

West Bengal Municipal Corporation Act, 2006

39 of 2006

[29 May 2008]

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West Bengal Municipal Corporation Act, 2006

39 of 2006

[29 May 2008]

An Act to consolidate and amend the laws relating to municipal corporations in West Bengal with a view to enabling such corporations to provide a better and uniform municipal administration for the areas within their respective jurisdictions. WHEREAS it is expedient to consolidate and amend the laws relating to municipal corporations in West Bengal with a view to enabling such corporations to provide a better and uniform

municipal administration for the areas within their respective jurisdictions; It is hereby enacted in the Fifty-seventh Year of the Republic of India, by the Legislature of West Bengal, as follows:- 1. As published in the Kolkata Gazette, Extraordinary, Part III, dated 29th May, 2008, vide Notification No. 957-L., dated 29.5.2008.

PART 1 Part I

CHAPTER 1 Preliminary

1. Short Title, Extent And Commencement :-

(1) This Act may be called the West Bengal Municipal Corporation Act, 2006.

(2) It extends to the whole of West Bengal, except Kolkata as defined in clause (9) of section 2 of the Kolkata Municipal Corporation Act, 1980 (West Ben. Act LVII of 1980) and Howrah as defined in the Howrah Municipal Corporation Act, 1980 (West Ben. Act LIX of 1980).

(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 Autonomous Hill Council for the hill areas specified under sub-section (1) of section 31 of the Darjeeling Gorkha Autonomous Hill Council Act, 1988 (West Ben. Act XIII of 1988).

2. Definitions :-

In this Act, unless the context otherwise requires,-

(1) "adulterated"-an article of food shall be deemed to be adulterated-

(a) if the article sold by a vendor is not of the nature, substance or quality demanded by the purchaser and is to his prejudice, or is not of the nature, substance or quality which it purports or is represented to be;

(b) if the article contains any other substance which affects, or if the article is so processed as to affect, injuriously the nature,

substance or quality thereof;

(c) if any inferior or cheaper substance has been substituted wholly or in part for the article so as to affect injuriously the nature, substance or quality thereof;

(d) if any constituent of the article has been wholly or in part abstracted so as to affect injuriously the nature, substance or quality thereof;

(e) if the article had been prepared, packed or kept under insanitary conditions whereby it has become contaminated or injurious to health;

(f) if the article consists wholly or in part of any filthy, putrid, rotten., decomposed or diseased animal or vegetable substance or is insect-infested or is otherwise unfit for human consumption;

(g) if the article is obtained from a diseased animal;

(h) if the article contains any poisonous or other ingredient which renders it injurious to health;

(i) if the container of the article is composed, whether wholly or in part, of any poisonous or deleterious substance which renders Its contents injurious to health;

(j) if any colouring matter other than that prescribed in respect thereof is present in the article, or if the amounts of the prescribed colouring matter which is present in the article are not within the prescribed limits of variability;

(k) if the article contains any prohibited preservative or permitted preservative in excess of the prescribed limits;

(l) if the quality or purity of the article falls below the prescribed standard of its constituents are present in quantities not within the prescribed limits of variability, which renders it injurious to health;

(m) if the quality or purity of the article falls below the prescribed standard or its constituents are present in quantities not within the prescribed limits of variability but which does not render it injurious to health:

Provided that, where the quality or purity of the article, being primary food, has fallen below the prescribed standards or its constituents are present in quantities not within the prescribed limits or variability, in either case, solely due to natural causes and beyond the control of human agency, then such article shall not be deemed to be adulterated with the meaning of this subclause.

Explanation.-Where two or more articles of primary food are mixed together and the resultant article of food-

(a) is stored, sold or distributed under a name which denotes the ingredients thereof;

- (b) is not injurious to health, then, such resultant article shall not be deemed to be adulterated within the meaning of this clause;
- (2) "Annual Development Plan" means the Annual Development Plan prepared under section 336;
- (3) "architect" means a person who is registered as an architect by the Council of Architecture under the Architects Act, 1972 (20 of 1972);
- (4) "Assessment Book" means the Municipal Assessment Book, and includes any book subsidiary thereto;
- (5) "Board of Councillors" means the Board of Councillors constituted under section 11;
- (6) "budget-grant" means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the Corporation, and includes any sum by which such budget-grant may be increased or reduced by transfer from one or the other head in accordance with the provisions of this Act and the regulations made thereunder;
- (7) "building" means a structure constructed for whatsoever purpose or of whatsoever materials, and includes foundation, plinth, wall, floor, roof, chimney, fixed platform, verandah, balcony, cornice, projection or part of a building and anything affixed thereto, and any wall (other than boundary wall of less than two metres in height on the road side, having the solid portion not exceeding 1.5 metres in height) enclosing, or intended to enclose, any land, sign or outdoor display structure, but does not include a tent, shamiana or tarpauline shelter;
- (8) "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;
- (9) "bustee" means an area containing land, being not less than seven hundred square metres in area, occupied by, or for the purposes of, any collection of huts or other structures used or intended to be used for human habitation;
- (10) "bye-law" means a bye-law made by the Corporation under this Act;
- (11) "cantonment" has the same meaning as in section 3 of the Cantonments Act, 1924 (2 of 1924);
- (12) "Cantonment Board" means a Cantonment Board constituted under the Cantonments Act, 1924;
- (13) "cart" means any cart, hackney or wheeled vehicle with or without spring which is not a carriage, and includes a hand cart, a cycle van and a push van, but does not include any wheeled vehicle

which is propelled by its trailor or mechanical power;

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

(15) "casual vacancy" means a vacancy, occurring otherwise than by efflux of time, in the office of a Councillor or in any other elective office;

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

(17) "corporate sector" means a financial institution.

Explanation.-"Financial institution" shall mean-

(a) a bank, other than a bank to which the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) 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 (1 of 1956), not being a public financial institution within the meaning of section 4A of that Act, or

(d) a co-operative society, by whatever name called, registered, or deemed to have been registered, under the West Bengal Cooperative Societies Act, 1983 (West Ben. Act XLV of 1983);

(18) "Corporation" means a Municipal Corporation, by whatever name called, constituted under this Act;

(19) "Corporation area" means an area constituted as a Corporation area under section 6;

(20) "Councillor", in relation to a Corporation means a person chosen by direct election from a ward of the Corporation;

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

(22) "dairy" includes any farm, cattle-shed, cowhouse, milk-store, milk-shop and 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 is 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 on 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;

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

(24) "dangerous disease" means-

(a) cholera, plague, chicken-pox, tuberculosis, leprosy, enteric fever, cerebrospinal meningitis, or diphtheria, or

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

(25) "depot" means a place where articles are stored, whether for sale or for any other purpose but not for domestic consumption or use, in quantities exceeding two thousand kilograms;

(26) "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 (West Ben. Act XX of 1994), and includes the Siliguri Sub-Division Planning Committee;

(27) "District Magistrate" means the District Magistrate referred to in subsection (1) of section 20 of the Code of Criminal Procedure, 1973 (2 of 1974);

(28) "domestic building" includes a dwelling house and any other masonry building, not being a building of the warehouse class or public building as defined in clause (79) or place exclusively used for private worship;

(29) "Draft Development Plan" means the Draft Development Plan prepared under section 333;

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

(31) "Drug" means any substance used as medicine or in the composition or preparation of medicine, whether for internal or for external use, but does not include a drug within the meaning of clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of

1940);

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

(33) "edible fat" means ghee or vegetable fat like vanaspati, and includes beef fat or suet, mutton fat, goat fat, lard, cocoa butter, and refined salseed fat;

(34) "edible oil" means coconut oil, cotton-seed oil, ground-nut oil, linseed oil, mahua oil, rape-seed oil, olive oil, poppy-seed oil, safflower-seed oil, taramira oil, til oil, niger seed oil, soyabeen oil, maize (corn) oil, refined vegetable oil, almond oil, water-melon-seed oil, imported rape seed oil, palm oil, palmolein, palm-kernel oil, sunflower-seed oil, ricebran oil or mustard oil, in pure state, imported sealed oil labelled as such, vegetable oil prepared by hardening process such as hydrogenation and labelled as such and bearing in the label in English and Bengali the names of the oils entering into its composition, or any other oil which the State Government may, by notification, declare to be an edible oil for the purposes of this Act;

(35) "entertainment" includes any exhibition, performance, amusement, game, and sport to which persons are ordinarily admitted on payment;

(36) "factory" means a factory as defined in the Factories Act, 1948 (63 of 1948);

(37) "filth" includes offensive matter and sewage;

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

(39) "goods" includes animals;

(40) "habitable room" means a room constructed or adapted for human habitation;

(41) "heritage building or site" means any building of one or more premises, or any part thereof, or any monument, or any precinct, or any site, which requires preservation and conservation for historical, architectural, environmental or cultural purpose, and includes such portion of the land adjoining such building or any part thereof as may be required for fencing or covering or otherwise preserving such building, and also includes the areas and buildings requiring preservation and conservation for the purpose as aforesaid under subclause (ii) of clause (a) of sub-section (4) of section 31 of the West Bengal Town and Country (Planning and Development) Act, 1979 (West Ben. Act XIII of 1979);

(42) "Heritage Conservation Committee" means the Heritage Conservation Committee constituted under sub-section (1) of

section 402;

(43) "hill areas" has the same meaning as in the Darjeeling Gorkha Autonomous Hill Council Act, 1988 (West Ben. Act XIII of 1988);

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

(45) "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 holding shall be deemed to be one holding for the purposes of this Act.

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

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

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

(48) "household sector" includes-

(a) a rural household or urban household.

Explanation A-"Rural household" shall mean a household within a rural area as defined in the West Bengal District Planning Committee Act, 1994 (West Ben. Act XX of 1994).

Explanation II.-"Urban household" shall mean a household 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 (1 of 1956), and

(c) a trust for a public purpose of a charitable nature within the meaning of the Charitable and Religious Trusts Act, 1920 (14 of 1920);

(49) "hut" means any building, constructed principally of wood, bamboo, mud, leaves, pressed cloth or thatch, and includes any structure of whatever material, declared by the Corporation to be a hut for the purposes of this Act;

(50) "infectious disease" or "communicable disease" means an illness caused by a specific infectious agent, or toxic product thereof, capable of being directly or indirectly transmitted from man to man or animal to animal or man, or from environment (through air, dust, soil, water, or food) to man or animal, and declared as such by the State Government by notification;

(51) "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;

(52) "land" includes the benefits arising out of land, things attached to the earth or permanently fastened to anything attached to the earth, and rights created by law over any street;

(53) "licensed architect", "licensed draughtsman", "licensed engineer", "licensed plumber", "licensed surveyor", or "licensed town planner" means respectively an architect, a draughtsman, an engineer, a plumber, a surveyor, or a town planner, licensed as such under the provisions of this Act; (54) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing, for sale, meat, fish, fruits, vegetables, or animals intended for human food, or any other articles of human food whatsoever, with or without the consent of the owner of such place, notwithstanding that there may be no common regulation for the concourse of buyers and sellers and whether or not any control is exercised over the business of, or the persons frequenting, the market by the owner of the place or by any other person, declared and licensed by the Corporation as a market;

(55) "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;

(56) "member", in relation to a Corporation, means a Councillor, and includes a person nominated under clause (b) of sub-section (1) of section 10;

(57) "milk" means the secretion derived from complete milking of healthy milch animals, free from colostrum, and includes buffalo milk, cow milk, goat milk, sheep milk, mixed milk, standardized milk, recombined milk, toned milk, double-toned milk, and skimmed milk, whether raw, pasteurized, boiled, flavoured or sterilized;

(58) "municipal area" means an area constituted as a municipal area under the West Bengal Municipal Act, 1993 (West Ben. Act

XXII of 1993);

(59) "municipal authority" means any of the municipal authorities specified in section 9;

(60) "municipal drain" means a drain vested in the Corporation;

(61) "Municipal Fund" means the fund held by the Corporation under section 62;

(62) "municipal market" means a market established by the Corporation under sub-section (1) of section 307;

(63) "municipal slaughterhouse" means a slaughterhouse established by the Corporation under sub-section (1) of section 307;

(64) "municipal waterworks" means a waterworks, constructed, operated, maintained and managed by the Corporation, or purchased or taken on lease by the Corporation;

(65) "new building" 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 or not the dimensions of the reconstructed building are the same as those of the original building,

(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 for human habitation after the commencement of this Act.

Explanation.-The provisions of sub-clause (b) shall apply to a building where more than one-half of the cubical extent of such building has collapsed or has been demolished or burnt down at the same time or at different times;

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

(67) "nuisance" means any act, omission, place, animal 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;

(68) "occupier" includes-

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

- (b) an owner in occupation of, or otherwise using, his land or building,
- (c) a rent-free tenant of any land or building,
- (d) a licensee in occupation of any land or building,
- (e) a person who is liable to pay to the owner damages for the use and occupation of any land or building, and
- (f) an occupier of a factory as defined in clause (n) of section 2 of the Factories Act, 1948 (63 of 1948);
- (69) "offensive matter" includes animal carcass, kitchen or stable refuse, dung, dirt, and putrid or putrefying substance other than sewage;
- (70) "office-bearer" means the Mayor, the Deputy Mayor, the Chairman, or a member of the Mayor-in-Council;
- (71) "Official Gazette" means the Official Gazette of the State Government;
- (72) "owner" includes a person who, for the time being, is receiving, or is entitled to receive, the rent of any land or building, whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person, or who would so receive the rent or would be entitled to receive the rent, if the land or building or part thereof were let to a tenant, and also includes-
 - (a) the custodian of evacuee property in respect of evacuee property vested in him under the Administration of Evacuee Property Act, 1950(31 of 1950), and
 - (b) the General Manager of a railway, and the head of a Government department, in respect of properties under their respective control.
- (73) "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 to a building or part of a building, or to a hut or part of a hut, and
 - (b) any fittings affixed to a building or part of a building, or to a hut or part of a hut for more beneficial enjoyment thereof;
- (74) "prescribed" means prescribed by rules made under this Act;
- (75) "private street" means any street, which is not a public street, and includes any passage securing access to two or more places belonging to the same or different owners;
- (76) "private market" means a market which is not a municipal market;
- (77) "private slaughterhouse" means a slaughterhouse which is not a municipal slaughterhouse;

(78) "property tax" means the tax on any land or building or both, or on any house or premises, levied under this Act;

(79) "public building" means a masonry 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, workhouse, public theatre, public cinema, public hall, public concert-room, public ball-room, public lecture-room, public library or public exhibition-room or as a public place of assembly, or
(b) for any public purpose, or

(c) as a hotel, lodging-house, refuge or shelter, where the building exceeds in cubical extent seven thousand cubic metres or has sleeping accommodation for more than one hundred persons;

(80) "public place" means any place which is open to the use and enjoyment of the public, whether or not it is actually used or enjoyed by the public;

(81) "public securities" means any securities of the Central Government or a State Government or any securities guaranteed by the Central Government or a State Government or any securities issued under this Act or any debentures issued by the Bombay Municipal Corporation, or the Kolkata Municipal Corporation, or the Madras Municipal Corporation;

(82) "public street" means any street, road, lane, gully, alley, passage, footpath, footway, pathway, square or courtyard, whether or not a thoroughfare, 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 drain 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 lands up to the boundary wall, ail, hedge and pillar of the premises, if any, abutting on the street, or if a street alignment has been fixed, then, up to such alignment;

(83) "railway administration" has the same meaning as in the Indian Railways Act, 1989 (24 of 1989);

(84) "rate-payer" means a person liable to pay any rent, tax, fee or licence-fee under this Act;

(85) "rateable value" means the value of any land or building fixed

in accordance with the provisions of this Act and the bye-laws made thereunder for the purpose of assessment of property tax;

(86) "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;

(87) "regulations" means the regulations made by the Corporation under this Act;

(88) "reside", when used with reference to any person, means-

(a) a person deemed to reside in any dwelling-house which, or some portion of which, he sometimes, although not uninterruptedly, uses as sleeping apartment, and

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

(89) "rubbish" means ashes, broken bricks, broken glass, dust, malba, mortar, plastic bags and refuse of any kind which is not filth;

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

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

(92) "service urinal" means a fixed urinal, which is cleansed by hand;

(93) "sewage" means night-soil or other contents of latrine, urinal, cesspool or drain, or polluted water from sink, bathroom, stable, cattle-shed or any other like place, and includes trade effluent and discharge from manufactory of any kind;

(94) "shed" means a slight or temporary structure for shed or shelter;

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

(a) every part of such support, and

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

over or above a building, structure or erection of any kind, or on or over any street or public place, but shall not be deemed to include-
(i) any flagstaff, pole, vane or weathercock, unless adapted or used, wholly or in part, for the purpose of any advertisement or announcement,

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

(iii) any representation which relates exclusively to the business of a railway administration as defined in the Indian Railways Act, 1989 (24 of 1989), and which is placed wholly upon or over any railway, railway station, railway yard, railway platform, or railway station approach, or premises belonging to such railway administration, and which is so placed that it could not fall into any street or public place;

(96) "slaughterhouse" means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption;

(97) "State Government" means the Government of the State of West Bengal in the Department of Municipal Affairs;

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

(99) "street" includes any way, road, lane, square, court, alley, gully, passage, footpath, or footway, whether a thoroughfare or not and whether built upon or not, over which the public have a right of way, and also includes roadway or footway over any bridge or causeway;

(100) "Sub-divisional Magistrate" means the Sub-divisional Magistrate referred to in sub-section (4) of section 20 of the Code of Criminal Procedure, 1973 (2 of 1974);

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

(102) "trade premises" means any premises used, or intended to

be used, for carrying on any trade or industry;

(103) "trade refuse" means the refuse of any trade or industry;

(104) "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 (West Ben. Act XX of 1994);

(105) "vehicle" includes a carriage, cart, van, dray, truck, handcart, bicycle, tricycle, cycle-rickshaw, auto-rickshaw, motor vehicle, and any other wheeled conveyance which is used, or is capable of being used, on a street;

(106) "ward" means a municipal ward provided by order made under this Act for the purpose of election of Councillors;

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

(108) "waterworks" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water-trucks, sluices, mains, pipes, culverts, hydrants, stand-pipes, conduits, and things, which are used, or are intended to be used, for the purpose of supplying water;

(109) "workshop" means any premises (including the precincts thereof), wherein any industrial process is carried on, and includes a factory;

(110) "year" means a year commencing on the 1st day of April.

PART 2 Corporation Area

CHAPTER 2 Constitution of Corporation area

3. Declaration Of Intention To Constitute Corporation Area

:-

Whenever it appears to the Governor that any one or more than one municipal area together with, or exclusive of, any railway station, village within the jurisdiction of any Gram Panchayat constituted under the West Bengal Panchayat Act, 1973 (West Ben. Act XLI of 1973), land or building, in the vicinity of such area-

(i) contains a population of not less than 5 lakh inhabitants,

(ii) has a density of population of not less than three thousand inhabitants per square kilometre of area, and

(iii) has an occupational pattern in which more than three-fourth of the adult population are chiefly engaged in pursuits other than agriculture, and if the Governor is satisfied that if such area is constituted a Corporation area, the income of the Corporation from

taxation and other sources is likely to be adequate for the discharge of the functions of the Corporation under this Act, the Governor may, by notification, declare his intention to constitute such area a Corporation area under this Act:

Provided that notwithstanding anything contained in clauses (i) to (iii), the State Government, having due regard to population, density of population, geographical condition, historical importance and economic consideration of any area, including the hill areas, may, by notification, determine separate conditions to constitute such area a Corporation area.

4. Publication Of Declaration :-

(1) The notification in respect of constitution of a Corporation area shall be published in the Official Gazette and the District Magistrate concerned shall publish the notification in at least two leading newspapers, one of which shall be in vernacular intelligible to the inhabitants of the area concerned.

(2) A copy of the notification shall also be displayed 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 Corporation area shall be made by the District Magistrate concerned either by beating of drum throughout the area concerned or through any other publicity media.

5. Consideration Of Objection :-

Any inhabitant of the 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 objections in writing to the State Government within three months from the date of publication of the notification, and the State Government shall take his objections into consideration.

6. Constitution Of Corporation Area :-

On the expiry of three months from the date of publication of the notification under section 4 and after consideration of all or any of the objections which may be submitted under section 5 and also after taking into consideration the views of the Municipality and/or the Notified Area Authority and concerned Gram Panchayat, if any, affected by the notification issued under section 4, the Governor

may, by notification, constitute the area in respect of which notification has been published under section 4 or any specified part thereof a Corporation area under this Act.

7. Power To Determine Number Of Wards In A Corporation Area :-

The State Government may, by notification, determine the number of wards in a Corporation area, having due regard to the population, density of population, geographical condition, historical importance and economic considerations of the area of each ward.

8. Power To Abolish, Or To Alter The Limits Of, Corporation Area :-

The State Government may, by notification,-

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

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

Provided further that the views of the Corporation likely to be affected by any such notification shall be taken into consideration before a final declaration is made:

Provided also that no such notification shall be issued -

- (i) under clause (c), unless the State Government is satisfied that the local area referred to in that clause complies with the provisions of clauses (ii), and (iii) of section 3, or
- (ii) where any part of the Corporation or the local area is a cantonment, or part of a cantonment.

CHAPTER 3 Municipal authorities

9. Municipal Authorities :-

The following shall be the municipal authorities for the purposes of carrying out the provisions of this Act, namely :-

- (a) the Corporation,
- (b) the Mayor-in-Council, and
- (c) the Mayor.

10. Corporation :-

(1) Corporation established for an urban area shall mean the Board of Councillors charged with the authority of Municipal Government of the Corporation area, and shall consist of-

- (a) such number of elected members as there are wards within the Corporation 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 Corporation.

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

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

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

11. Constitution Of Board Of Councillors :-

(1) The Councillors elected in a general election or a bye-election of a Corporation and the members nominated by the State Government under clause (b) of sub-section (1) of section 10 shall constitute the Board of Councillors.

(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.

(3) In a newly constituted Corporation area, all the powers or functions, vested with the Corporation authorities under this Act or under any other law, for the time being in force, for the purpose of shaping up the municipal administration, shall be exercised or performed, as the case may be, by such person or persons to be designated as the Administrator or the Board of Administrators, as the State Government may, by notification, appoint for a period not

exceeding six months:

Provided that if, for any reason, it is not possible to hold the first general election of a newly constituted Corporation 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 the Board of Administrators, as the case may be, for a further period not exceeding six months. In the case of extension of 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 Corporation 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 the Board of Administrators in such extended term.

(4) If for any reason, it is not possible to hold the general election of a Corporation before the expiry of the period of five years, specified in sub-section (2), the Board of Councillors shall stand dissolved on the expiration of the said period and all the powers or functions vested with the Corporation 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 the Administrator or the Board of Administrators as the State Government, by notification, appoint.

12. Election To Corporation :-

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

13. Terms Of Office Of Councillors :-

A Councillor shall hold office for a period of five years from the date of the first meeting of the Corporation under section 51 or for the period for which the new Board of Councillors shall continue under the second proviso to sub-section (2) of section 60 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 83 of the West Bengal Municipal Elections Act, 1994 (West Ben. Act XXXIV of 1994), unless-

(a) the Corporation is dissolved earlier, or

(b) he resigns his office by writing under his hand addressed to the Chairman in which case the resignation shall take effect from such date as may be specified in the notice or, if no such date is

specified, from the date of its receipt by the Chairman, or
(c) his election is void under sub-section (1) of section 31 of the West Bengal Municipal Elections Act, 1994, or
(d) the entire area of the ward from which he has been elected is withdrawn from the operation of this Act under section 8, or is included in an existing Gram Panchayat, or is constituted in one or more Gram Panchayats, under sub-section (1) of section 6A of the West Bengal Panchayats Act, 1973 (West Ben. Act XLI of 1973), or
(e) he is declared under section 14 to be disqualified for being a Councillor.

14. Disqualification For Being A Councillor On Change Of Political Party :-

(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 the Corporation 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 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

(ii) joined another recognised political party, or

(iii) 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 the Corporation, or

(b) 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 referred to in sub-clause (ii) or sub-clause (iii) 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 Councillor or other Councillors, who are the members of such recognised political party, constitute in the Corporation 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 Corporation 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 Corporation, 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 Corporation from the date of such declaration.

(3) As soon as may be within one month from the date of the first meeting of the Corporation, 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 subsection (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 a 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 Corporation 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 Corporation, 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 subsection (3) shall apply as if the first meeting of the Corporation was held 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 the Corporation.

(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 the 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 or the Head of the District functionary to whichever designation he/she may be called, of the district unit 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

(ii) joined another recognised political party, or

(iii) 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 Corporation, or

(b) the Councillor 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 Corporation.

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

(a) shall contain a concise 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 Corporation 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 Corporation.

(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) and, upon such declaration, the Councillor or Councillors shall stand removed from the Corporation.

(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 being declared to be disqualified under sub-section (1) for being a Councillor.

Explanation.-For the purposes of this section, an elected Councillor shall be deemed to 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 a declaration to that effect to the competent authority before the expiry of six months from the date of election.

15. Leader Of The Opposition :-

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

Provided that where there are two or more parties in opposition in the Corporation having the same numerical strength, the Mayor shall, having regard to the status of the parties, recognise any one of the Leaders of such parties as the Leader of the Opposition for the purposes of this section, and such recognition shall be final and conclusive.

16. Oath Of Allegiance To Be Taken By Councillors :-

(1) Notwithstanding anything contained in the Indian Oaths Act, 1873 (10 of 1873), every person who is elected to be a Councillor shall, before taking his seat, make and subscribe before an officer appointed by the State Government an oath or affirmation of his allegiance to the Constitution of India in the following form :-

"I, A. B., having elected a Councillor of the Corporation, do swear in

the name of God (or solemnly affirm) that I will bear true faith and allegiance to the Constitution of India as by law established, and that I will faithfully discharge the duties upon which I am about to enter."

(2) Any person who, having been elected a Councillor, fails to make an 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.

(3) In the case of Mayor, and the Chairman, the oath of secrecy shall be administered by the Officer appointed by the State Government under sub section (1) in the following form :-•

"I, A.B., do swear in the name of God (solemnly affirm) that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as the Mayor/the Chairman except as may be required for the due discharge of my duties as such Mayor/Chairman."

(4) Any Councillor nominated by the Mayor as the Deputy Mayor or a member of Mayor-in-Council under sub-section (2) of section 19, shall assume office forthwith after taking the oath of secrecy before the Mayor in the following form :-

"I, A.B., do swear in the name of God (solemnly affirm) that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Deputy Mayor, a Member of the Mayor-in-Council except as may be required for the due discharge of my duties as such Deputy Mayor or Member of the Mayor-in-Council."

(5) The persons nominated by the State Government under clause (b) of sub-section (1) of section 11 shall make and subscribe before the Chairman an oath of allegiance and, for this purpose, the provisions of sub-section (1) shall be followed mutatis mutandis.

17. Election Of Mayor And Chairman :-

(1) The elected members of the Corporation, in the first meeting of the Corporation under section 51, shall, after taking the oath of allegiance under section 16, elect, in accordance with such

procedure as may be prescribed, among its elected members,-

(i) one member to be the Mayor who shall be a whole-time functionary, and

(ii) one member to be the Chairman:

Provided that no elected member of the Corporation shall be eligible for election to the post of the Mayor unless he declares in writing under his hand 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 not 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. (2) If the elected members of the Corporation fails to elect a Mayor and/ or a Chairman in the manner prescribed, the State Government shall appoint by name, from among the elected members, one member to be the Mayor, and/ or one member to be the Chairman.

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

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

Provided that the Chairman appointed under this sub-section shall hold meeting of the Corporation within thirty days from the date of taking over his charge for the purpose of election of the new Mayor under sub-section (3) in such manner as may be prescribed.

18. Term Of Office Of Mayor And Chairman :-

A Mayor or a Chairman, as the case may be,-

(a) shall cease to hold office as such forthwith if he ceases to be a member of the Corporation;

(b) may, at any time, by giving notice in writing to the Corporation, resign his office and such resignation shall take effect from such date as may be specified in the notice or, if no such date is specified, from the date of its receipt by the Corporation;

(c) may be removed from office by a resolution carried by a majority of the total number of elected members of the Corporation present and voting at a special meeting of the Corporation called for this purpose upon a requisition made in writing by not less than one-third of the elected members of the Corporation:

Provided that no such resolution shall be moved before the expiry of six months from the date of assumption of office by a Mayor or a Chairman, as the case may be:

Provided further that if such resolution is not carried by a majority of the total number of elected members of the Corporation present and voting, no further resolution for the removal of the Mayor or the Chairman, as the case may be, shall be moved before the expiry of a period of six months from the date on which the former resolution was moved.

19. Constitution Of Mayor-In-Council :-

(1) There shall be a Mayor-in-Council consisting of the Mayor, the Deputy Mayor and such number of other elected members of the Corporation, not exceeding seven, as the State Government may from time to time determine.

(2) The Deputy Mayor and other members referred to in sub-section (1) shall be nominated by the Mayor from amongst the elected members of the Corporation within a period of thirty days of his entering upon office:

Provided that the State Government may, on an application by the Mayor 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.

(3) Any casual vacancy in the office of the Deputy Mayor or other members referred to in sub-section (1) caused by death, resignation, removal or otherwise shall be filled up by the Mayor:

Provided that no act or proceedings of the Mayor-in-Council shall be called in question or shall become invalid merely by reason of any vacancy in the office of the Deputy Mayor or other members referred to in sub-section (1).

(4) The manner of transaction of business of the Mayor-in-Council shall be such as may be determined by the Corporation by regulations.

(5) The Mayor-in-Council shall be collectively responsible to the Corporation.

20. Term Of Office Of Deputy Mayor And Other Members Of

Mayor-In- Council :-

A member of the Mayor-in-Council other than the Mayor shall hold office from the date of his taking the oath of secrecy as Deputy Mayor or as a member of the Mayor-in-Council, as the case may be, under sub-section (3) of section 16 until-

- (a) he ceases to be a member of the Corporation, or
- (b) he resigns his office by writing under his hand addressed to the Mayor in which case the resignation shall take effect from the date of its acceptance by the Mayor, or
- (c) he is removed from office by a written order of the Mayor, or
- (d) a newly elected Mayor, in the case of any casual vacancy caused by death, resignation, removal or otherwise, enters upon his office.

21. Municipal Accounts Committee :-

(1) The Board of Councillors shall, at its first meeting in each year, or at 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:

Provided that the State Government may, on an application by the Mayor 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-

- (a) any member of the opposition in the Corporation as its Chairman, and
- (b) such number of persons, not being less than three and more than five, as the Board of Councillors may determine, to be elected by the members of the Board of Councillors from amongst themselves in accordance with the system of proportional representation by means of the single transferable vote by secret ballot, the members of the Mayor-in-Council not being eligible for election, and
- (c) such number of persons, not being more than two and not being members or officers or other employees of the Corporation, having knowledge and experience in financial matters, as may be nominated by the Board of Councillors.

(3) Subject to the other provisions of this Act, the members of the Municipal Accounts Committee shall hold office till a new Municipal Accounts Committee is constituted.

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

(a) to examine the accounts of the Corporation showing the appropriation of sums granted by the Corporation for its expenditure and the annual financial accounts of the Corporation;

(b) to examine and scrutinise the report on the accounts of the Corporation by the auditors under the provisions of this Act and to satisfy itself that the moneys shown in the accounts as having been disbursed were available for, and applicable to, the services or purposes to which they have been applied and that the expenditure was incurred in accordance with the authority governing the same;

(c) to submit a report to the Corporation every year and from time to time on such examination and scrutiny;

(d) to consider the report of the auditor in cases where the Corporation requires him to conduct a special audit of any receipt or expenditure of the Corporation or to examine the accounts of stocks of the Corporation; and

(e) to discharge such other functions as may be prescribed.

22. Borough Committee :-

(1) The Corporation shall, at its first meeting after the election of members thereto or as soon as may be thereafter, group the wards in such number of boroughs as may allow each borough to consist of not less than six contiguous wards, and shall constitute a Borough Committee for each such borough.

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

(3) A member of a 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 Mayor-in-Council or the Chairman of the Corporation.

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

(6) In the case of any vacancy in the office of the Chairman of any Borough Committee caused by death, resignation, removal or

otherwise, the members of the Borough Committee shall elect from among themselves one member to be the Chairman of the Borough Committee at a meeting of the Borough Committee to be convened by the Commissioner within fifteen days from the date of occurrence of such vacancy.

(7) A Borough Committee shall, subject to the General supervision and control of the Mayor-in-Council, discharge, within the local limits of the borough, the functions of the Corporation relating to collection and removal of garbage, house connections for water supply and sewerage, removal of accumulated water on streets and public places due to rain or any other cause, health immunisation services, improvement of bustee and such other functions as the Corporation may require it to discharge or as may be specified by regulations, and the officers and other employees of the Corporation working within the local limits of the borough shall carry out the directions of the Borough Committee in this behalf.

(8) The manner of transaction of business of a Borough Committee shall be such as may be determined by the Corporation by regulations.

23. Ward Committee :-

(1) Each ward of the Corporation shall have a Ward Committee.

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

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

24. Constitution Of Standing Committees :-

(1) At the first meeting of the Corporation or at the meetings subsequent thereto, the Corporation shall constitute the following Standing Committees-

(a) Finance and Resource Mobilisation Standing Committee;

(b) Solid Waste Management Standing Committee;

(c) Water Supply, Public Health and Sanitation Standing Committee;

(d) Public Works Standing Committee;

(e) Health, Education and Urban Poverty Alleviation Standing Committee: Provided that the Standing Committees, other than those mentioned above, may also be constituted by the Corporation if they so think fit.

(2) Each Standing Committee shall consist of such member of

Councillors, not being more than nine or less than three, as the Corporation by a specific resolution determine and the number so determined shall be nominated by the Corporation from amongst the elected members of the Corporation:

Provided that no Councillor shall be a member of more than two Standing Committees and the Mayor, or the Chairman, or the Deputy Mayor 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 Corporation at a meeting may, by resolution, associate with any Standing Committee such persons, not being Councillors and not exceeding one-half of the number of the Councillors in such Committee, and for such term as they may think fit. Any officer or other employee of the Corporation, and any officer of the Government, having requisite expertise for development of civic services, municipal finance, and other areas related to municipal administration, as may be required by the Corporation, may be associated with any Standing Committee constituted under this section.

(4) The Mayor shall nominate the President and the Vice-President of the Standing Committees constituted under this section. The term of the President and the Vice-President shall be coterminous with the term of the Standing Committee concerned, unless removed earlier from office by the Mayor.

(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 Corporation in the manner as specified in sub-section (2) or sub-section (3), as the case may be.

25. Functions Of The Standing Committee :-

(1) The Standing Committees shall be recommendory bodies, and each Standing Committee shall perform such functions, and exercise such powers, and discharge such duties, as the Corporation at a meeting delegate to it.

(2) The Corporation 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 Corporation as the Corporation may think fit.

(3) The Standing Committee shall submit its recommendations

indicating the difficulties for implementation of development programme under its respective jurisdiction, and shall also indicate therein the possible measures to remove such difficulties.

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

26. Education Committee :-

(1) The Corporation may, at its first meeting after each general election or as soon as may be thereafter, constitute an Education Committee for ensuring general control and supervision of primary and secondary schools maintained by the Corporation under any law in force immediately before the coming into force of this Act.

(2) The constitution, powers and duties of the Education Committee shall be such as may be prescribed:

Provided that the Chandemagore Municipal Corporation (Education Committee) Rules 2001, made under the Chandemagore Municipal Corporation Act, 1990 (West Ben. Act XXXII of 1990), shall continue to remain in force in the area within the jurisdiction of the Chandemagore Municipal Corporation, and the Education Committee constituted under section 12 of the said Act shall be deemed to have been constituted under this Act.

27. Poor Fund Committee :-

(1) The Corporation may, at its first meeting after each general election or as soon as may be thereafter, constitute a Poor Fund Committee for the administration of the Poor Fund, if any, maintained by the Corporation under any law in force immediately before the coming into force of this Act:

Provided that the Poor Fund Committee constituted under section 13 of the Chandemagore Municipal Corporation Act, 1990, shall be deemed to have been constituted under this Act.

(2) The constitution, powers and duties of the Poor Fund Committee shall be such as may be prescribed after considering the views of the Corporation.

28. Remuneration And Facilities Of Mayor, Chairman, Deputy Mayor, Members Of Mayor-In-Council, Leader Of The Opposition, Chairman Of Borough Committee, The Councillor And Members Of Committee :-

The Mayor, the Chairman, the Deputy Mayor, the members of the Mayor-in-Council, the Leader of the Opposition, Chairman of Borough Committee, the Councillors and the members of the committees constituted in accordance with the provisions of this chapter, except the Ward Committees constituted under section 23, shall be given such remuneration and facilities as may be prescribed:

Provided that if the Mayor holds the post of either a Member of Legislative Assembly or a Member of any House of the Parliament simultaneously, he shall draw any remuneration for any one of the said post only.

29. Appointment Of Special Committee :-

(1) The Board of Councillors may, if so decided at a meeting, constitute special committees for the discharge of any specific function, or for making enquiry and report on any specific matter, and such committees shall have such powers, and shall perform such functions or discharge such duties, as may be provided by resolution in this behalf.

(2) Every such committee shall consist of such members of the Board of Councillors, and such other persons, not exceeding one-third of such members, as the Board of Councillors may decide.

(3) A special committee shall, subject to the approval of the Board of Councillors, formulate its own procedure for the conduct of its business.

CHAPTER 4 Chapter IV

30. Officers Of Corporation :-

(1) Save as otherwise provided in this Act, the Corporation shall have the following officers, namely :-

- (a) the Commissioner,
- (b) the Chief Engineer,
- (c) the Deputy Commissioner, Revenue,
- (d) the Health Officer,
- (e) the Finance Officer,
- (f) the Chief Auditor,
- (g) the Secretary, and
- (h) such other officers as may be designated by the State Government in this behalf.

(2) The officers referred to in sub-section (1) shall be appointed -

(a) by the State Government in consultation with the Mayor-in-Council, by notification, from amongst the persons who are, or have been, in the service of the State Government, or

(b) if so directed by the State Government, by the Corporation in consultation with the State Public Service Commission:

Provided that the appointment of such officers shall be on such terms and conditions, and for such period, as the state Government may determine:

Provided further that the State Government may, in consultation with the Mayor-in-Council, extend the period as aforesaid from time to time, so. however, that the total period of extension does not exceed five years.

(3) The method of, and the qualifications required for, recruitment, and the terms and conditions of service including discipline, control and conduct, of the officers appointed by the Corporation under clause (b) of sub-section (2) shall be such as may be prescribed.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the officers so appointed by the State Government may, at any time, be withdrawn by the State Government suo motu or if a resolution to that effect is passed by the Corporation at a meeting called for his purpose.

31. Code Of Conduct For The Elected Functionaries :-

The Code of Conduct of the Councillors as well as the elected functionaries of the Corporation shall be such as may be prescribed.

32. Salary And Other Conditions Of Service Of Commissioner And Other Officers Appointed By State Government :-

(1) The officers appointed by the State Government under clause (a) of sub-section (2) of section 30 shall be paid out of the Municipal Fund such salaries and allowances as the State Government may, from time to time, determine:

Provided that the Corporation may, with the prior approval of the State Government, sanction remuneration to such officers in addition to the salaries and allowances as aforesaid.

(2) If any of the officers referred to in sub-section (1) of section 30 is in the service of the State Government, the Corporation shall make such contribution towards his leave salary and pension as may be required by or under the conditions of his service under the State Government or the terms and conditions of his service under

the Corporation, as the case may be, to be paid for him.

(3) If any of the officers referred to in sub-section (1) of section 30 is not an officer in the service of the State Government, his leave salary and retirement benefits shall be such as may be prescribed:

Provided that-

(a) the amount of leave and leave salary or retirement benefits shall, in no case, except with the special sanction of the State Government, exceed the amount admissible to the employees of the State Government of equivalent rank, and

(b) the conditions of grant of such leave and the conditions of retirement shall, in no case, except with the special sanction of the State Government, be more favourable than those for the time being applicable to such employees of the State Government.

33. Establishment Of Corporation :-

(1) The posts of officers and other employees of the Corporation, other than those referred to in sub-section (1) of section 30, shall constitute the establishment of the Corporation.

(2) The State Government shall fix the norms regulating the size of establishment of the Corporation from time to time.

(3) The Corporation at a meeting may, subject to the norms fixed by the State Government under sub-section (2), determine what officers and other employees, other than the officers mentioned in sub-section (1) of section 30, are necessary for the Corporation:

Provided that no post of officer or other employee shall be created by the Corporation without the prior sanction of the State Government.

(4) The Mayor-in-Council shall consider any proposal for revision in the size of establishment and place the same with its recommendations, if any, before the Corporation for approval:

Provided that no upward revision of the size of establishment of the Corporation shall be made without the prior sanction of the State Government.

34. Appointment :-

(1) The method of, and the qualifications required for, recruitment to the posts of different categories constituting the establishment of the Corporation shall be such as may be prescribed.

(2) Subject to the provisions of this Act, appointment to all the posts of officers and other employees constituting the establishment of the Corporation shall be made by the

Commissioner with the approval of the Corporation and the State Government.

(3) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, the Corporation may, by resolution, decide to engage, on contract basis with the prior approval of the State Government, officers and other employees of the Corporation against such posts of such other officers and other employees as may be created under section 33 :

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

35. Compulsory Retirement Of Officers And Other Employees Of Corporation :-

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

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

36. Terms And Conditions Of Service Of Officers And Other Employees Of Corporation :-

The terms and conditions of service, including discipline, control and conduct, of officers and other employees constituting the establishment of the Corporation shall be such as may be prescribed:

Provided that such terms and conditions of service of the officers of the Corporation appointed under clause (a) of sub-section (2) of section 30, shall be such as may be determined by the State Government.

37. Constitution Of Municipal Service Commission :-

(1) The State Government may constitute a Municipal Service Commission consisting of-

- (a) a Chairman, and
- (b) two other members.

(2) The Chairman and the other members of the Municipal Service

Commission shall be nominated by the State Government.

(3) The Municipal Service Commission shall perform such duties, and in such manner, as may be prescribed.

(4) The State Government shall also prescribe by rules -

(i) the terms of office, salaries, allowances (if any), and conditions of service of the Chairman and the other members of the Municipal Service Commission and of those whose appointment is of a casual or part-time nature,

(ii) the number of officers and other employees of the Municipal Service Commission and their salaries and allowances, and

(iii) discipline, control and conduct of officers and other employees of the Municipal Service Commission.

38. Payment Of Salaries And Allowances Of Chairman And Other Members, And Officers And Other Employees, Of Municipal Service Commission :-

The salaries and allowances, if any, of the Chairman and other members of the Municipal Service Commission and the officers and other employees thereof shall be paid by the State Government.

39. Selection Of Personnel :-

Notwithstanding anything contained in section 37, the Municipal Service Commission (hereinafter referred to in this section as the said Commission) shall select such personnel for the Corporation as may be determined by the State Government by notification, and it shall be binding on the Corporation to appoint the personnel selected by the said Commission.

40. Municipal Vigilance Authority :-

The Municipal Vigilance Authority appointed under sub-section (1) of section 27A of the Kolkata Municipal Corporation Act, 1980, shall, by virtue of sub-section (1) and sub-section (6) of section 27A of the Kolkata Municipal Corporation Act, 1980 (West Ben. Act, LIX of 1980), 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 Corporation as and when required by the Corporation concerned.

41. Powers And Functions Of Mayor-In-Council :-

(1) Subject to the provisions of this Act and the rules and the

regulations made thereunder, the executive power of the Corporation shall be exercised by the Mayor-in-Council as may be delegated to it by the Corporation under sub-section (1) of section 47.

(2) All executive actions of the Mayor-in-Council shall be expressed to be taken in the name of the Corporation.

(3) All proceedings of the meetings of the Mayor-in-Council shall be placed in the next meeting of the Corporation for consideration.

42. Powers And Functions Of Mayor :-

(1) The Mayor shall be the whole time functionary of the Corporation, and he shall exercise such powers, and discharge such functions, as are conferred on him by or under this Act.

(2) The Mayor shall preside over a meeting of the Mayor-in-Council, which shall meet at such place, and at such time, as the Mayor may direct.

(3) The matters to be discussed at a meeting of the Mayor-in-Council shall be prepared under the direction of the Mayor and shall be circulated to the members of the Mayor-in-Council in such manner as the Mayor may determine.

(4) The Mayor shall, for convenient transaction of the business of the Corporation, allot among the members of the Mayor-in-Council such business of the Corporation in such manner as he thinks fit.

(5) The Mayor may, if he is of opinion that immediate execution of any work (which ordinarily requires the approval of the Board of Councillors of the Mayor-in-Council) is necessary, direct the execution of such work:

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

43. Deputy Mayor To Act As Mayor Or Chairman Or To Discharge The Functions Of Mayor Or Chairman During Casual Vacancy In The Office Of Mayor Or Chairman Or During The Absence Of Mayor Or Chairman :-

(1) In the event of the occurrence of any vacancy in the office of the Mayor or the Chairman by reasons of his death, resignation, removal or otherwise, the Deputy Mayor shall act as the Mayor or the Chairman, as the case may be, until the date on which a new Mayor or Chairman, as the case may be, elected in accordance with the provisions of this Act to fill such vacancy, enters upon his office.

(2) When the Mayor or the Chairman is unable to discharge the functions of the Mayor or the Chairman, as the case may be, owing to absence, illness or any other cause, the Deputy Mayor shall discharge the functions of the Mayor or the Chairman, as the case may be, until the date on which the Mayor or the Chairman, as the case may be, resumes his duties.

(3) Subject to the other provisions of this Act, the Deputy Mayor shall, while acting as, or discharging the functions of, the Mayor or the Chairman under this section, have all the powers of the Mayor or the Chairman, as the case may be.

44. Powers And Functions Of Commissioner :-

The Commissioner shall be the principal Executive Officer of the Corporation and shall, subject to the supervision and control of the Mayor, -

(a) exercise the powers and perform the functions specifically conferred or imposed on him by or under this Act or by any other law for the time being in force;

(b) assign the duties, and exercise supervision and control over the acts and proceedings, of all officers and employees of the Corporation;

(c) be responsible for the custody of all records, other than the papers and documents connected with the proceedings of the Corporation and the Mayor-in-Council and the Municipal Accounts Committee, and shall preserve the same in such manner, and for such period, as may be determined by regulations;

(d) be responsible for the preparation of the annual report on the working of the Corporation, and such report shall be prepared as soon as may be after the first day of April every year and not later than such date as may be fixed by the State Government and shall be placed before the Board of Councillors at a meeting for consideration before the same is forwarded to the State Government.

45. Powers And Functions Of Secretary :-

(1) The Secretary shall be the Secretary to the Board of Councillors and the Municipal Accounts Committee and of other committees, if any, and shall exercise such powers, and shall discharge such functions, as are conferred on him by or under this Act or as may be assigned to him by the Commissioner.

(2) The Secretary shall be responsible for the custody of all papers

and documents connected with the proceedings of the Board of Councillors and the Municipal Accounts Committee and of other committees, if any, and shall preserve the same in such manner, and for such period, as may be determined by regulations.

46. Financial Powers Of Board Of Councillors, Mayor-In-Council And Commissioner :-

The financial powers of the Board of Councillors, the Mayor-in-Council and the Commissioner shall be such as may be prescribed.

47. Delegation Of Powers And Functions :-

(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 Mayor-in-Council.

(2) The Mayor-in-Council may, by order, delegate, subject to such conditions as may be specified in the order, any of its powers or functions to the Mayor or to the Commissioner.

(3) Subject to such standing orders as may be made by the Mayor-in-Council in this behalf, -

(a) the Mayor may, by order, delegate, subject to such conditions as may be specified in the order, any of his powers or functions to the Deputy Mayor or to the Commissioner;

(b) the Commissioner may, by order, delegate, subject to such conditions as may be specified in the order, any of his powers or functions to any other officer or any employee of the Corporation; and

(c) any officer of the Corporation other than the Commissioner may, by order, delegate, subject to such conditions as may be specified in the order; any of his powers or functions to any officer subordinate to him.

(4) Notwithstanding anything contained in the foregoing provisions of this section, the Mayor-in-Council, the Mayor, the Commissioner, or the officer referred to in clause (c) of sub-section (3) 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 or functions as may be prescribed.

48. Doubts As To Powers Or Functions Of Municipal Authorities :-

If any doubt arises as to whether any particular power or function appertains to any municipal authority or the Commissioner, the Mayor shall refer the matter to the State Government, and the decision of the State Government thereon shall be final.

CHAPTER 5 Conduct of business

49. Nomination Of Panel Of Presiding Officers :-

- (1) The Chairman shall, at the beginning of each calendar year, nominate from amongst the elected members of the Corporation a panel of not more than three Presiding Officers and specify sequence in which any one of them may preside over the meetings of the Corporation in the absence of the Chairman.
- (2) A member nominated under sub-section (1) shall hold office until a new panel of Presiding Officers is nominated.

50. Meeting :-

- (1) The Corporation shall meet not less than once in every month for the transaction of business.
- (2) The Chairman may, whenever he thinks fit, and shall, upon a requisition in writing by not less than one-third of the elected members of the Corporation, convene a meeting of the Board of Councillors.
- (3) Any meeting may be adjourned until the next or any subsequent date, and an adjourned meeting may be further adjourned in the like manner.

51. First Meeting Of Corporation After General Election :-

- (1) The first meeting of the Corporation after a general election shall be held within thirty days after the publication of the results thereof and shall be convened by the Commissioner, and a clear seventy-two hours notice shall be given for the meeting.
- (2) Notwithstanding anything contained in this Act, the first meeting of the Corporation for the election of the Mayor and the Chairman shall be presided over by a member to be nominated by the State Government in this behalf:
Provided that such member shall not himself be a candidate for such election.
- (3) In the case of equality of votes obtained by the candidates for election as Mayor or Chairman, the election shall be made by lot to be drawn in the presence of the candidates in such manner as the

Presiding Officer may determine.

(4) The Presiding Officer shall report to the State Government the names of the persons elected as the Mayor or the Chairman, and the State Government shall publish such names in the Official Gazette.

52. Notice Of Meeting :-

Notice of every meeting, other than the first meeting, of the Corporation shall be given by the Commissioner under the direction of the Chairman to all the members in the manner provided in section 53 at least seven days before the date fixed for the meeting.

53. List Of Business :-

A list of the business, to be transacted at every meeting of the Corporation except at an adjourned meeting, shall be sent by the Commissioner to the registered address of each member of the Corporation at least seventy-two hours before the time fixed for such meeting; and no business shall be brought before, or transacted at, any meeting other than the business of which notice has been so given:

Provided that any member of the Corporation may send or deliver to the Commissioner notice of any resolution so as to reach him at least forty-eight hours before the time fixed for the meeting, and the Commissioner shall, with all possible despatch, take steps to circulate such resolution to every member of the Corporation in such manner as he may think fit.

Explanation.-In this section, "registered address" means the address for the time being entered in the register of addresses of members of the Corporation to be maintained by the Secretary.

54. Quorum :-

(1) The quorum necessary for the transaction of business at a meeting of the Corporation shall be one-third of the total number of members of the Board of Councillors.

(2) If, at any time during a meeting of the Corporation, 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 until 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 had there 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 Corporation at a meeting shall, save as otherwise provided in this Act, be determined by a majority of the members of the Corporation present and voting at such meeting.

55. Presiding Officer Of Meeting Of Corporation :-

(1) The Chairman or, in his absence, a member of the panel of Presiding Officers nominated under section 49 shall preside at every meeting of the Corporation :

Provided that when a meeting is held to consider a motion for the removal of the Chairman, the Chairman shall not preside at such meeting.

(2) In the absence of the Chairman and all members of the panel of the Presiding Officers as aforesaid from a meeting of the Corporation, the elected members present shall choose from amongst themselves one member to preside over the meeting.

(3) The Chairman or the person presiding over a meeting of the Corporation shall have, and shall exercise, only a casting vote in all cases of equality of votes.

56. Discussion On Urgent Public Matters :-

(1) Any Councillor may give notice of raising discussion on a matter of urgent public importance to the Secretary, specifying the matter to be raised.

(2) Such notice supported by the signature of at least two other elected members shall reach the Secretary at least forty-eight hours before the date on which such discussion is sought and the Secretary shall place it before the Chairman or, in his absence, any member of the panel of Presiding Officers and circulate the same among the members in such manner as he may think fit.

57. Questions On Matter Relating To Administration :-

A Councillor may, in such manner as may be prescribed, ask the Mayor-in-Council questions not more than two on any matter relating to the administration of the Corporation and the Mayor, or any other member of the Mayor-in-Council, shall answer all such

questions.

58. Statement On Matter Relating To Administration :-

(1) Any Councillor may ask for a statement from the Mayor-in-Council on an urgent matter relating to the administration of the Corporation by giving a notice to the Secretary at least one hour before the commencement of the sitting on any day.

(2) The Mayor or a member of the Mayor-in-Council may accordingly make a brief statement on the same day or fix a date for the same.

59. Circulation Of Minutes Of Proceedings And Inspection Of Minutes Of Proceedings :-

(1) Minutes of the proceedings of each meeting of the Corporation shall be circulated to all the members of the Corporation and shall, at all reasonable times, be available at the office of the Corporation for inspection by any member of the Corporation, free of cost, and by any other person on payment of such fee as the Corporation may determine.

(2) The minutes of the proceedings of each meeting of the Corporation shall be read out and confirmed at its subsequent meeting.

(3) The manner of transaction of business in the meetings of the Corporation, not specifically provided for in this Act, shall be such as may be prescribed.

CHAPTER 6 Control

60. Power Of State Government To Dissolve Corporation :-

(1) If, in the opinion of the State Government, the Corporation has shown its incompetence, or has persistently made default, in the performance of the duties, or in the exercise of the functions, imposed on it by or under this Act or any other law, or has exceeded or abused its powers, the State Government may, by an order with the reasons for making such order, published in the Official Gazette, declare the Corporation to be incompetent or to be in default or to have exceeded or abused its powers, as the case may be, and dissolve it for such period, not exceeding six months, as may be specified in the order:

Provided that no such order shall be made by the State Government unless -

(a) a notice has been given to the Corporation specifying therein a period within which the Corporation may submit representation, if any, against the proposed order, and

(b) such representation has been considered by the State Government after giving the Corporation a reasonable opportunity of being heard.

(2) Where the Corporation has been dissolved under sub-section (1), an election to constitute the Corporation shall be completed before the expiry of six months from the date of its dissolution:

Provided that where the period for which the Corporation so dissolved would have continued but for its dissolution is less than six months, it shall not be necessary to hold any election to constitute the Corporation for such period :

Provided further that the Corporation constituted upon the dissolution thereof before the expiration of the term of office under section 13 shall continue only for remainder of the period for which the Corporation would have continued had it not been so dissolved.

61. Consequences Of Dissolution :-

(1) With effect from the date of an order made under sub-section (1) of section 60,-

(a) all members of the Corporation, the Mayor-in-Council and any Committee of the Corporation constituted under this Act shall vacate their respective offices, and

(b) all the powers and duties, which under the provisions of this Act or any rule, regulation or by-law made thereunder may be exercised or performed by the Corporation or the Mayor-in-Council or any committee of the Corporation or the Mayor or such other powers and duties as may be specified in the order, shall, subject to the direction issued by the State Government, be exercised or performed by such person or persons as the State Government may appoint in this behalf: Provided that when the State Government appoints more than one person to exercise the powers, and to perform the duties, as aforesaid, it may, by order, allocate such powers and duties among the persons so appointed in such manner as it thinks fit:

Provided further that the State Government shall fix the remuneration of such person or persons and may direct that such remuneration shall, in each case, be paid out of the Municipal Fund.

(2) For the avoidance of doubts it is hereby declared that an order of dissolution made under sub-section (1) of section 60 shall not

effect or imply in any way the dissolution of the Corporation as a body corporate.

(3) Every order made by the State Government under sub-section (1) of section 60 shall be laid, as soon as may be after it is made, before the State Legislature, while it is in session, for a total period of fourteen days which may be comprised in one session or in two or more successive sessions.

PART 3 Finance

CHAPTER 7 Municipal Fund, Budget, Loans, Accounts and Audit

62. Municipal Fund :-

(1) There shall be a Municipal Fund held by the Corporation in trust for the purposes of this Act and all moneys realised or realisable under this Act and all moneys otherwise received by the Corporation shall be credited to the Municipal Fund.

(2) All moneys received on account of the Municipal Fund shall forthwith be paid in a Government Treasury or in the State Bank of India or in any other nationalised bank or in the State Co-operative Bank for credit to one or more accounts, and each such account shall be called the account of the Corporation to which the money belongs:

Provided that the Corporation may, with prior approval of the State Government, invest money not required for immediate use, in securities or in fixed deposit in the State Bank of India or in any other nationalised bank or the State Co-operative Bank or in any other form.

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.

63. Application Of Municipal Fund :-

Subject to the provisions of section 62, all moneys credited to the Municipal Fund shall be applied to the 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 to the payment of all sums payable out of the Municipal Fund under other law for the time being in force or under any arrangement approved by the State Government.

64. Expenditure On Physical Assets Outside Corporation Area :-

Any expenditure on physical assets outside the corporation area may, for carrying out the purposes of this Act, be made, if a resolution to that effect is carried out by not less than one-half of the total number of elected members of the Corporation.

65. Operation Of Bank Account :-

Subject to the other provisions of this Act, payment from the Municipal Fund shall be made in such manner as may be prescribed, and the accounts referred to in sub-section (2) of section 62 shall be operated by such officers of the Corporation as may be prescribed.

66. Approval Of State Government In Respect Of Work Etc. Estimated To Cost More Than Rupees Twenty-Five Lakh :-

No expenditure for any work or for purchase of any materials, as may be necessary for the purposes of this Act, shall be made without the approval of the Corporation at a meeting, if the estimated cost of such work or purchase of such materials exceeds rupees ten thousand but does not exceed rupees twenty-five lakh: Provided that where the estimated cost of such work or purchase of such materials exceeds rupees twenty-five lakhs, approval of the State Government shall be obtained.

67. Payment Not To Be Made Out Of Municipal Fund Unless Covered By Budget Grant :-

No payment of any sum out of the Municipal Fund shall be made unless the expenditure on account of such payment is covered by a current budget grant and a sufficient balance of such budget grant is available notwithstanding any reduction or transfer thereof under any provision of this Act:

Provided that this section shall not apply to payment in the following cases:-

- (a) refund of taxes and other moneys which are authorised by this Act;
- (b) repayment of moneys belonging to contractors or other persons and held in deposit and all moneys collected or credited to the Municipal Fund by mistake;

- (c) temporary payment for works urgently required by the State Government in the public interest;
- (d) sums payable as compensation under this Act or the rules or the regulations made thereunder;
- (e) expenses incurred by the Corporation on special measures on the outbreak of a dangerous disease;
- (f) sums payable -
 - (i) under orders of the State Government on failure of the Corporation to take any action required by the State Government, or
 - (ii) under any other law for the time being in force, or
 - (iii) under any decree or order of a civil or a criminal court against the Corporation, or
 - (iv) under a compromise of any claim, suit or other legal proceedings, or
 - (v) on account of the cost incurred in taking immediate action by any of the municipal authorities referred to in section 9 to avert a sudden threat or danger to the property of the Corporation or to human life;
- (g) such other cases as may be prescribed.

68. Procedure When Money, Not Covered By Budget Grant, Is Paid :-

Whenever any payment is made in any of the cases referred to in the proviso to section 67, the Commissioner shall forthwith communicate the circumstances of such payment to the Mayor-in-Council and, thereupon, the Mayor-in-Council may take, or recommend to the Corporation to 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 payment.

69. Annual Budget :-

- (1) The Corporation shall, on or before the 31st day of March in each year, adopt for the ensuing year a budget estimate of the income and the expenditure of the Corporation to be received and incurred on account of the Municipal government of the Corporation area.
- (2) The budget estimate shall state the rates at which various taxes, cesses and fees shall be levied by the Corporation in the year next following.
- (3) The budget estimate shall state the amount of money to be

raised by the Corporation as loan during the year next following.

(4) The Mayor shall present the budget estimate to the Board of Councillors at a meeting on the 15th day of February in each year or as soon as possible thereafter.

(5) The budget estimate shall be prepared, presented and adopted in such or, and in such manner, and shall provide for such matters, as may be prescribed.

(6) The Corporation shall prepare the revised budget estimate for a year along with the budget estimate for the next year in such manner as may be prescribed.

70. Financial Assistance By State Government :-

(1) The State Government may give grants or financial assistance to the Corporation with or without direction as to the manner of application of such grants or financial assistance.

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

(3) The State Government shall give grants to the Corporation for implementation in full or in part of any scheme included in the Annual Development Plan.

71. Power Of Corporation To Raise Loan :-

The Corporation may, by a resolution passed at a meeting, raise loan, by the issue of debentures or otherwise on the security of the property tax or of all or any of the taxes, fees and dues under this Act, or on the guarantee by the State Government, of such sum of money as may be required-

(a) for the construction of works under this Act, or

(b) for the acquisition of land or building for the purposes of this Act, or

(c) to pay off any debt due to the State Government, or

(d) to repay a loan raised under this Act, or

(e) for the acquisition of a public utility concern which renders such services as the Corporation is authorised to render under this Act, or

(f) for the purchase of vehicles, locomotive engines, boilers, plants and machinery necessary for carrying out the purpose of this Act, or

(g) for any other purpose for which the Corporation is authorised to borrow by or under this Act or any other law for the time being in

force:

Provided that no loan shall be raised without the previous sanction of the State Government and that the terms and conditions (including the period) of repayment of the loan shall be subject to the approval of the State Government.

72. Limit To Power To Raise Loan :-

Notwithstanding anything hereinbefore contained, the power of the Corporation to raise loan shall be so limited that the sums payable under this Act during any year for interest and for maintenance of Sinking Funds established under sub-section (1) of section 76 of this Act shall not exceed fifteen per cent of the annual value of lands and buildings as determined under this Act.

73. Power Of Corporation To Open Credit Account With Bank :-

Notwithstanding anything contained in section 71, whenever the raising of any loan has been sanctioned by the State Government under that section, the Corporation may, instead of raising such loan or any part thereof from the public, take credit, on such terms as may be approved by the State Government, from any bank on a cash account to be kept in the name of the Corporation Cash Account to the extent of such loan or any part thereof and, with the sanction of the State Government, may grant mortgage of all or any of the properties vested in the Corporation by way of securing the repayment of the amount of such credit or of the sum advanced on such cash account with interest.

74. Repayment Of Loan :-

Every loan raised by the Corporation under section 71 shall be repaid within the period approved and by such of the following methods as may be approved by the State Government, namely :-

- (a) from a Sinking Fund established under sub-section (1) of section 76 in respect of such loan, or
- (b) partly from such Sinking Fund and partly from the loan raised for the purpose of repayment of loan under section 71.

75. Form And Effect Of Debenture :-

All debentures issued under this chapter shall be in such form, and shall be transferable in such manner, as the Corporation may by

regulations determine, and the right to sue in respect of the money secured by any of such debentures shall vest in the holders thereof for the time being without any preference by reason of some such debentures being prior in date to others.

76. Sinking Fund :-

(1) The Corporation shall establish a Sinking Fund in respect of each loan raised under section 71 and shall pay into such Sinking Fund every six months a sum so calculated that if regularly paid, such sum together with the compound interest accrued thereon would be sufficient, after payment of all expenses, to pay off the loan within the period approved by the State Government under the proviso to that section.

(2) The rate of interest at which the sum referred to in sub-section (1) shall be calculated shall be such as may be prescribed.

77. Investment Of Amount Of Sinking Fund :-

(1) All moneys paid into a Sinking Fund shall, as soon as possible, be invested by the Corporation in-

(a) Government securities, or

(b) securities guaranteed by the Central Government or any State Government, or

(c) debentures issued by the Corporation, or

(d) debentures issued, if any, by a development authority, if any, within the jurisdiction of the Corporation, or

(e) any public security approved by the State Government and held by the Corporation for the purpose of repaying from time to time the loans raised by it by the issue of debentures or otherwise.

(2) All dividends and other sums received in respect of any such investment shall, as soon as possible, be paid into the appropriate Sinking Fund and invested in the manner provided in sub-section (1).

(3) Moneys paid into two or more Sinking Funds may, at the discretion of the Corporation, be invested together as a common fund, and it shall not be necessary for the Corporation to allocate the securities held in such investment among the several Sinking Funds.

(4) Any investment made under this section may, from time to time and subject to the provisions of sub-section (1), be varied or transposed.

78. Application Of Sinking Fund :-

Until any loan is wholly repaid, the Corporation shall not apply any Sinking Fund established under this Act in respect of such loan for any purpose other than the purpose of repayment of such loan.

79. Statement Of Investment :-

(1) The Commissioner shall, at the end of each year, prepare a statement showing -

(a) the amount which has been invested during the year under section 77,

(b) the date of last investment made during the year,

(c) the aggregate amount of securities in the hands of the Corporation, and

(d) the aggregate amount which has, up to the date of the statement, been applied for the purpose of repayment of loan under section 78.

(2) Every such statement shall be laid before a meeting of the Corporation and shall be published in the Official Gazette.

80. Annual Examination Of Sinking Fund :-

(1) All Sinking Funds established under this Act shall be subject to annual examination by the auditors appointed under section 87, who shall ascertain whether the cash and the value of the securities belonging thereto are equal to the amount which should be at the credit of such funds had investments under section 77 been regularly made and had the interest accruing on account of such investments been regularly obtained.

(2) The amount which should be at the credit of a Sinking Fund shall be calculated on the basis of the sums credited to such fund under sub-section (1) of section 77.

(3) The value of securities belonging to a Sinking Fund shall be their current value, unless such securities become due for redemption at par with or above their face value before maturity in which case their current value shall be taken as their redemption value, except in the case of debentures issued by the Corporation which shall always be valued at par with their face value, provided that the Corporation shall make good immediately any loss owing to the sale of such debentures for repayment of the loan raised under section 71.

(4) The Corporation shall forthwith pay into any Sinking Fund such

amount as the auditors appointed under section 87 may certify to be deficit unless the State Government specially sanctions a gradual readjustment of such deficit in respect of such fund.

(5) If the cash and the value of the securities at the credit of any Sinking Fund are in excess of the amount that should be at its credit, the auditors appointed under section 87 shall certify the amount of such excess sum and the Corporation may, thereupon, transfer the excess sum to the Municipal Fund in the General Account.

(6) If any dispute arises as to the accuracy of any amount certified to the deficit or excess under sub-section (4) or sub-section (5), as the case may be, the Corporation may, after payment of such deficit or after transfer of such excess, as the case may be, refer the matter to the State Government whose decision thereon shall be final.

81. Power Of Corporation To Borrow Money From State Government :-

(1) The Corporation may borrow money from the State Government for carrying out the purposes of this Act, other than those referred to in section 71, on such terms and conditions as the State Government may determine.

(2) If any money borrowed by the Corporation from the State Government before the commencement of this Act, or borrowed under sub-section (1), is not repaid, or any interest due in respect thereof is not paid, according to the terms and conditions of such borrowing, the State Government may attach the Municipal Fund or any portion thereof giving an opportunity for conciliation.

(3) After such attachment, no person, other than an officer appointed in this behalf by the State Government (hereinafter referred to in this section as the said officer), shall, in any way, deal with the Municipal Fund, or any portion thereof, attached under sub-section (2). The said officer may do all acts in respect thereof which any municipal authority or an officer or other employee of the Corporation might have done under this Act if such attachment had not taken place, and may apply such Municipal Fund or portion thereof, as the case may be, to the payment of the arrears and the interest due in respect of such borrowing and of all expenses on account of the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any

debt for the recovery of which the Municipal Fund attached was previously charged under any law for the time being in force and all such prior debt shall be paid out of the Municipal Fund before any part thereof is applied to the repayment of borrowing under sub-section (1) and payment of interest accruing thereon.

82. Attachment Of Municipal Fund For Securing Any Payment Into Sinking Fund :-

If the Corporation fails to make any payment or to transfer any sum under sub-section (4) or sub-section (5), of section 80, the State Government may attach the Municipal Fund or any portion thereof and, thereupon, the provisions of section 81 shall apply mutatis mutandis.

83. Accounts To Be Kept By Finance Officer :-

The accounts of all expenditure of the Corporation shall be kept by the Finance Officer in such form, and in such manner, as may be prescribed.

84. Internal Audit Of Accounts By Chief Auditor :-

(1) The Chief Auditor shall conduct monthly internal audit of the accounts of the Corporation and shall report thereon to the Commissioner who shall, with the prior approval of the Corporation, cause an abstract of the receipts and expenditure of the month last preceding to be published.

(2) The Chief Auditor shall also conduct such other audit of the accounts of the Corporation as the Corporation may direct,

85. Report By Chief Auditor :-

(1) Notwithstanding anything contained in this Act or the rules or the regulations or the by-laws made thereunder, the Chief Auditor shall -

(a) report to the Commissioner any material impropriety or irregularity which he may, at any time, observe in the expenditure or in the recovery of moneys due to the Corporation or in the accounts of the Corporation;

(b) furnish to the Commissioner such information as he may require on the progress of the audit.

(2) The Commissioner shall cause to be laid before the Corporation every report made to it by the Chief Auditor together with a

statement of orders passed thereon by the Commissioner and, thereupon, the Corporation may take such action as it may deem fit.

(3) As soon as may be after the commencement of each financial year, the Chief Auditor shall deliver to the Commissioner a report on the entire accounts of the Corporation for the preceding year

(4) The Secretary shall cause such report to be printed and circulated among the Councillors.

(5) The Commissioner shall forward to the State Government as many copies of such report as may be required by the State Government together with a brief statement of action taken or proposed to be taken thereon.

86. Rules Of Internal Audit :-

The State Government may by rules provide for the internal audit of the day-to-day accounts of the Municipal Fund and the manner in which such internal audit shall be conducted.

87. Appointment Of Auditors :-

(1) The accounts of the Municipal Fund shall be audited by such auditors as are appointed for audit of accounts of the State Government.

(2) The Commissioner shall submit accounts to auditors as may be required by them:

Provided that the Commissioner shall not be bound to submit accounts of expenditure in connection with any anti-corruption work but shall, if so required by the auditors, furnish certificate, under his signature, of all such expenditure.

(3) The auditors so appointed may, -

(a) by written summons, require the production before them or before any officer subordinate to them of any document which they may consider necessary for the proper conduct of audit;

(b) by written summons, require any person accountable for, or having the custody or control of, any such document to appear in person before them or before any officer subordinate to them; and

(c) require any person so appearing before them or before any officer subordinate to them to make or sign a declaration with respect to such document or to answer any question or to prepare and submit any statement.

(4) The provisions of sub-section (3) shall not apply to the accounts of expenditure incurred in connection with any anti-corruption

work.

88. Report And Information To Be Furnished By Auditors :-

The auditors appointed under section 87 shall -

- (a) report to the Mayor-in-Council any material impropriety or irregularity which they may observe in the expenditure of, or in the recovery of moneys due to, or in the accounts of, the Corporation;
- (b) report to the Mayor-in-Council any loss or waste of money or other property owned by, or vested in, the Corporation, and caused by neglect or misconduct, and may, if they think fit, report the names of the persons who, in their opinion, are directly or indirectly responsible for such loss or waste;
- (c) furnish to the Mayor-in-Council such information as the Mayor-in-Council may, from time to time, require regarding the progress of audit;
- (d) as soon as may be after the completion of audit, deliver to the Mayor-in-Council a report on the accounts of the Municipal Fund and submit a copy thereof to the Corporation;
- (e) conduct a special audit, when so directed by the State Government or the Corporation, on any receipt or expenditure of the Corporation or examine any accounts of stores and stocks and submit a report of such special audit to the State Government or the Mayor-in-Council, as the case may be;
- (f) submit to the State Government copies of all reports referred to in clauses (a), (b), (d) and (e).

89. Mayor-In-Council To Remove Defects And To Report To Corporation :-

The Mayor-in-Council shall take necessary action to remove the defects or irregularities that may be pointed out by the auditors and shall report to the Corporation and the State Government the action taken by it:

Provided that if there is a difference of opinion between the Mayor-in-Council and the auditors, the Mayor-in-Council or, if the Mayor-in-Council does not remove any defect or irregularity within such period as may be prescribed, the auditors shall refer the matter to the Corporation and to the State Government within such period, and in such manner, as may be prescribed, and it shall be within the competence of the State Government to pass such order thereon as it thinks fit.

90. Power Of Auditors To Disallow, To Surcharge, And To Charge :-

(1) The auditors shall, after giving the person concerned an opportunity to submit an explanation and after considering such explanation, if any, disallow every item of accounts contrary to the provisions of this Act, and surcharge the amount of an illegal payment on the person making or authorizing the making of such payment, 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 account by such person, and shall, in every such case, certify the amount due from such person.

(2) The auditors shall record the reasons for every disallowance, surcharge or charge under sub-section (1), and shall serve, in the manner prescribed, a certificate for the amount due under that sub-section and a copy of such reasons on the person against whom the certificate is made, and shall incorporate such cases of disallowance, surcharge or charge in their report to the Mayor-in-Council and the State Government under section 88.

91. Reference Of Reports To Municipal Accounts Committee :-

(1) The Corporation shall refer all reports received under section 89 and section 90 to the Municipal Accounts Committee for their examination and report under subsection (4) of section 21.

(2) The report of the Municipal Accounts Committee shall be discussed at a meeting of the Corporation for such decision as it may think fit:

Provided that if no report is received from the Municipal Accounts Committee within thirty days from the date of receipt of the report referred to it by the Corporation, the Corporation shall be competent to discuss auditors reports under section 88 for such decision as it thinks fit.

(3) The Corporation shall publish the auditors reports referred to in section 88 together with the reports of the Municipal Accounts Committee, if any, and also the decision of the Corporation thereon, in accordance with the rules made in this behalf.

92. Right Of Appeal To Civil Court Or State Government :-

Any person from whom any sum has been certified by the auditors

under sub-section (1) of section 90 to be due may, within one month after he has received the certificate or has been served with the certificate, either -

(a) appeal to a civil court of competent jurisdiction to set aside or modify the disallowance, surcharge, or charge, as the case may be, and, upon such application, the civil court may, after taking such evidence as it considers necessary, confirm, set aside or modify the disallowance, surcharge or charge, as the case may be, and the certificate, and pass such order as to costs as it may think proper, or

(b) appeal to the State Government, and, thereupon, the State Government shall pass such order as it thinks fit, and the decision of the State Government on such appeal shall be final.

93. Payment Of Certified Amount :-

Where an amount is certified under sub-section (1) of section 90 to be due from any person, such amount, or where such person proceeds under section 92, such amount as the civil court or the State Government, as the case may be, may decide to be due from such person, shall be paid within three months from the date of serving of certificate under sub-section (2) of section 90 or, as the case may be, within such period, not less than three months from the date of such decision as the civil court or the State Government, as the case may be, may allow, and, in the case of default of payment, the amount shall be recoverable by the Corporation as an amount decreed by the civil court.

94. Cost Payable Out Of Municipal Fund :-

(1) Any cost allowed by the civil court under clause (a) of section 92 shall be paid out of the Municipal Fund within such period as the State Government may fix in this behalf.

(2) If the Corporation fails to pay such cost within the period fixed by the State Government under sub-section (1), the State Government may attach the Municipal Fund or any portion thereof, and the provisions of sub-section (2) of section 81 shall, with all necessary modifications, be deemed to apply in respect of such attachment.

95. Effect Of Non-Payment Of Certified Amount :-

Where a person from whom an amount is certified to be due under

section 90 is a member of the Corporation or of a committee thereof or is an officer or other employee of the Corporation and where such person has not paid such amount within three months from the date of such certificate, or where, on an appeal to a civil court or the State Government under section 92, an amount has been declared to be due from such person under clause (a) or clause (b) of section 92 but has not been paid by such person within such period, not less than three months from the date of such declaration, as may be allowed to him under section 93, such person shall be deemed to have vacated his seat or to have been dismissed from the service of the Corporation, as the case may be, with effect from the date of an order to be made by the State Government in his behalf and shall not be eligible for re-election or re-appointment, as the case may be, until the amount as aforesaid has been paid by him:

Provided that before passing the order by the State Government, the person concerned will be given an opportunity of being heard.

96. Power Of State Government To Make Rules :-

(1) The State Government may make rules for the purposes of carrying out the provisions 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;-

(a) the form and the manner in which the accounts of the Corporation shall be kept under section 83;

(b) the time period within which, and the manner in which, the matter referred to in the proviso to section 89 shall be referred to the State Government;

(c) the publication of the auditors reports together with the reports of the Municipal Accounts Committee under sub-section (3) of section 89;

(d) any other matter which may be, or is required to be, prescribed under the provisions of this chapter.

PART 4 Part IV

CHAPTER 8 Powers and functions of Corporation

97. Obligatory Functions Of Corporation :-

It shall be the obligatory duty of the Corporation to make reasonable and adequate provisions for the following matters within

the jurisdictional limits of the Corporation area and within the financial means at its disposal, namely; -

(1) in the sphere of public works, -

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

(b) providing, by itself or by an agency, means of supply of water for fire-fighting purposes;

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

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

(e) construction, maintenance, alteration and improvement of public streets and street furniture, bridge, culverts, flyovers, subways and causeways;

(f) naming of streets and numbering of premises;

(g) lighting of public streets and other public places;

(h) planting and care of trees on roadside and elsewhere; (i)

construction and maintenance of municipal markets and slaughterhouses, and regulation of all markets and slaughterhouses; (j) maintenance of all monuments vested in the Corporation;

(2) in the sphere of public health and sanitation,-

(a) scavenging, removal and disposal of filth, rubbish and other obnoxious or polluted matters;

(b) reclamation of unhealthy localities, removal of noxious vegetation, and abatement of all nuisances;

(c) regulating and abating offensive and dangerous trades or practices;

(d) watering and cleansing of public streets and other public places;

(e) ensuring wholesomeness of water supplied for drinking and domestic purposes;

(f) regulation of places for the disposal of the dead, and provision and maintenance of places for the said purpose;

(g) measures for preventing and checking the spread of dangerous diseases;

(h) public vaccination and inoculation;

(i) removal and disposal of unclaimed dead bodies and carcasses of all dead animals;

(j) maintenance of all public tanks and regulating re-excavation, repair and up-keep of all private tanks, Wells and other sources of

water supply on such terms and conditions as the Mayor-in-Council may deem proper;

(k) conversion of all service privies into sanitary latrines and providing adequate facilities for sanitation so that open defecation may be completely done away with;

(I) disposal of solid and liquid wastes consistent with efforts to cause recovery and re-use of all that can be salvaged;

(3) in the sphere of town planning and development, -

(a) devising town planning within the limits of the Corporation area in accordance with the laws relating to town planning for the time being in force;

(b) regulating land-use pattern in the fringe areas within the jurisdiction of the Corporation in accordance with the law 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, and cables;

(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 within the jurisdiction of the Corporation for human settlement;

(k) preservation of monuments and places of historical, artistic and other importance;

(I) measures for beautification of township by setting up fountains and statues, providing recreational areas, improving river-banks, and landscaping;

(4) in the sphere of administration,-

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

(b) removal of 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 Corporation area;

- (f) destruction of noxious animals or diseased unclaimed dogs;
- (g) compilation and maintenance of records and statistics relating to administrative functions of the Corporation;
- (h) maintenance and development of all properties vested in, or entrusted with, the management of the Corporation;
- (i) removal of unauthorised encroachment on public streets and public places;
- (j) checking construction of unauthorised buildings and pulling down unlawful constructions;
- (k) ensuring stoppage of wastage of water supply and other civic facilities;
- (l) protection of public properties in general and civic properties in particular;
- (m) abatement of pollution of all kinds;
- (n) controlling stray animals and birds;
- (o) measures as may be required for fire prevention and fire safety under the West Bengal Fire Services Act, 1950, (West Ben. Act XVIII of 1950.) and the rules made thereunder;
- (p) providing adequate training facilities for the employees of the Corporation and equipping and motivating them for public service;
- (q) observance of days of national importance.

98. Discretionary Functions Of Corporation :-

The Corporation may, at its discretion provide, either wholly or partly, out of the property of the Corporation and Municipal Fund, for the following matters within the limits of the Corporation area namely :-

- (1) in the sphere of public works, --
 - (a) giving relief to, and establishing and maintaining relief works in times of famine or scarcity for, destitute persons within the limits of the Corporation area;
 - (b) construction or maintenance of, or providing, or giving aid for, passengers sheds, libraries, museums, community halls, offices, godowns, shops, markets, dharmashalas, rest houses, or places of entertainment and homes for the disabled and the destitute, other buildings, and domiciliary care of the sick, orphan, destitute and aged people, and night shelter for the pavement-dwellers and the homeless;
 - (c) construction and maintenance of old age homes and orphanages;
 - (d) construction and maintenance of, or providing aid to, hospitals, dispensaries, asylums, rescue homes, maternity houses, and child welfare centres;
 - (e) construction, purchase, organization, maintenance, extension, and management of mechanically propelled transport facilities for

the convenience of the public;

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

(g) construction of low-cost sanitary dwellings for the economically weaker sections of the community;

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

(2) in the sphere of education,-

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

(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 organizing 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 and cattle-viers;

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

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

(d) provision for sewage treatment and preparation of compost manure from sewage and other refuse;

(e) abatement of smoke-nuisances;

(f) setting up of milk dairies or farms 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) conferring civic reception to persons of distinction, and paying homage to persons of repute on their death;

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

(c) organization and management of fairs and exhibitions;

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

(e) organization, construction, maintenance, and management of swimming-pools, public wash-houses, bathing-places, and other institutions designed for the convenience of the community;

- (f) construction and maintenance of garages, sheds, and stands for vehicles;
- (g) purchase and hoisting of the National Flag;
- (h) measures for eradication of addiction to all kinds of liquors and drugs;
- (i) organizing 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 assisting such societies in the 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) organization of flower-shows and promotion of flower-growing as civic culture;
 - (g) promotion of agriculture and improvement of cattle-breed;
 - (h) assistance to small-scale, cottage, and craft industries;
 - (i) programme for rehabilitation of scavengers, and their families, who are displaced on account of abolition of the system of carrying of night-soil as human head-load;
 - (j) income-generating activities for the weaker sections of the community including women;
 - (k) collection of statistics and data, significant to the community;
- (I) integration of development plans and schemes for the Corporation area with the district or regional development plan, if any;
- (6) any matter included in the Twelfth Schedule to the Constitution of India and not specified hereinbefore in this section;
- (7) 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.

99. Transfer Of Functions Of State Government :-

(1) Notwithstanding anything contained 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 order published in the Official Gazette, to the Corporation any such function or duty of the State Government under any law which the

State Legislature is competent to make, or which is otherwise within the executive power of the State and appears to relate to a matter arising within the Corporation area, being of an administrative character, and shall, on such transfer, allot to the Corporation such fund and personnel as may be necessary to enable the Corporation to discharge the function, or the duty, so transferred. (2) Without prejudice to the generality of the provisions of sub-section (1), the State Government may transfer to the Corporation such functions and duties as are performed by the departments of the State Government on any of following matters, namely; -

- (a) town and country planning,
- (b) urban development,
- (c) urban development including urban water-supply and sanitation,
- (d) urban transport system including regulation of traffic terminus,
- (e) urban 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,
- (j) education including primary education, adult education, social education, non-formal education, audio-visual 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 Scheduled Castes and Scheduled Tribes, (p) environmental safety and improvement. (3) Where any function or duty conferred by or under any law is so transferred, that law shall have effect as if this section had been incorporated in that law.

100. Power To Transfer Any Function Of Corporation Under The Act To Any Organization :-

Notwithstanding anything contained in the foregoing provisions of this Act or in any other law for the time being in force, the Corporation may, if it is of opinion that it is necessary so to do in the public interest, transfer, by contract or otherwise and with the prior approval of the State Government, any function or functions of the Corporation under this Act to any individual or organization, including a Government organization, in such manner, and on such

terms and conditions, as may be determined by the Corporation and approved by the State Government:

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

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

101. Powers Of The Corporation To Enter Into Any Business Or Venture :-

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

(2) The Corporation may, with the prior approval of the State Government, invest the Corporation properties in the Joint Venture or Partnership Business mentioned in sub-section (1).

(3) For financial investment from the Corporation Fund, either in any business proposed to be done by the Corporation itself, or Joint Venture basis, or Partnership basis mentioned in sub-section (1), existence of one of the following conditions shall be necessary.:

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

(b) the Corporation 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 in such project in order to ensure safety of a certain Corporation Property, and the Corporation 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 Corporation shall send a 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 Corporation, without showing proper reason, fails to fulfil the conditions specified in sub-section (3), the State Government

may, by order, withdraw the Corporation from such business or the business on Joint Venture or Partnership basis and the 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 Corporation concerned, after being satisfied that such loss has been caused by default of the Corporation.

PART 5 Part V

CHAPTER 9 Municipal Taxation

102. Power To Impose Tax :-

(1) The Corporation 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 newspapers,
- (c) a tax on carts, carriages and animals, and
- (d) toll on -
 - (i) ferry,
 - (ii) bridge, and
 - (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, (59 of 1988) plying on 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, the regulations, and the bye-laws made thereunder.

103. Levy Of Fee On Congregation :-

(1) The Corporation may levy a fee per head or per vehicle for providing municipal services to persons or vehicles assembling in connection with any congregation of whatever nature, including pilgrimage, fair, festival, circus or yatra, within the Corporation area.

(2) The fee for the purposes of sub-section (1) shall be such as may be determined by the Corporation from time to time and shall not exceed rupees two per person and rupees ten per vehicle, besides the levy of such fee on each of the passengers in the vehicle.

(3) The Corporation may make regulations specifying the occasions on which such fee may be levied, and the rate of such fee, the mode of collection, and the matters connected therewith or incidental thereto.

104. Levy Of Fee On Tourist :-

(1) The Corporation may levy a fee per head or per vehicle for providing municipal services to such persons or vehicles as are visiting a Corporation area for the purpose of sight-seeing:

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

(2) The fee for the purposes of sub-section (1) shall be such as may be determined by the Corporation from time to time and shall not exceed rupees three per person, and rupees fifty per vehicle, besides the levy of such fee on each of the passengers in the vehicle.

(3) The Corporation may make regulations specifying the rate of such fee, the mode of collection thereof, and the matters connected therewith or incidental thereto.

105. Levy Of Special Conservancy Charge :-

(1) The Corporation may levy a special conservancy charge for providing municipal services in connection with the removal of solid wastes.

(2) The special conservancy charge for the purposes of sub-section (1) shall be such as may be determined by the Corporation from time to time.

(3) The Corporation may make regulations specifying the occasions on which such special conservancy charge may be imposed, and the rate of such special conservancy charge, the mode of collection, and the matters connected therewith or incidental thereto.

106. Levy Of Administrative Or Special Cleansing Charges :-

The Commissioner may levy, on the owner or occupier of any premises, administrative charges or special cleansing service charges for sweeping, cleansing of premises, and for collecting and final disposal of the rubbish and offensive matters, at such rates, as the Mayor-in-Council may determine from time to time. Any unpaid sum under this section shall be recoverable from the person concerned as an arrear tax under this Act.

107. Levy Of Fee, Charge, Etc. :-

(1) The Corporation may, levy fee for any licence issued, or permission granted, under the provisions of this Act, and may also impose charge for any specific service rendered in pursuance of the provisions of this Act.

(2) The State Government may prescribe the scale at which such fee may be levied or such charge may be imposed.

108. Property Tax On Land And Building :-

(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 Corporation.

(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 :-

$[\text{annual value}/100 + 10]$ per cent of the annual value:

(b) where the annual value of lands and building exceeds nine hundred ninety nine rupees, the property tax shall be determined in accordance with the following formula :-

$[\text{annual value}/1000 + 20]$ 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 Corporation area after commencement of this Act:

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

(3) The provisions of this section shall be made applicable for the Corporations at the time of general valuation or revaluation of holdings under section 123 of the Act.

109. Levy Of Surcharge :-

A surcharge, not exceeding 50 per cent. of the total amount of the property tax imposed on a holding, may be levied, if such holding is used wholly or in part for commercial, industrial or other nonresidential purposes, and the Corporation shall decide the rate of surcharge which shall form part of the property tax for the

purpose of recovery.

110. Exemption Of Diplomatic Mission :-

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

111. Exemption Of Central Government Property :-

Notwithstanding anything contained in the foregoing provisions of this chapter, lands and buildings, which are the properties of the Central Government, shall be exempted from the property tax:

Provided that nothing in this section shall prevent the Corporation from levying on such lands and buildings a property tax to which, immediately before the commencement of this Act, they were, or were treated as, liable:

Provided further that the Corporation may levy a service charge on such lands and buildings on the basis of annual value, and at such rate, as may be determined by the Central Government.

112. Exemption Of Holding 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 public burial or as burning ground, or any other place used for disposal of the dead and duly registered under this Act, or
- (c) open spaces, including parade grounds, which are the properties of the Government, or
- (d) social welfare homes run by the State Government, shall be exempted from the property tax.

Explanation.-For the purposes 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 is derived in respect of such land or building, or such land or building is used for any gainful purpose whatsoever.

113. Exemption Of Holding Exclusively Used For Public

Charity Or Medical Relief Or Education Of The Poor, Free Of Charge :-

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

(2) All primary, secondary or higher secondary schools, run or sponsored by the Government, shall be exempted from the property tax:

Provided that the Corporation may levy a service charge, at such rate as may be determined by the Corporation, for water-supply and garbage clearance in the case of such primary schools, and shall levy a service charge, not exceeding 1 per cent, of the annual valuation of lands and buildings of such schools, other than primary schools.

114. Exemption Of Holding Used By Educational Institution :-

All educational institutions, other than the primary, secondary or higher secondary schools referred to in sub-section (2) of section 113, owned or sponsored by the Government, shall be exempted from property tax:

Provided that the Corporation may impose a service charge, not exceeding five per cent. of annual valuation of lands and buildings of such educational institutions, for providing civic services to such educational institutions.

115. Exemption Of Properties Of Ex-Serviceman :-

Notwithstanding anything contained in the foregoing provisions of this chapter, the Corporation 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 a 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.

116. Power To Reduce Property Tax In Case Of Excessive Hardship :-

Whenever from the circumstances of a case, it appears to the

Corporation that the levy of property tax for any year on any holding in the Corporation area would cause excessive hardship to the person liable to pay such tax, the Corporation may reduce the amount of such tax payable on account of such holding, or may realise such tax by instalments:

Provided that no such tax shall be reduced, or realised by instalments, more than once unless the Corporation decides otherwise.

117. Remission On Account Of Vacant Holding :-

(1) When any land and building has remained vacant or unproductive of rent for ninety consecutive days or more, the Corporation may, upon an application in writing from the owner, grant remission or refund of one-half of the amount of property tax due for the period of such vacancy.

(2) The Corporation may make regulations for the purpose of granting remission or refund of property tax under sub-section (1).

118. Exemption Of Holding Of Low Valuation :-

The Corporation may exempt from property tax any holding comprising land or building, the annual valuation of which does not exceed five hundred rupees:

Provided that where a person owns or occupies more than one holding the aggregate annual value of which exceeds five hundred rupees, such holding shall not be exempted from the property tax.

119. Determination Of Annual Valuation :-

(1) Notwithstanding anything contained in the West Bengal Premises Tenancy Act, 1997, (West Ben. Act XXXVII of 1997.) 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 for the cost of repairs and other expenses necessary to maintain such land or building in a state to command such gross rent.

(2) The annual value of a holding comprising vacant land only 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 the land at

the time of assessment.

(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 which may be equal to, but may not exceed seven and a half per cent. of, the value of the holding obtained by adding the estimated cost of erecting the building at the time of assessment, less a reasonable amount to be deducted on account of depreciation, if any, in the estimated present market value of the land or building comprised in the holding.

(4) The estimated cost of erecting a building shall not, for the purpose of determination of the annual value of a holding comprising land and building, include the cost of any plant or machinery (excepting the parts of plant or of combination of plant and machinery, enumerated in Schedule I) 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.

120. Determination Of Annual Valuation Of Holding 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 the provisions of this chapter, the annual value of any building erected on such land is not entitled to any exemption from the property tax, and the annual value of such building shall be determined separately from the land in accordance with the provisions of this chapter.

121. 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 land 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 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, (West Ben. Act XLV of 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 (West Ben. Act XVI of 1972), a declaration in respect of which has been duly executed and registered under the provisions of that Act, shall be assessed separately.

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 build 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 Mayor-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.

122. Periodic Assessment :-

(1) The annual value of a holding comprising land or building 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 Corporation shall cause a general valuation of all holdings in accordance with the provisions of this chapter as soon as possible after the constitution of a new Corporation and at periodic intervals

so as to ensure that there is a revision of annual valuation of all holdings at the termination of successive period of five years.

123. Preparation Of Valuation And Assessment List :-

(1) The annual valuation of holdings under this chapter shall be made, unless otherwise directed by the State Government, by the West Bengal Valuation Board, established under the West Bengal Valuation Board Act, 1978, (West Ben. Act LVII of 1978.) and the preparation of valuation list, amount of property tax determined under section 108 on the basis of such valuation list, and disposal of all applications for review, shall abide by the provisions of that Act.

(2) The list prepared under sub-section (1) shall be the assessment list of the Corporation.

(3) When the Corporation is directed by the State Government to undertake the preparation of valuation list, the Corporation shall determine the annual value of all holdings within the Corporation area in the manner provided in this Chapter and the rules made under this Act and shall cause preparation and publication of the assessment list in the manner prescribed.

(4) A new valuation list under sub-sections (1) and (3) shall, unless otherwise directed by the State Government, be prepared in the same manner 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.

124. Publication Of Assessment List :-

(1) When an assessment list is prepared or revised by the Corporation, it shall cause the assessment list to be published together with a public notice of the place where the assessment list may be available for inspection.

(2) In all cases in which any property is assessed for the first time, or the assessment is increased, the Corporation shall also give a written notice of such assessment or such increase, as the case may be, to the owner or the occupier of the property, if known.

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

125. Application For Review :-

(1) Any person, who is dissatisfied with the assessment as appearing in the assessment list referred to in section 124, may prefer an application for review before the Corporation within a period of one month from the date of service of the written notice under sub-section (2), or within three months from the date of publication of the assessment list under sub-section (1), of section 124.

(2) No such application for review shall be entertained unless the amount of property tax on the basis of the previous valuation of any land or building has been paid, or has been deposited in the office of the Corporation, before such application is preferred, and every such application shall stand rejected unless such property tax is continued to be paid, or deposited, in the office of the Corporation, till such application is finally disposed of.

126. Hearing Of Objection By Review Committee :-

(1) Every application under sub-section (1) of section 125 shall be heard and determined by a Review . Committee to be constituted by the Corporation in the manner hereinafter provided in this section:

Provided that where the Review Committee reduces the valuation of any land or building, such reduction shall not be more than 25 per cent. 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 over by the Mayor or the Deputy Mayor and shall consist of not less than two, but not more than four, Councillors appointed by the Corporation at a meeting:

Provided that no Councillor of the ward from which the application for review • 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 the application in such manner as may be prescribed:

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

Provided further that when the Corporation is dissolved, the State Government shall, by notification, appoint the Review Committee consisting of such number of member or members including its President, if any, as may be specified in the notification for the purpose of hearing application for review preferred under sub-section (1) of section 125:

Provided also that the member or members, including the President, if any, as aforesaid shall be from among the persons residing in the wards, other than the wards from which the applications for review are made, and the Review Committee shall pass such orders in each case as it thinks fit.

(4) The decision of the Review Committee shall be final and no suit or proceedings 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.

127. Amendment Or Alteration Of Assessment List :-

(1) Notwithstanding anything contained in this chapter or in any other law for the time being in force, the Corporation may, for reasons to be recorded in writing, at any time, direct amendment or alteration of the assessment list in any of the following cases :-

- (a) when the ownership of a holding changes, or
- (b) when any tenancy or rent in respect of a holding changes, or
- (c) when the nature or use of a holding changes, or
- (d) when the land or the building comprised in a holding has been redeveloped or substantially altered or improved during the period the annual valuation remains in force, or
- (e) when a holding has been acquired by purchase or otherwise by the State Government during the period the annual valuation remains in force, or
- (f) when the valuation or assessment has been set aside or declared void by an order of the court necessitating re-valuation or reassessment of a holding, or
- (g) when it has been discovered that a holding has been grossly undervalued by reason of any fraud, mis-representation, mistake or error, or
- (h) when an alteration has been necessitated to correct any obvious clerical or arithmetical error.

(2) No amendment or alteration of an assessment 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 the date of the order passed in this behalf by the appropriate authority, and shall remain in force for the unexpired portion of the period during which but for such amendment or alteration such annual valuation would have remained in force.

128. Addition To Assessment List :-

(1) When a new building has been constructed, or a new holding has been created by mutation or by transfer or upon the inclusion of any local area within the Corporation or otherwise, during a period as assessment list remains in force, the Corporation may, at any time, cause the annual valuation of such building or holding, and assessment thereon, to be made in accordance with the provisions of this Act.

(2) Before finalizing the annual valuation and assessment of such holding, the Corporation shall give the owner or the occupier an opportunity to prefer an objection, if any, to the proposed valuation within such period as the Corporation may specify, and such objection shall be heard and determined by the Review Committee constituted under section 126.

(3) The Corporation shall, as soon as possible thereafter, finalize the valuation and assessment, and shall make an addition thereof to the assessment list, and such addition shall remain in force for the unexpired portion of the period during which the assessment list continues to remain in force.

129. Intimation To Valuation Board Regarding Addition To, Or Alteration In, Assessment List :-

In case of any addition to, or alteration in, the assessment list under the provisions of section 127 or section 128, as the case may be, the Commissioner shall bring such addition to, or alteration in, the notice of the West Bengal Valuation Board established under West Bengal Valuation Board Act, 1978, (West Ben. Act LVII of 1978).

130. Submission Of Return And Inspection Of Holding For Purpose Of Assessment :-

(1) The Corporation may, with a view to determining the annual value of any holding, by service of a notice, in writing, require the owner or the occupier of the land or the building comprised in such holding or portion thereof, to submit a return in such form, within such period, and in accordance with such procedure, as may be prescribed.

(2) The Corporation may, by service of a notice, in writing, require the owner or the occupier of any holding or portion thereof used for public show of cinema or theatrical performance or as a place of similar public recreation, amusement, or entertainment to furnish return in such form, within such period, and in accordance with such procedure, as may be prescribed.

(3) Every owner or occupier on whom a notice is served under sub-section (1) or sub-section (2) 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.

(4) The Commissioner 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 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 the provisions of this chapter.

131. Transfer Of Title Of Land Or Building :-

(1) Whenever the title of any person to any land or building is transferred, such person, if primarily liable for payment of property tax on such land or building, and the person to whom the title is so transferred, shall, within three months 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, give notice of such transfer in writing to the Commissioner.

(2) In case of death of any person primarily liable for payment of property tax on land or building as aforesaid, the person upon whom the title of such land or building devolves shall, within six months from the date of death of the former, give notice of such devolution in writing to the Commissioner.

(3) A notice under this section shall be in such form as may be prescribed, and the transferee or the person upon whom the title devolves shall, if so required, be bound to produce before the

Corporation 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 Corporation, 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 Corporation 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, and upon payment of such fee as may be determined by regulations.

(6) The District Registrar of a district, or the Sub-Registrar of a local registration office, in the Corporation area, shall furnish to the Corporation such particulars regarding registration of instrument and transfer of immovable property in the Corporation area as the Corporation may, from time to time, require.

132. Self-Assessment And Submission Of Return :-

(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 previously, 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 subjected to revision of assessment consequent upon such redevelopment or alteration or improvement, as the case may be, or

(d) any new building or existing building referred to in clause (a) or clause (b), the bills in respect of which have not been issued, shall pay such amount of property tax, together with interest thereon, if any, as is payable under any of the provisions of this Act, or the rules or the regulations made thereunder, on self-assessment:

Provided that such self-assessment shall be certified by a valuer holding a diploma from the Institution of Surveyors and, enlisted with the municipality for such valuation, where the total floor area of such new building exceeds 400 square metres:

Provided further that the valuation on self-assessment, where the total floor area of a new building or existing building exceeds 400 square metres or not, shall be-

(a) where the values of land and building does not exceed Rs. two lakh of the self-assessed value - 1 per cent;

(b) where the value exceeds Rs. two lakh - 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) "Institution of Surveyors" shall mean the Institution of Surveyors recognised as such by the Government of India;

(3) "value", in the case of an apartment, shall mean the cost of the apartment and the proportionate cost of the land.

(2) The owner or person shall furnish to the Corporation 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 such amount of property tax and interest, if any.

(3) The payment of such amount of property tax and interest, if any, shall be made, and such return shall be furnished, within sixty days of the commencement of this Act.

(4) In the case of any new building for which an occupancy certificate has been granted, or which has been taken possession of, after the commencement of this Act, such payment of property tax 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 of, whichever is earlier.

Explanation.-Occupancy certificate may be provisional or final and may be for the whole or any part of the building and possession may be of the whole or any part of a building.

(5) Such payment of property tax shall be continued to be made for each subsequent quarter and the last date of such payment shall be after thirty days after the expiry of each such quarter.

(6) After the assessment of property tax under section 122 or revision of assessment of property tax under the West Bengal Valuation Board Act or under section 126 has been made, any amount paid on self-assessment under this section shall be deemed to have been paid on account of the assessment of such tax under section 123 or section 126, as the case may be.

(7) If any owner or person, liable to pay property tax under this Act, fails to pay the same together with interest, if any, in accordance with the provisions of this section, he shall, without prejudice to any other consequence to which he may be subject, be deemed to be a defaulter in respect of non-payment of such

property tax or interest or both, and 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 of self-assessment is found to be less than that of the amount payable by the assessee, the assessee shall, in such case, pay off the difference amount 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 excess amount shall be adjusted against the actual tax payable by the assessee.

133. Levy Of Surcharge On Transfer Of Land :-

(1) The Corporation shall levy a surcharge on the transfer of immovable property situated within the Corporation area concerned, in the form of additional stamp duty.

(2) The rate of surcharge, and the manner of -

(a) collection of the surcharge,

(b) payment of the surcharge to the Corporation, 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.

134. Incidence Of Property Tax On Land And Building :-

(1) The property tax on land and building shall be primarily leviable,-

(a) if the land or the building is let, upon the lessor, or

(b) if the land or the building is sublet, upon the superior lessor, or

(c) if the land or the building is unlet, upon the person in whom the right to let such land or building vests.

(2) The property tax on any land or building, which is the property of the Corporation and the possession of which has been delivered under any agreement or in accordance with the terms and conditions of any licence, shall be leviable upon the transferee or the licensee, as the case may be.

(3) The liability of several owners of any building constituting a single unit of assessment, which is, or is purported to be, severally owned in parts, or as units, of flats or rooms, for payment of property tax or any instalment thereof payable during the period of such ownership shall be joint and several:

Provided that the Commissioner may apportion the amount of

property tax on such building among the co-owners.

135. Cases Of Annual Value Of Land Or Building Exceeding The Amount Of Rent Thereof :-

(1) If the annual value of any land or building exceeds the amount of rent of such land or building payable to the person on whom the property tax on such land or building is liable under section 134, such person shall be entitled to receive from his tenant the difference between the amount of the property tax on such land or building and the amount which would be leviable, if the property tax on such land or building were calculated on the basis of the rent payable to him.

(2) If the annual value of any land or building which is sublet exceeds the amount of rent of such land or building payable to the tenant by his sub-tenant or to the sub-tenant by the person holding under him, the tenant or the subtenant, as the case may be, shall be entitled to receive from his sub-tenant or the persons holding under him, as the case may be, the difference between any sum recovered under this Act from such tenant or sub-tenant and the amount of property tax on such land or building which would be leviable if the annual valuation of such land or building were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent he pays.

136. Recovery Of Sum Due On Account Of Property Tax On Land And Building From Occupier :-

(1). On the failure to recover any sum due on account of property tax on any land or building from the person primarily liable therefor under section 134, the Commissioner shall recover from the occupier of such land or building, by attachment of the rent payable by such occupier, a portion of the total sum due which bears, as nearly as may be, the same proportion to that sum as the rent annually payable by such occupier bears to the total amount of rent annually payable in respect of the whole of such land or building.

(2) An occupier, from whom any sum is recovered under subsection (1), shall be entitled to be reimbursed by the person primarily liable for the payment of such sum, and may, in addition to having recourse to other remedies that may be open to him, deduct the amount so recovered from the amount of any rent becoming due from time to time from him to such person.

137. Payment Of Property Tax In Quarterly Instalment :-

Save as otherwise provided in this Act, the property tax on any land or building under this chapter shall be paid by the person liable for the payment therefor in quarterly instalment.

138. Property Tax In Bustee :-

(1) Notwithstanding anything contained elsewhere in this Act, the property tax on land and building in a bustee shall, after deducting therefrom a sum equal to one-eighth of such property tax, be paid by the owner of the land in such bustee.

(2) Whenever a property tax on land and building in a bustee is leviable, the owner of the land in such bustee may recover from the owner of each hut standing thereon-

(a) half of the property tax on the land on which the hut stands; and

(b) the property tax on the hut standing on the land.

(3) The sum deducted under sub-section (1) shall be retained by the owner of the land in the bustee -

(a) as a set-off against the expenses which may be incurred in collecting the portion of the property tax on land and building recoverable under sub-section (2), and

(b) as a commutation of all refunds in respect of the huts which are vacant or which may be removed or destroyed during the period the property tax on land and building remains in force.

139. Person Liable To Pay Surcharge To Recover It From Occupier :-

If any surcharge is levied on the property tax on any land or building, the person liable to pay such surcharge may recover the same from the occupier of such land or building who uses it for non-residential purpose:

Provided that if there is more than one such occupier, the amount of surcharge may be rateably apportioned among them by such person for the purpose of recovery under this section.

140. Default Of Payment Of Property Tax :-

(1) When a person liable for the payment of property tax on land and building or surcharge on the property tax defaults to pay the sum due within the prescribed period, a sum, not exceeding

twenty-five per cent. of the amount of the property tax or the surcharge, as may be determined by the Corporation by regulations, may be recovered from him by way of penalty, in addition to the amount of the property tax or the surcharge payable by him.

(2) The amount due as penalty under sub-section (1) shall be recoverable as an arrear of tax under this Act.

141. Certificate Of Enlistment For Profession, Trade And Calling :-

(1) Every person engaged, or intending to be engaged, in any of the professions, trades and callings, as specified in Schedule II, in any area within the jurisdiction of the Corporation, 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 Commissioner or, in his absence, the officer authorised to function as the Commissioner, upon presentation of an application together with such application-fee, not exceeding rupees two thousand and five hundred, as may be determined by the Corporation by regulations:

Provided that such certificate of enlistment or renewal thereof shall not absolve such person from any liability to obtain any licence under this Act or under any other law for the time being in force,

(2) The Commissioner or, in his absence, the officer authorised to function as the Commissioner shall, after making such inquiry as may be necessary and within thirty days of the receipt of the application under sub-section (1), grant the person as aforesaid a certificate of enlistment if the application is in order or shall reject the application if it is not in order.

142. Tax On Advertisement :-

(1) Every person, who erects, exhibits, fixes, or retains upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, neon-sign or sky-sign, or on, upon, or in, any vehicle any advertisement, or who displays any advertisement to public views in any manner whatsoever, visible from a public street or other public place (including any advertisement exhibited by means of cinematograph or broadcast by radio or television), shall pay for every such advertisement, which is so erected, exhibited, fixed, retained or displayed to public view, a tax at such rate, not below the rate mentioned in Schedule III, as the Corporation may

determine.

(2) When any person pays any tax for any advertisement under sub-section (1), the Commissioner shall grant him a licence in respect of such advertisement specifying the period for which it shall be valid.

(3) The Corporation may by regulations determine the conditions for the grant of licence, and the time for, and the manner of, payment of the tax under this section.

143. 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 or occupier, or being an advertising agent, shall use or allow to be used any site in any land, building, or 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 before the commencement of this Act, within ninety days from the date of such commencement, or

(b) intending to use any site, or

(c) whose licence for 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 Commissioner in such form as may be specified by the Corporation.

(3) The Commissioner 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 fees as may be determined by the Corporation by regulations.

(4) The Commissioner may, if in his opinion the proposed site for any advertisement is unsuitable in consideration of public safety, traffic hazard or aesthetic design, refuse a licence or refuse to renew any existing licence.

(5) Every licence shall be for a period of one year except in case of sites used for temporary fairs, exhibitions, sports events or cultural or social programmes.

(6) The Commissioner shall cause to be maintained a register wherein the licences issued under this section shall be separately recorded in respect of advertisement sites -

(a) on telephone, telegraph, tram, electric or other posts or poles

erected on or along public or private streets or public places,
(b) in lands or buildings, and
(c) in cinema-halls, theatres or other places of public resort.

144. Prohibition Of Advertisement Without Payment Of Tax

:-

No advertisement for which tax is payable under section 142 shall be erected, exhibited, fixed, or retained upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, neon-sign, or sky-sign, or shall be displayed to public view in any manner whatsoever in any place, unless the tax is paid.

145. 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, structure, neon-sign, or sky-sign or displayed to public view in every manner whatsoever in any place in contravention of the provisions of this Act or the rules or the regulations made thereunder, it shall be presumed that the contravention has been committed by the person or persons or their agents on whose behalf the advertisement purports to be so erected, exhibited, fixed or retained.

146. Power Of Commissioner In Case Of Contravention :-

If any advertisement is erected, exhibited, fixed or retained in contravention of the provisions of this Act or this rules or the regulations made thereunder, the Commissioner may require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk, structure, neon-sign or sky-sign, upon or over which such advertisement is erected, exhibited, fixed, or retained, to take down or remove such advertisement or may enter any building, land or property with prior notice and have the advertisement dismantled, taken down, removed, spoiled, effaced, or screened.

147. Exception :-

The provisions of sections 142 to 144 shall not apply to any advertisement which -

(a) relates to a public meeting, or an election to the Parliament or the State Legislature or the Corporation, or 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 such building; or
- (c) relates to any trade, profession or business carried on within the land or 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 such land or building; or
- (d) relates to the name of any land or 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 any 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 the Government or the Corporation; or
- (g) is not exhibited for the purpose of any trade, and relates to any-
- (i) public charitable institution, or
- (ii) public educational institution, or (iii) public hospital, or
- (iv) free dispensary, or (v) place of worship, or
- (vi) information or direction given to the public for their convenience or guidance.

148. Tax On Cart, Carriage And Animal :-

A tax shall be imposed by the Corporation on all carts, carriages, and animals kept within the boundaries of the Corporation area except the -

- (a) carriage kept for sale by bona fide dealers in Garages and not used for any other purpose;
- (b) carriages and animals maintained by any authority for the purpose of a fire brigade; .
- (c) carriages and animals belonging to Government and maintained for police or military purposes; and
- (d) such other classes of carriages and animals as may be prescribed.

Explanation I-The word "carriages" includes hackney carriage, rickshaw, cycle-rickshaw, four-wheeled carriage, two-wheeled carriage, jin-rickshaw, bicycle, tricycle, car drawn by animals, push-cart, and thela, but does not include childrens perambulator and tricycle.

Explanation II-The word "animals" includes horse, donkey, mule,

pony, cow, buffalo, goat, pig, sheep and dog.

149. Rate Of Tax :-

The rate of tax on carriages and animals shall be such as may be determined by regulations, and different rates may be fixed for different classes of carriages or animals:

Provided that the rate of such tax shall not exceed one hundred rupees annually in the case of a carriage or an animal.

150. Tax On Whom Leviable :-

The tax on carriages and animals shall be leviable on the owners or the persons having possession or control of the carriages and animals:

Provided that in the case of an animal generally used or employed in drawing any carriage, the tax in respect of such animal shall be leviable on the owner or the person having possession or control of such carriage, whether or not such animal is owned by such owner or such person.

151. Licence :-

(1) When the owner, or the person having possession or control, of any carriage or animal pays to the Corporation the tax payable by him under this Act, the Commissioner shall grant him a licence.

(2) The Commissioner may require the owner, or the person having possession or control, of any carriage or animal or the occupier of any land or building on or in which any animal is kept to furnish such statement in relation to the carriage or the animal as aforesaid as may be prescribed.

(3) The Commissioner may, by a notice, in writing, require any person, who carries on trade or business of a livery stablekeeper, to produce for inspection all books and accounts relating to such trade or business.

152. Power Of Corporation To Compound For Tax :-

The Corporation may compound, for any period not exceeding one year at a time, with any livery stablekeeper or other person keeping vehicles for hire or animals for sale or hire, for a lump sum to be paid by such livery stablekeeper or other person in respect of the vehicle or animal so kept in lieu of the taxes for which such livery stablekeeper or other person would otherwise be liable to pay

under this Act.

153. Power To Make Regulations Providing For The Manner Of Imposition Etc. Of Tax :-

The Corporation may, by regulations, determine the manner of imposition, payment, refund, and remission of tax on carriages and animals, the time for payment of such tax, and the conditions under which a licence may be granted.

154. Levy Of Toll :-

The Corporation may, with the sanction of the State Government,-

(i) establish a toll-bar on any public street (except a kutchra, road), wherever situated in the Corporation area, vested in the Corporation and constructed or reconstructed by or on behalf of the Corporation, and

(ii) levy tolls at such toll-bar on persons, vehicles and animals passing over such street: Provided that no toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering -

(a) the expenses incurred by the Corporation in constructing or reconstructing such street,

(b) the interest on such expenses -

(i) at the rate of four per cent per annum, or

(ii) when such expenses are defrayed wholly or in part from a loan, at the rate of one and a half per cent per annum above the rate of interest chargeable on such loan, and

(c) the capitalised value of the estimated cost of the Corporation for maintaining such street.

155. Provision In Regard To Ferry :-

Where any ferry is controlled by the Corporation, the provisions of sections 132, 133, 134, 135, 136, 137 and 138 of the West Bengal Municipal Act, 1993, (West Ben. Act XXII of 1993.) shall apply to such ferry mutatis mutandis, and the powers vested in, or the duties imposed on, the Chairman-in-Council, or the Board of Councillors, of a Municipality by or under that Act shall be exercised by the Corporation.

CHAPTER 10 Chapter X

156. Manner Of Recovery Of Tax Under This 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 defaulters movable property, or
- (d) by attachment and sale of defaulters immovable property, or
- (e) in the case of property tax on lands and buildings, by attachment of rent due in respect of such lands and buildings, or
- (f) by a certificate issued under the Bengal Public Demands Recovery Act, 1913, (Ben. Act III of 1913).

157. Time And Manner Of Payment Of Tax :-

(1) Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such dates, 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 prescribed under subsection (1), a rebate of five per cent of such amount shall be allowed.

158. Presentation Of Bill :-

(1) When any tax has become due, the Commissioner shall cause to be presented to the person liable for the payment thereof a bill of the amount due:

Provided that no such bill shall be necessary in the case of -

- (a) a tax on advertisements;
- (b) a toll.

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 charge is made.

159. Notice Of Demand And Notice Fee :-

(1) Save as otherwise provided in this Act, if the amount of the tax for which a bill has been presented under section 158 is not paid within thirty days from the date of presentation thereof or the tax

on advertisements is not paid after it has become due, the Commissioner 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 specified by the Corporation by regulations.

(2) For every notice of demand which the Commissioner cause to be served on any person under this section, a fee of such amount, not exceeding twenty-five rupees, as the Corporation may determine by regulations, shall be payable by the said person and shall be included in the cost of recovery.

160. Penalty In Case Of Default Of Payment Of Tax :-

(1) If a person liable for payment of any tax does not, within thirty days of service of the notice of demand under section 159, pay the sum due and if no appeal is preferred against such tax, he shall be deemed to be in default.

(2) When a person liable for payment of any tax is deemed to be in default under sub-section (1), such sum, not exceeding fifteen per cent, of the amount of tax, as may be determined by the Corporation by regulations, may be recovered from him by way of penalty, in addition to the amount of the tax, the fee for notice of demand under sub-section (2) of section 159, and the simple interest payable under sub-section (3) of this section.

(3) A simple interest on any amount of tax remaining unpaid shall, with effect from the date from which the person referred to in sub-section (1) is deemed to be in default, be payable at such rate, not exceeding 10 per cent. per annum, as may be determined by the Corporation, 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:

Provided that the Corporation may, with the prior approval of the State Government, waive the interest as specified in the 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.

(4) The amount due as penalty or interest under this section shall be recoverable as an arrear of tax under this Act.

161. Recovery Of Tax :-

(1) If any person liable for payment of tax does not, within thirty days of the expiry of thirty days referred to in sub-section (1) of section 160, pay the amount due, such sum together with all costs, interest due and penalty may, under a warrant issued in such form as may be specified by the Corporation by regulations, be recovered by distress and sale of the movable property, or by attachment and sale of the immovable property, of such person :
Provided that the Commissioner shall not recover any sum, the liability of which has been remitted on appeal under the provisions of this Act.

(2) Every warrant issued under this section shall be signed by the Commissioner or any officer authorised by him in his behalf.

162. Distress :-

It shall be lawful for any officer or other employee of the Corporation, to whom a warrant issued under this chapter is addressed, to distrain, wherever it may be found in any place in the Corporation area, any movable property belonging to the person therein named as defaulter, subject to the following condition, exception and exemption, namely :-

(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, and

(iii) books of accounts;

(b) the distress shall not be excessive, that is to say, the property distrained shall, as nearly as possible, be equal in value to the amount recoverable under warrant, and if, in the opinion of the Commissioner, the property, which has been distrained, should not have been so distrained, it shall forthwith be released;

(c) 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 possession thereof at the time of seizure to the person in a notice, in writing, for such period, and in such Form, as may be specified by the Corporation by regulations, that the said property will be sold as therein mentioned;

(d) if there is reason to believe that any property seized under a warrant of distress issued under section 162, 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 Corporation

or to any other place appointed by the Commissioner.

163. Disposal Of Distrained Property And Attachment And Sale Of Recoverable 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 Commissioner 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 of distress issued under section 162 is forthwith paid.

(2) If the warrant is not in the meantime suspended by the Commissioner or is not discharged the property seized shall, after the expiry of the period mentioned in the notice under clause (c) of section 162, be sold by public auction by order of the Commissioner.

(3) When a warrant of distress is issued for attachment and sale of immovable property, such 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 unless the amount of tax due with all costs or recovery is paid into the office of the Corporation within fifteen days from the date of attachment.

(4) A copy of the order under sub-section (3) shall be affixed on a conspicuous part of the property and upon a conspicuous part of the office of the Corporation.

(5) Any transfer of, or charge on, the property attached or any interest therein, without permission, in writing, of the Commissioner, shall be void as against all claims of the Corporation enforceable under attachment.

(6) The surplus of the sale proceeds, if any, shall, immediately after the sale of the property, be credited to the General Account of the Municipal Fund, and a notice of such credit shall be given, at the same time, to the person whose property has been sold or to his legal representative and, if the same is claimed by application, in writing, to the Commissioner within one year from the date of such notice, a refund thereof shall be made to such person or to his legal representative.

(7) All sales of property under this section shall, so far as may be

practicable, be regulated by the procedure in force for the time being in a sessions court with respect to any sale after distress.

(8) No officer or other employee of the Corporation shall, directly or indirectly, purchase any property on sale under this section.

(9) Any surplus of the proceeds, not claimed within one year from the date of the notice under sub-section (6), shall be the property of the Corporation.

(10) For every distraint and attachment made in accordance with the foregoing provision 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 Commissioner, shall be charged and shall be included in the cost of recovery.

164. Recovery Of Tax From Person About To Leave Corporation Area :-

(1) If the Commissioner 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 Corporation area, he may direct such person to make immediate payment of the sum which is due or is about to become due, and may cause a notice of demand for such sum to be served on such person.

(2) If, on the service of the notice under sub-section (1), such person does not forthwith pay the sum which is due or is about to become due, the amount shall be recovered by warrant of distress or attachment, and by sale, in the manner hereinbefore provided, and the warrant of distress or attachment may be issued and executed, and the sale may be made, without any delay.

165. Recovery Under Ben. Act Iii Of 1913 :-

After a person has been proceeded against unsuccessfully or with partial success under for foregoing provisions of this chapter, any sum due, or the balance of any sum due, may be recovered from him under the provisions of the Bengal Public Demands Recovery Act, 1913.

166. Distraint Not Unlawful For Want Of Form :-

No distress under this act shall be deemed to be unlawful, nor shall any person executing the same be deemed to be a trespasser, on account of -

(a) want of any form, or any defect, 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, in full satisfaction, any damage considered by such court to be special and sustained by him.

167. Occupier To Pay Rent Towards Satisfaction Of Property Tax :-

(1) For the purpose of recovery of any property tax from any occupier under section 136, the Commissioner shall cause to be served on such occupier a notice requiring him to pay to the Corporation any rent due or falling due from him in respect of the land or building to the extent necessary to satisfy the portion of the sum due for which he is liable to pay under the said section.

(2) Such notice shall operate as an attachment of such rent unless the portion of the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom such rent is due for any sum paid by him to the Corporation in pursuance of such notice:

Provided that if the person to whom such rent is due is not the person primarily liable to pay the property tax, he shall be entitled to recover from the person primarily liable to pay such tax any amount for which credit is claimed as aforesaid.

(3) If any occupier fails to pay to the Corporation any rent due or falling due, which he has been required to pay in pursuance of the notice served upon him under sub-section (1), the amount of such rent may be recovered from him by the Corporation as an arrear of tax under this Act.

168. Recovery Of Tax From Unauthorised Occupier Of Land Or Building :-

Where any land or building is in the occupation of any person, not being the owner or the 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.

169. Recovery Of Property Tax On Land And Building Or Any Other Tax Or Charge When Owner Of Land Or Premises Is Unknown Or Ownership Is Disputed :-

(1) If any money is due to the Corporation under this Act from the owner of any land or premises on account of property tax on lands and buildings 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 Commissioner may published twice, at an interval of not less than two months, a notification of such money and of sale of such land or premises for realisation thereof of the money and after the expiry of not less than one month from the date of last publication of such notification, may, unless the money is paid, 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 such 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 money due to the Corporation as aforesaid, the surplus sale proceeds, if any, shall be credited to the General Account of the Municipal Fund and may be paid, on demand, to any person who establishes his right thereto to the satisfaction of the Commissioner or a court of competent jurisdiction.

(3) Any person may pay the money due to the Corporation at any time before the completion of the sale, whereupon the sale shall be abandoned. Such person may recover such money, by a suit in a court of competent jurisdiction from any person beneficially interested in such land or premises.

170. Tax Not Invalid For Defect Of Form :-

(1) No assessment and no charge or demand of the property tax on lands and buildings 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 Commissioner 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 of value of any property under this Act, if the property taxed or assessed is so described as to be generally known, and it shall not be necessary to name the owner or the occupier thereof.

171. Cancellation Of Irrecoverable Dues :-

The Corporation may, by order, strike off in the books of the Corporation any such due on account of the property tax on lands and buildings or any other tax or on any account, which may appear to it to be irrecoverable.

172. Apportionment Of Property Tax On Lands And Buildings By Person Primarily Liable To Pay Such Tax :-

Save as otherwise provided in this Act, any person primarily liable to pay the property tax in respect of any land or building may recover,-

(a) if there be but one occupier of the land or the building, from such occupier half of the amount paid, and may, if there be more than one occupier of the land or the building, recover from each occupier half of such amount as bears to the total amount paid by the owner the same proportion as the value of the portion of the land or the building in the occupation of such occupier bears to the entire value of such land or building:

Provided that if there be more than one occupier of the land or the building, such half of the amount may be apportioned and recovered from each occupier, in such proportion as the annual value of the portion occupied by him bears to the total annual value of such land or building:

(b) the entire amount of the surcharge on the property tax on any land or building from the occupier of such land or building who uses it for commercial or non-residential purpose.

173. Mode Of Recovery :-

If any person is primarily liable to pay any property tax on any land

or building and is entitled to recover any sum from an occupier of such land or building, he shall have, for recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to recover such sum.

174. Property Tax On Land And Building To Be First Charge On Premises :-

The property tax on land and building due from any person shall, subject to prior payment of land revenue (if any) due to the State Government thereupon, be a first charge upon the land or the building belonging to such persons and upon the movable property (if any) found within or upon such land or building.

PART 6 Civic Services

CHAPTER 11 Water supply and drainage

175. Definitions :-

In this chapter, unless the context otherwise requires,-

- (1) "main" means a trunk main, or reserve main, or service main, as the case may be, in a given context;
- (2) "reserve main" means a main laid by the Corporation or any other agency for the purpose of giving a general supply of water as distinct from a supply to individual consumers, and includes any apparatus used in connection with reserve main;
- (3) "service main" means so much of any main for supplying water from a reserve main to any premises as is subject to water pressure from that reserve main or would be so subject but for the closing of some tap;
- (4) "supply-pipe" means so much of any pipe for supplying water from a service main to any premises as is subject to water pressure from such service main or would be so subject but for the closing of some tap;
- (5) "trunk main" means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir or, for the purpose of conveying water in bulk, from one part of the limits of supply to another part of such limits of supply, or for the purpose of giving, or taking, a supply of water in bulk;
- (6) "water-fittings" includes pipes (other than mains), taps, cocks, valves, ferrules, meters, cisterns, baths, and other apparatus used in connection with supply and use of water.

176. Duty Of Corporation To Supply Water :-

(1) It shall be the duty of every Corporation 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, on the basis of annual valuation of the holdings of the beneficiary concerned or other criteria, such as consumption of water as may be prescribed:

Provided that in the case of Water Supply Projects, implemented in any Corporation area with external aid or on joint venture basis or through private participation, the Corporation may make regulation 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 Corporation, 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.

177. Supply Of Unfiltered Water :-

The Corporation shall provide for a supply of unfiltered water -

(a) in those parts of the Corporation area in which such water is provided immediately before the commencement of this Act, and

(b) in such other parts of the Corporation area as it may think fit:

Provided that the Corporation may discontinue the supply of unfiltered water in any part of the Corporation area where a supply, in sufficient quantity, of wholesome water becomes available.

178. Water Supply To Huts Or Bustees :-

(1) The Corporation shall, subject to the rules or the regulations made in this behalf, provide supply of wholesome water, either in pipes or by sinking tube-wells or otherwise, to huts or bustees for domestic purposes of the occupants thereof.

(2) The Corporation shall provide, where it is so available, supply of unfiltered water for the flushing of privies in bustees.

179. Water Supply Through Hydrants, Stand-Posts Or Other Conveniences :-

(1) The Commissioner may, with the prior approval of the Mayor-in-Council, erect hydrants or stand-posts for supply of wholesome water to the public within the Corporation area through other conveniences :

Provided that for the purpose of safety, maintenance and regulation of use of such hydrants or stand-posts, the Commissioner may place them under the charge of any person or agency or organisation who may realize from each consumer such fee as the Mayor-in-Council may determine :

Provided further that the person or agency or organisation as aforesaid shall perform such functions as the Corporation may, by regulations, provide:

Provided also that installation of hydrants may be limited only in slum areas where there has not been any water supply through pipe line.

(2) The Commissioner may, with the prior approval of the Mayor-in-Council, close a hydrant or stand-post or other convenience, when it is no longer required for the supply of wholesome water to the public.

180. Supply Of Water For Domestic Purpose Not To Include Supply Of Water For Certain Other Purpose :-

(1) The use of wholesome water shall be for domestic purposes only.

(2) The supply of water for domestic purposes under this Act shall not be deemed to include any supply of water-

(a) for washing of animals kept for sale or hire, or

(b) for such trade, manufacture or business as may be determined by the Corporation, or

(c) for fountains or swimming-baths, or

(d) for watering gardens or streets, or

(e) for any ornamental or mechanical purpose, or

(f) for building purpose, or

(g) for flushing purpose, other than the purpose of flushing privies in bustees, or (h) for washing cars, carriages and other vehicles, or

(i) to any building used, or deemed to be used, for any institutional or assembly or business or mercantile or industrial or storage or hazardous purpose, or for any other non-domestic purpose;

Provided that in case of emergency, wholesome water may be used for extinguishing fire.

181. Power To Supply Water For Non-Domestic Purpose :-

(1) The Commissioner may supply water for any purpose, other than domestic purpose, on receiving a written application specifying the purpose for which the supply of water is required and the quantity of water is likely to be consumed.

(2) Subject to the provisions of sub-section (1), when an application under that sub-section is granted, the Commissioner may, by order, place, or allow to be placed, the necessary pipes and water-fittings of such dimension and character as may be specified in the order.

(3) Notwithstanding anything contained in sub-section (1) of this section or elsewhere in this Act, the Commissioner, on receipt of any information that the water supplied under that sub-section is being consumed for any any purpose, other than the purpose specified in the application under that sub-section, may, without prejudice to any other action which he may be entitled to take under this Act, levy a fee for such consumption of water at such rate as may be stated in the budget estimate under sub-section (2) of section 69, with effect from such date as the Commissioner may determine:

Provided that no such fee shall be levied under this sub-section without giving the person concerned an opportunity of being heard.

182. Supply Of Water To Ship :-

The Commissioner shall, on demand, supply to any ship at a port situated within the Corporation area a reasonable supply of wholesome water for use during voyage at such price for every thousand litres, and on such conditions, as the Corporation may determine.

183. Supply Of Water To Areas Adjacent To Corporation Area :-

(1) The Corporation may, at any time, on receiving an application from a Municipality, or from a Cantonment Board or from any other authority in respect of any area adjacent to the Corporation area which may be included in the Corporation area under clause (c) of section 8 give direction that such quantity of wholesome water per diem as may be determine by it shall be delivered into such reservoirs or pipes of such Municipality or Cantonment Board or other authority, as the case may be, as may be specified in such application.

(2) The supply of wholesome water under sub-section (1) shall be on payment of such rate, not being less than the cost of production and delivery (including the costs for debt servicing, depreciation of plant and machinery, losses, and other charges, if any), as the Corporation may determine.

(3) If payment of the rate under sub-section (2) for wholesome water delivered to any Municipality or Cantonment Board or other authority is not made regularly and in time, the Corporation, on the recommendation of the Mayor-in-Council and with the approval of the State Government, may, after giving twelve months notice of its intention so to do, cut off the supply.

(4) An appeal shall lie to the State Government from any refusal by the Corporation to give direction under sub-section (1) or from any direction given by the Corporation under that sub-section.

(5) Before making any order on any appeal under sub-section (4), the State Government shall consider representation, if any, made by the Corporation with reference to such appeal.

(6) No order made on any appeal under sub-section (4) shall contain any direction for delivery of wholesome water at a rate lower than the cost of its production and delivery.

(7) Every order made on any appeal under sub-section (4) shall be final.

(8) Notwithstanding anything contained in sub-section (1), any Municipality or Cantonment Board or other authority, which was getting delivery of wholesome water from the Corporation constituted under any law in force immediately before the date of commencement of this Act, shall, subject to the provisions of sub-section (3), continue to get delivery of wholesome water from the Corporation constituted under this Act on the terms and conditions in force on the date immediately before the date of commencement of this Act, and such terms and conditions may be modified at any time in accordance with the provisions of this section.

184. Presumption As To Supply Of Water :-

Where any supply of wholesome water has been made to any premises or building, either for domestic purpose or for any other purpose, through a meter or ferrule attached to the supply pipe in such premises or building, it shall be presumed, irrespective of the size of the ferrule, that the supply of as much quantity of such wholesome water as may pass through such ferrule has been made and there shall not be raised any dispute about the payment of any

fee for such supply on any ground whatsoever, except on the ground of disconnection, if any, of the supply pipe as aforesaid under any provision of this Act or the rules or the regulations made thereunder.

185. Presumption As To Washing Of Vehicles :-

Where the address of the owner of a motor vehicle, as recorded in the certificate of registration of such motor vehicle under any law for the time being in force, is within the jurisdiction of the Corporation, or where such motor vehicle is kept in any area within the jurisdiction of the Corporation, it shall be presumed that additional water for washing such motor vehicle has been consumed by such owner, and the Corporation shall have the power to levy fee, on such owner, at such rate, as may be stated in the budget estimate under sub-section (2) of section 69 or as may be fixed by regulations under the first proviso to sub-section (1) of section 181.

186. Proprietary Rights Of Corporation Over Subsoil Water Resource :-

All rights over the subsoil water resources in the Corporation area shall vest in the Corporation.

187. Power Of Corporation Relating To Waterworks :-

(1) For the purpose of providing the Corporation area with proper and sufficient supply of water for public and private uses, the Corporation may-

- (a) plan, construct, operate, maintain, and manage waterworks, either within or outside the Corporation area;
- (b) purchase, or take on lease, any waterworks, or any water, or any right to store, or to take and convey, water either within or outside the Corporation area;
- (c) enter into an arrangement with any person and authority for supply of water:

Provided that the Corporation may, with the approval of the State Government, make over to, or take over from, any organization established under any law for the time being in force any waterworks so as to do anything which may be necessary or expedient for the purpose of carrying out its functions under this Act or under any other law for the time being in force. (2) Without

prejudice to the generality of the provisions, of sub-section (1), the Corporation shall have the power -

- (a) to make over to, or to take over from, any organization established under any law for the time being in force all or any of the responsibilities, powers, controls, facilities, services and administration relating to water supply in the Corporation area;
- (b) to extend, expand and develop the existing facilities, and to construct and operate new facilities relating to water supply;
- (c) to establish, operate, maintain and manage engineering workshops relating to waterworks and water supply system;
- (d) to establish, maintain and operate laboratories and experimental and research stations;
- (e) to introduce in-service training courses and to provide other training for its personnel;
- (f) to regulate sinking of public or private tubewells and to control withdrawal of underground water;
- (g) to prevent pollution of any water including any water source, watercourse or channel within or outside the Corporation area;
- (h) to prevent discharge of industrial wastes or foul water into any river, canal, or other water channel abutting the water source, watercourse or channel of water supply of the Corporation area;
- (i) to acquire any tank, pond, well or water area within the Corporation area, considered to be prejudicial to community health.

188. Commissioner To Manage Waterworks :-

Subject to the other provisions of this Act, the Commissioner shall manage all waterworks and allied facilities belonging to the Corporation and shall maintain such waterworks and allied facilities in good repair and efficient condition and shall cause to be done all such things as shall be necessary or expedient for improving such waterworks and allied facilities.

189. Power Of Access To Waterworks :-

(1) The Commissioner; or any person appointed by the State Government under section 190, may, for the purpose of inspection or repair or execution of any work in, upon, or in connection with, any waterworks, at all reasonable times,-

- (a) enter upon, and pass through, any land within or outside the Corporation area, adjacent to, or in the vicinity of, such waterworks, in whomsoever such land may vest;
- (b) convey through any such land all necessary materials, tools and

implements.

(2) While exercising any of the powers under sub-section (1), as little damage as possible shall be done, and compensation for any damage in course of exercise of any such power shall be paid -

(a) by the Corporation, if such damage is done by the Commissioner, or

(b) by the State Government, if such damage is done by the person appointed by the State Government under section 190.

190. Inspection Of Waterworks By Person Appointed By State Government :-

The State Government may appoint any person for the purpose of inspection of any waterworks and, thereupon, such person may, at all reasonable times and with the prior intimation to the Commissioner, enter upon and inspect any waterworks belonging to the Corporation.

191. Purity Of Water For Domestic Purpose :-

The Commissioner shall, at all times, secure that the water in any waterworks belonging to the Corporation from which water is supplied for domestic purposes is pure and wholesome.

192. Prohibition Regarding Sinking Of Tube-Well :-

(1) No person shall, except with the prior permission, in writing, of the Commissioner, sink any tube-well in any premises.

(2) The commissioner may grant permission for sinking a tube-well in any premises, and issue a licence for such tube-well, on such conditions, and on payment of such annual fee, as the Corporation may specify:

Provided that any person owning a tube-well sunk before the commencement of this Act shall take a licence for such tube-well on such conditions, and on payment of such annual fee, as the Corporation may determine.

193. Direction By Commissioner To Sink Tube-Well In Some Cases :-

(1) Notwithstanding anything contained in section 192, the Commissioner may, with the prior approval of the Mayor-in-Council, by a written notice, require the owner of a premises to sink a tube-well, if the premises is to be used as a place of public resort, or as

a market, or as a place of employment of more than fifty persons, or for any other reason to be recorded in writing.

(2) Every such owner shall be bound to take a licence for such tube-well on such conditions, and on payment of such annual fee, as the Corporation may determine.

194. Commissioner To Maintain A Register Of Tube-Well Sunk In Corporation Area :-

The Commissioner shall cause to be maintained a register in such form, and in such manner, as may be determined by regulations, and such register shall provide for an inventory of tube-wells, public or private, sunk in the Corporation area, and shall be updated from time to time.

195. Power To Lay Mains :-

(1) The Corporation may lay a main, whether within or outside the local limits of the Corporation area,-

(a) in any street, and,

(b) with the consent of every owner or occupier of any land, not forming part of a street, in, over or on that land.

and may inspect, repair, alter, or renew, or may remove any main, whether so laid under this section or otherwise:

Provided that whether or not a consent required for the purpose of this subsection is withheld by the owner or the occupier, of any land, not forming part of a street, the Commissioner may, after giving the owner or the occupier of such land a written notice of his intention so to do, lay the main in, over or on that land even without such consent.

(2) Whenever the Commissioner, in exercise of the power under this section, lays a main in, over, or on, any land, not forming part of a street, or inspects, repairs, alters, renews or removes a main so laid in, over or on any such land, he shall pay to every person interested in that land compensation for any damage done thereto, or for any injurious affection thereof, by reason of such laying, inspection, repair, alteration, renewal, or removal of the main.

196. Power To Lay Service Mains Etc. :-

(1) The Commissioner may, in any street, whether within or outside the local limits of the Corporation, lay such service mains with such stopcocks and other water-fittings as he may deem necessary for

supplying water to premises and may inspect, repair, alter, or renew, and may, at any time, remove, any service main, whether so laid in a street under this section or otherwise.

(2) Where a service main has been lawfully laid in, over, or on, the land not forming part of a street, the Commissioner may enter upon that land and inspect, repair, alter, renew, or remove the service main, or lay a new service main in substitution thereof, but shall pay compensation for any damage done in course of such action.

197. Provision For Fire-Hydrant :-

(1) The Commissioner may fix hydrants on water mains (other than trunk mains) at such places as may be most convenient for affording a supply of water for extinguishing any fire which may break out, and may keep such hydrants in good order and may replace every such hydrant from time to time.

(2) For the purpose of denoting the situation of every such hydrant, letters, marks or figures shall be displayed prominently on any wall, building or other structure adjacent to such hydrant.

(3) As soon as a hydrant is fixed on any water mains, the Commissioner shall deposit a key thereof at each place where a public fire engine is kept and in such other places as he may deem necessary.

(4) The Commissioner may, at the request and expense of the owner or the occupier of any factory, workshop, trade premises or place of business, situated in or near a street in which a main is laid (not being a trunk main, but being of sufficient dimensions to carry a hydrant), fix on the main, and keep in good order, and, from time to time, renew, one or more fire hydrants, as near and as convenient to such factory, workshop, trade premises or place of business as may be, used only for extinguishing fire.

(5) The Commissioner shall allow every person to take, for extinguishing fire, water from any main on which a hydrant is fixed, without any payment.

198. Power Of Commissioner To Allow Connection Of Premises To Service Mains :-

The Commissioner may, subject to the provisions of this Act and the rules and the regulations made thereunder, permit the owner, or the lessee, or the occupier, of any premises to connect the premises by means of supply-pipes for conveying to the premises a

supply of wholesome or unfiltered water from the service mains of the Corporation.

199. Power Of Commissioner To Require Separate Supply-Pipe :-

(1) The Commissioner may require the laying of a separate supply-pipe for entry premises which has been, or is to be, supplied with water by him.

(2) If, in the case of any premises which has already been supplied with water without having a separate supply-pipe, the Commissioner gives notice to the owner of such premises requiring him to lay a separate supply-pipe, the owner shall, within three months of such notice, lay so much of the supply-pipe as is not required to be laid in a street, and the Commissioner shall lay so much of the supply-pipe as is required to be laid in a street and shall make all necessary communications.

200. Stopcock :-

(1) The Commissioner may, on every service main laid after the commencement of this Act, and may, on every service main laid before the commencement of this Act, fit a stopcock enclosed in a cover box or a pit of such size as may be reasonably necessary.

(2) Every stopcock fitted on a service main after the commencement of this Act shall be placed in such position as the Commissioner deems most convenient:

Provided that -

(a) a stopcock in private premises shall be placed as near to the street from which the supply-pipe enters such premises as is reasonably practicable;

(b) a stopcock in a street shall be placed as near to the boundary thereof as is reasonably practicable.

201. Water-Pipe Etc. Not To Be Placed Where Water Will Be Polluted :-

(1) No water-pipe shall be laid in a drain or on the surface of an open channel or house gully or within twenty feet of a cesspool or in any position where the water-pipe is likely to be injured or the water therein is likely to be polluted, and no well or tank and, except with the permission of the Commissioner in writing, no cistern shall be constructed within twenty feet of a latrine or

cesspool.

(2) No latrine or cesspool shall be constructed or made within twenty feet of any well, tank, water-pipe or cistern or in any position where pipe, well, tank or cistern is likely to be injured or the water therein is likely to be polluted.

202. Supply-Pipe To Be Kept In Efficient Repair :-

(1) It shall be incumbent on the owner or the occupier of any premises to which water is supplied from any waterworks belonging to the Corporation to keep in a thoroughly clean condition, and to maintain and keep in efficient repair, every supply-pipe connecting the premises to the water supply mains of the Corporation and any other water-fittings in the premises:

Provided that upon an inspection, the Commissioner may, by a notice, in writing, require the owner or the occupier of the premises to take steps to remove any defect which he may find:

Provided further that when an occupier of any premises is served with a notice under this section, he may, after giving three days notice in writing to the owner or to the person to whom he is responsible for the payment of his rent, himself have the repairs executed and may deduct the expenses thereof from any rent which is due from him to such person.

(2) 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 hereto and, if he fails to do so, the occupier may give to the owner and the Corporation three days notice, in writing, in such form as may be approved by the Corporation, and if the Corporation fails to get the repairs of all works connected with the supply of water to the premises done 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.

203. Taking Charge Of Supply-Pipes And Water-Fittings By Commissioner And Vesting Thereof In Corporation :-

The Commissioner may, if he thinks fit under such circumstances as may be specified by regulations, take charge of all supply-pipes and water-fittings, of any premises connected with the water-mains of the Corporation and, thereupon, the same shall vest in, and shall be maintained at the expenses of the Corporation.

204. Municipal Water-Supply, Sewerage And Drainage Code

:-

(1) All private connections of premises to the service mains of the Corporation for the supply of water thereto and all pipes, taps and other water-fittings used for such supply shall be made, maintained and regulated in accordance with, and subject to, such regulations as may be made in this behalf, and such regulations shall form a part of a Code to be called Municipal Water Supply, Sewerage and Drainage Code:

Provided that in making such regulations, due regard shall be given to the Code relating to water-supply and other matters connected therewith, published by the Indian Standards Institution:

Provided further that so long as such regulations are not made, the provisions of the Code published by the Indian Standards Institution shall apply.

(2) The regulations under sub-section (1) shall specify the requirements which an owner, lessee or occupier of any premises, who desires to have supply of water from the Corporation, shall comply with.

(3) The regulations as aforesaid shall provide for inspection of premises by the Commissioner to ascertain compliance with the provisions of sub-section (1), and testing of any water-fittings used in connection with the supply of water by the Corporation.

205. Power Of Corporation To Establish Block Meter :-

(1) The Corporation may, if it thinks fit, establish block meters through which the entire supply of wholesome water for an area shall pass and the supply of such wholesome water shall be recorded.

(2) The Corporation may, with due regard to the size of the population and the technical compulsions, if any, and after taking into account the capacity approved by it for non-domestic purposes, regulate the supply of wholesome water in an area in such manner as may ensure that there is equitable distribution of available wholesome water throughout the Corporation area:

Provided that the decision of the Corporation on any matter relating to the supply of wholesome water in an area shall be final.

206. Power Of Commissioner To Provide Water Meter :-

(1) The Commissioner may provide a water meter, and attach the

same to the supply-pipe, in the premises connected with the service main of the Corporation.

(2) The expenses of providing and attaching a water meter under subsection (1) shall be paid out of the Municipal Fund.

(3) The use, rent to be paid for such use, maintenance, and testing of water meters shall be governed by regulations in this behalf.

207. Presumption As To Correctness Of Water Meter :-

Whenever water is supplied under this Act through a water meter, it shall be presumed that the quantity of water indicated by the water meter has been consumed until the contrary is proved.

208. Prohibition Of Fraud On Water Meter :-

(1) No person shall fraudulently -

(a) alter the index to any water meter or prevent any water meter from duly recording the quantity of water supplied;

(b) abstract or use water before it has been recorded by a water meter set up for the purpose of recording the abstraction or use of water.

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

Whenever water is supplied under this Act through a water meter, it shall be presumed that the quantity of water indicated by the water meter has been consumed until the contrary is proved.

209. Payment For Supply Of Water On The Basis Of Readings Shown By Water Meter :-

(1) In a premises where a water meter has been attached to a supply-pipe, the occupier of such premises shall be liable to pay for the water consumed on the basis of the readings shown by the water meter attached to the supply-pipe an annual fee at the rate determined under sub-section (2);

Provided that where a water meter attached to the supply-pipe in any premises or building connected with the service main of the Corporation goes out of order, or where there is a dispute about the proper operation of such water meter, or where such water meter is fraudulently altered or tampered with, the annual fee for the supply of water to such premises or building for domestic purpose or for

any other purpose may be levied on the basis of the size of the ferrule attached to the supply-pipe in such premises or building.

(2) The Corporation shall determine the rate per thousand litres of water at which the amount of annual fee payable under sub-section (1) shall be calculated.

(3) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, 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.

210. Exemption From Payment Of Fee For Supply Of Water :-

The Corporation shall have the power to exempt, either wholly or partly, any person from payment of the annual fee for the supply of water for domestic purpose or for any other purpose-

(a) in any case where such payment causes, to the satisfaction of the Corporation, undue hardship to him, and

(b) in any other case where the Corporation thinks fit so to do.

211. Premises Constructed Or Reconstructed After The Commencement Of This Act Not To Be Occupied Without Arrangement For Water Supply :-

No person shall occupy, or cause or permit to be occupied, any premises or part thereof constructed or reconstructed after the commencement of this Act until he has obtained a certificate from the Commissioner that there is provided within, or within a reasonable distance of, the premises such supply of wholesome water as appears to the Commissioner to be adequate for the persons who may occupy, or who may be employed in, such premises for their domestic purposes.

212. Power To Require Water Supply To Be Taken :-

(1) If it appears to the Commissioner that any premises in the Corporation area is without supply of wholesome water for domestic purposes or that the existing supply of water for domestic purposes available for the persons usually occupying, or employed in, such premises is inadequate or, on any sanitary ground, objectionable, the Commissioner may, by a notice, in writing, require the owner or the lessee or the occupier of the premises or the person primarily liable for the payment of the property tax in respect of the

premises or any other person having an interest therein-

(a) to take a connection from the supply mains of the Corporation, adequate for the requirements of the persons usually occupying, or employed in, the premises or to take additional or enlarged connection or connections from the supply mains, and

(b) to provide supply-pipes and water-fittings and to install, and work at, a pump and do all such works, and take all such measures, as may, in the opinion of the Commissioner, be necessary for the above purpose, within such period as may be specified in the notice.

(2) On receipt of the notice under sub-section (1), the owner or the lessee or the occupier of the premises or the person primarily liable for the payment of the property tax in respect of the premises or the other person having an interest therein, as the case may be, shall-

(a) obtain from the supply mains of the Corporation such quantity of water as may be adequate for the requirement of the persons usually occupying, or employed in, the premises, 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 the period specified in the notice.

(3) If the owner or the lessee or the occupier of the premises or the person primarily liable for the payment of the property tax in respect of the premises or the other person having an interest therein, as the case may be, does not comply with the notice within the period specified therein, the Board of Councillors shall-

(a) obtain from the supply mains of the Corporation such quantity of water as may be adequate for the requirement of the persons occupying, or employed in, the premises, 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 premises or the other person having an interest therein, as the case may be, as an arrear of tax under this Act.

213. Power To Close, Or To Restrict The Use Of Water From, Polluted Sources Of Supply :-

(1) If the Commissioner is of opinion that any water in, or obtained from, any well, tank or other source of supply, not vested in the Corporation, being water which is, or is likely to be, used for

domestic purposes or for the preparation of food or drink for human consumption, and is, or is likely to become, so polluted as to be prejudicial to health, the Commissioner may, after giving the owner or the occupier of the premises in which the source of supply is situated a reasonable opportunity of being heard, by order, direct that such source of supply be permanently or temporarily closed or cut off or the water therefrom be used for certain purposes only, or make such order as appears to him necessary to prevent injury or danger to the health of person using such water or consuming food or drink prepared therewith or therefrom.

(2) Before making any order under sub-section (1), the Commissioner may cause the water to be analysed at the cost of the Corporation.

(3) If the person to whom an order is made under sub-section (1) fails to comply such order, the Commissioner may do whatever may be necessary for giving effect to the order, and any expenses incurred by him in so doing may be recovered by him from the person in default as an arrear of tax under this Act.

214. Power To Require Filling Up Of Well :-

Whenever a supply of filtered or unfiltered water has been provided in an area, the Commissioner may, by a notice, in writing, require the owner or the lessee or the occupier, as the case may be, of a well, tank or other water area forming a part of any premises in the said area, to fill up such well, tank or water area.

215. Power Of Corporation To Require Owner Of Premises To Set Up Pump Etc. :-

The owner of every premises connected with the service main of the Corporation shall, when so required by the Commissioner, set up electric pumps or other contrivances whereby water may be caused to reach to the top of the topmost storey of such premises.

216. Filtered Water Supplied For Domestic Purpose Not To Be Used For Non-Domestic Purpose :-

No person shall, without the permission, in writing, of the Commissioner, use, or allow to be used, filtered water, supplied for domestic purpose, for any other purpose.

217. Use Of Unfiltered Water :-

(1) Unfiltered water shall be used for the following purposes:-

(a) extinguishing of fire;

(b) street watering;

(c) flushing drains of the Corporation, gully-pits, public privies and urinals,

(2) Unfiltered water may also be used, free of charge,-

(a) for flushing privies and urinals in private premises connected with sewers;

(b) for flushing of drains in private premises.

(3) Unfiltered water shall not be used for domestic purposes or, without the permission, in writing, of the Commissioner, for any purposes other than those specified in sub-section (1) and sub-section (2).

(4) Notwithstanding anything contained hereinbefore in this chapter, wholesome water may be used in lieu of unfiltered water for non-domestic purposes where the supply of unfiltered water is not available for the time being.

218. Prohibition Of Waste Or Misuse Of Water :-

(1) No person shall wilfully or negligently cause or suffer any water-fitting, which he is liable to maintain,-

(a) to be, or to remain, so out of order or so in need of repair, or

(b) to be, or to remain, so constructed or adapted or to be so used, that the water supplied to him by the Corporation is, or is likely to be, wasted, misused or unduly consumed, or contaminated before use, or that foul air or any input matter is likely to return into any pipe belonging to, or connected with, a main belonging to the Corporation.

(2) If any water-fitting which any person is liable to maintain is in such condition or is so constructed or adapted as aforesaid, the Commissioner, without prejudice to his right to proceed against the person under any other provision of this Act, may give direction to such person to carry out any necessary repairs or alterations and, if he fails to do so within forty-eight hours of such direction, may cause to be carried out the work and recover from him the expenses incurred by him in so doing as an arrear of tax under this Act.

219. Power To Enter Premises To Detect Waste Or Misuse Of Water :-

The Commissioner, or any officer of the Corporation authorised by

the Commissioner, in writing, may, between sunrise and sunset, enter any premises supplied with water by the Corporation in order to examine if there is any waste or misuse of such water and the Commissioner or such officer, as the case may be, shall not be refused admittance to the premises or obstructed by any person in making such examination.

220. Power To Cut Off Or Turn Off Supply Of Water To Premises :-

(1) Notwithstanding anything contained elsewhere in this Act, the Commissioner may cut off the connection between any water-works of the Corporation and any premises to which water is supplied from such water-works, or may turn off such supply, in any of the following cases, namely:-

- (a) if the premises is unoccupied; or
- (b) if, after receipt of a notice, in writing, from the Commissioner requiring him to refrain from so doing, the owner or the occupier of the premises continues to use the water or to permit the same to be used, in contravention of this Act or of any regulations made thereunder; or
- (c) if the occupier of the premises contravenes the provisions of section 180; or
- (d) if the occupier refuses to admit any officer or employee of the Corporation, duly authorised in that behalf, into the premises for the purpose of making any inspection under this Act or under any regulations relating to water supply made under this Act, or prevents such officer or employee from making such inspection; or
- (e) if the owner or the occupier of the premises wilfully or negligently injures or damages his water meter or any pipe or tap conveying water from any works of the Corporation; or
- (f) if any pipe, tap, work or fitting connected with the supply of water to the premises be found, on examination by the Commissioner, to be out of repair to such an extent as to cause so serious a waste of water that, in the opinion of the Commissioner, immediate prevention is necessary; or
- (g) if the use of the premises for human habitation has been prohibited under this Act from the date from which the premises is to be vacated in pursuance of an order under this Act; or
- (h) 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

(i) if, by reason of a leak in the service pipe or fitting, damage is caused to the public street and immediate prevention is necessary; or

(j) if, in respect of the premises, any taxes or rates or fees or charges under this Act are in arrear for payment for more than one year:

Provided that-

(i) water supplied for flushing privies or urinals shall not be cut off or turned off except when the Commissioner thinks it necessary to cut off or turn off such water preventing damage to, or accident on, public streets;

(ii) water shall not be cut off or turned off in any case referred to in clause (g) or clause (j) unless a notice, in writing, of not less than seventy-two hours has been given to the occupier of the premises;

(iii) in any case referred to in clause (f) or clause (i), the Commissioner may carry out necessary repair to pipe, tap, work or fitting and recover the expenses thereof from the owner or the occupier of the premises.

(2) The expenses of cutting off or turning off water-supply shall be paid by the owner or the occupier of premises and, in case the owner or the occupier refuses to pay such expenses, the same shall be paid from the Municipal Fund, and it shall be recoverable from the owner or the occupier of such premises as arrear of tax under this Act.

221. Joint And Several Liability Of Owner And Occupier For Offence In Relation To Water Supply :-

If any offence relating to water-supply is committed under this Act on any premises connected with the service main of the Corporation, the owner, the person primarily liable for the payment of the property tax, and the occupier of the said premises shall be jointly and severally liable for such offence.

222. Public Drain And Drain In, Alongside, Or Under, Public Street To Vest In Corporation :-

(1) All public drains, and all drains in, alongside, or under, any public street, whether made at the charge of the Municipal Fund or otherwise, and all works, materials and things, appertaining thereto, which are situated within the Corporation area, shall vest in the Corporation:

Provided that the Corporation may, with the approval of the State

Government, make over the trunk-sewers, sewage treatment plants, pumping stations and other utilities to a separate and independent agency for maintenance and development, and it shall be lawful for such agency to construct new trunk-sewers, sewage treatment plants, pumping stations, or other utilities.

(2) For the purpose of enlarging, deepening or otherwise repairing or maintaining any such drain, so much of the sub-soil appertaining to the drain as may be necessary for the said purpose shall also be deemed to have vested in the Corporation.

223. Drain Etc. Constructed, Erected Or Set Up In Premises At Charge Of Municipal Fund, To Vest In Corporation :-

All drains and ventilation-shaft, pipes and other appliances and fittings connected with drainage works constructed, erected or set up at the charge of Municipal Fund in or upon premises not belonging to the Corporation, whether for the use of the owner or the occupier of such premises or not, shall, unless the Corporation otherwise determines, vest, and shall be deemed always to have vested, in the Corporation.

224. Private Street Etc. Not To Be Constructed Over Municipal Drain Without Permission :-

(1) Without the permission, in writing, of the Commissioner granted in accordance with such regulations as may be made by the Corporation in this behalf,-

(a) no private street shall be constructed over any municipal drain, or

(b) no wall or other structure shall be newly erected over any municipal drain, or

(c) no wall, fence or structure shall be erected on the bed, bank or embankment of any municipal sewage or storm-water channel, nor any portion thereof shall be interfered with, encroached upon, altered or occupied for fishery, agriculture or any other purpose.

(2) If any private street is constructed, or any wall or other structure is erected over any municipal drain, or if any wall, fence or structure is erected on the bed or embankment of any municipal sewage or storm-water channel or if any portion thereof is interfered with, encroached upon, altered or occupied without the permission, in writing, of the Commissioner, the Commissioner may remove or otherwise deal with the same in such manner as he may think fit, and the expenses incurred by the Corporation in so doing

shall be paid by the owner of such private street, wall, or other structure or by the person who interferes with, or encroaches upon, or alters or occupies, as the case may be.

225. Power Of The Commissioner To Levy Fees For Drainage And Sewerage Service :-

(1) The Commissioner may, at any time, levy an annual fee, for drainage and sewerage, at such rate, as may be fixed under the regulations made thereunder, or as stated in the budget estimate referred to in sub-section (2) of section 69 in this behalf, on the owner or the occupier or the person responsible to pay property tax on any house or land.

(2) Any unpaid sum under this section shall be recoverable from the person concerned as an arrear of tax under this Act.

226. Right Of Owner Or Occupier Of Premises To Empty His House-Drain Into Municipal Drain :-

The owner or the occupier of any premises shall be entitled to cause his house-drains to empty into a municipal drain, provided that before so doing, he obtains the written permission of the Commissioner and complies with such condition as the Commissioner may determine as to the mode in which, and the superintendence under which, communications between house-drains and municipal drains are to be made.

227. Connection With Municipal Drain Not To Be Made Except In Conformity With Section 226 :-

(1) No person shall, without complying with the provisions of section 226, make or cause to be made, any connection of a house-drain with a municipal drain,

(2) The Commissioner may, in accordance with such regulations as may be made by the Corporation in this behalf, close, demolish, alter, or remake any connection made in contravention of sub-section (1), and the expenses incurred in so doing shall be paid by the owner or, the occupier of the premises, as the case may be, for the benefit of which such connection was made or by the person who made, or caused to be made, such connection, and, such expenses shall be realised by the Commissioner as arrears of taxes under this Act.

(3) Notwithstanding anything contained in the foregoing provisions

of this section, no drain shall be used for disposal of trade effluents or wastes from slaughter house or such items as may cause any health hazard, except in such manner as the Corporation may direct.

(4) The Corporation may, by regulations, prescribe the parameter, limits and compoundable lines for the disposal of waste water.

(5) The Corporation may levy a sewer charge at such rate as it may determine.

228. House-Drain, Closed Cesspool, Etc. :-

Where any premises is, in the opinion of the Commissioner, without sufficient means of effective drainage, the Commissioner may, by a notice, in writing require the owner of the premises to construct a house-drain up to a point to be specified in the notice or to construct a closed cesspool and drains emptying into such cesspool in such manner as may be determined by regulations.

229. Grouping Or Combination Of House-Drains And Enforcement Of Drainage In Undrained Premises :-

The Corporation may, if it considers necessary, make regulations for grouping or combination of house-drains for economic or operational advantages and for enforcement of drainage of undrained premises and for any other matters in connection with drainage.

230. Municipal Drain May Communicate With Public Drain Etc. :-

subject to the approval of the State Government in this behalf the Corporation may, if necessary, make the municipal drains communicate with, or empty themselves into, any public drain, lake, canal or watercourse outside the Corporation area and in so doing it may, exercise throughout the line outside the Corporation area along which the municipal drains are to run all the powers exercisable by it under this Act, if the said municipal drains were to run entirely within the Corporation area.

231. Certain Matters Not To Be Passed On To Municipal Drain :-

(1) No person shall throw, empty or otherwise discharge into any water-source, channel or municipal drain within or outside the

Corporation area any matter, refuse, trade effluent, or waste so as to cause pollution, health hazard or nuisance prejudicial to environment.

(2) Subject to the provisions of any other law for the time being in force, the Corporation may, by regulations, provide for treatment standard to be maintained before discharge of any industrial waste or foul water or refuse into any river, water-source, channel, or municipal drainage and sewerage system.

232. Placing Or Carrying Any Pipe Etc., Over, Under Or Across Any Immovable Property :-

If it appears to the Corporation that it is necessary to place, or to carry, any pipe or drain over, under, or across the immovable property of any person to maintain the only or the most convenient water-supply to, and drainage of, any premises, the Corporation may, after giving the owner of the immovable property an opportunity of being heard, authorise the owner or, occupier of the premises, as the case may be, to place or carry such pipe or drain over, under, or across such immovable property in such manner as it may think fit to allow.

233. Placing And Maintenance Of Aqueduct Etc. Over, Under Or Across Any Immovable Property :-

The Corporation may place and maintain aqueducts, conduits and lines of mains or pipes or drains over, under, or across any immovable property within or without the Corporation area and may enter any property for such purpose:

Provided that the Corporation shall not acquire any right other than the right of user in the property over, under, or across which any aqueducts, conduits, lines of mains, pipes or drains are placed.

234. Map Of Underground Utilities :-

The Commissioner shall cause to be maintained complete survey maps, drawings and descriptions of all underground utilities within the Corporation area, including water-supply mains, supply-pipes, sewers and connections thereto in such Form, and in such manner, as may be prescribed, and shall ensure the secrecy of the same in conformity with the provisions of the Official Secrets Act, 1923 (19 of 1923).

235. Power Of Corporation To Provide And Maintain Public

Privies And Urinals :-

The Corporation shall-

- (a) provide and maintain, in proper and convenient situations, water closets and urinals for the use of the public, and
- (b) cause such water closets and urinals to be so constructed and kept as not to be a public nuisance or injurious to public health.

236. Licence For Public Toilets And Urinals :-

- (1) The Corporation may grant licence to a private individual or organisation for maintenance, and regulation for use, of public toilets and urinals constructed by it, on such terms and conditions as may be determined by regulations.
- (2) On the grant of a licence to a private individual or organisation under sub-section (1), such private individual or organisation, as the case may be, shall be entitled to recover from the persons using such public toilets or urinals such fee as may be determined by regulations.
- (3) No person shall keep, or maintain, any toilet or urinal for public use without the specific permission of the Corporation, and the Corporation may impose such conditions therefor as it may consider necessary.

237. Conversion Of Service Privies Into Sanitary Toilets Etc. :-

- (1) No person, either owner or occupier of any premises, shall be allowed to maintain service privy within the Corporation area.
- (2) The Commissioner shall issue a notice to the owner or the occupier of every premises having service privy, directing him to convert the service privy by connecting either with the sewerage system or into a sanitary toilet, as the case may be.
- (3) The owner or the occupier of the premises, as the case may be, shall, on receipt of the notice under sub-section (2), either convert the service privy into a sanitary toilet or connect the service privy with the sewerage system, as the case may be, within 90 days from the date of receipt of the notice under sub-section (2).
- (4) No person shall be allowed to discharge night-soil directly in the municipal drain.

238. Privy, Urinal And Other Accommodation In Premises For Twenty Or More Labourers Or Workmen :-

(1) There shall be provided in every new building in which ten or more labourers or workmen are likely to be employed, and in any part of which a manufacturing process is likely to be carried on with the aid of power, or is likely to be ordinarily so carried on, such privy and urinal accommodation, and such accommodation for bathing and for washing of clothes and domestic utensils, as the Corporation may decide.

(2) Where any premises in which twenty or more labourers or workmen are employed, and in any part of which a manufacturing process is being carried on without the aid of power; or is ordinarily so carried on, is without any privy, urinal or other accommodation for bathing and for washing of clothes and domestic utensils or with inadequate accommodation, the Corporation may by a notice, in writing require the owner of such premises to provide such premises with such privy, urinal, bathing or other accommodation for washing of clothes and domestic utensils as it may determine.

239. Provisions For Privy And Urinal Accommodation In Premises Intended For Human Habitation :-

(1) If any premises, intended for human habitation, is without privy or urinal accommodation, or if the existing accommodation is, in the opinion of the Corporation, insufficient, inefficient or objectionable for sanitary reason, the Corporation may, by a notice, in writing, direct the owner or the occupier, as the case may be, of such premises to make such structural or other alterations of the existing privy or urinal accommodation as may be specified in the notice within 90 days from the date of issue of the notice.

(2) If the owner or the occupier of the premises, as the case may be, fails to comply with the directions of the Corporation within the time limit specified in sub-section (1), he shall be punished with fine in accordance with the provisions of section 403.

240. Position Of Cesspools :-

(1) No person shall construct a cesspool-

- (a) beneath any part of any building or within fifteen metres of any tank, reserve water-source or well, or
- (b) upon any site or any position in the Corporation area which has not been approved in writing by the Commissioner, or
- (c) upon any site or in any position outside the Corporation area which has not been so approved and is situated within ninety

metres of any reservoir, used for storage of filtered water to be supplied to the Corporation area.

(2) The Commissioner may, at any time, by a notice, in writing, require the owner of any premises in which any cesspool has been constructed in contravention of the provisions of sub-section (1) to remove such cesspool and to fill up it with such materials as may be approved by him.

(3) If the owner or the occupier of any premises in which any cesspool has been constructed does not comply with the notice under sub-section(2) within fifteen days from the date of receipt of the notice by him, the Commissioner shall take such steps to remove such cesspool and to fill up it as he may deem fit, and all expenditure Incurred by the Commissioner for the purpose shall be recoverable from the owner or the occupier of such premises as an arrear of tax under this Act.

241. House Drains Etc. To Be Subject To Survey And Control Of Corporation :-

All house-drains, within as well as without the premises to which they belong, and all cesspools, privies and urinals shall, as respects their site, construction, materials, and dimension and arrangements for flushing the same, be under the survey and control of the Corporation and shall be subject to such regulations as the Corporation may make in this behalf.

242. Power Of Corporation To Grant Licence To Plumbers :-

(1) The Corporation may, from time to time, grant to any person it thinks fit a licence to act as a plumber for the purposes of this Act.

(2) Every such licence shall be granted in such manner, in such Form, and on such terms and conditions, as may be determined by the Corporation by regulations.

243. Prevention Of Mosquito-Breeding :-

(1) If, in the opinion of the Corporation, any pool, ditch, tank, well, pond, swamp, quarry, hole, drain, cesspool, watercourse, pit, cistern, desert or air-cooler, or ground, underground or overhead tank, or any collection of water, or 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 Corporation 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 Corporation, to keep such paving in proper repair, or to raise the level of such courtyard, land, passage, or open space; or

(c) to fill up any unwholesome waterbody:

Provided that any unwholesome waterbody can be filled up only after compliance with the provisions of section 4C of the West Bengal Land Reforms Act, 1955 (West Ben. Act X of 1956.), by the owner or the person having control thereof.

(2) No person shall keep, or permit to be kept or maintained, within any premises or land, any collection of stagnant or flowing water which, in the opinion of the Corporation, 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 mosquito.

(3) All borrow pits dug in the course of construction and repair 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 sloped for discharge into a river, stream, channel, or drain, and no person shall create any isolated borrow pit which is likely to cause accumulation of water which again, in turn, may breed mosquito.

(4) The owner or the 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 the occupier of any premises shall wrap the openings of the ventpipes 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 the 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 authorities of the Corporation.

(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 Corporation, stating therein the anti-larval measures taken by the applicant to keep the water free of mosquito larvae;

(b) the Corporation, after considering the application, shall issue a licence to the applicant;

(c) the applicant shall receive the said licence on payment of such fee as may be determined by the Corporation, and shall renew the said licence annually.

(8) The owners or the occupiers of all private ponds or water reservoirs shall keep such ponds or water reservoirs 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 order or direction under this section, he shall be punished with fine which may extend to one thousand rupees, and a daily fine of fifty rupees in case of continuance of such contravention commencing from the day on which such contravention is brought to the notice of such person by the Corporation.

CHAPTER 12 Streets and public places

244. Vesting Of Public Street In Corporation :-

(1) All streets and public places, squares, parks, and gardens, not being the property of, and kept under the control of, Government or the Board of Trustees for the improvement of the Corporation area, including soil, sub-soil and side-drains, footways, pavements, trees, stones and other materials, implements, and other things provided for such streets and other public places, which are situated within the Corporation area, shall vest in the Corporation.

(2) Whenever the Corporation proposes to determine the name by which any public street or public place is to be known or to change the name of any public street or public place, it shall refer the proposal to an Advisory Committee constituted under sub-section (3) for its consideration.

(3) The State Government shall, by notification, constitute an Advisory Committee for naming, or changing the name of, any public street or square within the Corporation area. The Advisory Committee shall consist of such number of persons, not exceeding eight but not less than five, as the State Government may think fit.

245. Functions Of Commissioner In Respect Of Public Street

:-

The Corporation shall cause all public streets vested in it, under section 244 to be maintained by the Commissioner who shall, for this purpose, do all things necessary for the public safety and convenience including the construction and maintenance of bridges, causeways, sub-ways, flyovers and culverts.

246. Power Of Corporation To Make New Public Street Etc.

:-

The Corporation may lay out and make new public streets, construct bridges, sub-ways and flyovers, classify public streets into different categories, turn or divert any existing public street, prescribe a regular line for streets or buildings on one or both sides of any public street, and take steps in pursuance of a plan for improvement of street and street alignments and may, by regulations, make provisions in this regard.

247. Power Of Commissioner To Remove Or Alter Obstruction, Encroachment Or Projection :-

(1) No person shall, except with the permission of the Commissioner, cause any obstruction to, or encroachment upon, or projection over, or otherwise occupy, any portion of any public street or other public place.

(2) When any verandah, platform, building or other structure or any fixture attached to a building so as to form part of the building (whether erected before or after the commencement of this Act) causes a projection, encroachment or obstruction over or on any public street or other public place vested in the Corporation, the Commissioner, in accordance with such regulations as may be made by the Corporation, may, by a notice, in writing require the owner or the occupier of the building to remove or alter such verandah, platform, building or other structure or fixture.

248. Power Of Commissioner To Remove Anything Erected, Deposited Or Hawked In Contravention Of The Act :-

The Commissioner may, without notice, cause to be removed -

(a) any wall, fence, rail, post, step, booth, or other structure, or fixture, which may be erected, or set up, in or upon any street,

footpath, or upon, or over, any open channel, drain, well or tank, contrary to the provisions of this Act;

(b) any article, bench, box, ladder, bale, board, or shelf, or any other thing whatsoever, placed, deposited, projected, attached, or suspended, in, upon, from, or to, any place in contravention of the provisions of this Act;

(c) any article whatsoever hawked, or exposed, for sale in any public street or footpath in contravention of the provisions of this Act and any vehicle, package, box, board, shelf, or any other thing, in which, or on which, such article is placed or kept for the purpose of sale, display, or otherwise.

249. Prohibition Of Tethering Of Animal And Milking Of Cattle :-

(1) No person shall tether any animal or cause, or permit, any animal to be tethered or stayed in any public street or other public place.

(2) No person shall milk, or cause or permit to be milked, any cow or buffalo or other animal in any public street or other public place.

(3) Notwithstanding anything contained in any other law for the time being in force, the Commissioner may cause to be removed or impounded any animal tethered or being milked or found staying in any public street or other public place.

250. Power To Specify Building Line And Street Alignment :-

(1) If the Corporation considers it expedient to prescribe a regular line for streets or buildings on one or both sides of any public streets or portion thereof, it shall give a public notice of its intention to do so.

(2) Every such notice shall specify the period within which objections will be received by the Corporation, and a copy of the notice shall be sent by post to every owner of the premises abutting on such public street, who is registered in respect of such premises in the books of the Corporation.

(3) The Corporation shall consider all objections received by it within the period specified in the notice under sub-section (2) and shall make an order specifying a building-line or a street-alignment or both for such public street. Every such order shall be published in the Official Gazette and shall take effect from the date of such publication.

(4) A register or book with plans attached shall be kept by the Corporation showing all public streets in respect of which a building-line or a street-alignment has been specified and such register or book shall contain such particulars as may appear to the Commissioner to be necessary and shall be open to inspection by the public on payment of prescribed fee.

(5) Whenever it is proposed to repair, re-build, remove, construct, or reconstruct any building, or portion thereof, abutting on a public street in respect of which a building-line or street-alignment has been specified by an order, the Commissioner may give direction for setting back or setting forward such building or portion thereof in such manner as may be determined by regulations.

251. Power Of Commissioner To Authorise Temporary Construction, Or Temporary Closure Of, Part Of Public Street :-

The Commissioner may authorise temporary construction on, or temporary closure of, any part of a public street on such occasions, and on such conditions, and for such period, as the Corporation may provide by regulations made in this behalf.

252. Rights Of Way For Underground Utilities :-

Subject to the provisions of this Act and any other law for the time being in force, the State Government may, by rules, provide for -

(a) the sanction by the Corporation of specific rights of way in the subsoil of public and private streets in the Corporation area for different public utilities including electric supply, telephone and other telecommunication facilities, gas-pipes, water-supply, sewerage and drainage, pedestrian sub-ways, shopping places, warehousing facilities, and apparatus and appurtenances related thereto provided by the State Government, any statutory body or any licensee under any law for the time being in force;

(b) the levy of any fee or charges;

(c) the furnishing to the Corporation of maps, drawings and statements which shall enable it to compile and maintain the precise records of the placements of the underground utilities within the Corporation area.

253. Closure Of Public Street For Parking Purpose :-

The Commissioner may, with the prior approval of the Corporation,

close any portion of a public street and declare it to be a parking area, and charge parking fees at different rates for different vehicles for different areas and for different periods in accordance with such regulations as may be made in this behalf.

254. Owners Obligation To Make Street While Disposing Of Any Land :-

(1) If the owner of any land utilizes, sells, leases, or otherwise disposes of such land or any portion thereof as plots for the construction of buildings thereon, he shall lay down and make street or streets giving access to the plots into which the land may be divided, and connecting such street or streets with any existing public street or private street.

(2) Before utilizing, selling or otherwise disposing of any land under sub section (1), the owner thereof shall send to the Commissioner an application, in writing with a layout plan of the land showing the following particulars:-

(a) the 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 reservation or allotment of any site for any street, open space, park, recreation ground, school, market or any other public purpose;

(c) the intended level, direction and width of street or streets, including footpaths and drains;

(d) the regular line of street or streets;

(e) the arrangements to be made for levelling, paving, metalling, flagging, channelling, swearing, draining, conserving, and lighting street or streets.

(3) No deed of transfer shall be registered under any law for the time being in force for any land governed by this section until the lay out plans have been approved by the Commissioner and infrastructural constructions have been completed up to the satisfaction of the Commissioner in accordance with such regulations as may be made in this behalf.

255. Private Street To Be Public Street :-

If any private street has been levelled, paved, metalled, flagged, channelled, sewered, drained, conserved, and lighted to the satisfaction of the Corporation, the Commissioner may, and, if the street is not less than six meters in width, on a requisition by a

majority of the owners of the street, shall, declare such street to be a public street and, upon such declaration, such street shall vest in the Corporation.

256. Prohibition Of Making New Street :-

No person shall make any new street without the prior approval of the Corporation.

257. Provision For Lighting Of Public Street, Square, Market And Building :-

(1) The Corporation shall-

(a) take measures for lighting, in a suitable manner, in public streets, squares, and municipal markets, and in all buildings vested in the Corporation;

(b) procure, erect and maintain such number of lamps, lamp-posts, and other appurtenances as may be necessary for such lighting; and

(c) cause such lamps to be lighted by means of oil, gas, or electricity, or by such other means as the Corporation may determine.

(2) The Corporation may by itself, or in conjunction with any firm or company, and in accordance with such regulations as may be made by it in this behalf, erect plants and machinery for the generation of power and production of gas for the purpose of lighting.

(3) The Corporation may place in the Corporation area and maintain-

(i) electric wires or gas-pipes for the purpose of lighting such lamps under, over, along or across any immovable property, and

(ii) posts, poles, standards, stays, struts, brackets, tunnels, culverts, or any other contrivance for carrying, suspending or supporting such electric wires, gas-pipes or lamps in or upon any immovable property; Provided that such electric wires, gas-pipes, posts, poles, standards, stays, struts, brackets, tunnels, culverts, or other contrivance shall be so placed as to cause as little damage, detriment, inconvenience, or nuisance to any person as the circumstances permit.

CHAPTER 13 Fire prevention and fire safety

258. Arrangement For Fire Prevention And Fire Safety :-

On the coming into force of the West Bengal Fire Services Act, 1950, (West Ben. Act XVIII of 1950.) in any area within the jurisdiction of the Corporation, the Corporation shall, in consultation with the Director-General 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 such area to make, or to carry, such arrangements as may be necessary for fire prevention and fire safety in such area, and issue a fire safety certificate on such conditions as are provided in the West Bengal Fire Services Act, 1950, or in the rules made thereunder.

Explanation.-"Director-General of Fire Services" shall mean the Director-General of Fire Services referred to in clause (e) of section 2 of the West Bengal Fire Services Act, 1950.

PART 7 Part VII

CHAPTER 14 Buildings

259. 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, or if 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 sacred building any place or building not originally constructed for such purpose;

(f) to roof or cover an open space between walls and 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, 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 the rules or the 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 to use as 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 or open 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".

260. Municipal Building Committee :-

(1) The Mayor-in-Council may constitute a Municipal Building Committee with the Commissioner as its Chairman and an Officer of the Corporation as its convenor.

(2) The Committee may have, in addition to the Chairman and the convener, eight other members of whom-

(a) one may be a nominee of the Development Authority under which the area of the Corporation is located;

(b) one may be a nominee of the Superintendent of Police of the concerned district;

(c) one may be a representative of the Director of Fire Services;

(d) one may be a nominee of the State Government;

(e) one may be the concerned Superintending Engineer of the Municipal Engineering Directorate, or his nominee;

(f) one may be an architect of repute to be selected in consultation with the Council of Architecture constituted under section 3 of the Architects Act, 1972;

(g) one may be a Town planner of repute to be selected in consultation with the Institute of Town Planners of India; and

(h) one may be a nominee of the Department of Environment, Government of West Bengal.

(3) The Committee may co-opt one person to be nominated by the concerned department of Government while dealing with any case regarding educational building or institutional building or assembly building or industrial building or hazardous building.

(4) The Committee may meet at such periodical interval as may be determined by the Mayor-in-Council.

(5) The Committee may, in accordance with the provisions of this Act or the rules and the regulations made thereunder or of any other law in force for the time being, scrutinize every application for erection or re-erection of a building, except for a residential building to be erected or re-erected on a plot of 500 square meters or less of land, and may forward its recommendations to the Mayor-in-Council:

Provided that during such scrutiny the Committee may consider matters related to preserving, developing and maintaining the aesthetic quality of urban and environmental design within the Corporation area and may, in respect of any building or any execution of work, if it affects or is likely to affect the skyline or the aesthetic quality of urban or environmental design, or any public amenity therein, recommend on such matters also:

Provided further that in respect of any building or execution of any

work, if such building or work affects or is likely to affect-

(a) the functioning of microwave systems for telecommunication purpose, or

(b) any function for purposes of civil aviation, the Committee may, in accordance with such rules as may be framed in consultation with such departments or agencies of Government as have control on such matters, refer such cases to such departments for their opinions before finalizing its recommendations.

(6) The Mayor-in-Council may refer any other matter, included in this chapter, to the Committee for its scrutiny and recommendation.

(7) The Mayor-in-Council may consider the recommendations of the Committee and, the case of any modification, alteration or cancellation of the same, may record the reasons thereof in writing.

261. Use Of Land For Erection Of New Building :-

No person shall use any piece of land as a site for erection of a new building except in accordance with the provisions of this Act and the rules and the regulations made thereunder in relation to such use of land and erection of building.

262. Application For Sanction For Erection Or Re-Erection Of Building :-

Every person, who intends to erect a building or to re-erect a building shall submit an application to the Commissioner for sanction in such Form, containing such information or documents, accompanied by such plans and specifications in such manner, as may be prescribed.

263. Sanction Or Provisional Sanction Or Refusal Of Sanction For Erection Of Building :-

(1) The Commissioner may sanction the erection of the building or re-erection of the building, as the case may be, ordinarily within a period of sixty days from the date of submission of the application for sanction unless further information or document is called for or the Commissioner may refuse to sanction for the erection of the building or re-erection of the building on such grounds as may be prescribed, and if sanction is accorded, such sanction shall remain valid for such period from the date of grant of such sanction, and may be renewed for such period, and on payment of such fee, as

may be prescribed:

Provided that a provisional sanction may be given for the erection of a building for the use of which a licence or permission is required from any department of Government or statutory body under any law for the time being in force in accordance with such procedure as may be prescribed:

Provided further that if it appears to the Commissioner that the site of the proposed building is likely to be affected by any scheme of acquisition of land for public purpose, or by any proposed regular line of public street, or extension, improvement, widening, or alteration of any street, the Commissioner may withhold sanction to the erection of the building for a period not exceeding eight months.

(2) No person shall erect, or re-erect, or commence to erect or re-erect any building or execute any building work specified except with the previous sanction of the Commissioner and in accordance with the provisions of this chapter and the rules and the regulations made under this Act in relation to such erection of building or execution of work.

264. Validity And Duration Of Permission For Erection Or Construction Of Structure Or Building Under West Ben, Act Xxii Of 1993 Or West Ben. Act Xli Of 1973 :-

Notwithstanding anything contained in this chapter or elsewhere in this Act or in the West Bengal Municipal Act, 1993, or in the West Bengal Panchayat Act, 1973, permission granted under the West Bengal Municipal Act, 1993, or the West Bengal Panchayat Act, 1973, for erection or construction of any new structure or building or addition to any structure or building in any area under any of the said Acts, shall, upon inclusion of such area in the Corporation area,-

(a) be deemed to have been granted under this Act, and

(b) shall remain valid for one year from the date of inclusion of such area in the Corporation area, or for such period for which such permission was granted, whichever is greater:

Provided that if such structure or building under the plan approved under the West Bengal Municipal Act, 1993, or the West Bengal Panchayat Act, 1973, has not been constructed, either in full or in part, before the constitution of the Corporation under this Act, the plan shall be revalidated by the Corporation before the completion of the work in respect of part construction or before the

commencement of the work in respect of a new construction.

265. Commencement And Completion Of Building Vis-A-Vis Validity Period Of Sanction :-

After a building plan is sanctioned, the person who has been given the notice of such sanction shall commence work and complete the same within such period or within such extended period as may be prescribed.

266. Order Of Demolition Of Building Or Stoppage Of Erection Of Building And Appeal Or Execution Of Work :-

(1) Where the erection of any building, or the execution of any work in furtherance thereof, has been commenced, or is being carried on, or has been completed without, of contrary to, the sanction or in contravention of any provision of this Act or the rules or the regulations made thereunder, the Commissioner may, in addition to any other action that may be taken under this Act, make an order directing that such erection of work shall be stopped or demolished or such addition or alteration thereto as the Commissioner considers necessary be made, by the person at whose instance the erection or the work has been commenced, or is being carried on, or has been completed.

(2) The Commissioner may make an order under sub-section (1), notwithstanding the fact that the assessment of such building has been made for the levy of the property tax on lands and buildings.

(3) Any person aggrieved by an order of the Commissioner under subsection (1) may, within thirty days from the date of the order, prefer an appeal against such order to the Mayor.

(4) If any person fails to comply with a conclusive order of the Commissioner or the Mayor, as the case may be, under this section, the Corporation may itself cause the order to be carried out and recover the expenses thereof from such person as an arrear of tax under this Act.

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

267. Prohibition On Change Of Use Of Building :-

(1) No person shall, without any permission, in writing, of the Commissioner, change, or allow the change of, the use of any building for any purpose, other than that specified in the order of sanction, or convert, or allow the conversion of, tenement under a particular occupancy or use group to be a tenement under another, occupancy or use group.

(2) Where the Commissioner refused to give such permission, he shall give the person seeking permission an opportunity of being heard before making any order in writing in this behalf.

(3) Any person aggrieved by an order of the Commissioner under subsection (2) may, within thirty days from the date of the order, prefer an appeal to the Mayor.

268. Power To Order Demolition Of Buildings, Dangerous Ruinous Or Unfit For Human Habitation :-

(1) Where the Commissioner, 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, mortgage 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 subsection (1) appears, in pursuance thereof, before the Commissioner and gives an undertaking that such person shall, within a period specified by the Commissioner, execute such work of improvement in relation of the building as will, in the opinion of the Commissioner, render the building fit for human habitation or that the building shall not be used for human habitation until the Commissioner, on being satisfied that it has been rendered fit for human habitation, cancels the undertaking, the Commissioner shall not make an order of demolition of the building;

(3) If no such undertaking as is referred to in sub-section (2) 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 commissioner 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 the period.

(4) Where an order of demolition of a building under this section has been made, the owner of the building or any other person having an interest therein shall demolish the building within the period specified in the order, and if the building is not demolished within such period, the Commissioner shall demolish the building and sell the materials thereof.

(5) Any expenses incurred by the Commissioner 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 purpose 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 of cooking of food and for the disposal of rubbish, filth and other polluted matter;
- and the building shall be deemed to be unfit as aforesaid if it is so defective in one or more of the matters as aforesaid that it is not reasonably suitable for the occupation in that condition.

(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 repair;
- (b) structural alterations;
- (c) provision of light points and water taps;
- (d) construction of drain, 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 Commissioner, is necessary

for executing any of the works specified in clauses (a) to (h).

269. Licensed Building Surveyor :-

The Commissioner may, and in such manner as may be prescribed, grant licence to a person to act as a Licenced Building Surveyor, or a Structural Engineer, or a Geo-Technical Engineer for the purposes of this chapter:

Provided that no such licence shall be required for any Architect for the purposes of this chapter.

270. Rules Regulating Use Etc. Of Building :-

The State Government may, in addition to, or in modification of, Schedule IV, make rules regulating-

- (a) restriction of the use of site of building;
- (b) fire protection measures and structural and other safeties of building;
- (c) conveniences and amenities in building, including quality of materials, plumbing services, and workmanship;
- (d) architectural designs of buildings; and
- (e) building uses for the purpose of residence, hospital, nursing home, factory, warehouse, eating-house, theatre, cinema, commercial institution, and educational building.

271. Power To Regulate Future Construction Of Building In Any Particular Street Or Locality :-

(1) The Corporation 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 a building or a class of building, erected or re-erected after such notice, shall, in respect of the architectural features of such building or class of building, be such as the Corporation may consider suitable to the locality; or
- (b) that in any locality specified in such notice, these shall be allowed re-erection of only detached or semi-detacheo buildings or of both, and that the land appurtenant to each such building shall be of an area of 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 area; or
- (d) that in any locality specified in the notice, the construction of more than a specified number of buildings on each acre of land

shall not be allowed; or

(e) that in any street, portion of street or locality specified in such notice, the construction of any one or more of the different classes of buildings, such as residential, commercial, mercantile, industrial, institutional, storage, or hazardous buildings, shall not be allowed without the special permission of the Corporation.

(2) The Corporation shall, at a meeting, consider all suggestions or objections, received within a period of three months of the publication of the notice under sub-section (1), and may confirm the declaration, or may modify it in such manner as may not extend its effect.

(3) The Corporation shall publish any declaration so confirmed or modified in the Official Gazette, and the declaration shall take effect from the date of such publication.

(4) No person shall, after the date of publication of a declaration under subsection (3), erect or re-erect any building in contravention of such declaration.

(5) The Corporation shall, before giving any public notice of any of its intentions under sub-section (1), and ensure that such intention is in conformity with the provisions of any Development Plan in force under the West Bengal Town and Country (Planning and Development) Act, 1979 (West Ben. Act XIII of 1979).

272. Power To Prohibit Change Of Authorised Use Of Building :-

(1) No person shall, without permission, in writing, of the Commissioner or otherwise than in conformity with the conditions, if any, 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 what was intended in the original sanctioned plan, or materially alter, enlarge, or extend, the use permitted by the Commissioner.

(2) If, in any case, such permission is given, no change of

occupancy or use shall be allowed before any necessary alterations or provisions have been made to the satisfaction of the Commissioner, and in accordance with the provisions of this Act or the rules or the regulations made thereunder or of any other law for the time being in force.

(3) Any change of use made before the commencement of this Act shall be deemed to be an unauthorised change and shall be dealt with under the provisions of this Act.

(4) Notwithstanding any other action that may be taken against any person, whether owner or occupier, contravening any provision of this section, the Commissioner 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 Commissioner may, if he deems fit, order that the unauthorised use be stopped forthwith:

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

(6) Any person aggrieved by an order of the Commissioner under subsection (5) may, within thirty days from the date of the order, prefer an appeal against the order of the Commissioner to the Mayor whose decision on such appeal shall be final and conclusive.

(7) Where an appeal is preferred under sub-section (6), the Mayor may stay the enforcement of the order passed by the Commissioner 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 Commissioner or the Mayor 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 occupancy or use for residential, commercial, mercantile, industrial, storage, institutional, congregational, or hazardous (dangerous or offensive) purpose.

273. Licence To Be Obtained For Use Of Premises For Non-Residential Purpose :-

(1) No person shall use, or shall permit to be used, any premises

for any of the purposes mentioned in Schedule IV without, or otherwise than in conformity with, a licence issued by the Commissioner in this behalf on such terms and conditions, including payment of fee, as may be determined by regulations.

(2) The Corporation shall determine by regulations the scale of fee to be paid for the issue of a licence under sub-section (1) in respect of the premises used for any of the purposes as aforesaid:

Provided that no such fee shall exceed five hundred rupees per month in respect of any premises.

274. Power To Prevent Use Of Premises For Specified Purpose In Particular Area For Reasons Of Environment :-

(1) The Corporation 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 such notice and for reasons stated therein.

(2) Objections to any notice under sub-section (1) shall be received within a period of one month from the date of publication of the notice.

(3) The Corporation shall consider all objections, received within the period as aforesaid, after 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. Every declaration made under this sub-section shall be published in such manner as may be prescribed and shall take effect from the date of such publication.

(4) No person shall, in any area specified in the declaration under subsection (3), use any premises for any purpose specified in the declaration, and the Corporation shall have the power to stop the use of any such premises by such means as it considers necessary.

275. Approval Of Building Site And Sanction Of Plan For Erection Of Building :-

No piece of land shall be used as a site for the erection of a building unless such site has been so approved with reference to the provisions of subsection (2) of section 333, which shall apply mutatis mutandis, and no building shall be erected unless a building plan has been sanctioned for such building in accordance with the provisions of this chapter and the rules, or the regulations or the bye-laws, made under this Act.

276. Purpose Of Use Of Building And Conditions Of Erection Or Re- Erection Of Building :-

(1) Subject to the provisions of section 262,-

(a) every person shall make an application, in writing, to the Commissioner seeking permission to erect or re-erect a building and shall specify in the application the purpose for which such building is intended to be used; and

(b) every such application shall be accompanied by a building plan.

(2) The Corporation 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 Corporation may determine consistent with the provisions of this Act or any other law for the time being in force.

277. Sanction Of Building Plan And Permission To Execute Work :-

Subject to the provisions of section 263 within a period of sixty days after the receipt of any application with building plan or any information or document which the Commissioner may require the applicant to furnish before deciding whether sanction shall be accorded in this regard, the Commissioner shall, by an order in writing, either-

(a) 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 280, to accord such sanction, or

(c) accord sanction, subject to the condition of permission to execute the work.

278. Sanction Or Permission To Be Deemed To Have Been Granted In Case Of Default In According Sanction Or Permission :-

If, within the period referred to in sub-section (1) of section 277, the Commissioner has neither accorded, nor refused to accord, any sanction to a building plan, nor granted any permission to execute a work, the applicant may prefer an appeal to the Mayor, and if the appeal is not disposed of within thirty days from the date of receipt of the appeal, such sanction or permission shall be deemed to have been accorded or granted, as the case may be; so however, that nothing in this section shall be deemed to have permitted the

applicant to contravene any of the provisions of this Act or the building regulations or the rules applying thereto.

279. Notice To Commissioner Before Commencement Of Work :-

Not less than seven days before the erection or re-erection of a building commences, the owner of the building shall send to the Commissioner a notice, in writing, specifying therein the date on which such erection or re-erection of the building is proposed to be commenced.

280. 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 or the rules, or the regulations, or the bye-laws, 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, or the bye-laws, 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 this Act or the rules, or the regulations, or the bye-laws made thereunder;
- (d) that any information or document, required by the Commissioner in this behalf, has not been duly furnished, and, in cases requiring a lay-out plan under the provisions of this Act, such lay-out plan has not been sanctioned as required under the provisions of this Act;
- (e) that the building or the work would be an encroachment on Government land or land vested in the Corporation;
- (f) that for the use of the building for non-residential purposes, if any, a licence or 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 for erection or re-erection of a building which may be confirmed by final sanction upon production of necessary licence or permission from the Corporation, the State Government or any statutory body, as the case may be.

281. Period For Completion Of Building Or Work :-

The Commissioner shall, when granting permission conditionally or unconditionally to the construction of a building or execution of a work, specify a period within which the building or, as the case may be, the work is to be completed, and if, the building or the work is not completed within the period so specified, it shall not be continued thereafter without fresh permission unless the Commissioner, on an application made in this behalf, allows an extension of such period :

Provided that the Commissioner may, if he considers necessary, require, for reasons to be recorded in writing, a modification of the building plan in case of inordinate delay in completion of the work.

282. Completion Certificate :-

(1) Every person submitting an application with building plan for construction of a building or execution of a work to which such application relates shall, within thirty days after the completion of construction of such building or execution of such work, deliver, or send, or cause to be delivered or sent, to the Commissioner a notice, in writing, of such completion accompanied by a certificate in such Form as may be specified in the rules to be made in this behalf, and shall give to the Commissioner 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 or a part thereof, affected by any such work, until permission has been granted by the Commissioner in this behalf in accordance with the rules and the regulations made under this Act:

Provided that if the Commissioner fails within a period of thirty days of receipt of the notice of completion under sub-section (1) to communicate his refusal to grant such permission, such person may make a representation, in writing to the Mayor, and the Mayor 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 application as aforesaid failing which, such permission shall be deemed to have been granted; so, however, that nothing in this section shall be deemed to have permitted the application of the provisions of this Act or the rules or the regulations made

thereunder to such permission.

283. Power To Refuse Sanction Or To Impose Restrictions, Etc. In Case Of Building At Corner Of Street :-

(1) Notwithstanding the provisions of this Act, or the rules or the regulations made thereunder, or of any other law in force for the time being the Commissioner may, in the case of any building which is intended to be erected at the corner of two streets,-

(a) refuse sanction for such reasons as may be recorded in writing, or

(b) impose restrictions on its use, or

(c) place special conditions concerning exit to or entry from any street, or

(d) require it to be rounded off, or splayed or cut off, to such height and to such extent as may be determined, or

(e) acquire, such portion of the site at the corner as he may consider necessary for public convenience or amenity:

Provided that no such action shall be taken without any scrutiny of such case by the Municipal Building Committee and without prior approval of the Mayor-in-Council in accordance with the provisions of this chapter.

(2) The Commissioner may, by a written order, require any alteration corresponding to any of the conditions in clauses (b) to (e) of sub-section (1) to be made to any building completed before the commencement of this Act.

284. 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 of cloth, grass, leaves, mats or other inflammable materials except with the written permission of the Commissioner, 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 Commissioner 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.

285. Provisions Of This Chapter Not To Apply In Certain Cases Of Addition And Alteration :-

The provisions of this chapter and the rules and the regulations made thereunder relating to erection of buildings shall not applied to necessary repairs not involving any of the works, which constitute a material addition and 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 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 regulations made under this chapter.

286. Power Of The Commissioner To Cancel Permission On The Ground Of Material Misrepresentation By Applicant :-

If, at any time, sanction to erect any building has been given and the Commissioner 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.

287. Unauthorised Construction :-

Subject to the provision of section 266 if the Commissioner is satisfied that-

- (a) the erection of any building-
 - (i) has been commenced without obtaining sanction or permission under this Act or the rules or the regulations made thereunder or has been completed otherwise than in accordance with the particulars on which such sanction or permission is based or after such sanction or permission has been lawfully withdrawn, or
 - (ii) is being carried on, or has been completed, in contravention of any provision of this Act or the rules or- the regulations or the bye-

laws made thereunder, or

(b) any building or projection exists in violation of any condition, direction or requisition, lawfully given or made under the provisions of this Act or the rules or the regulations made thereunder, or

(c) any material alteration of, or addition to, any building has been commenced, or is being carried on, or has been completed, in contravention of any provision of this Act or the rules made thereunder,

it may, after giving the owner of the building a reasonable opportunity of being heard, make an order directing that such erection, building, projection, alteration, or addition, as the case may be, or so much thereof as has been executed unlawfully, or such building or existing structure, be demolished or altered, and, upon such order, it shall be the duty of such owner to cause such demolition or alteration to the satisfaction of the Commissioner, and within such period, as may be fixed in this behalf, and, in default, such erection, building, projection, or addition, as the case may be, may be demolished or altered by the Commissioner at the expense of such owner.

288. Power To Stop Excavation :-

Notwithstanding anything contained in this Act or in any other law for the time being in force, 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, or gas pipe) is touched or is likely to be touched, or if the Commissioner is of opinion that such excavation may cause danger to public, the Commissioner may, by an order in writing, stop forthwith any such excavation or operation till the matter is investigated and decided.

289. Power 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, having regard to the provisions of this chapter, the Commissioner may, by a notice in writing, require the person carrying on such erection of building or other work to discontinue such erection of building or other work forthwith, pending further proceedings in respect thereof.

(2) If any notice issued under sub-section (1) is not duly complied

with, the Commissioner may, with the assistance of the police, if necessary, take such steps as he may consider necessary to stop the continuance of such erection of building or other work, as the case may be.

(3) If it appears to the Commissioner that it is necessary so to do in order to prevent the continuance of such erection of building or other work, he may depute any police officer or any officer of the Corporation to watch such erection of building or other work, and the cost of deputing such police officer or officer of the Corporation, as the case may be, shall be borne by the person to whom the notice was issued under sub-section (1).

290. Power To Require Alteration Of Existing Building :-

(1) The Commissioner 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 in writing, stating the reasons, require the owner of any existing building to make such alterations therein, and within such period, as may be specified in the order:

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

(2) An appeal against an order under sub-section (1) shall lie with the Mayor.

291. Maintenance Of Building :-

(1) The Commissioner may, for sufficient reasons, by an order require the owner or the occupier of any building abutting on a public street or private street to keep the external parts of the building, including the roof thereof, in proper repair with lime and/or cement plaster or other material, or properly painted, to the satisfaction of the Commissioner.

(2) If such owner or occupier makes persistent default in carrying out the order under sub-section (1), the Commissioner may himself carry out the work and recover the cost thereof from the owner, or, as the case may be, the occupier, of such building as an arrear of tax under this Act.

(3) Notwithstanding anything contained in any other law for the time being in force, the Commissioner may apportion the costs incurred under sub-section (1) or sub-section (2) between the owner and the occupier in such manner as the Commissioner may

consider just and reasonable.

(4) The Corporation 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.

292. Permission For Establishment Of Theatres, Circuses, Exhibitions, And Places Of Public Amusement :-

(1) No person shall, without the written permission of the Commissioner or otherwise than in conformity with the conditions, if any, of such permission, which shall be granted subject to the provisions under section 293, use or permit to be used, or materially alter, enlarge or extend the use of any premises for the purpose of establishing or keeping open any theatre, cinema house, drive-in-theatre or cinema house, circus, fair, fete, exhibition, dancing hall, video cinema hall, cable T.V. centre, video parlour, internet parlour, or any other place of similar public resort, recreation or amusement for any such purpose:

Provided that nothing in this section shall apply to private performance in any place.

(2) The Commissioner may specify any conditions for providing, within the premises, space for the vendors catering to the public needs, if necessary, in connection with such purposes.

293. Conditions For Grant Of Permission :-

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

Provided that in the case where production of a municipal permission is a pre-condition for the grant of a licence or permission under any other law for the time being in force, the Commissioner may grant a provision which shall become final upon production of a licence or permission under the said law :

Provided further that such provisional permission shall have validity only for the purpose of fulfilling any pre-condition for the licence or the permission under any other law as aforesaid.

(2) Notwithstanding anything contained in this Act, the

Commissioner may, while granting permission under this chapter, specify such special conditions, relevant to each case, regarding disposal of solid liquid or gaseous wastes or for parking of vehicles or for loading or unloading of goods or for abatement of nuisance of any kind whatsoever as he deems fit.

294. Power To Fix Lamps, Brackets, Etc. To The Buildings :-

The Commissioner 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 Electricity Act, 2003 (36 of 2003), for lamps to be lighted with electricity or otherwise or, subjects to the provisions of the Indian Telegraph Act, 1885 (13 of 1885), for telegraph wires or telephones 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.

295. Construction Of Building In Contravention Of Provisions Of The Act Or The Rules Made Thereunder :-

(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 Corporation, whereupon the water-supply, drainage or sewerage, or the road traffic is disrupted or is likely to be disrupted, or is likely to cause a fire hazard, shall be punishable with imprisonment of either description for a term which may extend to five years and also with fine which may extend to 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 new building, or additional floor or floors of any building.

(2) The offence under sub-section (1) shall be cognizable and non-bailable within the meaning of the Code of Criminal Procedure Act, 1973 (2 of 1974).

(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, constituted under any law for the time being in force, and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

CHAPTER 15 Bustee

296. Power To Define And Alter Limits Of Bustee :-

The Corporation may define the external limits of any bustee and may alter such limits.

297. Preparation Of Improvement Scheme For Bustee :-

(1) The Corporation may, with the approval of the State Government, prepare and execute improvement scheme for the purpose of effecting environmental or general improvement of bustees. Such scheme may provide for water-supply, sanitation, pathways, lighting and the like.

(2) Notwithstanding anything contained hereinbefore, the Commissioner may, for reasons of environmental sanitation, cause the following works to be executed in any bustee:-

(a) Sinking of tube-wells inside a bustee including laying of water-pipe lines, installation of overhead reservoirs and other appurtenances necessary to maintain flushing for privies and sewers;

(b) laying of drains and diversion of existing drains;

(c) conversion of service privies into connected privies or septic tank privies;

(d) removal of solid or liquid wastes from the bustees including removal of silt from sewers, sludge from septic tanks or cleaning of

squatting platforms;

(e) repair work relating to any of the above activities.

298. Power To Acquire The Right Of User In Land Or Around Bustee :-

If, at any time, it becomes necessary to acquire the right of user in any land in or around any bustee for the purpose of effecting improvement, the Corporation shall follow such procedure as may be prescribed.

299. Sanction Of Building Plan For Permanent Construction Etc. In A Bustee :-

The Corporation may sanction building plans submitted by an owner of land in a bustee for the purpose of permanent construction in the nature of renovations of, or additions and alterations to, the existing huts, or conversion of the existing huts into pucca structures and also for construction of new structures under such buildings regulations, and upon payment of such fees, as may be determined by the Corporation by regulations:

Provided that a lay-out plan of a bustee, or such part thereof as may be determined by the Corporation, shall be prepared by the Corporation before such sanction is accorded. The method of preparation of a lay-out plan and the items to be provided therein shall be such as may be prescribed.

PART 8 Part VIII

CHAPTER 16 Solid waste

300. Collection, Removal And Disposal Of Solid Waste :-

(1) For the purpose of securing efficient scavenging and cleansing of all streets, public places and premises in the Corporation area, the Corporation shall undertake the function of collection, removal and disposal of solid wastes.

(2) All matters deposited in public receptacles, depots, and places, provided or appointed by the Corporation for collection of solid wastes shall be the property of the Corporation.

(3) The Corporation may, by regulations, specify the duties of the owners or the occupiers of the premises in the matter of Collection of solid wastes, and different provisions may be made for premises in different types of occupational uses.

(4) The Corporation shall provide vehicles or other suitable means for removal of solid wastes.

(5) The Corporation shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit of solid wastes including rubbish, carcasses and other offensive matters.

(6) The Corporation may dispose of the solid wastes in such manner as may be approved by the State Government, and at such place within or outside the Corporation area, as it considers suitable:

Provided that no place, which has not been used before the commencement of this Act for the purpose of disposal of solid wastes, shall be so used except in conformity with the provisions of the West Bengal Town and Country (Planning and Development) Act, 1979. (West Ben. Act XIII of 1979).

(7) Notwithstanding anything to the contrary contained in any other law for the time being in force, no employee of the Corporation, who is employed to remove, or otherwise to deal with, different kinds of solid wastes, shall, without giving the Commissioner any notice of his intention so to do or without the permission of the Commissioner, withdraw.

CHAPTER 17 Environmental precautions

301. Procedure In The Case Of Building Deemed Unfit For Human Habitation :-

If, for any reason, any building or portion of a building, intended for, or used as, a dwelling place appears to the Commissioner to be unfit for human habitation, he may, if he considers that the building or the portion thereof can be altered to make it fit for human habitation, by an order in writing require the owner of such building to make such alteration in the building or the portion thereof as he thinks necessary within a period specified in the order. Where the Commissioner considers that the building or the portion thereof cannot be so altered as to make it fit for human habitation or where the building or the portion thereof is not altered as required by the Commissioner, the Commissioner shall take such steps as may be necessary to enforce such order.

302. Warehouse, Godown, Etc. Not To Be Established Without Permission :-

(1) No person shall, without the previous permission of the Commissioner, use or materially alter, enlarge or extend the use of any premises as a warehouse or godown or for running a goods transport business, either by his own carriers or by arrangement with the owners of such carriers.

(2) The Commissioner may refuse to give such permission or impose such conditions as he thinks fit, if, in his opinion, such use would be objectionable due to traffic constraint in the vicinity of such premises or inadequacy of space for parking of vehicles or loading or unloading of goods or would constitute a fire hazard or other nuisance.

303. Factory Etc. Not To Be Established Etc. Without Permission Of Commissioner :-

(1) No person shall, without the previous permission of the Commissioner in writing, establish any premises, or materially alter, enlarge or extend any factory or workshop or work-place, in which it is intended to employ steam, electricity, water or other mechanical power.

(2) The Commissioner may, in accordance with such regulations as may be made by the Corporation, refuse to give permission under sub-section (1), if he is of opinion that the establishment, alteration, enlargement or extension of such premises, factory, workshop or work-place would be objectionable by reason of the density of population in the neighbourhood thereof or would be a nuisance to the inhabitants of the neighbourhood.

304. Eating-House Etc. Not To Be Kept Without Licence :-

(1) No person shall, without, or otherwise than in conformity with the terms of, a licence granted by the Commissioner in this behalf or without payment of such fees as may be determined by the Corporation, keep any eating-house, tea-shop, hotel, boarding-house, bakery, aerated water-factory, ice-factory or other place where food is sold or is prepared for sale.

(2) The Commissioner may, at any time, cancel or suspend any licence granted under sub-section (1), if he is of opinion that the premises covered by such licence is not kept in conformity with the terms of such licence or the provisions of any rules or regulations relating to such premises, whether or not the licensee is prosecuted under this Act.

305. Control Of Theatre, Circus And Place Of Public Amusement :-

No person shall, without, or otherwise than in conformity with the terms of, a licence granted by the Commissioner in this behalf or without payment of such fees as may be determined by the Corporation, keep open any theatre, circus, cinema-house, dancing-hall or similar other place of public resort, recreation or amusement for any gainful purpose:

Provided that the provisions of this section shall not apply to any private performance, or performance for philanthropic purpose, in any such place as aforesaid.

306. Power Of Commissioner To Stop Use Of Premises When Used Without Or Otherwise Than In Conformity With Terms Of Licence :-

If the Commissioner is of opinion that any eating-house, tea-shop, hotel, boarding-house, bakery, aerated water-factory, ice-factory or other place where food is sold or is prepared for sale, or any theatre, circus, cinema-house, dancing hall or similar other place of public resort, recreation or amusement, as the case may be, is kept open without, or otherwise than in conformity with the terms of, a licence granted under section 305, he may, by order in writing stating therein the reasons of such opinion, stop the use of any such premises for such period as may be specified in the order:

Provided that no such order shall be made until the licensee, or the person keeping the premises so open, has been given an opportunity of being heard.

CHAPTER 18 Market and slaughter house

307. Power To Provide And Maintain Municipal Market, Slaughter House And Stockyard :-

(1) The Corporation may own, purchase or take on lease any land or building for the purpose of establishing municipal market or municipal slaughter house or municipal stockyard or improving an existing municipal market, municipal slaughter house or stockyard, and make provisions for maintenance of such municipal market, municipal slaughter house or municipal stockyard.

(2) The Corporation may, after giving general notice, close any municipal market or municipal slaughter house or municipal

stockyard or any portion thereof, and the premises occupied for any municipal market or municipal slaughter house or municipal stockyard or any portion thereof, so closed, shall be vacated by the occupants thereof in accordance with such notice.

308. Power Of Commissioner To Grant Licence For Private Market Etc. :-

No person shall, without, or otherwise than in conformity with the terms of, a licence granted by the Commissioner in this behalf, keep open any private market or wilfully or negligently permit any place to be used as a private market or use any place as a slaughter house or stockyard or for slaughtering of any animal intended for human consumption.

309. Licence For Trade Or Business Of Butcher And Sale Of Meat Etc. Outside Municipal Market Or Private Market :-

No person shall, without, or otherwise than in conformity with the terms, of, a licence granted by the Commissioner in this behalf,-

(a) carry on, within the Corporation area or at any municipal slaughterhouse situated outside the Corporation area, the trade or business of a butcher, or

(b) sell, or expose or hawk for sale, any animal, or any meat or fish, intended for human consumption, in any place other than a municipal market or private market.

310. Levy Of Stallage Rent And Fee :-

The Commissioner may, subject to such terms and conditions as may be fixed,-

(a) charge such stallage rent or fee as may be fixed by the Corporation in this behalf for the occupation or use of any stall, shop-stand, shed, pen or space in a municipal market or municipal slaughter house;

(b) farm the stallage rent or fee, chargeable as aforesaid or any portion thereof, for such period as he may think fit; and

(c) put up to public auction, or dispose of by private sale, the privilege of occupying or using any shop, stall, stand, shed, pen or space in a municipal market or municipal slaughter house.

311. Depot For Sale Of Essential Commodities :-

The Commissioner may subject to such directions as he may receive

from the Corporation on the advice of the State Government, open depots or shops for trading any essential commodities.

312. Licence For Hawking Etc. :-

No person shall, without, or otherwise than in conformity with the terms of, a licence granted by the Commissioner in this behalf,-

- (a) hawk, or expose for sale in any place, any article whatsoever, whether or not such article is for human consumption, or
- (b) use in any place his skill in any handicraft, or render services to the public for their convenience, for the purpose of gain or making a living.

313. Licence For Sale Of Fish, Poultry, Etc. :-

No person shall, otherwise than in conformity with the terms of a licence granted by the Commissioner, and such other provisions as may be made by regulations in this behalf, carry on the trade of a 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.

314. Power To Seize Food Etc. :-

If, upon such inspection or analysis, any food" for consumption is, in the opinion of the Commissioner or any officer or other employee of the Corporation, 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 utensil or vessel is of such kind or in such state as to render any food prepared, manufactured or stored therein unwholesome or unfit for human consumption, he may seize, seal or carry away such food or utensil or vessel.

315. Commercial Projects Of Corporation :-

(1) The Corporation may, with the approval of the State Government, undertake the formulation, execution and running of commercial projects, including market development schemes or industrial estates, in relation to lands and buildings vested in, or in the possession of, the Corporation, or open depots for trading in essential commodities, or maintain terminals for buses or trucks together with commercial complexes, or run tourist lodges or centres along with commercial activities, or carry on similar projects

on commercial basis.

(2) All the provisions of this chapter, so far as they are applicable, shall mutatis mutandis apply to the commercial projects undertaken by the Corporation under this section.

316. Registration Of Manufactory :-

Every manufactory of mustard oil, edible or edible fat or ghee or butter within the Corporation area shall be registered by the owner or the person-in-charge thereof in the office of the Corporation in such manner as the Corporation may direct.

317. Prohibition Of Adulteration In Place, Where Butter, Ghee, Etc. Are Manufactured Or Stored :-

No person shall keep in any shop or place in which milk is stored or in any manufactory, shop or place in which butter, ghee or any other milk product or wheat, flour, mustard oil, tea, edible oil, edible fat, sugar or gur is manufactured or stored, any substance intended to be used for the purpose of adulteration.

318. Place Of Manufacture, Preparation, Etc. For Sale Of Any Drug Or Food To Be Open To Inspection :-

(1) Every place used for manufacture, preparation, storage, or packing for sale of any article of food or drug shall be open at all time for inspection by the officers of the Corporation authorised in this behalf by the Commissioner, and such officers shall have the right to enter into such place for such inspection at all time.

(2) In every place used for manufacture, preparation, storage, or packing for sale, of any article of food or drug, such article of food or drug or any receptacle and material used for such manufacture, preparation, storage or packing shall be protected from dust, flies and other insects by such measures as may be specified by the Corporation in this behalf.

319. Licence For Keeping Shop Or Place For Retail Sale Of Drug :-

(1) No person shall keep any shop or place for retail sale of drugs, not being articles of ordinary domestic consumption, without, or otherwise than in conformity with the terms of, a licence granted by the Commissioner.

(2) Every person to whom a licence is granted under sub-section

(1) in respect of any shop or place shall display it in some conspicuous part of such shop or place.

320. Corporation To Take Measures For Prevention And Checking Of Dangerous Disease :-

It shall be the duty of the Corporation to take such measures as are necessary for preventing or checking the spread of any dangerous disease in the Corporation area or of any epidemic disease among any animals therein.

321. Obligation To Give Information About Dangerous Disease :-

Any person being in charge of, or attending, whether as a medical practitioner or otherwise, any person whom he knows or has reasons to believe to be suffering from a dangerous disease, shall forthwith give information regarding the existence of such disease to the Commissioner.

CHAPTER 19 Restraint of infection

322. Power Of Commissioner To Inspect Places And To Take Measures To Prevent Spread Of Dangerous Disease :-

The Commissioner or any person authorised by him in this behalf may, at any time by day or by night without notice or after giving such notice as may, in the circumstances appear to him to be reasonable, inspect 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 to this effect.

323. Power Of Commissioner To Disinfect Building, Tank, Pool Or Well :-

If the Commissioner or any person authorised by him in this behalf is of opinion that the cleaning or disinfecting of any building or any part of a building or any article therein which is likely to retain infection or of any tank, pool or well adjacent to a building which is likely to prevent or check the spread of any dangerous disease, he may cleanse or disinfect such building or part thereof, or article, or tank, pool or well and may, by a notice in writing, require the

occupier of such building or any part thereof to vacate such building or part thereof for such period as may be specified in the notice.

324. Measures To Prevent Spread Of Dangerous Disease :-

(1) If the Commissioner is of opinion that the water in any well, tank or other place is, if used for drinking, likely to endanger such well, tank or other place or to cause the spread of any disease, he may, by public notice, prohibit the lifting of such water from such well, tank or other place for drinking and, by a notice in writing, require the owner or the person having control of such well, tank or other place to take such steps as he may consider expedient to prevent the public from having access to, or from using, such water.

(2) If the Corporation area or any part of it is visited with, or threatened by, an outbreak of any dangerous disease, the Commissioner may, by a public notice, restrict or prohibit the sale or preparation of any article of food or drink for human consumption.

CHAPTER 20 Registration of births and deaths and disposal of the dead

325. Registration Of Births And Deaths :-

Subject to the provisions of the Registration of Births and Deaths Act, 1969 (18 of 1969), the Corporation shall cause registration of births and deaths taking place within the Corporation area, and extracts of information therefrom shall, on application, be supplied, free of charge, if the event of such birth or death is registered within the period specified in section 326 or section 328, as the case may be. If registration is not done within the period as aforesaid, such registration shall be done under the provisions of section 13 of the Registration of Births and Deaths Act, 1969.

326. Information About Birth :-

It shall be the duty of the father or the mother of every child born within the Corporation 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 such officer as may be empowered by the Commissioner in the

Corporation area in this behalf, within twenty-one days from the date of birth of the child, information containing such particulars as are required under the Registration of Births and Deaths Act, 1969, or the rules made thereunder: Provided that-

(a) in the case of an illegitimate child, no person shall be required under this Act to give, as father of such child, any information 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 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 a hospital or nursing home or 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 within such time and in such form as may, from time to time, be specified by the State Government.

327. Information About Finding New-Born Child :-

In case any new-born child is found exposed, it shall be the duty of every person who finds such child or in whose charge such child may be placed to give, to the best of his knowledge and belief, to the officer empowered under section 343, within twenty-one days from the date of finding such child or from the date of having been placed with the charge of such child, as the case may be, such information containing the particulars of birth of such child as such person possesses.

328. Information About Death :-

It shall be the duty of the nearest relation of a person present at the time of death of such person or in attendance during the last illness of such person dying in a premises within the Corporation area and, in default of such relation, of any person present or in attendance at the time the death occurred (hereinafter referred to as the latter) and, in default of the latter, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of to give, to the best of his

knowledge and belief, to the officer specially empowered in this behalf for the area within which the death took place, information containing such particulars as may be required under the Registration of Births and Deaths Act, 1969 (18 of 1969), and the rules made thereunder, within twenty-one days from the date of its occurrence:

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 a 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 office-in-charge thereof to forward forthwith a report of such death in such Form as may be specified by the State Government.

329. Medical Practitioner To Certify Cause Of Death :-

In the case of a person who had been attended in his last illness by a duly qualified medical practitioner, such practitioner shall, within three days of his becoming cognizent 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 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.

330. Duties Of Police In Regard To Unclaimed Corpse :-

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.

331. Sextons Etc. Not To Bury Etc. Corpse :-

No sexton or keeper of a registered burial or burning ground or any other place for disposal of the dead, whether situated within the Corporation 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 authorised by the State Government in this behalf.

332. Registration Of Places For Disposal Of The Dead :-

(1) Every owner or keeper of a place not vested in, or owned by, the Corporation or a Board appointed by the State Government for the administration of such place, which is used for burying, burning or otherwise disposing of the dead, shall cause such place to be registered in a register which shall be kept by the Commissioner and shall deposit in the office of the Corporation at the time of registration a plan of such place prepared by a surveyor.

(2) All burial and burning grounds, public or private, shall be registered in the book of the Corporation in such manner as may be determined by regulations.

(3) The provisions of this chapter shall be subject to the provisions of the Registration of Births and Deaths Act, 1969 (18 of 1969).

CHAPTER 21 Preparation of Draft Development Plan

333. Preparation Of Draft Development Plan :-

(1) The Corporation shall prepare a Draft Development Plan for the Corporation area in consultation with the concerned District Planning Committee for a period of five years, and shall submit to the Urban Development Sub-Committee at least one year before completion of the term of the preceding Draft Development Plan:

Provided that the Corporation shall prepare the first Draft Development Plan in accordance with the directions of the District Planning Committee.

(2) The Draft Development Plan for the Corporation area shall be a written statement, and shall include-

(a) the schemes of the Corporation 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 Corporation thinks fit for the improvement of the physical environment;

(b) detailed and specific scheme of the Corporation for conducting development programmes on all or any of the points specified in subsections (1), (2) and (3) of section 97, section 98 and subsection (2) of section 99;

(c) such maps and diagrams as the Corporation 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 watercourses,
 - (iv) protection of land surface through which sub-soil water sources are re-charged,
 - (v) provisions for drainage network and outfalls,
 - (vi) provisions of dumping grounds for solid wastes disposal,
 - (vii) street alignment,
 - (viii) provisions 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 purpose of safety, disinfection density control or pollution control;
 - (g) scheme for environmental improvement by way of restriction on falling of trees, planting of new trees and flowering of plants in public places and adding of house-greenery 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 benefit of development activities are reaped by the public institutions for community-welfare and not by private individuals for speculative gains,
- (3) If the preceding Draft Development Plan has not been fully implemented, a statement shall be annexed with the Draft Development Plan, showing the quantum of work not implemented and the reason of such non-implementation.

334. Financial Statement In Regard To Draft Development Plan :-

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 Corporation with sourcewise break-ups, and
 - (ii) corporate sector or household sector;
- (b) the following particulars in detail:-
 - (i) credit plan or terms and conditions of availing of the finance from corporate sector or household sector, and

(ii) sources of fund for repayment of credit, if taken from corporate sector or household sector and the manner of repayment; and
(c) if the Corporation thinks it proper to transfer any function of the Corporation in relating to the implementation of the Draft Development Plan to any organisation, including Government organisation within the meaning of section 100, 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.

335. Modification Of Draft Development Plan :-

The Corporation 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.

336. Annual Development Plan :-

(1) The Corporation 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 said Annual Development Plan 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 333 and section 334 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 Corporation shall, within six months from the date of receipt of plan grant under sub-section (3) of section 70, submit a report, stating the progress of work towards implementation of the Annual Development Plan, either in full or in part, for which the said grant was sanctioned.

(5) The Corporation 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.

CHAPTER 22 Corporation in hill areas

337. Application Of The Act To Corporation In Hill Areas :-

Notwithstanding anything contained elsewhere in this Act, but subject to the proviso to subsection (5) of section 1, the provisions of this chapter shall apply to the Corporation 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 Corporation.

338. Extension Of Definitions Of "Drain" And "Masonry Building" :-

(1) The word "drain", as defined in clause (30) of section 2, shall, in the case of the Corporation in the hill areas, include a jhora or watercourse of natural drainage line, and the State Government may, for the purposes of this Act, specify, by notification, the limits of any jhora, watercourse, channel, or natural drainage line within a municipal area in the hill areas.

(2) For the purposes of this chapter, the expression "masonry building", as defined in clause (55) of section 2, shall include a framed building.

339. Definitions :-

In the Chapter-

- (i) "Government road" means a road, street, square, court, alley, or passage, maintained by the Central Government or the State Government or at the public expense;
- (ii) "private bridge" means any bridge which is not a public bridge as defined in clause (v);
- (iii) "private drain" means any drain which is not public drain as defined in clause (vi);
- (iv) "private road" means any road, street, square, alley, or passage, which is not a public road as defined in clause (vii) or Government road as defined in clause (i);
- (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 Corporation;
- (vi) "public drain" means any drain which is vested in the Corporation;

(vii) "public road" means a "public street" as defined in clause (82) of section 2, but does not include a Government road as defined in clause (i).

340. Absolute Closing Of Public Road :-

(1) If it appears to the Commissioner 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 Commissioner may, by a 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 the public notice under sub-section (1) in respect of any public road or part thereof, the Corporation 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 Corporation may determine:

Provided that if the Corporation 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 the 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 Corporation may decide.

341. Power To Close Private Road :-

If it appears to the Commissioner 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 a notice in writing, 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.

342. Power To Close Temporarily Public Road Or Part Of Public Road For Repair Or Other Purpose :-

The Commissioner 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 Commissioner shall provide a reasonable means of access to persons occupying holdings adjacent to such public road or part of such public road.

343. Control Over Private Road And Bridge :-

All private roads and bridges shall be subject to the inspection and control of the Corporation.

344. Control Over Construction Or Alteration Of Private Road :-

(1) Every person who intends to construct, reconstruct or alter a private road shall send to the Commissioner an application for permission to execute the work of construction, reconstruction or alteration, as the case may be, of such private road.

(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 Commissioner or by an office authorised by him in this behalf.

(4) The permission referred to in sub-section (1) may be granted or refused or may be granted subject to such condition as the Commissioner may think fit to impose in accordance with such rules as may be made in this behalf.

(5) No work of construction, reconstruction or alteration of a private road, referred to in sub-section (1), shall be commenced without the permission, in writing, of the Commissioner.

345. Reconstruction Etc. Of Private Road :-

If it appears to the Commissioner 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 a notice in writing, require the owner of such private road,-

(a) to reconstruct, regrade, divert, alter, or repair such private road, or

- (b) to construct a revetment for 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.

346. Providing Waterway On Private Road Or Enlargement Of Waterway On Private Road :-

If it appears to the Commissioner that it is necessary to provide any waterway on any private road or to enlarge any waterway on any private road, he may, by a notice in writing, require the owner of such private road-

- (a) to provide and maintain such waterway, or
- (b) to enlarge the existing waterway, as the case may be.

347. Rules As To Construction Etc. Of Private Road Etc. :-

Whenever any private road is to be constructed, reconstructed, regraded, diverted, altered, or repaired, or whenever any waterway on any private road is to be provided 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.

348. Removal Of Obstruction On Public Road Or Private Road Or Drain :-

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 road or private road or drain, the Commissioner may cause the obstruction to be removed and take all measures incidental thereto, and recover the expenses thereof from the owner of such premises, unless such owner himself causes the obstruction to be removed.

349. Control Over Construction, Or Alteration, Of Private Drain :-

- (1) Every person, who intends to construct, reconstruct, alter, stop up, or obstruct any private drain, shall send to the Commissioner 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 may be granted subject to any conditions which the

Commissioner may think fit to impose in accordance with such rules as may be made in this behalf.

(4) No construction, reconstruction, alteration, or stoppage of, or obstruction to, any private drain shall be commenced without the permission, in writing, of the Commissioner.

350. Reconstruction, Repair, Etc. Of Private Drain, Roof-Gutter, Etc. :-

(1) The Commissioner may, by a notice, in writing, 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 the direction, of such drain, or
- (c) to provide for such drain or such movable cover or grating as may be specified in the notice, or
- (d) to carry such drain to such point of outlet, or to such junction with some other drain, as may be specified in the notice.

(2) The Commissioner may, by a notice, in writing, require the owner, or the occupier, of any building-

- (a) to provide, and to maintain, a sufficient number of suitable roof-gutters and downpipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified in the notice, or
- (b) to renew, alter, repair, or remove any roof-gutters, pipes, or platforms already provided for the building.

(3) The roof-gutters as aforesaid shall be of such dimensions, and shall have such slope, and the downpipes as aforesaid shall be of such dimensions, and the bends in such downpipes shall be made at such angles, as may be prescribed.

351. Power To Require Owner Of Land Or Building To Provide Drain :-

If any land or building is not drained to the satisfaction of the Commissioner, he may, by a notice, in writing, require the owner of such land or building to provide a drain therefor at such inclination, and to such point of outlet or junction with some other drain, as may be specified in the notice.

352. Combination Of Drainage Of Land Or Building Belonging To Different Owners :-

(1) If it appears to the Commissioner 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 Commissioner may cause such land or building to be drained, or the drainage thereof to be improved, in such manner as he may consider fit.

(2) The Commissioner 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 for carrying out the provisions of sub-section (1) or sub-section (2), as the case may be, shall be paid by the owner of the land or the building, as the case may be, in proportion to the benefit derived by him, and in such manner as may be determined by the Corporation.

353. Building Etc. Threatening Stability Or Security Of Hill-Side Or Bank Or Immovable Property Thereon :-

If it appears to the Commissioner that any building or portion of a building or anything 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 Commissioner may, by a notice, in writing, 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, portion, 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 to 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.

354. Safety Of Building Threatened By Hillside Or Bank :-

If it appears to the Commissioner that the condition or situation of any hillside or bank, being private property, is such as threatens the safety of any building (hereinafter referred to as unsafe building) or the safety of such unsafe building cannot be ensured by taking action under any other provision of this Act or such

unsafe building threatens the safety of some other building, he may, by a notice, in writing, require the owner of such unsafe building-

- (a) to take down the unsafe building and remove the materials, or
- (b) to secure the unsafe 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 a notice in writing, require the owner of the other building to secure such other 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.

355. Construction Etc. Of Revetment Etc. On, Or Turfing Or Sloping Of Private Land :-

(1) If it appears to the Commissioner 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 Commissioner may, by a notice, in writing, 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 Commissioner within fifteen days of 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 Commissioner 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 Commissioner may direct.

356. Execution Of Work In Combination :-

If it appears to the Commissioner 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 Commissioner 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 proportions as the Commissioner may direct.

357. Construction, Re-Construction, Etc. Of Revetment, Retaining Wall, Etc. On Private Land :-

The Commissioner 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 Corporation with the owner of such private land in such proportion as the Commissioner may direct

358. Rules Of Construction Etc. Of Revetment Etc. :-

Whenever any revetment, retaining-wall or toe-wall is required to be constructed, reconstructed, enlarged, strengthened, altered or repaired, or any land is required 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.

359. Prohibition Of Occupation Of Unsafe Or Insanitary Building :-

(1) If it appears to the Commissioner that any building or the site thereof is, in consequence of its condition or situation with reference to any hillside or bank, unsafe, he may, by a notice, in writing, prohibit the owner of such building or site thereof 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 Commissioner.

(2) If it appears to the Commissioner that the drainage of, or the latrine accommodation provided for, any masonry or framed building is defective, it may, by a notice, in writing, prohibit the owner of such building from letting the building for occupation until the defect has been remedied to its satisfaction.

360. Power Of Corporation To Make Regulations For Hill Areas :-

(1) In addition to any rule that the State Government may make under this Act, the Corporation in the hill areas may, at a meeting, make regulations-

(a) prohibiting the cutting or destroying of trees, shrubs, or 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 bypaths, and general protection of the surface land on any hillside, where such regulations appear to the Corporation to be necessary for the maintenance of water-supply, preservation of soil, preservation of landslips 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 licences necessary within the Corporation area for animals, vehicles and other conveyances let out on hire for a day or part thereof;

(d) prescribing the conditions subject to which licences as aforesaid 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 other matter 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 (1 of 1871).

CHAPTER 23 Rules and Regulations

361. Power To Make Rules :-

(1) The State Government may, after previous publication in the Official Gazette, 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 provisions of this Act are required to be prescribed or to be provided for by rules.

(3) Notwithstanding anything contained in the foregoing provisions of this section or elsewhere in this Act, till such time as the State

Government makes rules under this Act providing for all or any of the matters, the rules under the West Bengal Municipal Act, 1993 (West Ben. Act XXII of 1993), the Howrah Municipal Corporation Act, 1980 (West Ben. Act LVIII of 1980), or the Kolkata Municipal Corporation Act, 1980 (West Ben. Act, LIX of 1980), providing for all or any of the similar matters may be made applicable to the Corporation by the State Government to such extent and with such modifications as the State Government may, by notification, specify.

(4) 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 modifications 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, and shall, unless some later date is appointed by the State Government, come into force on the date of such publication.

362. Power Of Corporation To Make Regulations :-

(1) The Corporation may make regulations, not inconsistent with the provisions of this Act or the rules made thereunder, for discharging its functions under this Act.

(2) No regulation made by the Corporation under this Act shall have any validity unless and until it is approved by the State Government.

(3) Before approving any such regulation, the State Government may modify, it.

363. Penalty For Breach Of Regulations :-

(1) Any regulation made under this Act may provide that a contravention thereof shall be punishable-

(a) with fine which may extend to two thousand and five hundred rupees; or

(b) with fine which may extend to two thousand rupees and, in the case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the such contravention; or

(c) with fine which may extend to one hundred rupees for every day during which the contravention continues after receipt of a notice from the Commissioner or any other officer of the

Corporation, duly authorised by the Commissioner, in this behalf, by the person contravening the regulation, requiring such person to discontinue such contravention.

(2) Any such regulation may also provide that a person contravening the regulation shall be required to remedy, in so far as it lies within his power, the mischief, if any, caused by such contravention.

364. Power Of State Government To Cancel Or To Modify Regulations :-

(1) If the State Government is, at any time, of opinion that any regulation made by the Corporation should be cancelled or modified, either wholly or in part, it shall cause the reasons for such opinion to be communicated to the Corporation, and shall specify a period within which the Corporation may make any representation with regard thereto.

(2) After the expiry of such period and on consideration of the representation of the Corporation, if any, the State Government may, at any time, by notification, cancel or modify such regulation, either wholly or in part.

(3) Any notification under sub-section (2) shall be published in local newspapers.

365. Power To Amend Schedule :-

The State Government may by notification, add to, amend, or alter, any Schedule to this Act.

CHAPTER 24 Delegation, co-ordination and control

366. Delegation Of Power By The State Government :-

(1) The State Government may, subject to such conditions or restrictions as it may deem fit to impose, by notification, delegate to the Director of Local Bodies, appointed under any law for the time being in force, any of the powers vested in, or the functions imposed on, the State Government by or under this Act, and thereupon, the Director of Local Bodies shall exercise such powers or perform such functions as if he were the State Government.

(2) The State Government may, by notification, authorise one or more Deputy Directors of Local Bodies or Assistant Directors of Local Bodies, appointed under any law for the time being in force, to exercise the powers, and perform the functions, of the Director

of Local Bodies.

(3) Notwithstanding anything contained in this chapter, the State Government may authorise a District Magistrate or a Sub-divisional Magistrate to exercise any of the powers, or perform any of the functions, within his jurisdiction on matters delegated under sub-section (1) or sub-section (2).

367. Supervision By Director Of Local Bodies :-

(1) The Director of Local Bodies, in addition to the powers or functions delegated to him by or under this Act may-

- (a) inspect, or cause to be inspected, any immovable property owned, used or occupied by the Corporation or any work in progress under the direction of any authority of the Corporation;
- (b) inspect or examine any department of the Corporation, or any office, service, work or thing under the control of the Corporation;
- (c) record, in writing, for the consideration of the Corporation, any observation he thinks proper in regard to the proceedings or duties of the Corporation.

(2) For the purpose of any inspection or examination under sub-section (1), the Director of Local Bodies may require the Commissioner or any officer of the Corporation-

- (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 Commissioner or the officer of the Corporation, as the case may be, shall comply with such requisition.

368. Power Of State Government To Call For Document, Return Or Information From Commissioner Or Any Officer Of Corporation :-

The State Government may, at any time,-

- (a) call for any document in the possession, or under the control, of the Commissioner or any officer of the Corporation;
- (b) require the Commissioner or any officer of the Corporation to furnish any return, plan, estimate, statement, account, report, or statistics, or any information whatsoever.

369. Inspection Of Works Or Institution Constructed Or

Maintained By Corporation, Or Register, Book Etc. Of Corporation, By Officers Of State Government :-

Any work or institution constructed or maintained, or any programme undertaken in whole or in part, at the expense of the Corporation, and all registers, books, accounts or other documents relating thereto, shall, at all times, be open to inspection by such officers of the State Government as that Government may appoint in this behalf.

370. Power Of State Government To Annul Proceedings Etc. Of Corporation Or To Prohibit Passing Of Order Etc. By Corporation :-

(1) The State Government may, after giving the Corporation a reasonable opportunity of being heard, annul any proceeding or resolution or order of the Corporation which that Government 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 Corporation, the State Government may suspend the operation of such proceeding or resolution or order.

(2) That State Government may, on receiving any information that the Corporation is about to pass an order, or instruction, or to implement any act, in excess of any power conferred on it by this Act, forthwith prohibit the passing of such order, or instruction, or implementation of such act, and such prohibition shall be binding on the Corporation :

Provided that the State Government shall immediately thereafter give an opportunity to the Corporation to make its representation, if any, in the matter, and, on receipt of such representation, if any, the State Government shall give its final order with reasons in writing.

371. Directions By The State Government :-

In the discharge of their functions, the Corporations shall be guided by such directions as may be given to them by the State Government in conformity with the provisions of this Act.

372. Power Of State Government To Require Corporation To Perform Its Duty In Case Of Default :-

(1) If, at any time, it appears to the State Government that the Corporation has made default in performing any duty 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) If such duty is not performed within the period so fixed, the State Government may appoint its own agency to perform such duty and may direct that the expenses of performing such duty shall be paid to such agency from the Municipal fund within such time as that Government may fix.

373. Special Provision In Case Of Prohibitory Order Of Court :-

Where, by reason of any order of a competent court, the Corporation is unable to exercise the powers, or to perform the duties, or to 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 person or persons to exercise the powers, or to perform the duties, or to discharge the functions, or 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.

374. Co-Ordination Of Planning And Development :-

(1) The State Government may require the Corporation to be integrated with such authorities at the level of district, region or State for the purposes of co-ordination of planning and development as that Government may deem fit and proper.

(2) When so require, it shall be the duty of the Corporation to participate in such process of co-ordination in accordance with such procedure as the State Government may determine.

375. Meeting Of Citizens Within The Jurisdiction Of Borough Commit Tee :-

(1) The Corporation shall convene a meeting of the citizens in each area covered by a Borough Committee once a year for placing its annual administration report and annual financial statement for public information and deliberation thereon.

(2) The views of the citizens on the said report and the said

statement-shall be recorded and considered in such manner as may be prescribed.

376. Members And Officers And Other Employees To Be Public Servants :-

All the members, and officers and other employees, of the Corporation 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, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860), and the definition of "legal remuneration" in section 161 of that Code, the word "Government" shall, for the purposes of this section be deemed to include the Corporation.

377. Power Of State Government To Direct Officers And Other Employees Of State Government To Work Under Corporation :-

(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 the Corporation to exercise any power or to perform any function or to discharge any duty, or

(b) upon the transfer to the Corporation of any function, or control and management of any property,

under any provision of this Act, the State Government shall, subject to such conditions as it may deem fit to impose, place at the disposal of the Corporation the services of such officers and other employees of the State Government to work under the supervision of the Corporation as may be necessary, to enable the Corporation to exercise such power or to perform such function or to discharge such duty, as the case may be.

(2) The officers and other employees, whose services are so placed at the disposal of the Corporation, 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 Corporation shall make reference to the State Government for appropriate action.

(3) Where any power or function or duty as conferred or imposed

on the Corporation 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.

378. Power Of State Government To Require Corporation To Avail Of Services Of Municipal Engineering Directorate Etc.

:-

(1) The State Government may require the Corporation to avail of the services of the Municipal Engineering Directorate of the State Government, or the Kolkata 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, who shall discharge his functions in such manner as the State Government may decide.

379. Corporation To Participate In Training And Research Programmes Of Institute Of Local Government And Urban Studies :-

(1) The State Government may require the Corporation 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 Corporation functionaries and personnel.

(2) It shall be obligatory on the part of the Corporation 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.

380. Financial And Technical Help To Corporation By Hill Council In Hill Areas :-

Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force, the Hill Council may provide to the Corporation in hill areas such financial and technical

assistance as it may require in any emergent circumstances.

381. Appointment Of Officer Of State Government For Corporation To Provide Support Service To Corporation :-

Notwithstanding anything contained elsewhere in this Act, the State Government may, in consultation with the Mayor, appoint, from its own cadre, an officer to be posted for the Corporation 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 Corporation.

382. Dispute :-

If any dispute arises on any matter between the Corporation and any other local authority, such dispute shall be referred to the State Government whose decision thereon shall be final and shall not be questioned in any court.

383. 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 under the Siliguri Municipal Corporation Act, 1990 (West Ben. Act XXX of 1990), or the Asansol Municipal Corporation Act, 1990 (West Ben. Act XXXI of 1990), or the Chandernagore Municipal Corporation Act, 1990 (West Ben. Act XXXII of 1990), or the Durgapur Municipal Corporation Act, 1994 (West Ben. Act LIII of 1994), or the West Bengal Municipal Act, 1993 (West Ben. Act XXII of 1993), or the West Bengal Panchayat Act, 1973 (West Ben. Act XLI of 1973), by or against the Corporation constituted under this Act may be continued or instituted by the Corporation.

(2) For the purposes of any suit or other legal proceeding referred to in subsection (1), and of all matters incidental thereto, the powers and the duties of the Councillors or the Board of Councillors of the Siliguri Municipal corporation, the Asansol Municipal Corporation, the Chandernagore Municipal Corporation, or the Durgapur Municipal Corporation, as the case may be, constituted under the Siliguri Municipal Corporation Act, 1990 or the Asansol Municipal Corporation Act, 1990 or the Chandernagore Municipal Act, 1990, or the Durgapur Municipal Corporation Act, 1994, as the

case may be, shall vest in the Corporation 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 Siliguri Municipal Corporation Act, 1990 or the Asansol Municipal Corporation Act, 1990 or the Chandernagore Municipal Corporation Act, 1990 or the Durgapur Municipal Corporation Act, 1994, as the case may be.

CHAPTER 25 Miscellaneous provisions

384. Penalties :-

Whoever contravenes any provision of any section, subsection, or clause, or any proviso to any section, sub-section, or clause, of this Act mentioned in column 1 of Schedule V shall be punishable with fine which may extend to the amount, or with imprisonment for a term which may extend to the period, specified in column 3 of the said Schedule, or with both, and, in the case of 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 of such contravention or failure after conviction for the first such contravention or failure.

385. Acquisition Of Property :-

The Corporation shall, for the purposes of this Act, have the power to acquire and hold movable or immovable property or any interest therein, whether within or outside the limits of the Corporation area.

386. Inventory Of Property :-

The Commissioner shall maintain an inventory of movable and immovable properties of the Corporation in such form and manner as may be determined by the Corporation by regulations.

387. Disposal Of Property :-

The Corporation may dispose of, by sale or otherwise, any movable or immovable property belonging to the Corporation in such manner as may be prescribed.

388. Entry And Inspection :-

(1) Subject to the provisions of the Code of Criminal Procedure, 1973 (2 of 1974), in identical matters, the Commissioner or any other officer or other employee of the Corporation, authorised by the Commissioner or empowered under this Act in this behalf, may enter into or upon any land or building with or without assistance for the purpose of enquiry, inspection, execution of any work or discharge of any function authorised under this Act or the rules or the regulations made thereunder.

(2) It shall be lawful for the Commissioner or any person authorised by him in this behalf to make forcible entry into any land or building or break open any door, gate or other barrier, if the same is considered necessary for carrying out the purposes of this Act, after calling upon two or more respectable inhabitants of the locality to witness such entry or opening.

389. Police-Officers To Assist The Corporation, Commissioner, Etc. :-

It shall be the duty of every police-officer in or outside the Corporation area to assist the Mayor, the Corporation, the Councillors, the Commissioner or any other officer or other employee of the Corporation in the exercise of the powers, and in the discharges of the duties and the functions, under this Act or the rules or the regulations made thereunder as and when such assistance is called for.

390. Removal Of Difficulty :-

If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, as occasion may require, by order, do or cause to be done anything which may be necessary for removing the difficulty.

391. Notice Etc. To Fix 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 time for doing such thing.

392. Signature On Notice Etc. To Be Stamped :-

(1) Every licence, permission, in writing, notice, bill, summons or

other document which is required by this Act or the rules or the regulations made thereunder to bear the signature of the Commissioner or any other officer of the Corporation, shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or such other officer, as the case may be, stamped thereupon.

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

393. Notice Etc. To Be Served Or Issued By Officer Or Other Employee Of Corporation Or By Person Authorised By Commissioner :-

Every notice, bill, summons or other document required by this Act or the rules or the regulations made thereunder to be served to be served upon, or issued to, any person shall be served or issued by an officer or other employee of the Corporation or by any person authorised by the Commissioner in that behalf.

394. Service Of Notice Etc. :-

(1) Every notice, bill, summons 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 Corporation or by any of the municipal authorities referred to in section 9 or any officer or other employee of the Corporation 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 company or the secretary or the manager of the company at its registered office or at its principal office or place of business and is either-

(i) sent by registered post, 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 firm, 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 either-

(i) sent by registered post, or

(ii) delivered at the said place of business;

(c) where the person to be served is a public body, corporate body, society or any other body, if the document addressed to the

Secretary, Treasurer or other office or officer-bearer of such public body, corporate body, society or any other body at its principal office, and is either-

(i) sent by registered post, or

(ii) delivered at the office;

(d) in any other case, if the document is 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, if within the Corporation area, or is given or tendered to some conspicuous part of the land or the building, if any, to which it relates, or

(iii) is sent by registered post to such person.

(2) Any 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 in 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 document is served on a partnership firm under this section shall be deemed to be duly served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any premises, the Commissioner may, by a 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 document is to be served is a minor, the service upon his guardian or any adult member of his family shall be deemed to be service upon the minor.

(6) Nothing in this section shall apply to any summons issued under this Act by any court.

(7) A servant shall not be deemed to be a member of the family within the meaning of this section.

395. Cognizance Of Offences :-

All offences under this Act or the rules or the regulations made thereunder, whether committed within or outside the Corporation

area, shall be cognizable by any Judicial Magistrate having jurisdiction and such Magistrate shall not be deemed to be incapable of taking cognizance of any such offence or of any offence under any law, repealed by this Act, by reason only of his being-

(a) liable to pay under this Act any property tax or other tax of fee or charge; or

(b) benefited by the Municipal Fund.

396. Limitation Of Time For Prosecution :-

(1) No person shall be liable to any punishment for an offence under this act or the rules or the regulations made thereunder unless a complaint of such offence is made, before a Judicial Magistrate having jurisdiction, within six months next after- la) the date of commission of such offence, or

(b) the date on which the commission or the continuance of such offence is first brought to the notice of the Corporation or the Commissioner.

(2) For the avoidance of doubt, it is hereby declared that any failure to take out a licence under this Act until the expiration of the period for which such licence is required to be taken or to obtain a certificate of enlistment under section 141 shall, for the purposes of sub-section (1), be deemed to be a continuing offence.

397. 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 legal keeper thereof or other person authorised by the Commissioner in this behalf, be admissible in evidence of the existence of such application, plan, notice, order, document or entry.

398. Councillors And Commissioner Of Corporation To Be Public Servants :-

Every Councillor and the Commissioner of the Corporation shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860), and in the definition of "legal remuneration" in section 161 of that Code, the word "Government" shall, for the purposes of this section, be deemed to include the Corporation.

399. Occupier To Carry Out Work In Place Of Owner :-

When the Commissioner requires the owner of any premises to carry out any work, he may, if he considers it desirable so to do, required the occupier of the said premises to carry out such work, and the occupier shall be bound to comply with such requisition:

Provided that except in the case of a special agreement to the contrary, such occupier may deduct the amount of the expenses reasonably incurred or paid by him in respect of such work from the rent payable to the owner or may recover the same from the owner in any court of competent jurisdiction.

400. Prohibition Of Nuisance :-

No person shall,-

(1) save with the permission, in writing, of the Commissioner and in such manner as he may authorise, store or use night-soil, cowdung, manure, rubbish or any other substance emitting an offensive smell;

(2) use or permit to be used any premises for any purpose which is, in the opinion of the Commissioner, dangerous to life, health or property or likely to create a nuisance on any land or building or workshop or workplace. The Commissioner or any officer empowered by him may, by a notice, in writing, require the person or persons by whose act, default or sufferance the nuisance arises or continues or the owner, lessee or occupier of the land, building, workshop or workplace to remove or abate the nuisance by taking such measure, in such manner, and within such period, as may be specified in the notice and, in default of compliance with the requisition or the notice, the offender may be imprisoned for a term which may extend to three months or fined to the extent of rupees five hundred and, in the case of continuing offence, daily fine of rupees fifty.

401. Power Of Commissioner To Remove Dangerous Building Etc. :-

Where any building or wall, or anything affixed thereto, or any well, tank, reservoir, pool, depression or excavation or any branch of tree is, in the opinion of the Commissioner, dangerous to persons passing by or dwelling or working in the neighbourhood, the Commissioner may, by a notice, in writing, require, the owner or the occupier thereof to remove the same or may require him to

repair, protect or enclose the same in such manner as he thinks necessary and if the danger is, in the opinion of the Commissioner, imminent, he shall forthwith take such steps as he thinks necessary to avert the danger. And, on failure of compliance with the notice for removal and abatement of the nuisance or the danger, the offender may be punished with imprisonment for a term which may extend to three months or with fine to the extent of rupees five hundred and, in the case of continuing offence, with daily fine of rupees fifty.

402. Heritage Conservation Committee :-

(1) The Corporation shall constitute a Committee to be called the Heritage Conservation Committee with the Mayor as its Chairman and the Commissioner 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 historian, and

(g) one shall be the concerned Executive Engineer of the Municipal Engineering Directorate, or an Engineer of the Corporation, or an Executive Engineer of any Development Authority as may be nominated by the State Government in this behalf.

(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 subsection (1), shall send all its proposals relating to heritage building or site to Heritage Commission constituted under the West Bengal Heritage Commissioner Act, 2001 (West Ben. Act IX of 2001).

403. Cessation Of Application Of West Ben. Act Xli Of 1973, West Ben. Act Xxii Of 1993, West Ben. Act Xxx Of 1990, West Ben. Act Xxxi Of 1990, West Ben. Act Xxxii Of 1990, And West Ben. Act Liii Of 1994 :-

(1) With effect from the date of commencement of this Act, the

provisions of the West Bengal Panchayat Act, 1973, the West Bengal Municipal Act, 1993, the Siliguri Municipal Corporation Act, 1990, the Asansol Municipal Corporation Act, 1990, the Chandernagore Municipal Corporation Act, 1990, and the Durgapur Municipal Corporation Act, 1994, shall cease to apply to any area constituted, or deemed to have been constituted as a Corporation area under this Act and shall cease to be in force in such area.

(2) Notwithstanding the provisions of sub-section (1), the Siliguri Municipal Corporation, or the Asansol Municipal Corporation, or the Chandernagore Municipal Corporation, or the Durgapur Municipal Corporation, constituted under the Siliguri Municipal Corporation Act, 1990, or the Asansol Municipal Corporation Act, 1990, or the Chandernagore Municipal Corporation Act, 1990, or the Durgapur Municipal Corporation Act, 1994, as the case may be, shall, with effect from the date of commencement of this Act, be deemed to have been constituted under this Act, and, in respect of every such Corporation,-

(a) every Councillor 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 Councillor for the unexpired portion of the term of office of the Councillor under any law in force immediately before the coming into force of this Act under which he was elected to be a Councillor or until 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 Councillors, if any, shall be deemed to be the Board of Councillors under this Act;

(c) the Mayor, the Chairman, the Deputy Mayor, the Leader of the Opposition, the Municipal Accounts Committee, the Borough Committee, the Ward Committee, and the special committees, if any, continuing in office on the date immediately before the date of commencement of this Act shall be deemed to be the Mayor, the Chairman, the Deputy Mayor, the Leader of the Opposition, the Municipal Accounts Committee, the Borough Committee, the Ward Committee, and the special committees, if any, under this Act;

(d) every 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 West Bengal Panchayat Act, 1973, or the West Bengal Municipal Act, 1993, or the Siliguri Municipal Corporation Act, 1990, or the Asansol Municipal Corporation Act, 1990, or the Chandernagore Municipal Corporation Act, 1990, or the Durgapur Municipal Corporation Act,

1944, and in force immediately before the commencement of this Act, shall, at the date of commencement of this Act, 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;

(e) all properties, movable or immovable, and all rights and interest of whatever kind, owned by, or vested in, any Gram Panchayat, or Municipality, within the area of, or owned by, or vested in, the Siliguri Municipal Corporation or the Asansol Municipal Corporation or the Chandernagore Municipal Corporation or the Durgapur Municipal Corporation, as the case may be, under any law in force immediately before the commencement of this Act, be deemed to be owned by, or vested in, the Siliguri Municipal Corporation or the Asansol Municipal Corporation or the Chandernagore Municipal Corporation or the Durgapur Municipal Corporation, as the case may be, under this Act;

(f) all contracts made, or liabilities incurred, by any Gram Panchayat, or Municipality, within the area of, or made, or incurred, by, the Siliguri Municipal Corporation or the Asansol Municipal Corporation or the Chandernagore Municipal Corporation or the Durgapur Municipal Corporation, as the case may be, and legally subsisting against such Gram Panchayat or Municipality or the Siliguri Municipal Corporation or the Asansol Municipal Corporation or the Chandernagore Municipal Corporation or the Durgapur Municipal Corporation, as the case may be, immediately before the commencement of this Act, shall, at the date of commencement of this Act, pass on to the Siliguri Municipal Corporation or the Asansol Municipal Corporation or the Chandernagore Municipal Corporation or the Durgapur Municipal Corporation, as the case may be; and

(g) all officers and other employees appointed under the West Bengal Panchayat Act, 1973, or the West Bengal Municipal Act, 1993, or the Siliguri Municipal Corporation Act, 1990, or the Asansol Municipal Corporation Act, 1990, or the Chandernagore Municipal Corporation Act, 1990, or the Durgapur Municipal Corporation Act, 1994, as the case may be, and holding office on the date immediately before the date of commencement of this Act, shall, at the date of commencement of this Act, be deemed to have been appointed under this Act, and shall continue to hold office on the terms and conditions in force immediately before the commencement of this Act.

SCHEDULE 1

Parts of plant or of combination of plant and machinery not to be excluded in determining the annual value of a holding comprising land and building

Parts of plant or of combination of plant and machinery not to be excluded in determining the annual value of a holding comprising land and building

[See section 119(4)]

The following parts of a plant or combination of plant and machinery, whenever, and only to such extent as, any part is, or is in the nature of, a building or structure

:-

Acid Concentrators;

Bins and Hoppers;

Blast Furnaces;

Burners, Forges, Furnaces, Kilns, Ovens and Stoves, Chambers;

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;

Coupolas;

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;
Restors;
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,
Transverser and Turntables,
Vats,
Weighbridges,
Wheles Masts.

SCHEDULE 2

Professions, trades and callings

Professions, trades and callings

[See section 141(1)] Every certificate of enlistment shall be granted under one or other of the classes in the second column of the following table:-

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 and 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, wholesale 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-housekeeper.

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 3

Rate of tax on advertisement

Rate of tax on advertisement

[See section 142(1)]

	Per month	Per year
	Rs. P.	Rs. P.
1. Advertisement on hoarding, wall or post or in the form of non-illuminated sky-sign—		
(1) for a space up to 1 square metre		12.00
(2) for space over 1 square metre and up to 2.5 square metres		25.00
(3) for every additional 2.5 square metres or less		20.00
2. Advertisement on cloth hung across street or footpath—		
(1) in a street up to 6 metres wide	1.00	
	(per running 30 centimetres)	
(2) in a street over 6 metres wide	1.50	
	(per running 30 centimetres)	
3. (1) Advertisements which are fixed to or against the wall or outer face of a building and—		
(a) no part of which projects on or over a street:		
(i) for a space up to 1 square metre		12.00
(ii) for a space over 1 square metre and up to 2.5 square metres		25.00
(iii) for every additional 2.5 square metres or less		20.00
(b) which are placed in a position inclined to the vertical or otherwise project on or over a street:		
(i) for a space up to 1 square metre		12.00
(ii) for a space over 1 square metre and up to 2.5 square metres		25.00
(iii) for every additional 2.5 square metres or less		20.00
(2) Advertisement suspended over or across street—		
(a) for a space up to 1 square metre		12.00
(b) for a space over 1 square metre and up to 2.5 square metres		25.00
(c) for every additional 2.5 square metres or less		20.00

(C) for every additional 2.5 square metres or less		20.00
4. Advertisement hoarding standing blank but bearing the name of the advertiser or with the announcement "To be let" displayed thereon—		
(1) for a space up to 1 square metre	0.50	
(2) for a space over 1 square metre and up to 5 square metres	1.00	
(3) for every additional 2.5 square metres or less	1.00	
5. Advertisement board carried on vehicles (or advertisements displayed on the body of vehicles)—		
(1) for a space up to 1 square metre		20.00
(2) for a space over 1 square metre and up to 2.5 square metres		41.00
(3) for a space over 2.5 square metres and up to 5 square metres		75.00
(4) for every additional 5 square metres or less:		75.00
Provided that in the case of a person advertising in more than one vehicle at a time, the total space advertised in all the vehicles taken together shall be taken into account for the purpose of determination of the tax.		
6. Illuminated advertisement boards carried on vehicles (for illuminated advertisements displayed on the body of vehicles)—		
(1) for a space up to 2.4 square metres		75.00
(2) for a space over 2.5 square metres and up to 5 square metres		150.00
(3) for every additional 5 square metres or less		150.00
7. Advertisement boards carried by sandwich boardmen—		
(1) for each board up to 1 square metre	1.25	
(2) for each board over 1 square metre and up to 2.5 square metres	2.50	
(3) for every additional 1 square metre or less	1.25	
8. Illuminated advertisement boards carried by sandwich boardmen—		
(1) for each board up to 1 square metre	2.50	
(2) for each board over 1 square metre and up to 2.5 square metres	5.00	
(3) for every additional 1 square metre or less	2.50	
9. Illuminated sky-signs and advertisements other than those referred to in items 6 and 8—		
(1) for a space over 2,000 square centimetres		16.00
(2) for a space over 2,000 square centimetres and up to 5,000 square centimetres		32.00
(3) for a space over 5,000 square centimetres and up to 2.5 square metres		40.00

(4) for every additional 2.5 square metres or less		40.00
Note: In the case of projected advertisements, in addition to the tax as aforesaid, the same rates of tax relating to projection and thickness as are provided in item 3 shall also apply.		
10. Advertisement exhibited on screens by means of lantern-slides or similar devices—		
(1) for a space up to 5,000 square centimetres		64.00
(2) for a space over 5,000 square centimetres and up to 2.5* square metres		80.00
(3) for every additional 2.5 square metres or less.		80.00
11. Posters on walls, hoardings, frames, posts, kiosks upon or in vehicles—		
(1) for a space not exceeding a single royal	0.25	
(2) for a space not exceeding double royal	0.50	
(3) for every additional 1 square metre	0.37	
If a poster for which tax has already been paid has to be replaced due to damage or otherwise before the expiry of the period for which tax has been paid, a stamp may be affixed to the new poster to the effect that the new poster is covered by the original receipt for payment of tax for the poster which has been replaced, and the number and date of the said receipt shall be specified on the body of the new poster:		
Provided that the previous approval of the Commissioner shall be taken before erecting a new poster.		
12. Fly posters or hand-posters—		
(1) of a size up to 96 square centimetres		1 paise each
(2) of a size over 96 square centimetres and up to 192 square centimetres		2 paise each
(3) of a size over 192 square centimetres and up to 320 square centimetres		3 paise each
(4) of a size over 320 square centimetres and up to 480 square centimetres -		5 paise each
(5) of every additional 96 square centimetres or less		1 paise each

Explanation I.-In calculating the space or the area referred to in the foregoing provisions of this Schedule, all the faces of the advertisement hoarding and boards utilised for the purpose of display shall be taken into account:

Provided that in the case of a sky-sign, in addition to the above, the face surface of the supporting pillars or raised platforms, if any, below the actual displaying area

shall also be taken into account.

Explanation II.-An advertisement shall not be deemed to be an illuminated advertisement within the meaning of this Schedule if such advertisement is illuminated merely by light which, in the opinion of the Commissioner, is not more than what is necessary to make the same visible at night.

SCHEDULE 4

Purposes for which premises may not be used without licence

Purposes for which premises may not be used without licence

[See section 273(1)]

Aerated waters-Manufacturing.

Asafoetide-Storing.

Alloe fibre and yarn-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

Ammunition-Storing, pressing, cleansing, preparing or manufacturing by any process whatsoever.

Arecanuts-Soaking of.

Articles made of flour-Baking, preparing, keeping, or storing for human consumption (for other than domestic use).

Ashes-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dumping or shifting.

Bakelite goods-Manufacturing or processing.

Bamboos-Storing for sale, hire or manufacture.

Bidi leaves-Storing or processing.

Biscuits-Baking, preparing, keeping or storing for human consumption (for other than domestic use).

Blasting powder-Storing.

Blood-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Bones-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Bread-Making, preparing, keeping or storing for human consumption (for other than domestic use).

Bricks-Manufacturing.

Camphor-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or boiling.

Candles-Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Carbide of calcium-Storing.

Cardboard-Storing.

Carpets-Manufacturing.

Cashewnuts-Storing, packing, preparing or manufacturing by any process whatever.

Catgut-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Celluloid goods-Storing.

Cement-Storing, pressing, cleansing, preparing or manufacturing by any process whatever.

Charcoal-Dumping, shifting, selling or storing.

Chemical preparations-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Chillies-Grinding by machinery.

Chillies (dried)-Selling wholesale or storing for wholesale trade.

Chlorate mixture-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Cinders-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dumping or shifting.

Cinematograph films-Shooting of, treating or processing.

Clothes-Dyeing, bleaching, mercirising or storing.

Coal-Dumping, shifting, selling or storing.

Cocoanut fibre-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Cocoanut husks and cadjan leaves-Soaking of.

Cocoanut shell-Storing.

Coir yarn-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Coke-Storing.

Combustible materials (Materials required for baking etc. for human consumption, other than domestic use)-Storing.

Combustibles-Baking, preparing, keeping or storing for human consumption (for other than domestic use).

Compound gases (namely, oxygen, nitrogen hydrogen, carbon-dioxide, sulphur, chlorine, and acetylene)-Storing.

Copra-Preparing or storing or selling wholesale.

Cotton of all kinds, cotton refuse, cotton seed-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Detonators-Storing.

Dry leaves-Storing.

Dyes-Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Dynamite-Storing. Explosive-Storing.

Explosive paints (namely, nitro-cellulose, lacquer, and enamel)-Storing.

Fat-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Felt-Storing.

Fibre-Selling or storing.

Fins-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Firewood-Selling or storing.

Fireworks-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fish-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fish oil-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Flax-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fleshing-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Flour-Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Fuel-Using for any industrial purpose.

Fulminate of mercury-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Furniture-Making or storing for sale.

Gas-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Gelatine-Storing.

Ghee-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Gold-Refining.

Grain-Selling wholesale or storing for wholesale trade.

Gram-Husking by machinery.

Grass-Storing.

Ground-nut-Selling wholesale or storing for wholesale trade.

Gun cotton-Storing, packing, pressing or cleansing.

Gunny-bag-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Gunpowder-Storing, packing, pressing, preparing or manufacturing by any process whatever.

Hair-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dyeing or drying.

Hay-Selling or storing.

Hemp-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Hessian cloth-Storing.

Hides-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Hoofs-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Horns-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Ice- Manufacturing.

Incense-Storing.

Jaggery-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or selling wholesale.

Jute-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Kakhi-Preparing.

Lac-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Lead-Melting.

Leather-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Lime-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Limeshells-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Manure-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Machinery-Using for any industrial purpose.

Matches-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Meat-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Metals-(including precious metal)-Beating, breaking, hammering, and casting.

Methylated spirit or denatured spirit-Storing.

Nitro-compound-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever;

Nitro-mixture-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Offal-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Oil-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or boiling.

Oilseeds-Storing.

Paddy-Boiling or husking by machinery. Paints-Manufacturing or storing.

Paper-Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Petroleum products-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Phosphorus-Storing.

Pitch-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Plastic or plastic goods-Manufacturing or storing.

Plywood-Storing.

Pottery-Packing, processing, cleansing, preparing or manufacturing by any process whatever.

Polythene-Manufacturing or storing.

Radio-Manufacturing, assembling, servicing and repairing.

Resin (including rosin)-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Rugs-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sago-Manufacturing or distilling.

Saltpetre-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Seekai-Powdering by machinery.

Shellac-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Silk-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sisal fibre-Storing.

Skins-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Soap-Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Spirit-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Straw-Selling or storing.

Sugar-Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sugar-candy-Packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sulphur-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or melting.

Surki-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Sweetmeats-Baking, preparing, keeping or storing for human consumption (for

other than domestic use).

Tallow-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever or melting.

Tar-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Tarpauline-Storing.

Thatching material-Selling or storing.

Thinner-Storing.

Tiles-Manufacturing.

Timber-Selling or storing.

Tobacco (including snuff, cigars, cigarettes and bidis)- Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Turpentine-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever.

Varnish-Manufacturing or storing.

Wool-Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever, dyeing or drying.

Yarn-Dyeing or drying.

Manufacturing articles from which offensive or unwholesome smell, fume, dust or noise arises.

In general, any purpose, or the doing in the course of any industrial process anything, which, in the opinion of the Corporation, is likely to be dangerous to human life or health or property or is likely to create or cause nuisance:

Provided that no licence shall be required for the storage only of any of the articles mentioned in this Schedule for domestic use and limited to such quantities as may, from time to time, be fixed by the Corporation.

SCHEDULE 5

Penalties

Penalties

[See section 384]

Section and sub-section, clause or proviso	Subject	Maximum fine or imprisonment that may be imposed	Maximum daily fine that may be imposed
(1)	(2)	(3)	(4)
Section 87, sub-section (3)	Requisition by auditors to produce documents, to appear in person or to make and sign declaration or to answer question or to submit statement.	Two hundred rupees.	Fifty rupees.
Section 141	Failure to obtain certificate of enlistment.	One thousand rupees.	Twenty-five rupees.
Section 143	Prohibition of advertisement without licence.	One thousand rupees.	One hundred rupees.
Section 144	Advertisement made without	One thousand	One

	Default in payment of tax.	One thousand rupees.	One hundred rupees.
Section 148	Default in payment of tax on carriage and animal.	Three times the tax payable annually.	Twenty-five rupees.
Section 151, sub-section (2) and (3)	Default in furnishing statement and production of books and accounts.	One hundred rupees.	Ten rupees.
Section 180, sub-section (1)	Use of wholesome water for purposes other than domestic purposes.	Seven hundred and fifty rupees.	Seventy-five rupees.
Section 192, sub-section (2)	Sinking of tube-well without permission.	Five hundred rupees.	Fifty rupees
Section 192, sub-section (2)	Sinking of tube-well in violation of conditions of licence or without payment of fee.	Two hundred and fifty rupees.	Ten rupees.
Section 193, sub-section (1)	Refusal to sink a tube-well.	Five hundred rupees.	One hundred rupees.
Section 193, sub-section (2)	Refusal to take licence or violation of conditions of licence or non-payment of fee.	Two hundred and fifty rupees.	Ten rupees.
Section 199, sub-section (2)	Refusal to lay separate supply-pipe.	Two hundred and fifty rupees.	Ten rupees.
Section 208 sub-section (1)	Fraud on water meter.	One thousand rupees.	One hundred rupees.
Section 211	Premises constructed or reconstructed after the commencement of this Act not to be occupied without arrangement for water-supply.	One thousand rupees.	One hundred rupees.
Section 212	Requisition to owner of premises or other persons to take water-supply for the premises	Five hundred rupees.	Fifty rupees.
Section 214	Non-compliance with requisition to fill up well	Two hundred rupees.	Twenty rupees.
Section 215	Non-compliance with requisition to the owner of premises to set up pumps or other contrivances for supply of water to the topmost storey of the premises.	Five hundred rupees.	Fifty rupees.
Section 216	Use of filtered water, supplied for domestic purposes, for any other purpose without permission.	Seven hundred and fifty rupees.	Seventy-five rupees.
Section 217 sub-	Use of unfiltered water for domestic	Two hundred	Ten

Section 217 sub-section (3)	Use of untreated water for domestic purposes, or for any other purpose not authorised.	Five hundred and fifty rupees.	Ten rupees.
Section 218 sub-section (1)	Wastage or misuse of water.	Five hundred rupees.	Twenty-five rupees.
Section 224	Construction of private streets, or of walls, fence, etc. on municipal drain, channel etc. without permission.	One thousand rupees.	One hundred rupees.
Section 227 sub-section (1)	Unlawful connection of house drain with municipal drain.	One thousand rupees.	One thousand rupees.
Section 228	Non-compliance with requisition for construction of closed cesspools and drains.	One thousand rupees.	One thousand rupees
Section 231	Throwing, emptying or discharging certain matters not be passed through municipal drains.	One thousand rupees.	Fifty rupees.
Section 236, sub-section (3)	Keeping or maintaining toilet or urinal for public use without permission.	Five thousand rupees.	Fifty rupees.
Section 238 sub-section (2)	Failure to provide privy, urinal, bathing or other accommodation for washing of clothes and domestic utensils.	Five hundred rupees.	Fifty rupees
Section 239 sub-section (2)	Failure to provide privy or urinal accommodation in premises.	Five hundred rupees.	Fifty rupees
Section 240, sub-section (1)	Unlawful construction of cesspool.	Five hundred rupees.	Twenty-five rupees.
Section 240, sub-section (2)	Non-compliance with requisition to fill up or remove unlawful cesspool.	Five hundred rupees.	Twenty-five rupees.
Section 247, sub-section (2)	Failure to comply with notice for removal or alteration of verandah, platform, building, etc.	One thousand rupees.	Fifty rupees
Section 249	Prohibition of tethering of animals and milking of cattle in public street or other public place.	Two hundred rupees.	Ten rupees.
Section 250, sub-section (5)	Failure to comply with the direction for setting back or setting forward any building or portion thereof.	One hundred rupees	—
Section 254 sub-section (1)	Utilisation or sale or otherwise disposal of land for construction of buildings without provision for streets giving access to the site	One thousand rupees	-
Section 256	Making new streets without prior approval.	One thousand rupees.	—

Section 261	Use of land for construction of building thereon not in accordance with the provisions of the Act etc.	Two thousand and five hundred rupees or imprisonment for six months or both.	One hundred rupees per square metre.
Section 266, sub-section (1)	Unauthorised erection of a building.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 267, sub-section (1)	Change of use of building or conversion of tenement under particular occupancy or use group to be tenement under another occupancy or use group without permission.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 282	Occupation of a building without a completion certificate.	Five hundred rupees.	Twenty-five rupees.
Section 300, sub-section (3)	Failure to perform duties in the matter of collection of solid wastes.	Three hundred rupees.	Twenty-five rupees.
Section 302, sub-section (1)	Use, or material alteration of use, or enlargement or extension of use, of premises as warehouse or godown etc. without permission.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 303, sub-section (1)	Establishing factory without permission.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 304, sub-section (1)	Keeping eating house etc. without, or otherwise than in conformity with the terms of, licence.	Two thousand and five hundred	Two hundred rupees.

		rupees or imprisonment for six months or both.	
Section 305	Keeping open theatre, circus etc. without, or otherwise than in conformity with the terms of, licence.	One thousand rupees.	One hundred rupees.
Section 306	Violation of order of Commissioner to stop use of premises.	One thousand rupees.	One hundred rupees.
Section 308	Keeping open private market etc. without, or otherwise than in conformity with, a licence.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 309, clause (a)	Carrying on the trade or business of a butcher or sell, or expose or hawk for sale, any animal, or any meat or fish etc. otherwise than in conformity with the terms of a licence.	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred and fifty rupees.
Section 309, clause (b)	Prohibition of sale, or exposure or hawking for sale, of animal, meat or fish without, or otherwise than in conformity with the terms of a licence.	Five hundred rupees.	Twenty-five rupees.
Section 312	Prohibition of hawking, etc. otherwise than in terms of a licence.	Five hundred rupees.	Twenty-five rupees.
Section 313	Prohibition of carrying on trade of a butcher, fish monger, etc. otherwise than in conformity with a licence.	Five hundred rupees.	Twenty-five rupees.
Section 316	Failure to register manufactory	Two thousand and five hundred rupees or imprisonment for six months or both.	Two hundred rupees.
Section 317	Prohibition of keeping adulterants in a place where butter, ghee, etc. are manufactured or stored.	One thousand rupees.	Two hundred rupees.

Section 318 sub-section (2)	Failure to provide protection to articles of food, drug, receptacle, etc.	Two hundred rupees.	Fifty rupees
Section 319	Keeping of shop etc. otherwise than in conformity with a licence or failure to display the licence.	One thousand rupees.	One hundred rupees.
Section 321	Failure to give information of dangerous disease.	One hundred rupees.	—
Section 324	Failure to take measures to prevent spread of dangerous disease.	One hundred rupees.	—
Section 332 sub-section (1)	Non-registration of place for disposal of the dead and failure to deposit plan in the office of the Corporation.	One hundred rupees.	-