

Goa Health Services Development Act, 2008

13 of 2009

[15 June 2009]

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Goa Health Services Development Act, 2008

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[15 June 2009]

AN ACT

to make special provision for securing the establishment and

orderly development of health institutions, services and facilities in the State of Goa primarily for implementing the Universal Mediclaim Scheme and management of assets belonging to Health Department, Asilo Hospital, Hospicio Hospital as decided by the Government and in particular in the health estates, and to assist generally in the organization thereof, and for that purpose to establish a Goa Health Services Development Corporation, and for purposes connected with the matters aforesaid.

Be it enacted by the Legislative Assembly of Goa in the Fifty-ninth Year of the Republic of India, as follows:-

CHAPTER 1 Preliminary

1. Short title, extent and commencement :-

(1) This Act may be called the Goa Health Services Development Act, 2008.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "amenity" includes road, supply of water or electricity, street lighting, drainage, sewerage, conservancy and such other convenience as the Government may, by Notification in the Official Gazette, specify to be an amenity for the purposes of this Act;

(b) "building" means any structure or erection, or a part of a structure, or erection, which is intended to be used for residential,

health establishment, commercial or other purposes, whether in actual use or not;

(c) "Collector" means the Collector of a District and includes any Officer specially appointed by the Government to perform the functions of a Collector under this Act;

(d) "Corporation" means the Goa Health Services Development Corporation established under section 3;

(e) "development" with its grammatical variations, means the carrying out of building, engineering, quarrying or other operations, in, on, over or under land, or the making of any material change in any building or land, and includes re-development, but does not include mining operations and to "develop" shall be construed accordingly;

(f) "engineering operation" include the formation or laying out of means of access to a road or the laying out of means of water supply;

(g) "Government" means the Government of the State of Goa;

(h) "health Estate" means any area declared to be a Health Estate by the Government by Notification in the Official Gazette, which is to be developed and where health establishments are to be accommodated;

(i) "health services" means any services by way of finance, premises, hospitals, health centers, and any other services for betterment of health of the community and society at large.

(j) "means of access" includes a road, wharf or any means of access, whether private or public, for vehicles or boats or for foot passengers;

(k) "premises" means any land or building or part of a building and includes-

(i) the garden, grounds and out-house, if any, appertaining to such building or part of a building; and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;

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

(m) the expression "land" and the expression "person interested" shall have the meanings respectively assigned to them in section 3 of the Land Acquisition Act, 1894 (1 of 1894).

(n) "Universal Medclaim Scheme" means a medical Claim Scheme as notified by the Government from time to time.

CHAPTER 2 Establishment and Constitution of the Corporation

3. Establishment and incorporation :-

(1) For the purpose of securing and assisting in the rapid and orderly establishment and organisation of establishments for health services for the purpose of implementing the Universal Medclaim Scheme and health estates/medical tourism/health city etc., in the State of Goa there shall be established by the Government by Notification in the Official Gazette, a Corporation by the name the Goa Health Services Development Corporation.

(2) The said Corporation shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire, hold and dispose of property both movable and immovable, and to contract, and do all things necessary for the purposes of this Act.

4. Constitution :-

(1) The Corporation shall consist of the following twelve Directors that is to say:-

(a) Minister in charge of the Public Health Department;

(b) Secretary to the Government in the Health Department;

(c) Joint Secretary to the Government in Health Department;

(d) Joint Secretary to the Government in Finance (Expenditure) Department;

(e) Director of Health Services in the Directorate of Health Services, Goa;

(f) An Eminent Chartered Accountant with at least 10 years experience to be nominated by the Government;

(g) Nominee of the Goa Chamber of Commerce and Industry;

(h) A person having expertise in the field of health services to be nominated by the Government;

(i) A person with 5 years of experience in administration/financial services/medical insurance having MBA to be nominated by the Government;

(j) Two persons to be nominated by the Government;

(k) The Managing Director of the Corporation, who shall be the Chief Executive of the Corporation, shall also be the ex officio Secretary to the Corporation;

(2) The Minister in charge of Public Health Department, Government of Goa shall be the Chairperson of the Corporation.

5. Disqualification for Director :-

A person shall be disqualified for being nominated as a Director of the Corporation, if he-

(a) is an employee of the Corporation, not being the Managing Director; or

(b) is of unsound mind, and stands so declared, by a competent Court; or

(c) is an undischarged insolvent; or

(d) is convicted of an offence involving moral turpitude within a period of five years immediately before his being nominated as a Director.

6. Term of office and conditions of service of Director :-

(1) The Directors of the Corporation nominated under clauses (h), (i) and (j) of sub-section (1) of section 4, shall hold office for a period of 3 years from the date of their nomination unless their term of office is terminated earlier by the Government.

(2) The Director of the Corporation nominated under clauses (g), (h), (i) and (j) of subsection (1) of section 4 shall be entitled to draw such honorarium or compensatory allowance for the purpose of meeting the personal expenditure in attending the meeting of the Corporation or of any Committee thereof or when appointed in

connection with the work undertaken by or for the Corporation, as may be prescribed.

(3) It is hereby declared that the office of Director or Chairman of the Corporation, in so far as it is an office of profit under the Government of India, or the Government of any State, or the Government of any Union Territory shall not disqualify the holder for being chosen as, and for being member of the Legislative Assembly of Goa.

7. Meetings of Corporation :-

(1) The Corporation shall meet at such times and places, and shall subject to the provisions of sub-section (2) observe such rules of procedure in regard to the transaction of its business as may be provided by regulation made under this Act.

(2) A Director, who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal entered into or proposed to be entered into by or on behalf of the Corporation shall, at the earliest, possible opportunity, disclose the nature of his interest to the Corporation when any such contract, loan, arrangement or proposal is discussed.

8. Cessation of Director :-

(1) If a Director,-

(a) becomes subject to any of the disqualifications mentioned in section 5; or

(b) tenders his resignation in writing to, and such resignation is accepted by, the Government; or

(c) is absent without the Corporations permission from three

consecutive meetings of the Corporation, or from all meetings of the Corporation for three consecutive months; or

(d) is convicted of an offence involving moral turpitude; he shall cease to be a Director of the Corporation.

(2) The Government may by order suspend from office for such period as it thinks fit, or remove from office any Director of the Corporation, who in its opinion,-

(a) has refused to act; or

(b) has become incapable of acting; or

(c) has so abused his position as Director as to render his continuance on the Corporation detrimental to the interest thereof or of the general public; or

(d) is otherwise unfit to continue as a Director: Provided that, a Director shall not be suspended or removed from his office unless he has been given a reasonable opportunity to show cause against the order.

9. Vacancies how to be filled :-

Any vacancy of a Director of the Corporation shall be filled as early as practicable, in the like manner as if the appointment was being made originally:

Provided that, during any such vacancy the continuing Directors may act as if no vacancy had occurred.

10. Temporary absence of Directors :-

(1) If the Director of the Corporation is by reason of illness or otherwise rendered temporarily incapable of carrying out his duties, or is granted leave of absence by the Government, or is otherwise

unable to attend his duties in circumstances not involving the cessation of his Directorship, the Government may appoint another person to act for him and carry out his duties and functions by or under this Act. Such person shall vacate office on the date when the Director for whom he is acting resumes his duties.

(2) In the absence of Chairman, the Directors present shall choose the Presiding Officer to preside over the meeting.

11. Proceeding presumed to be good and valid :-

No disqualification of, or defect in the appointment of, any person acting as the Chairman or a Director of the Corporation, shall vitiate any act or proceeding of the Corporation if such act or proceeding is otherwise in accordance with the provisions of this Act.

12. Officers and servants of the Corporation :-

(1) The Government shall appoint a Managing Director and a Chief Accounts Officer of the Corporation.

(2) The Corporation may appoint, such other officers and servants, subordinate to the officers mentioned in sub-section (1), as it considers necessary for the efficient performance of its duties and functions.

(3) The conditions of appointment and service of the officers and servants of the Corporation and their scales of pay shall-

(a) as regards the Managing Director and the Chief Accounts Officer, be such as may be prescribed; and

(b) as regards the other officers and servants, be such as may be determined by regulations made under this Act.

CHAPTER 3 Functions and Powers of the Corporation

13. Functions :-

The functions of the Corporation shall be,-

(i) Generally to promote and assist in the rapid and orderly establish-ment, growth and development of health services in the State of Goa.

(ii) In particular, and without prejudice to the generality of clause (i), to-

(a) establish and manage health estates/medical tourism/health city at places selected by the Government;

(b) develop health estates selected by the Government for the purpose, construct premises and make them available for undertakings to establish themselves;

(c) to operate any scheme, on behalf of Government, related with health services;

(d) undertake Schemes or works either jointly or on agency basis with other corporate bodies or institutions, or with Government in furtherance or the purposes for which the Corporation is established and all matters connected therewith;

(e) to establish health establishments, health estates/health city, operate schemes related to health sector by self, jointly with Government agencies or private parties in joint sector or on public private partnership basis.

14. General powers of the Corporation :-

Subject to the provisions of this Act, the Corporation shall have power,-

(a) to acquire and hold such property, both movable and

immovable, as the Corporation may deem necessary for the performance of any of its activities, and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Corporation;

(b) to provide or cause to be provided amenities and common facilities in health estates and construct and maintain or cause to be maintained works and buildings therefor;

(c) to make available buildings on hire or sale to persons intending to start health establishments;

(d) to construct buildings for the housing of the employees of health establishments;

(e) (i) to allot ready built sheds or such buildings or parts of buildings, including residential tenements to suitable persons in the health estates established or developed by the Corporation;

(ii) to modify or rescind such allotments, including the right and power to evict the allottees concerned on breach of any of the terms or conditions of their allotment;

(f) to constitute advisory committee to advise the Corporation;

(g) to engage suitable consultants or persons having special knowledge or skill to assist the Corporation in the performance of its functions;

(h) to delegate any of its powers generally or specially to any of its committees or officers, and to permit them to re-delegate specific powers to their subordinates;

(i) to enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of its functions; and

(j) to do such other things and perform such acts as it may think necessary or expedient for the proper conduct of its functions and the carrying into effect the purposes of this Act.

15. Authentication of orders and documents of Corporation

:-

All permissions, orders, decisions, notices and other documents of the Corporation shall be authenticated by the signature of the Managing Director of the Corporation or any other Officer authorised by the Corporation in this behalf.

16. Directions by the Government :-

The Government may issue to the Corporation such general or special directions as to policy as it may think necessary or expedient for the purpose of carrying out the purposes of this Act and the Corporation shall be bound to follow and act upon such directions.

CHAPTER 4 Finance, Accounts and Audit

17. Application of Corporations assets :-

All property, funds and other assets vesting in the Corporation shall be held and applied by it, subject to the provisions and for the purposes of this Act.

18. Corporations fund :-

(1) The Corporation shall have and maintain its own fund, to which shall be credited,-

(a) all monies received by the Corporation by way of grants, subventions, loans, advances or otherwise from the Government or Financial Institutions or other Corporate Bodies;

(b) all fees, costs and charges received by the Corporation under this Act;

(c) all monies received by the Corporation from the disposal of lands, buildings and other properties movable and immovable and other transactions;

(d) all monies received by the Corporation by way of rents and profits, or in any other manner or from any other source including the proceeds of any loan authorised by section 20.

(2) The Corporation may keep in current or in deposit account with the State Bank of India or any other Bank approved by the Government in this behalf such sum of money out of its fund as may be prescribed and any money in excess of the said sum shall be invested in such manner as may be approved by the Government.

(3) Such accounts shall be operated upon by such officers of the Corporation as may be authorised by it by regulations made in this behalf.

19. Grants, subventions, loans and advances and capital contribution to the Corporation :-

The Government may, after due appropriation made by the State Legislature by any law in this behalf, make such grants, subventions, loans and advances and capital contribution to the Corporation as it may deem necessary for the performance of the functions of the Corporation under this Act and all grants, subventions, loans and advances and capital contribution made shall be on such terms and conditions as the Government may after consulting the Corporation, determine.

20. Power of the Corporation to borrow :-

The Corporation may, subject to such conditions as may be prescribed in this behalf, borrow money from bank, financial institutions or in the open market or otherwise with a view to provide itself adequate resources.

21. Deposits :-

The Corporation may accept deposits on such conditions as it deem fit from persons, authorities or institutions to whom allotment or sale of land, buildings or sheds is made or is likely to be made in furtherance of the objects of this Act.

22. Reserve and other funds :-

(1) The Corporation shall make provision for reserve and other specially denominated funds as the Government may, from time to time, direct.

(2) The management of the funds referred to in sub-section (1), the sums to be transferred from time to time to the credit thereof and the application of money comprised therein, shall be determined by the Corporation.

(3) None of the funds referred to in sub-section (1) shall be utilised for any purpose other than that for which it was constituted, without the previous approval of the Government.

23. Expenditure from funds :-

(1) The Corporation shall have the authority to spend such sums as it thinks fit for the purposes authorised under this Act from the general fund of the Corporation referred to in section 18 or from the reserve and other funds referred to in section 22, as the case may be.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Corporation may contribute such sums as it thinks fit towards expenditure incurred or to be incurred by any local authority or statutory public undertaking in the performance, in relation to any of the statutory functions of such authority or undertaking, including expenditure incurred in the acquisition of land.

24. Budget and programme of work :-

(1) The Corporation shall, by such date in each year as may be prescribed, prepare and submit to the Government for approval an annual financial statement and the programme of work for the succeeding financial year.

(2) The annual financial statement shall show the estimated receipts and expenditure during the succeeding financial year in such form and detail as may be prescribed.

(3) The Corporation shall be competent to make variations in the programme of work in the course of the year, provided that all such variations and re-appropriations out of the sanctioned budget are brought to the notice of the Government by a supplementary financial statement.

(4) A copy each of the annual financial statement and the programme of work and the supplementary financial statement, if any, shall be placed before the Legislative Assembly as soon as may be after their receipt by the Government.

25. Accounts and audit :-

(1) The Corporation shall maintain books of account and other books in relation to its business and transaction in such form and in such manner, as may be prescribed.

(2) The accounts of the Corporation shall be audited by an auditor, appointed by the Government, in the prescribed manner.

(3) As soon as the accounts of the Corporation are audited the Corporation shall send a copy thereof with a copy of the report of the auditor thereon to the Government.

(4) The Government shall cause the accounts of the Corporation together with the audit report thereon forwarded to it under sub-section (3) to be laid annually before the Legislative Assembly.

26. Concurrent and special audit of accounts :-

(1) Notwithstanding anything contained in section 25, the Government may order that there shall be concurrent audit of the accounts of the Corporation by such persons as it thinks fit. The Government may also direct that a special audit be also made by such person as it thinks fit of the accounts of the Corporation relating to any particular transaction or class or series of transactions or to a particular period.

(2) When an order is made under sub-section (1), the Corporation shall present or cause to be presented for audit such accounts and shall furnish the person appointed under sub-section (1) such information as the said person may require for the purpose of audit.

CHAPTER 5 .

27. Acquisition of land for the Corporation to be a public purpose :-

Any land required by the Corporation for carrying out any of its functions shall be deemed to be needed for a public purpose and may be acquired under the provisions of the Land Acquisition Act, 1894 (1 of 1894) or any other law for the time being in force.

28. Disposal of land by the Corporation :-

(1) Subject to any directions given by the Government under this Act, the Corporation may dispose of,-

(a) any land acquired by the Government and transferred to it, without undertaking or carrying out any development thereon; or

(b) any such land after undertaking or carrying out such development as it thinks fit, to such persons in such manner and subject to such terms and conditions, as it considers expedient for

securing the purposes of this Act.

(2) The powers of the Corporation with respect to the disposal of land under subsection (1) shall be so exercised as to secure so far as practicable, that-

(a) where the Corporation proposes to dispose of by sale any such land without any development having been undertaken or carried out thereon, the Corporation shall offer the land in the first instance to the person from whom it was acquired, if they desire to purchase it, subject to such requirements as to its development and use as the Corporation may think fit to impose;

(b) persons who are residing or carrying on business or other activities on any such land shall, if they desire to obtain accommodation on land belonging to the Corporation and are willing to comply with any requirements of the Corporation as to its development and use, have an opportunity to obtain thereon accommodation suitable to their reasonable requirements on terms settled with due regard to the price at which any such land has been acquired from them.

(3) Nothing in this Act shall be construed as enabling the Corporation without the approval of the Government to dispose of land by way of gift, mortgage or charge, but subject as aforesaid any reference in this Act to the disposal of land shall be construed as a reference to the disposal thereof in any manner, whether by way of sale, exchange or lease or by the creation of any easement, right or privilege or otherwise.

29. Government lands :-

(1) For the furtherance of the objects of this Act, the Government may, upon such conditions as may be agreed upon between Government and the Corporation, place at the disposal of the Corporation any lands vested in the Government.

(2) After any such land has been developed by, or under the control and supervision of the Corporation, it shall be dealt with by the Corporation in accordance with the regulations made, and directions given by the Government in this behalf.

(3) If any land placed at the disposal of the Corporation under sub-section (1) is required at any time thereafter by the Government, the Corporation shall replace it at the disposal of the Government upon such terms and conditions as may be mutually agreed upon.

CHAPTER 6 Supplementary and Miscellaneous Provisions

30. Powers of Corporation in case of certain defaults by owner of land in health estates :-

(1) If the Corporation after holding local inquiry, or upon report from any of its officers or other information in its possession, is satisfied that the owner of any land in a health estate has failed to provide any amenity in relation to the land which in the opinion of the Corporation ought to be provided or to carry out any development of the land for which permission has been obtained under this Act, the Corporation may serve upon the owner a notice requiring him to provide the amenity or carry out the development within such time as may be specified in the notice.

(2) If any such amenity is not provided or any such development is not carried out within the time specified in the notice, the Corporation may itself provide the amenity or carry out the development or have it provided or carried out through such agency as it deems fit:

Provided that, before taking any action under this sub-section, the Corporation shall afford reasonable opportunity to the owner of the land to show cause as to why such action should not be taken.

(3) All expenses incurred by the Corporation or the agency employed by it in providing the amenity or carrying out the development together with interest, at such rate as the

Government may by order fix, from the date when a demand for the expenses is made until payment, shall be recoverable by the Corporation from the owner.

31. Order of demolition of building :-

(1) Where the erection of any building in a health estate has been commenced, or is being carried on, or has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted by or under this Act, or any rules made thereunder, any officer of the Corporation empowered by it in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order directing that such erection shall be demolished by the owner thereof within such period not exceeding two months as may be specified in the order, and on the failure of the owner to comply with the order, the officer may himself cause the erection to be demolished and the expenses of such demolition shall be recoverable by the Corporation from the owner:

Provided that, no such order shall be made unless the owner has been given a reasonable opportunity to show cause why the order should not be made.

(2) Any person aggrieved by an order under sub-section (1) may appeal against that order within thirty days from the date thereof to a Committee of the Corporation set up for the purpose by regulations made in this behalf. Such Committee may after hearing the parties to the appeal either allow or dismiss the appeal or reverse or vary the order or any part of it.

(3) The decision of the Committee on the appeal and subject only to such decision the order made by the officer under sub-section (1) shall be final.

32. Power to stop building operations :-

(1) Where the erection of any building in a health estate has been commenced, or is being carried on, or has been completed, or any existing building is altered, in contravention of the terms on which such building or the land on which it stands is held or granted under this Act or any rules made thereunder, any officer of the Corporation empowered in this behalf may, in addition to any prosecution that may be instituted under this Act, make an order requiring the building operations in relation to such erection to be discontinued on and from the date of service of the order.

(2) Where such building operations are not discontinued in pursuance of the requisition under sub-section (1), the Corporation or the officer empowered as aforesaid may require any police officer to remove the person by whom the erection of the building has been commenced and all his assistants and workmen from the place of the building within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) After a requisition under sub-section (2) has been complied with, the Corporation or the officer empowered as aforesaid may depute by a written order a police officer or an officer, or employee of the Corporation to watch the place in order to ensure that the erection of the building is not continued.

(4) Any person failing to comply with an order made under sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred rupees for every day during which such non-compliance continues after the service of the order.

(5) No compensation shall be claimed by any person for any damage or loss which he may sustain in consequence of any order made under this section.

33. Penalty for construction or use of land and buildings contrary to the terms of holding :-

(1) Any person who, whether at his own instance or at the instance of any other person, undertakes or carries out construction of, or alterations to, any building in a health estate contrary to the terms under which he holds such building or land under this Act or any rules made thereunder shall, on conviction be punished with fine which may extend to ten thousand rupees, and in the case of a continuing contravention with a further fine which may extend to five hundred rupees for each day during which such offence continues after conviction for the commission of first offence.

(2) Any person who uses any land or building in a health estate contrary to the terms under which he holds such land or building under this Act or any rules made thereunder or in contravention of the provisions of any regulations made in this behalf shall, on conviction, be punished with fine which may extend to five thousand rupees.

34. Power to lay pipe lines, etc :-

(1) Within any estate taken up for development under sub-clause (b) of clause (ii) of section 13, the Corporation, or any person empowered in this behalf by the Government by Notification in the Official Gazette (hereinafter in this section referred to as "the authorised person"), may, for the purposes of (a) carrying gas, water or electricity from a source of supply to the said area or (b) constructing any sewers or drains through, any intervening area, lay down, place, maintain, alter, remove or repair any pipes, pipe lines, conduits, supply or service lines, posts or other appliances or apparatus in, on, under, over, along or across any land in such estate.

(2) The Corporation or the authorised person may at any time enter upon any land in any such estate and in such event the provisions of section 35 shall mutatis mutandis apply.

(3) While exercising the power conferred by sub-section (1), the Corporation or the authorised person shall cause as little damage as possible to property. Full compensation to all persons interested for

any damage sustained by them in consequence of the exercise of such power as aforesaid shall be paid, as the case may be, by the Corporation or, in the case of the authorised person, by the Government.

(4) Nothing herein shall authorise or empower the Corporation or the authorised person to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use without the consent of the owners and occupiers thereof, except that the Corporation or such person may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down:

Provided that, nothing in the aforesaid provision shall be construed to mean that the Corporation or other person is forbidden from having the said land acquired at any time by the Government in the normal course.

35. Powers of entry :-

Any officer of Government, any member of the Corporation, and any person either generally or specially authorised by the Corporation in this behalf, may enter into or upon any land or building with or without assistants or workmen for the purpose of-

(a) making any inspection, survey, measurement, valuation or enquiry or taking, levels of such land or building;

(b) examining works under construction and ascertaining the course of sewers and drains;

(c) digging or boring into the sub-soil;

(d) setting out boundaries and intended lines of work;

(e) marking such levels, boundaries and lines by placing marks and cutting trenches;

(f) doing any other thing necessary for the efficient administration of this Act: Provided that,-

(i) no such entry shall be made except between the hours of sunrise and sunset and without giving reasonable notice to the occupier, or if there be no occupier to the owner of the land or building;

(ii) sufficient opportunity shall in every instance be given to enable women (if any) to withdraw from such land or building;

(iii) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the land or building entered.

36. Officers of the Corporation may be vested with other powers :-

The Government may, by Notification in the Official Gazette, nominate any officer of the Corporation to be a controller or licensing authority under any law for the time being in force relating to the procurement or distribution of any commodity in respect of the health undertakings established or to be established in the health estates entrusted to or developed by the Corporation and no such nomination shall be called into question merely on the ground that such officer is not an officer of the Government.

37. Overriding powers of Government to issue directions to local authorities :-

Notwithstanding anything contained in any other law, or in any licence or permit, if the Government is satisfied either on a recommendation made in this behalf by the Corporation or otherwise, that the setting up of a health undertaking (whether

within a health estate or outside) is impeded by a local authority's refusal to grant or by such authority's insistence on conditions which the Government considers unreasonable for the grant of, any amenity, the Government may direct the local authority to grant the said amenity on such conditions as it may consider fit and thereupon the amenity shall be granted:

Provided that the charge to be paid for granting or continuing such amenity to the local authority concerned is not less than the cost to the local authority or licensee concerned for providing such amenity:

Provided further that, no such direction shall be issued by the Government unless the local authority shall have been given a reasonable opportunity to show cause why any such direction should not be made.

38. Declaration as health estate :-

(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, the Government may, by Notification in the Official Gazette,-

(a) declare a health estate which is-

(1) earmarked as health estate; and

(2) having adequate facilities in respect of power, roads, water supply, to be notified estate;

(b) appoint the Corporation or any Officer or Committee thereof for the purpose of the assessment and recovery of any taxes when imposed as per the provisions made thereof;

(c) declare that the provisions of any law relating to local authorities providing for control or erection of buildings, levy and collection of taxes, fees and other dues to the local authority which is in force in that notified estates shall cease to apply and thereupon such provisions shall cease to apply thereof:

Provided that the Municipalities, Village Panchayats and Municipal Corporations which were receiving house tax from the occupants in the notified estates under their respective laws, shall be compensated by the Government to the extent of the last financial years collection of taxes for such period as may be determined by the Government which shall not be less than five years.

(d) make other provision as is necessary for the purpose of the enforcement of the provision so provided to that estate.

(2) Before the publication of a Notification under sub-section (1), the Government shall cause to be published in the Official Gazette and also in atleast one newspaper published in a language other than English and circulating in the estate to be specified in the Notification, inviting all persons who entertain any objections to the said proposal to submit the same in writing with reasons therefor to the Government within two months from the date of publication of the proclamation in the Official Gazette.

(3) No such Notification under sub-section (1) shall be issued by the Government, unless the objections, if any, so submitted under sub-section (2) are in its opinion insufficient or invalid.

39. Recovery of sums due to the Corporation as arrears or land revenue :-

All sums payable by any person to the Corporation or recoverable by it by or under this Act, and all charges or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable as arrears of land revenue on the application of the Corporation.

40. Service of notices, etc :-

(1) All notices, orders and other documents required by this Act or any rule or regulation made thereunder to be served upon any person shall, save as otherwise provided in this Act or such rules or

regulations be deemed to be duly served-

(a) where the person to be served is a company, the service is effected in accordance with the provisions of section 51 of the Companies Act, 1956 (1 of 1956);

(b) where the person to be served is a firm, if the document is addressed to the firm 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 under a certificate of posting or by registered post; or

(ii) left at the said place of business;

(c) where the person to be served is a statutory public body or a corporation or a society or other body, if the document is addressed to the secretary, treasurer or other chief officer of that body, corporation or society at its principal office and is either-

(i) sent under a certificate of posting or by registered post; or

(ii) left at that 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 or is given or tendered to some adult member of his family or is affixed on some conspicuous part of the land or building to which it relates; or

(iii) is sent under a certificate of posting or by registered post to that person.

(2) Any document which is required or authorised to be served on the owner or occupier of any land or building may be addressed to "the owner" or "the occupier" as the case may be, of that land or building (naming that 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 so addressed or a copy thereof so addressed, is given or tendered to some person on the land or building or, where there is no person on the land or building to whom it can be delivered, is affixed on some conspicuous part of the land or building.

(3) Where a document is served on firm in accordance with this section, the document shall deemed to be served on each partner.

(4) For the purpose of enabling any document to be served on the owner of any property, the occupier (if any) of the property may be required by notice in writing by the Government or the Corporation, as the case may be, to state the name and address of the owner, thereof.

41. Public notices how to be made known :-

Every public notice given under this Act or any rules or regulations made thereunder shall be in writing over the signature of the officer concerned and shall be widely made known in the locality to be effected thereby affixing copies thereof in conspicuous public places, within the said locality, or by publishing the same by beat of drum or by advertisement in a local newspaper, or by any two or more of these means, and by any other means that the officer may

think fit.

42. Notices, etc. to fix reasonable time :-

Where any notice, order or other document issued or made under this Act or any rule or regulation made thereunder requires anything to be done for the doing of which no time is fixed by this Act or the rules or regulations, the notice, order or other document shall specify a reasonable period of time for doing the same or complying therewith.

43. Furnishing of returns etc :-

(1) The Corporation shall furnish to the Government such returns, statistics, reports, accounts and other information with respect to its conduct of affairs, properties or activities or in regard to any proposed work or scheme as the Government may from time to time require.

(2) The Corporation shall in addition to the audit report referred to in section 25 furnish to the Government an annual report on its working as soon as may be after the end of each financial year in such form and detail as may be prescribed, and a copy of the annual report, shall be placed before the Legislative Assembly as soon as may be after it is received by the Government.

44. Withdrawal of estate or part thereof :-

Where the Government is satisfied that in respect of any particular health estate or any part thereof, the purpose for which the Corporation was established under this Act has been substantially achieved so as to render the continued existence of such estate or part thereof under the Corporation unnecessary, the Government may, by Notification in the Official Gazette, declare that such health estate or part thereof has been removed from the jurisdiction of the Corporation. The Government may also make such other incidental arrangements for the administration of such health estate or part thereof as the circumstances necessitate.

45. Default in performance of duty :-

(1) If the Government is satisfied that the Corporation has made a default in performing of any duty or obligation imposed or cast on it by or under this Act, the Government may fix a period for the performance of that duty or obligation and give notice to the Corporation accordingly.

(2) If in the opinion of the Government, the Corporation fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the Government to supersede and reconstitute the Corporation, as it deems fit.

(3) After the supersession of the Corporation and until it is reconstituted in the manner laid down in Chapter II, the powers, duties and functions of the Corporation under this Act shall be carried on by the Government or by such officer or officers or body of officers as the Government may appoint for this purpose from time to time.

(4) All property vested in the Corporation shall, during the period of supersession, vest in the Government.

46. Dissolution of Corporation :-

(1) Where the Government is satisfied that the purposes for which the Corporation was established under this Act have been substantially achieved so as to render the continued existence of the Corporation in the opinion of the Government unnecessary, the Government may, by Notification in the Official Gazette, declare that the Corporation shall be dissolved with effect from such date as may be specified in the Notification, and the Corporation, shall be deemed to be dissolved accordingly.

(2) From the said date-

(a) all properties, funds and dues which are vested in, or realisable by, the Corporation shall vest in, or be realisable by, the

Government;

(b) all liabilities which are enforceable against the Corporation shall be enforceable against the Government.

47. Authority for prosecution :-

Unless otherwise expressly provided, no Court shall take cognizance of any offence relating to property belonging to or vested in the Corporation, punishable under this Act, except on the complaint of, or upon information received from the Corporation or some person authorised by the Corporation by general or special order in this behalf.

48. Composition of offences by Corporation :-

(1) The Corporation or any person authorised by the Corporation by general or special order in this behalf may, either before or after the institution of the proceedings, compound any offence made punishable by or under this Act.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

49. Offence by companies :-

(1) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of or 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 under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any Director, Manager, Secretary or other officer, then such Director, Manager, secretary or officer, as the case may be, shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. Explanation.- For the purposes of this section-

(a) "company" means any body corporate, and includes a firm or association of individuals; and

(b) "Director", in relation to a firm, means a partner in the firm.

50. Penalty for obstruction :-

(1) Any person who obstructs the entry of a person authorised under section 35 or any person with whom the Corporation has entered into a contract in the performance and execution by such person, to enter into or upon any land or building or molests such person after such entry or who obstructs the lawful exercise by him of any power conferred by or under this Act shall, on conviction by a competent court, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) If any person removes any mark set up for the purpose of indicating any level, boundary line, or direction necessary to the execution of works authorised under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to Rs. 1000/- or with both.

51. Power to make rules :-

(1) The Government, after consultation with the Corporation in regard to matters concerning it, may, by Notification in the Official Gazette, make rules to carry out the purposes of this Act: Provided that, consultation with the Corporation shall not be necessary on the first occasion of the making of rules under this section, but the Government shall take into consideration any suggestions which the Corporation may make in relation to the amendment of such rules after they are made.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) under section 6, the allowances and honorarium of members of the Corporation;

(b) under section 12, the conditions of appointment and service and the scales of pay of the Managing Director and Chief Accounts Officer of the Corporation;

(c) under section 18, the sums of money to be kept by the Corporation in current and deposit accounts;

(d) under section 20, the condition subject to which the Corporation may borrow;

(e) under section 24, the date by which the annual financial statement and programme of work shall be submitted by the Corporation to the Government and the form and manner of preparing such statement;

(f) under section 25, the manner of maintaining accounts;

(g) under section 43, the form of, and the details to be given in, the annual report;

(h) the fees which may be charged by the Corporation;

(i) any other matter which has to be, or may be, prescribed by the rules.

52. Power to make regulations :-

(1) The Corporation may, with the previous approval of the Government, make regulations consistent with this Act and the rules made thereunder to carry out, the purposes of this Act, and without prejudice to the generality of this power such regulations may provide for:-

(a) under section 7, the time and place of meeting of the Corporation and the procedure to be followed in regard to the transaction of business at such meetings;

(b) under section 12, the conditions of appointment and service and the scales of pay of officers and servants of the Corporation, other than the Managing Director and the Chief Accounts Officer;

(c) under section 18, the officer of the Corporation who may operate its accounts;

(d) under section 29, the manner in which Government lands shall be dealt with by the Corporation after development;

(e) under section 31, the committee of the Corporation to hear appeals under that section and the procedure to be followed by it;

(f) any other matter which has to be, or may be, provided by regulations.

(2) All regulations made under this section shall be published in the Official Gazette and shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid, or the session immediately following.

53. Protection of action taken in good faith :-

No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule or regulation made thereunder.

54. Notice to suit and limitation of suits against Corporation, Committees, Officers and servants for acts done in pursuance of execution of this Act :-

(1) No suit shall lie against the Corporation or against any committee constituted under this Act, or against any Officer, or servant of the Corporation in respect of any Act done in pursuance or execution or intending execution of this Act, or in respect of any alleged neglect, or default in the execution of this Act,-

(a) unless it is commenced within six months after the accrual of the cause of action; and

(b) until the expiration of two months after the notice in writing has been in the case of the Corporation or its Committee, delivered or left at the Corporations office and in the case of an Officer or servant of Corporation, delivered to him or left at his office or place of abode and all such notices shall state with reasonable particulars the cause of action and the name and place of abode of the intending plaintiff and of his advocate, pleader, or agent, if any, for the purpose of the suit.

(2) If the defendant in any such suit is an officer, or servant of the Corporation, payment of any sum or part thereof payable by him in or in consequence of the suit may, with the sanction of the Corporation, be made from the funds of Corporation.

55. Members, officers and staff of Corporation to be public servants :-

All members, officers and servants of the Corporation shall when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

56. Power to remove doubts and difficulties :-

If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, by order, make provision or give such direction not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty, and the order of the Government, in such cases, shall be final.

57. Act to have overriding effect :-

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Goa Municipalities Act, 1968 (Act 7 of 1969); the Goa Panchayat Raj Act, 1994 (Goa Act No. 14 of 1994) and the City of Panaji Corporation Act, 2002 (Act 1 of 2003).