continuing in office as such immediately before the commencement of this Act shall be deemed to be the Chairman under this Act;

(d) every Vice-Chairman continuing in office as such immediately before the commencement of this Act shall be deemed to be the Vice-Chairman under this Act;

(e) every resolution adopted, order passed, budget passed, loan taken, assessment made, building plan sanctioned, licence or permission or sanction granted or issued or any other similar action taken under the Bengal Municipal Act, 1932, and in force immediately before the commencement of this Act, shall be deemed to have been adopted, passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended or withdrawn, as the case may be, under this

Act, remain in force for the period if any, for which it was so adopted, passed, taken, made, sanctioned, granted or issued;

(f) all properties, movable or immovable, all rights of whatever kind, used, enjoyed or possessed by and all interest of whatever kind, owned by, or vested in, a Municipality as constituted under the Bengal Municipal Act, 1932, shall be deemed to be owned by, or vested in, the Municipality as constituted under this Act;

(g) all contracts made or liabilities incurred by a Municipality as constituted under the Bengal Municipal Act, 1932, and legally subsisting against such Municipality immediately before the commencement of this Act, shall pass on to the Municipality as constituted under this Act; and

(h) all officers or other employees appointed under the Bengal Municipal Act, 1932, and continuing in office immediately before the commencement of this Act shall be deemed to have been appointed under this Act.

1. Sec. 441 subs, by W.B. Act 30 of 1994, which was earlier as under:- "441. Repeal and savings (1) With effect from the date of coming into force of this Act, the Bengal Municipal Act, 1932, shall stand repealed. (2) Notwithstanding such repeal,- (a) every budget passed, loan taken, assessment made, building plan sanctioned, licence or permission or sanction granted or any other similar action taken under the Bengal Municipal Act, 1932, and in force at the commencement of this Act, shall be deemed to have been passed, taken, made, sanctioned, granted or issued under this Act and shall, unless altered, modified, cancelled, suspended, or withdrawn, as the case may be, under this Act, remain in force for the period, if any, for which it was so passed, taken, made, sanctioned, granted or issued (b) all properties, movable or immovable, all rights of whatever kind, used, enjoyed or possessed by, and all interest of whatever kind, owned by, or vested in a Municipality as constituted under the Bengal Municipal Act, 1932, shall, at the commencement of this Act, be deemed to be owned by, or vested in, the Municipality as constituted under this Act; (c) all contracts made or liabilities incurred by a Municipality as constituted under the Bengal Municipal Act, 1932, and legally subsisting against such Municipality shall, at the commencement of this Act, pass on to the Municipality as constituted under this Act; and (d) all officers or other employees appointed under the Bengal Municipal Act, 1932, and continuing in office immediately before the commencement of this Act shall be deemed to have been appointed under this Act."

442. Removal of difficulties :-

If any difficulty arises in giving effect to the provisions of this Act,

the State Government may, as occasion may require, by order, not inconsistent with the provisions of this Act, do or cause to be done anything which may be necessary for removing the difficulty.

SCHEDULE 1

Professions, trades and callings

SCHEDULE 1
(See section 118)

Professions, trades and callings Every certificate of enlistment shall be granted under one or other of the classes mentioned in the second column of the following table:

Serial No.	Classes
(1)	(2)

1. Company or association or body of individuals which exercises any profession, trade or calling whatsoever for profit or as a benefit society, not being a registered co-operative society.

2. Statutory Corporation set up by the Government for trading concerns sponsored by the Government and carrying on business for profit.

3. Company, club, association or body of individuals, having no paid-up capital, which exercises any profession, trade or calling whatsoever for profit or

as a benefit society, not
being a registered co-
operative society,
merchant, banker, not
being a registered co-
operative society,
money-lender, whole-
sale trader, owner or
occupier of a market,
bazar or theatre or place
of public entertainment,
broker or dalal in jute,
cotton, precious stones,
landed property, country
produce, silk or other
merchandise, retail

trader or shop-keeper,
boarding-house-keeper,
hotel-keeper, lodging-
house-keeper, tea-stall-
keeper and eating-
house-keeper.

4. Commission agent,
broker not included in
serial number 3,
architect, engineer,
contractor, medical
practitioner, dentist,
barrister, and legal
practitioner.

5. Itinerant vendors
hawking goods for sale.

6. Any other trade,
profession or calling not
enumerated in serial
numbers 1 to 5.

SCHEDULE 2

Purposes for which premises may not be used without a licence or written permission

SCHEDULE 3

Parts of plant or of combination of plant and machinery in certain cases not be excluded in calculating the annual value of any land or building

SCHEDULE 3

(See section 106(4))

Parts of plant or of combination of plant and machinery in certain cases not be excluded in calculating the annual value of any land or building

The following parts of a plant or combination of plant and machinery whenever and only to such extent as any such

part is, or is in the
nature of, a building or
structure:

Acid Concentrators;
Sins and Hoppers;
Blast Furnaces;
Burners, Forges,
Furnaces, Kilns, Ovens
and Stoves, Chambers
for

Absorption of gases
or fumes,

Aerographing and

Spraying,
Bleaching,
Chemical Reaction,
Conditioning or
Treatment,
Cooling,
Dyeing,
Dust or Fume
Collecting,
Fibre Separation
(Wool Carbonising),
Fuming,
Impregnating,
Refrigerating,

Sandblasting,
Sterilising,
Sulphuric Acid,
Chimneys,
Cooking Ovens;
Condensers and
Scrubbers
Acid,
Alkali,
Gas,
Oil,
Tar,
Conveyor Gantries;

Cooling Ponds;
Crane Gantries;
Cupolas;
Economisers;
Elevators and Hoists;
Evaporators;
Fan Drifts;
Floating Docks and
Pontoons with any
Bridges or Gangways
not of a temporary
nature used in
connection therewith;
Flues;

Flumes and Conduits;
Foundations, Settings,
Gantries, Supports,
Platforms and Stagings
for plant and
machinery;

Gas

 Holders,
 Producers and
 Generators,
 Purifiers and
 Cleaners;

Head Gear

 Mine, Quarry and Pit,

Hydraulic
Accumulators,
Well;
Pits, Beds and Bays
Casting,
Cooling,
Drop,
Inspecting or
Testing,
Liming, Soaking,
Tanning, or other
treatment, Settling;
Rack;
Refuse, Destructors

and Incinerators;

Restorts;

Ship Construction and
Repair;

Cradles,

Grids,

Slipways,

Uprights;

Silos;

Stages, Staithes and
Platforms for loading,
unloading and handling
materials;

Stills;

Superheaters;

Tanks;

Towers for

Absorption of gases
or fumes,

Chemicals Reaction,

Cooling,

Oil Refining and

Condensing

Treatment,

Water,

Transporter

Gantries,

Transversers and

Turntables;
Vats,
Weighbridges,
Wireless Masts.

SCHEDULE 4

Penalties