

Mumbai Municipal Corporation Act, 1888

3 of 1888

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325. Provisions to be made by persons to whom permission is granted under section 322 for traffic etc., when their works interrupt streets

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388. Prohibition of bathing, etc, contrary to order or regulation.

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390. Factory of not to be newly established without permission of the Commissioner.

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428. Persons suffering from dangerous disease not to enter a public conveyance without notifying the same.

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431. Public conveyance which has carried a person suffering from dangerous disease to be disinfected.

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434. Commissioner may take special measures on outbreak of an dangerous disease.

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- 481. Advertisements how to be made.
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- 483. Notice, etc. by whom to be served or presented.
- 484. Service how to be effected on owners of premises and other persons.
- 485. Service on "owner or occupier" or premises how to be effected.
- 485A. Power Of Commissioner To Call For Information As To Ownership Of Premises
- 486. Four last sections inapplicable to Magistrates summons.
- 486A. Service Of Bills For Taxes By Post
- 487. Signature on notices, etc. may be stamped.
- 488. Commissioner, etc. may enter any premises for purposes of inspection, survey or execution of necessary work.
- 488A. Commissioner May Evict Persons Summarily In Certain Cases
- 489. Works, etc. which any person is required to execute may in certain cases be executed by the Commissioner at such persons cost.
- 490. Recovery of expenses of removals by the Commissioner under sections 314,315,354 and 380
- 491. Expenses recoverable under this Act to be payable on demand; and if not paid on demand may be recovered as an arrer of property tax.
- 492. If the defaulter is the owner of premises in respect of which expenses are payable, the occupier to be also liable for payment thereof.
- 493. Commissioner or General Manager may agree to receive payment of expenses in instalments.
- 494. What expenses may be declared to be improvement expenses.
- 495. Improvement expenses by whom payable.
- 496. Proportion of improvement expenses may be deducted from rent.
- 497. Redemption of charge on improvement expenses.
- 498. Recovery of instalments due under sections 493 and 495.
- 499. In default of owner, the occupier of any premises may execute required work and recover expenses from the owner
- 500. Limitation of liability of agent or trustee of owner.
- 501. Compensation for damagesmay be paid b the Commissioner or

General Manager.

502. Compensation to be paid by offenders against this Act for any damage caused by them.

503. In cases falling under section 491, disputes to be determined by the Chief Judge of the Small Cause Court.

504. Amount of expenses or compensation to be determined in all cases of dispute by the Chief Judge of the Small Cause Court.

505. Expenses or compensation awarded by Chief Judge of the Small Cause Court to be recovered, if necessary, as if they were due under a decree of the Court.

506. Persons liable for expenses or compensation may be issued for recovery thereof.

507. Remedy of owner of building or land against occupier who prevents his complying with any provisions of this Act.

508. Power to summon witnesses and compel production documents.

509. Fees in proceedings before the Chief Judge of the Small Cause Court.

510. Exemption of poor persons from fees.

511. Repayment of half fees on settlement before hearing.

512. Authority to the Chief Judge of the Small Cause Court to delegate certain powers and to make rules.

513. Cognizance of offences.

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514. limitation of time within which complaints of offences punishable under this Act shall be entertained.

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524. Measurement of distances.

525. Informalities and errors in assessments, etc., not to be deemed to invalidated such assessment, etc.

526. Power to [State] Government to call for extracts from proceedings, etc.

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528. Section 528

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Mumbai Municipal Corporation Act, 1888

CHAPTER 1

Preliminary

1. Short title, and extent :-

This Act may be cited as the 1[Mumbai Municipal Corporation] Act.
2It extends only to 3 [Brihan Mumbai]

1. "Governor of Bombay" shall stand unmodified vide the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2. These clauses were substituted for clause (a) by Bom. 7 of 1950, s. 5(i)

3. This clause was inserted by Bom. 58 of 1956, s. 3(1)

2. Repeal of enactments :-

The enactments mentioned in Schedule A are repealed to the extent specified in the third column of the said Schedule.

Provided that-

(a) all rules and by-laws made, all notifications published, all orders issued and all licences and permissions granted under any of the said enactments and still in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, published, issued and granted hereunder; and

(b) all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done, by, with or for the municipal Corporation before this Act comes into force shall be deemed to have been incurred, entered into or engaged to be done by, with or for the municipal Corporation constituted under this Act; and

(c) all rates, taxes and sums of money due to the Corporation when this Act comes into force shall be deemed to be due to the Corporation under this Act; and

(d) all suits and other legal proceedings, civil, criminal, instituted or which, might but for the passing of this Act have been instituted by or against the Corporation or the Commissioner may be continued or instituted subject to the provisions of section 13 of Schedule R as if this Act has not been passed; and

(e) all references made in any Act of the 1Governor of Bombay in Council to any of the said enactments shall be read as if made to this Act to the corresponding portion thereof.

3. Definitions of terms :-

In this Act, unless there be something repugnant in the subject or context,- 1(a) "the city" means the area specified in Part I of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945;

2[(aa) "extended suburbs"- means the area specified in Part IV of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945];

(al) 3[Brihan Mumbai] means the areas specified in Parts I, II and III of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, 4[and on and from the date of commencement of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendments)] Act, 1956, includes the extended suburbs i.e. the area specified in Part IV of this Schedule]; 5[specified as the larger urban area in the notification issued in respect thereof under clause (2) of Article 243-Q of the Constitution of India].

(a2) "the suburbs" means the area specified in Parts II and III of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945];

(a3) "Backward Class of Citizens" means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes and Vimukta Jatis and Nomadic Tribes;]6

(b) "the Corporation" means the Municipal Corporation of 4[Brihan Mumbai], constituted or deemed to have constituted under this Act;]

7[

(c) "Councilor" means a person duly elected as a member of the Corporation; and includes a nominated Councillor who shall not have the right,-

(i) to vote at any meeting of the Corporation and Committee of the Corporation; and

(ii) to get elected as a Mayor of the Corporation or a Chairperson of any of the Committees of the Corporation;

8(cc) "Commission" means the Public Service Commission constituted for the State of Bombay under the Constitution of India;]

(d) "the Commissioner" means the Municipal Commissioner for 9[Brihan Mumbai] appointed under section 54 and includes 10[an Additional Municipal Commissioner appointed under sub-section (3)

of Section 54 and] an acting Commissioner appointed under sub-section (3) of Section 59;

(e) "Deputy Commissioner" means a Deputy Municipal Commissioner appointed under section 55, 11[and the Deputy Municipal Commissioner (Improvements) appointed under section 56A] and includes an acting Deputy Commissioner appointed under sub-section (3) of Section 59 12[and an additional Deputy Municipal Commissioner appointed under sub-section (1A) of Section 55]; 13[

(ea) "Director" means the Director (Engineering Services and Projects) appointed under section 54A;]

(f) "the Police Commissioner" means the Commissioner of Police 9[Brihan Mumbai]

15[

(g) "Education Officer" means the Municipal Education Officer appointed under Section 76A and includes an acting Municipal Education Officer appointed under Section 85];

16[

(h) "election" means an election to fill a seat or seats of a Councillor]; or Councillors under this Act.

17[

(i) "Assembly constituency" means a constituency provided by law for the purpose of elections to the Maharashtra Legislative Assembly, or any part thereof, which is for the time being comprised in 18[Brihan Mumbai];

(j) "Assembly roll" means the electoral roll prepared for any Assembly Constituency in accordance with the provisions of the Representation of the People Act, 1950];

(k) "licensed plumber" and "licensed surveyor" means respectively, a person licensed by the Commissioner for the purposes of this Act as a plumber or surveyor under section 355; 17[

(ka) "Schedule Castes" means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Schedule Castes in relation to the State of Maharashtra under article 341 of the Constitution of India;

(kb) "Schedule Tribes" means such tribes or tribal communities or parts of, or groups within, tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State of Maharashtra under article 342 of the Constitution of India;]

(l) "Small Cause Court" means the Court of Small Causes of Bombay; 20[

(la) "State Election Commission" means the State Election

Commission consisting of the State Election Commissioner appointed in accordance with the provisions of clause (1) of article 243-K of the Constitution of India;]

(m) "owner" when used in reference to any premises, means the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes-

(i) an agent or trustee who receives such rent on account of the owner, and

(ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes, and

(iii) a receiver, a sequestrate, or manager, appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises;

(n) a person is deemed "to reside" in any dwelling which he sometimes uses, or some portion of which he sometimes uses, though, perhaps, not uninterruptedly, as a sleeping apartment; and a person is not deemed to cease "to reside" in any such dwelling merely because he is absent from it, or has elsewhere another dwelling in which he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning thereto;

(o) the term "public securities" means securities of the 21[Central Government] and any securities guaranteed by 22[the Central or any 23[State] Government], securities of the Bombay Port Trust, securities issued under this Act and any Bombay Municipal debentures or other securities heretofore issued 24[and any debentures or other securities issued under the City of Bombay Improvement Act, 1898, and the City of Bombay Improvement Trust Transfer Act, 1925];

(p) "tax" includes any impost leviable under this Act; 25[

(pa) "article" in relation to octroi means any goods;]

(q) "vehicle" includes a carriage, cart, van, dray, truck, handcart and wheeled conveyance of any description capable of being used on the streets of the city;

(r) "land" includes land which is 26[being built upon or is built] upon or covered with water, 27[benefits to arise out of land, things attached to the earth or prominently fastened to anything attached to the earth and rights created by legislative enactment over any street];

(s) "building" includes a house, outhouse, stable, shed, hut 28[tank

(except tank for storage of drinking water in a building or part of a building)] and every other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatever; 29[

(sa) "tenement" means a building or a part of a building, other than a temporary building or a part thereof, let or intended to be let or occupied separately;

(sb) "temporary building" means any building which is constructed principally of mud, leaves, grass, cloth, thatch, wood, corrugated iron or asbestos cement sheets or such other material and includes a building of whatever size constructed of whatever material which the Commissioner has allowed to be built as a temporary measure;]

(t) "waterwork" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, 30[tunnel,] duct, whether covered or open, sluice, main pipe, culvert, engine and any machinery, land, building, or thing for supplying or used for supplying water;

31[

(u) "drain" includes a sewer, pipe, ditch, channel 32[tunnel] and any other device for carrying off sewage, offensive matter, polluted water, sullage, waste water, rain water or sub-soil water, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter to the sewage outfall];

(v) "house gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleaning thereof or in the removal of such matter therefrom;

(w) "street" includes any highway and any causeway, bridge, via duct, arch road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and has access uninterruptedly for a period of twenty years; and, when there is a footway as well as carriageway in any street, the said term includes, both;

(x) "public street" means any street heretofore levelled, paved, metalled, channelled, sewered or repaired by the Corporation and any street which becomes a public street under any of the provisions of this Act; 33[or which vests, in the Corporation as a public street];

(y) "private street" means a street which is not a public street; 34[

(yy) "trade refuse" means and includes the refuse of any trade, manufacture or business];

(z) "nuisance" includes any act, omission, place, or thing which

causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property;

(aa) "dangerous disease" means cholera and any endemic, epidemic, or infectious disease by which the life of man is endangered;

(bb) "official year" means the year commencing on the first day of April;

(cc) "public holiday" means a day or other period of time on or during which by an order of 35[the 36[State] Government] published in the [Official Gazette] Government offices in the city are closed;

(dd) "sub-section" and "clause" denote, respectively, a sub-section or clause of the section in which the word occurs;

[

(ee) "bakehouse" means any place in which are baked bread, biscuits or confectionery, from the baking or selling of which a profit is derived;

(ff) "eating-house" means any premises to which the Public are admitted and where any kind of food is prepared or supplied or consumption on the premises for the profit or gain of any person owning or having an interest in or managing such premises;

(gg) "premises" includes messuages, buildings and lands of any tenure, whether open or enclosed, whether built on or not and whether public or private];

33[

(hh) "a sweetmeat shop" means any premises or part of any premises used for the manufacture, treatment or storing for sale, or for the sale, wholesale or retail, of any ice cream, confectionaries or sweatmeats whatsoever intended, and by whatsoever name the same may be known, and whether the same be for consumption on or outside the premises]; 34[* * * * *]

39[

(II) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruit, vegetables, 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 of 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 any other person;]

40[

(mm) "the 41[Brihan Mumbai Electric Supply and Transport Undertaking] means all undertakings acquired, organised, constructed, maintained, extended, managed or conducted by the Corporation for the purpose of providing tramways, trackless trams or mechanically propelled transport facilities for the conveyance of the public or for the purpose of supplying electrical energy to the public and includes all movable and immovable property and rights vested or vesting in the Corporation for the purposes of every such undertaking;

(nn) "the General Manager" means the General Manager of the 37[Brihan Mumbai Electric Supply and Transport Undertaking] appointed under Section 60A and includes an acting General Manager appointed under Section 60B)]

43[

(oo) "Wards Committee" means a Wards Committee constituted under section 50TT;

(pp) "Finance Commission" means the Finance Commission constituted in accordance with the provisions of Article 243-1 of the Constitution of India;]

44[

(qq) "Mayor" means the Mayor of the Corporation elected by the elected Councillors from amongst themselves under section 37IB;

(rr) 45[* * *]

(ss) 46 [* * *]

(tt) "prescribed" means prescribed by rules made under this Act.]

1. These clauses were substituted for clause (a) by Bom. 7 of 1950, s. 5(i)

2. This clause was inserted by Bom. 58 of 1956, s. 3(1)

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4-9-1996).

4. This portion was inserted by Bom. 58 of 1956, s. 3(2).

5. This portion was added by Mah. 41 of 1994, s. 3(a).

6. Clause (a3) was inserted by Mah. 41 of 1994, s. 3(b).

7. Clause (c) was substituted by Mah. 41 of 1994, s. 3(a).

8. Clause (cc) was inserted by Bom. 48 of 1950, s. 2(2).

9. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4-9-1996).

10. These words, brackets and figures were inserted by Mah. XLIII of 1983, s. 2

11. These words, figures, brackets and letter were inserted by Bom. 13 of 1933, s. 3(a)

12. These words, figures, letter and brackets were added by Bom. 7 of 1950, s. 5(iii)
13. Clause (ea) was inserted by Mah. 53 of 1981, s. 2
15. Clause (g) was inserted by Bom. 48 of 1950, s. 2(3).
16. Clause (h) was inserted by Bom. 54 of 1955, s. 2.
17. Clauses (i) and (j) were inserted by Mah. 8 of 1965, s. 2.
18. Clauses (ka) and (kb) were inserted by Mah. 41 of 1994, s. 3(e)
20. Clause (la) was inserted by Mah. 41 of 1994, s. 3(f)
21. The words "Central Government" were substituted for the words "Government of India" by the Adaptation of Indian Laws Order in Council.
22. The words "the Central or any Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
23. The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
24. These words were inserted by Bom. 13 of 1933, s. 3(b)
25. This clause was inserted by Mah. 32 of 1964, s. 2
26. These words were substituted for the word "built" by Bom. 8 of 1918, s. 2
27. These words were inserted by Bom. 13 of 1933, s. 3(c)
28. These words and brackets were inserted by Mah. 21 of 1989, s. 2
29. These clauses were inserted by Bom. 28 of 1957, s. 2
30. This word was inserted by Mah. 37 of 1981, s. 2(a)
31. Clause (u) was substituted for the original clause by Bom. 5 of 1905, s. 2
32. This word was inserted by Mah. 37 of 1981, s. 2(b).
33. These words were added by Bom. 7 of 1950, s. 5(v)
34. This new clause (yy) was added by Bom. 1 of 1925, s. 2(b)
35. Clause (hh) was inserted by Bom. 5 of 1920, s. 2
36. Clauses (ii), (jj) and (kk) were deleted by Bom. 48 of 1950, s. 2(5)
39. This clause was added by Bom. 5 of 1938, s. 2
40. These clauses were added by Bom. 48 of 1948, s. 2
41. These words were substituted by Mah. 25 of 1996 (w.e.f. 4-9-1996).
43. Clauses (oo) and (pp) were added by Mah. 41 of 1994, s. 3(g)
44. Clauses (qq) to (tt) were added by Mah. 10 of 1998.
45. Clauses (rr) and (ss) were deleted by Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 2 (w.e.f. 23-4-1999)

46. Clauses (rr) and (ss) were deleted by Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.2, (w.e.f.23-4-1999)

CHAPTER 2

The Municipal Constitution Municipal Authorities

4. Municipal authorities :-

1 The Municipal Authorities charged with carrying out the provisions of this Act are-

- (a) a Corporation;
- (b) a Standing Committee;
- (c) an Improvements Committee;
- (d) a Brihan Mumbai Electric Supply and Transport Committee;
- (e) an Education Committee;
- (f) a Wards Committee;
- (g) a Mayor;
- (h) a Municipal Commissioner;
- (i) a General Manager of the Brihan Mumbai Electric Supply and Transport Undertaking.]

1. Section 5 A was inserted by Mah. 41 of 1994, s. 6

5. Composition of Corporation :-

(1) The Corporation shall consist of,-

- (a) two hundred and twenty-one councillors directly elected at ward elections; and
- (b) five nominated councillors having special knowledge or experience in Municipal Administration to be nominated by the Corporation in the prescribed manner:

Provided that nothing in this sub-section shall have effect until the expiry of the existing term of the Corporation.

(2) The Corporation shall, by the name of The Municipal Corporation of [Brihan Mumbai] be a body corporate and have perpetual succession and a common seal and by such name may sue and be sued.]

5A. Reservation Of Seats :-

1(1) Notwithstanding anything contained in clause (a) of subsection (1) of section 5 or in section 19, for the purpose of any general election held after the commencement of the Maharashtra Municipal Corporations and Municipal Councils (Amendment) Act, 1994, such number of seats out of the total number of seats to be filled in by direct election, shall be reserved for the members belonging to the Scheduled Castes, Scheduled Tribes, Women and the Backward Class of Citizens, as provided in sub-section (2) to (5), both inclusive.

(a) The number of seats to be reserved for the members belonging to the Scheduled Castes shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Castes in 2[Brihan Mumbai] bears to the total population of 2[Brihan Mumbai];

(b) one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes:

Provided that, where only one seat is reserved for the Scheduled Castes, then no seat shall be reserved for women belonging to the Scheduled Castes and where only two seats are reserved for the Scheduled Castes, one of the two seats shall be reserved for women belonging to the Scheduled Castes.

(3)

(a) The number of seats to be reserved for the members belonging to the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of seats to be filled in by direct election in the Corporation as the population of the Scheduled Tribes in 2[Brihan Mumbai] bears to the total population of 2[Brihan Mumbai];

(b) one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Schedule Tribes

Provided that, where only one seat is reserved for the Scheduled Tribes, then no seat shall be reserved for women belonging to the Scheduled Tribes, and where only two seats are reserved for the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Tribes.

(4)

(a) 6[Twenty-seven per cent] seats out of the total number of seats to be filled in by direct election shall be reserved for the members belonging to the Backward Class of citizens;

(b) one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Backward Class of citizens.

(5) One-third (including the number of seats reserved for women belonging to the Scheduled Castes, Scheduled Tribes and the Backward Class of citizens) of the total number of seats to be filled in by direct election shall be reserved for women.

(6) The seats reserved under sub-sections (2), (3), (4) and (5) shall be allotted by the State Election Commissioner by rotation to different wards.

(7) The reservation of seats under sub-section (2) and (3) for the Scheduled Castes and the Scheduled Tribes other than the reservation for women in sub-section (5), shall cease to have effect after the period specified in Article 334 of the Constitution of India.]⁷

1. Section 5 A was inserted by Mah. 41 of 1994, s. 6

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4-9-1996).

6. These words were substituted for the words "as nearly as may be twenty-seven per cent" by Mah. 12 of 1997, (w.e.f. 31.5.1994)

7. Heading substituted by Mah. 41 of 1994, s. 7

6. Duration of Corporation :-

1 The Corporation shall continue for a period of five years from the date appointed for its first meeting and no longer.

1. Sections 6, 6A and 6B were substituted by Mah. 41 of 1994, s. 8

6A. Term Of Office Of Councillors :-

The term of office of the councillors shall be co-terminus with the duration of the Corporation.

6B. Election To Constitute Corporation :-

An election to constitute the Corporation shall be completed before the expiry of its duration specified in section 6.]

7. Section 7 :-

1 []

1. Section 7 was deleted by Mah. 41 of 1994, s. 9

7A. Section 7A :-

1 [* * * * *]

1. Section 7A was deleted by Mah. 41 of 1994, s. 10

7B. Councillor To Vacate All Offices If He Ceases To Be A Councillor :-

12 [Notwithstanding anything contained in sections 47, 49G, 50B or 50M or any other provisions of this Act, a person] who ceases to be a Councillor shall, ipso facto, vacate any office held by him on any Committee of the Corporation by virtue of his being a Councillor.]

1. Section 7B was substituted by Mah. 10 of 1998.

2. These words were substituted for the words "as nearly as may be twenty-seven per cent" by Mah. 12 of 1997, (w.e.f. 31.5.1994)

8. Re-eligibility of persons ceasing to be councillors :-

Any person who ceases to be a Councillor shall unless disqualified, be re-eligible.

9. Casual vacancies how to be filled up :-

In the event of non-acceptance of office by a person elected 1[* *] to be a Councillor, or of the death, resignation or disqualification of a Councillor, of his becoming incapable of acting 2[during the term of his office] there shall be deemed to be a casual vacancy in the office and such vacancy shall be filled up, as soon as it conveniently may be, by the election 1[* *] of a person thereto, who shall hold office so long only as the Councillor in whose place he is elected 1[* *] would have been entitled to hold it if the vacancy had not occurred. 5[The casual vacancy in the office of an elected Councillor shall be filled up in the manner provided in Section 34:] 6[

Provided that no election shall be held to fill up such vacancy 6[if it occurs within six months preceding the date on which the term of

office of the Councillor expires under section 6A].

7 [* * * * *]

1. The words "or appointed" and "or appointment, as the case may be" were deleted by Bom. 13 of 1938, ss. 6 and 7.
2. These words were substituted for the words "previous to the day of retirement" by Mah. 41 of 1994, s. 12(a).
5. These words were added by Bom. 28 of 1935, s. 2
6. This proviso was added by Bom. 12 of 1936, s. 2
7. Second proviso deleted by Mah. Act 41 of 1994, s. 12(c)

10. Publications of names of councillors in the Official Gazette :-

. The names of all persons elected 1[**] to be councillors shall be published by the 2[the State Election Commissioner] in the 3 [Official Gazette].

1. The words "or appointed" and "or appointment, as the case may be" were deleted by Bom. 13 of 1938, ss. 6 and 7.
2. These words were substituted for the word "The Commissioner" by Mah. Act 41 of 1994,s. 13
3. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

11. Persons qualified to vote :-

1(1) A person shall not be entitled to vote at a ward election unless he is enrolled in the municipal election roll as a voter of the ward for which such election is held.

2 [* * * * *]

1. This marginal note was substituted by Mah. 8 of 1965, s. 5(B)
2. Sub-sections (2), (3), (4) (5) and (6) were deleted by Mah. 8 of 1965

11A. Section 11A :-

[Qualifications of voters at election of delegates] Repealed by Bom. 48 of 1950.

12. Section 12 :-

[Repealed by Bom. 6 of 1922].

13. Section 13 :-

[Repealed by Bom. 6 of 1922].

14. Qualification for election as a Councillor at ward election :-

. 1* * A person shall not be qualified to be elected at a ward election to be a Councillor 2[unless he is 3[not less than twenty-one years of age on the last date fixed for making nominations for any general election or bye-election and is] enrolled in the municipal election roll as a voter of some ward]. 4[* * * * *]
5 [* * * * *]

1. The brackets and figure "(1)" were deleted by Mah. 6 of 1980, s. 2(a)

2. These words were substituted for the words and figures "unless his name is included in Part I of the final roll of some ward" by Mah. 20 of 1980, s. 2

3. These words were inserted by Mah. 12 of 1990, s. 2

4. Words repealed by Bom. 6 of 1922, s. 6, are omitted.

5. Sub-section (2) was deleted by Bom. 13 of 1938, s. 9(1)

14A. Section 14A :-

[Qualifications for elections as a Councillor by delegates] Repealed by Bom. 48 of 1950.

15. Section 15 :-

[Qualifications for elections by Chamber, etc.] Repealed by Bom. 48 of 1950.

15A. Section 15A :-

[Qualifications for co-option] Repealed by s. 3 of Bom. 17 of 1931.

16. Disqualifications for being a Councillor :-

..

(1) A person shall be disqualified for being elected 7* 8* and for being a Councillor if such person- 1[

(a-l) has been so disqualified by or under any law

(i) for the time being in force for the purpose of elections to the Legislature of the State:

Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty- one years;

(ii) made by the Legislature of the State of Maharashtra; or;]

2[(a) has, at any time after the commencement of section 2 of the Maharashtra Municipal Corporations (Amendment) Act, 1970, been convicted of an offence punishable under section 153 A, or sub-section (2) or (3) of section 505, of the Indian Penal Code:

Provided that, such disqualifications shall be for a period of six years from the date of such conviction; or]

3[(b) has been convicted by a Court in India of any offence involving moral turpitude, unless a period of six years has elapsed since the date of such conviction; or]

4[(ba) has more than two children:

Provided that, a person having more than two children on the date of commencement of the Maharashtra Municipal Corporations and Municipal Councils, Nagar Panchayats and Industrial Townships (Second Amendment) Act, 1995 (hereinafter in this clause referred to as "the date of such commencement"), shall not be disqualified under this clause so long as the number of children he had on the date of such commencement does not increase:

Provided further that a child or more than one child born in a single delivery within the period of one year from the date of such commencement shall not be taken into consideration for the purpose of disqualification mentioned in this clause:

Explanation:- For the purposes of this clause,-

(i) where a couple has only one child on or after the date of such commencement, any number of children bom out of a single subsequent delivery shall be deemed to be one entity;

(ii) "child" does not include an adopted child or children.]

(c) having been adjudged or re-adjudged an insolvent, is under any disqualification imposed by section 103A of the Presidency-towns Insolvency Act 1909; or section 73 of the Provincial Insolvency Act, 1920; or]

(d) is the Commissioner 6[the Director or a Deputy Commissioner] or a municipal officer or servant, or a licensed surveyor or plumber 7[or a member of a firm of which a licensed surveyor or plumber is a member]; or

(e) is the Chief Judge of the Small Cause Court or is acting in that capacity; or 8[

(ee) fails to pay any arrears of any kind due by him (otherwise than as, a trustee) to the Corporation within three months after a

special notice in this behalf has been served upon him; or]

(f) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the Corporation; 9[or] 10[

(fa) having been elected a Councillor, during his term of office as Councillor has directly or indirectly, by himself or his partner, any share or interest in any lease including any leave or licence (but excluding any official residence provided by the Corporation), sale or purchase of land or any agreement for the same, by or on behalf of the Corporation; or]

11[

(ff) having been elected a Councillor is retained or employed in any professional capacity either personally or in the name of a firm in which he is a partner or with whom he is engaged in a professional capacity in connection with any cause or proceeding in which the Corporation or the Commissioner is interested or concerned:

Provided that this disqualification shall not apply to a Councillor who renders free services for securing the enforcement of civil rights or removal of legitimate public grievances.]

Explanation:- 12[I] For the purpose of clause (f)-

(i) a municipal pensioner shall not be deemed to have any share or interest in any employment with, by or on behalf of the Corporation by reason only of his pension;

(ii) a person shall not be deemed to have any share or interest in any employment with, by or on behalf of the Corporation by reason only of any relation of his being employed with, by or on behalf of the Corporation, as an officer or servant thereof]

Explanation II:- For the purpose of clause (fa)-

(i) a Councillor shall not be deemed to have any share or interest in any lease including leave or licence, sale or purchase of land or any agreement for the same, by or on behalf of, the Corporation if such share or interests not acquired by him directly or indirectly by use, his position or office as a Councillor;

(ii) the expression "leave" or "licence" means a licence as defined in section 52 of the Indian Easement Act, 1882];

14[(1A) A person who at any time during the term of his office is disqualified under the Maharashtra Local Authority Members Disqualification Act, 1986, for being a Councillor shall cease to hold off as such Councillor.]

(2) But a person shall be so disqualified or be deemed to have any share or interest in such a contract or employment by reason only of 4[his receiving fee for attendance for meetings of the 15[Brihan

Mumbai Electric Supply and Transport Committee] or of his having any share or interest in- 16[

(g) subject to the provisions for clause (fa) of sub-section (1) any lease including, by any leave or licence, sale or purchase of land or any agreement for the same, by or on behalf of the Corporation; or]

(h) any agreement for the loan of money or any security for the payment of money only; or

(i) any newspaper in which any advertisement relating to the affairs of the Corporation is inserted; or

(j) any joint stock company which shall contact with or be employed by the Commissioner on behalf of the Corporation; or

(k) the occasional sale to the Commissioner on behalf of the Corporation to a value not exceeding in any official year two thousand rupees, of any article in which he regularly trades.

1718 * * * * *

1. This clause was inserted by Mah. 41 of 1994, s. 14(a)

2. Clause (a) was inserted by Mah. 13 of 1971, s. 2

3. Clause (b) was substituted for the original by Mah. 41 of 1994, s. 14(b)

4. Clause (ba) was inserted by Mah. 43 of 2000, s.2, w.e.f. 13-9-2000.

5. Clause (c) was substituted for the original clause by Bom. 1 of 1948, s. 3(a) read with Bom. 8 of 1948, s. 4

6. These words were inserted by Mah. 53 of 1981, s. 3

7. These words were inserted by Bom. 1 of 1946, s. 3(a) read with Bom. 8 of 1948, s. 3(b)

8. Clause (ee) was inserted by Bom. 11 of 1932, s. 2

9. The word "or" was inserted by Bom. 1 of 1946, s. 3(c) read with Bom. 8 of 1948, s. 4

10. Clause (fa) was deemed to have been inserted with effect from 1st April 1958 by Mah. 4 of 1973, s. 2(a)

11. Clause (ff) was inserted by Bom. 1 of 1946, s. 3(d)

12. This Explanation was substituted by Mah. 35 of 1967, s. 2

13. The existing Explanation was renumbered as Explanation I and Explanation II was added by Mah. 51 of 1975, s. 2

14. Sub-section (1 A) was inserted by Mah. 20 of 1987, s. 11, Schedule

15. These words were substituted by Mah. 25 of 1996 (w.e.f. 4-9-1996).

16. Clause (g) was inserted with effect from 2nd October, 1978 by Mah. 25 of 1978, s. 2

17. Sub-section (3) was deleted by Bom. 48 of 1950, s. 9

18. Section 79 of Bom. 48 of 1950 reads as follows:- "79. Nothing in sections 2(1), (4) and (5) and 4 to 16 shall affect the constitution of the Corporation, the Standing Committee, the Improvements Committee or any other Committee or sub-Committee as constituted or appointed under the said Act immediately before the coming into operation of this Act and any casual vacancy in the office of a Councillor or a member of any of the said committees or sub-committees before the 1st day of April, 1952 shall, subject to the provisions of the said Act, be filled as if this Act had not been passed."

17. A person becoming disqualified to cease to be a Councillor :-

. Any Councillor who,-

(a) becomes disqualified for being a Councillor for any reason mentioned in the last preceding section, or

(b) absents himself during three successive months from the meetings of the Corporation, except from temporary illness or other cause to be approved by the Corporation.

1[23* * * * *]

(d) absents himself from or is unable to attend the meetings of the Corporation during twelve successive months from any cause whatever, whether approved by the Corporation or not 4227 xxx] shall cease to be a Councillor and his office shall thereupon be vacant.

1. The word "or" and clause (d) were inserted by Bom. 5 of 1938, s. 4

2. Section 79 of Bom. 48 of 1950 reads as follows:- "79. Nothing in sections 2(1), (4) and (5) and 4 to 16 shall affect the constitution of the Corporation, the Standing Committee, the Improvements Committee or any other Committee or sub-Committee as constituted or appointed under the said Act immediately before the coming into operation of this Act and any casual vacancy in the office of a Councillor or a member of any of the said committees or sub-committees before the 1st day of April, 1952 shall, subject to the provisions of the said Act, be filled as if this Act had not been passed."

3. Clause (c) was deleted by Bom. 5 of 1938, s. 10(1)

4. The word "or" was deleted by Bom. 48 of 1950, s. 10(2)

7. Clause (e) was deleted by Bom. 48 of 1950, s. 10(3)

18. Questions as to disqualifications to be determined by Chief Judge of the Small Cause Court :-

Whenever it is alleged that any Councillor has become disqualified for office for any reason aforesaid, and such Councillor does not admit the allegation, or whenever any Councillor is himself in doubt whether or not he has become disqualified for office, such Councillor or any other Councillor may, and the Commissioner, at the request of the Corporation, shall apply to the Chief Judge of the Small Cause Court; and the said Chief Judge, after making such inquiry as he deems necessary, shall determine whether or not such Councillor has become disqualified for being a Councillor, and his decision shall be conclusive.

18A. State Election Commission :-

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

(2) The State Election Commissioner may, by order, delegate any of his powers and functions to any office of the State Election Commission or any officer of the State Government not below the rank of Deputy Collector or any officer of the Corporation not below the rank of the Ward Officer.

(3) All the officers and members of the staff appointed or deployed for preparation of electoral rolls and conduct of elections of the Corporation under this Act or the rules shall function under the superintendence, direction and control of the State Election Commissioner.

(4) Notwithstanding anything contained in this Act and the rules, the State Election Commissioner may issue such special or general orders or directions which may not be inconsistent with the provisions of the Act and the rules and fair and free elections.]

1. This section was inserted by Mah. 41 of 1994, s. 14

18B. Power Of State Election Commissioner To Issue Directions To Prevent Impersonation :-

The State Election Commissioner may, with a view to prevent impersonation of electors at the time of election, issue such directions, as he thinks fit, to the presiding officers and such directions may include instructing the electors to produce, at the time of polling, the photo identity cards issued to them under the provisions of the Representation of the Peoples Act, 1951.]

19. Division of [Brihan Mumbai] into single member wards and [preparation of] municipal election roll therefor :-

123(1) For the purposes of elections to the Corporation,-

(a) The 4[State Election Commissioner] shall, from time to time, by notification in the Official Gazette, divide the area of 5[Brihan

Mumbai] into wards and specify the boundaries thereof, so that as far as practicable, all wards shall be compact areas and the number of persons in each ward according to the latest census figures shall approximately be the same. Each of the wards shall elect only one Councillor;]4Provided that, before such notification is published, draft thereof shall be published in the Official Gazette and in such other manner as in the opinion of the 5[State Election Commissioner] is best calculated to bring the information to the notice of all persons likely to be affected thereby, together with a notice specifying the date on or before which any objections or suggestions will be received, and the date after which the draft will be taken into consideration. 6[* * ****-]

(b) The Assembly roll for the time being in force, on such date as the State Election Commissioner may, by general or special order notify, shall be divided by the State Election Commissioner into different sections corresponding to the different wards in 4[Brihan Mumbai]; and a printed copy of each section of the roll so divided and authenticated by the State Election Commissioner or an officer authorised by him shall be the ward roll for each ward;]

(1A)* * * * *

(2) Only one Councillor shall be elected at each ward election

[

(3) * * * * *

[

(4) *****]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4-9-1996).

2. Section 19 was substituted by Mah. 8 of 1965, s. 6

3. These words were substituted for the words "adoption of relevant Assembly roll as" by Mah. 53 of 1973,s. 2(c).

4. This portion was substituted for the portion beginning with the brackets, letters and words "(a) the area of Greater Bombay" and ending with the words "by the State Government in the Official Gazette " by Mah. 15 of 1991, s. 3(a).

5. Section 21 was substituted by Mah. 53 of 1973, s. 4

6. These words were substituted for the words and figures, "in Part I or Part II of any final ward roll for any ward shall be deemed to be entitled to vote at an election in that ward" by Mah. 20 of 1980, s. 4

7. Section 22 was substituted by Mah. 41 of 1994, s. 17

20. Section 20 :-

Deleted by Mah. II of 1996 w. e.f. 29.1.1996.

21. Right to vote :-

1 Subject to the provisions of this Act, every person whose name is
2 [in the municipal roll shall be deemed to be entitled to vote at a
ward election] and every person whose name is not in the said roll
be deemed to be not entitled so to vote.]

1. Section 21 was substituted by Mah. 53 of 1973, s. 4

2. These words were substituted for the words and figures, "in Part
I or Part II of any final ward roll for any ward shall be deemed to
be entitled to vote at an election in that ward" by Mah. 20 of 1980,
s. 4

21A. Section 21A :-

[Procedure regarding elections of delegates and Councillor.} Repealed by Bom. 48
of 1950, s. 11

21B. Section 21B :-

[Preparation and revision of list for supplementary election rolls.] Deleted by Mah.
8 of 1965, s. 9

21C. Section 21C :-

[Completion of supplementary election roll.] Deleted by Mah. 8 of 1963, s. 9

21D. Section 21D :-

[Consolidation of supplementary election roll] Deleted by Mah. 8 of 1965, s. 9

22. Dates of election :-

1 [The dates of general ward election of councillors and elections
t o fill casual vacancies shall be fixed by the State Election
Commissioner.]

1. Section 22 was substituted by Mah. 41 of 1994, s. 17

23. Section 23 :-

[Consequences of extension of term of office of councillors or
appointment of Administrator and holding of general ward elections
any time thereafter.]

24. Section 24 :-

[Division of the city into the ward for the purposes of elections.]
[Deleted by Mah. 8 of 1965, s. 11]

25. Notice to be given of day fixed for ward elections :-

(1) 2[Seven days] at least before the day fixed for a ward election 3[* * *] notice of such election shall be given by 4[the State Election Commission]. Such notice shall be given by advertisement in the 5[Official Gazette] and in the local newspapers, and 5[* * *] by posting placards in the conspicuous places in the ward for which election is to take place.]

7 [

(2) The notice referred to in sub-section (1) shall, in addition to the day fixed for election, specify the day on which the poll shall, if necessary, be taken, which shall be a day not earlier than the twenty-first day after the day fixed for the elections.]

1. This section was renumbered as sub-section (1) of section 25 by Mah. 43 of 1983, s. 4(1).

2. These words were substituted for the words "Fifteen days" by Mah. 43 of 1983, s. 4(1)

3. The words deleted by Bom. 6 of 1922, s. 13 are not printed.

4. These words were substituted for the words, "the Commissioner" by Mah. 41 of 1994, s. 8

5. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

7. Sub-section (2) was inserted by Mah. 43 of 1983, s. 4(2)

26. Candidates at ward elections must be nominated :-

Provisions regarding nominations

(1) Candidates for election at ward elections 1[* * *] must be duly nominated in writing in accordance with the provisions hereinafter contained.

(2) With respect to such nominations, the following provisions shall have effect, namely:-

(a) 2[State Election Commissioner] shall provide printed forms of nomination papers and any person entitled to vote at the election shall be supplied, at any time, within seven days previous to the day fixed for the election 3[and upto 4 p.m. on the date of election.] with as many such forms as may be required, free of

charge;

(b) each nomination paper must state the name, abode and description of the candidate in full, and be subscribed by two persons entitled to vote at the election as proposer and seconder, 4[and must bear the signature of the nominated in token of his willingness to be so nominated;]

(c) every nomination paper subscribed 5[and signed] as aforesaid must be delivered at 6[the office of the State Election Commissioner] before five o'clock in the afternoon of the day fixed for the election;

7[

(d) each candidate must be nominated by a separate nomination paper, and a candidate may be nominated by more than one nomination paper, but any person entitled to vote shall not subscribe, whether as proposer or seconder, more than one nomination paper;] 8[

(dd) if any person subscribes more than one nomination paper, the nomination paper or papers received after receipt of the first nomination paper shall be invalid;]

(e) if any person nominated- 9[

(i) is not qualified to be elected as a Councillor under section 14, or]

10[

(ii) has not made or caused to be made the deposit referred to in sub-section (1) of section 26A, or]

(iii) is disqualified for being a Councillor for any of the reasons set forth in section 16, 11[the State Election Commissioner] shall declare that persons nomination invalid;

(f) If there is no valid nomination, it shall be deemed that no Councillor has been elected and proceedings for filling the vacancy or vacancies shall be taken under section 34;

12[* * * * *]

13[

(h) if there is only one valid nomination, the person nominated shall be deemed to be elected;]

14[

(j) if the number of nomination exceeds one, the election of Councillor shall be made from among the persons nominated, and such election shall be termed "a contested election":

Provided that, if any candidate validly nominated dies or signifies in writing to 15[the State Election Commissioner] not later than 16[three days] after the date of election his intention not to contest

the election, then, if there remains only one valid nomination, the remaining candidate validly nominated shall be deemed to be elected:

Provided further that, a candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be nominated as a candidate for the same election]

(k) if, when two or more ward elections are held simultaneously different wards, any person is deemed, under 17[* *] clause (h), to be elected a Councillor for more than one ward, he shall within twenty-four hours after receipt of written notice thereof from 18[the State Election Commissioner], choose, by writing signed by him and delivered to 18[the State Election Commissioner] or, in his default, 18[the State Election Commissioner] shall, when the time for choice has expired, declare for which one of those wards he shall serve. The choice or declaration so made shall be conclusive, and such persons nomination for the ward or . wards for which he is not to serve shall be deemed to be null and void;

(l) if, when ward elections are held as aforesaid, any person who is deemed under 21[* *] clause (h), to be elected a Councillor for any one or more wards, has also been duly nominated for anyone or more wards for which the number of nomination exceeds that of the vacancies, he shall within twenty-four hours after receipt of written notice thereof from 22[the State Election Commissioner] choose, by writing signed by him and delivered to 20[the State Election Commissioner] whether he shall serve for the ward, or for any one of the wards for which he is elected or will stand 24 [the State Election Commissioner] shall, when the time for choice has expired, declare that he shall serve for the ward or for the wards for which he is elected, and his nomination for any other ward shall be deemed to be null and void. If such a person chooses, by writing as aforesaid, to stand as a candidate at the contested election or elections, his nomination for the ward or wards for which he is elected shall be deemed to be null and void. Any choice or declaration made under this clause shall be conclusive.

1. These words repealed by Bom. 6 of 1922, s. 14(a), are omitted
2. These words were substituted for the words "The Commissioner" by Mah. 41 of 1994, s. 19(a)
3. These words were inserted by Bom. 1 of 1925, s 7(a)
4. These words were inserted by Bom. 1 of 1946, s. 9(a) read with Bom. 8 of 1948, s. 4
5. The words "and signed" were inserted by Bom. 1 of 1946, s. 9(b)

6. These words were substituted for the words "the Commissioners office" by Mah. 41 of 1994, s. 19(b).
7. This clause (d) was substituted by Mah. 8 of 1965, s. 12(a)
8. Clause (dd) was substituted by Mah. 8 of 1965, s. 12(b)
9. Sub-clause (i) was substituted by Mah. 12 of 1990, s. 3
10. New Clause (ii) was inserted by Bom. 19 of 1930, s. 3
11. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 19(c).
12. Clause (g) was deleted by Mah. 8 of 1965, s. 12(c)
13. Clause (h) was substituted by Mah. 8 of 1965, s. 12(d)
14. Clause (j) was substituted by Mah. 8 of 1965, s. 12(e)
15. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 19(d).
16. These words were substituted for the words "seven days" by Mah. 33 of 1989, s. 3
17. The words, brackets and letter "clause (g) or" were deleted by Mah. 33 of 1989, s. 12(f)
18. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 19(e).
21. The words, brackets and letter "clause (g) or" were deleted by Mah. 33 of 1989, s. 12(g)
22. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 19(f):
24. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 19(f).

26A. Deposit By Candidates :-

1[.

(1) On or before the date appointed for the nomination of candidates for a ward election 2[* * *] each candidate 2[* * *] shall deposit or cause to be deposited with 4[an officer of the State Election Commissioner] 5[in cash a sum of two hundred rupees or,] where a candidate is a member of a Schedule Caste 6[Schedule Tribes or Backward Class of Citizens] a sum of one hundred rupees, and no candidate shall be deemed to be duly nominated unless such deposit has been made.

(2) The deposit shall be returned if-

(a) the candidate is declared or is deemed to be duly elected, or

7[

(b) the candidate signifies in writing 8[to an officer of the State Election Commissioner] not later than 8[three days] after the day of election his intention not to contest the election, or]

(c) the nomination of the candidate is declared invalid, or

(d) the candidate dies, 9[* * * *] after the scrutiny of nomination papers and before the commencement of the poll 10 [* * *][* * *] or

(e) the candidate fails to be elected but secures [* * * *] valid votes in excess of the number specified in sub-section (4).

(3) The deposit shall be returned to the person by whom it was made. If a

candidate dies [* * * *] before the day fixed for the poll, [* * *] the deposit, if made by him shall be returned to his legal representative or, if not made by the candidate shall be returned to the person by whom it was made.

(4) If a candidate is not elected and [* * *] if the number of valid votes polled by him does not exceed one-eighth of the total number of valid votes polled [* * * * *] the deposit shall be forfeited to the Corporation.

(5) The deposit shall if it is not forfeited be returned as soon as may be after the declaration of the result of the election under section 32:

Provided that if a candidate is duly nominated at a general election in more than one ward, not more than one of the deposits made by him or on his behalf shall be returned and the remainder shall be forfeited to the Corporation].

1. New section 26A was inserted by Bom. 19 of 1930, s. 4

2. The words "or for election by co-option" and the words "for election or co-option as the case may be" were omitted by Bom. 32 of 1935, s. 3(a)

4. These words were substituted by Mah. 41 of 1994, s. 20

5. These words were substituted for the words "the sum of two hundred rupees in cash or in Government Promissory Notes of equal value at the market rate of the day", by Mah. 25 of 1978, s. 3

6. These words were inserted by Mah. 41 of 1994, s. 20(b)

7. Clause (b) was substituted by Bom. 1 of 1946, s. 10, read with Bom. 8 of 1948, s. 4

8. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 19(f).

9. The words "in the case of a ward election" were omitted by Bom. 32 of 1935, s. 3(b)(i)

10. The word "and" was deleted by Bom. 24 of 1936, s. 2 sch.

27. Poll to be taken when a ward election is contested :-

(1) When a ward election [* * *] is contested [a poll shall be taken on any day, being a day not early than the twenty-first day, after the day fixed for election]. At such poll, the municipal election roll, which was in operation on the day fixed for the election, shall be deemed to be the roll to which reference must be made for the purposes of the election.

(2) At least 1[three] days before the day of the poll, the 2[State Election Commissioner] shall cause the names of all the persons validly nominated, with their respective abodes and descriptions 3[* * *] to be published in the 4[Official Gazette] and 5 [by displaying the names of person so nominated wardwise, on the notice board of each respective ward office].

1. The word "three" was substituted for the word "four" by Bom. 10 of 1928, s. 3(a)

2. These words were substituted for the word "the Commissioner" by Mah. 41 of 1994, s. 21

3. Words repealed by Bom. 10 of 1928, s. 3(b), are omitted.

4. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian laws Order in Council.

5 . These words were substituted for the words "in the local newspapers " by Mah. 33 of 1989,s.5

27A. Prohibition Of Canvassing In Or Near Polling Stations

:-

(1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following act within the polling station or in any public or private place within a distance of one hundred yards of the polling station, namely:-

- (a) canvassing for votes; or
- (b) soliciting the vote of any voters; or
- (c) persuading any voter not to vote for any particular candidate; or
- (d) persuading any voter not to vote at the election; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the elections.

(2) Any person who contravenes the provisions of sub-section (1) shall on conviction be punished with fine which may extend to hundred and fifty rupees.

(3) Any offence punishable under this section shall be cognizable.

1. Sections 27A to 27C were inserted by Bom. 54 of 1955, s. 3

27B. Prohibition Of Public Meetings On The Day Preceding The Day Of Poll 7[And On The Day Of Poll :-

(1) No person shall convene, hold or attend any public meeting in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election in that polling area.

(2) Any person who contravenes the provision of sub-section (1) shall, on conviction, be punished with fine which may extend to five hundred and fifty rupees].

27C. Penalty For Disorderly Conduct In Or Near Polling Station :-

(1) No person shall, on the date or dates on which a poll is taken at any polling station-

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as megaphone or a loudspeaker, or
- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-sections (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1) and may seize any apparatus used for such contravention]

27D. Penalty For Misconduct At Polling Stations :-

(1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding

(4) An offence punishable under sub-section (3) shall be cognizable

1. Section 27A to 27C were inserted by Bom 54 of 1955, s.3.

28. Provisions respecting contested ward elections :-

1With respect to the contested ward elections the following provisions shall have effect namely

(a) 2[votes shall be given by ballot in such manner as may be prescribed by the rules made under section 29,] No votes shall be received by proxy;

(b) no votes shall be received for any candidate whose name has not been published by 3[the State Election Commissioner] under sub-section (2) of section 27 as having been validly nominated;

4[

(c) no person shall vote at a general election in more than one ward and if a person votes in more than one ward his vote in all such wards shall be void.

(ca) no person shall at any election vote in the same ward more than once notwithstanding that his name may appear in the municipal election roll for that ward more than once 5[* * *****]

and if a person votes in the same ward more than once all his votes in that ward shall be void;]

6[* *****]

7[

(g) the person who has the greatest number of valid votes shall be deemed to be elected;]

(h) where an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected the determination of the person or persons to whom such additional vote shall be deemed to have been given shall be made by 8[the State Election Commissioner] in such manner as he shall determine;

(i) if a candidate is elected Councillor for more than one ward, he

shall, within three days after receipt of written notice thereof from 8[the State Election Commissioner], choose, by writing signed by him and delivered to 8[the State Election Commissioner], or in his default 8[the State Election .Commissioner] shall, when the time for choice has expired, declare for which of the wards he shall serve and the choice or declaration shall be conclusive;

(j) when any such choice or declaration has been made, the votes recorded for the candidate aforesaid in any ward for which he is not to serve shall be deemed not to have been given and the candidate, if any, who but for the said votes would have been declared to have been elected for such ward shall be deemed to have been elected for the same;

(k) 8[the State Election Commissioner] shall, as soon as may be, declare the result of the poll, specifying the total number of valid votes given for each candidate, 13* * * and shall cause lists to be prepared for each ward, specifying the name of all candidates, and the number of valid 14[* * *] votes given to each candidate. In accordance with such rules as 9 [the State Election Commissioner] may frame for the purpose and on payment of such fee as may be prescribed by him a copy of such list shall be supplied to any candidate of the ward and shall be available for inspection to any voter of the ward.]

1. Section 28 was substituted for the original section by Bom 1 of 1925, s.8.

2. These words and figures were substituted for the words "votes shall be given by ballot and in person" by Mah. 43 of 1983, s. 7

3. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 22

4. These clauses were substituted for clause (c) by Bom. 54 of 1955, s. 4

5. The portion beginning with the words "on the ground" and ending with the words "section 11" was deleted by Mah. 8 of 1965, s. 14(a)

6. Clause (d) and (f) were deleted by Mah. 8 of 1965, s. 14(b)

7. Clause (g) was substituted by Mah. 8 of 1965, s. 14(c)

8. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 22.

13. The words and figure "and he shall, as soon as may be, hear and decide all objections, if any, into or regarding the poll, made to him in writing not later than 5 O'clock of the afternoon of the day after the poll" were deleted by Bom. 1 of 1946, s. 12, read with Bom. 8 of 1948, s. 4

14. The words "and the number of rejected" were deleted by Bom. 1 of 1946.

28A. Maintenance Of Secrecy Of Voting :-

1 (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section(1) shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine or with both.

1. Sections 28A to 281 were inserted by Bom. 54 of 1955, s. 5

28B. Officers, Etc., At Elections Not To Act For Candidates Or To Influence Voting :-

(1) No person who is a presiding or polling officer at an election or an officer or, an employee appointed, designated or empowered by the State Election Commissioner or such presiding officer to perform any duty in connection with an election shall, in the conduct or management of the election do any act, other than the giving of vote, for the furtherance of the prospects of the election of a candidate.]

(2) No such person as aforesaid and no member of a police force shall endeavour-

(a) to persuade any person to give his vote at an election; or

(b) to dissuade any person from giving his vote at an election; or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

1. Sub-section (1) was substituted by Mah. 41 of 1994, s. 22

28C. Breaches Of Official Duty In Connection With Elections :-

(1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are 1[* * *] , presiding officers, polling officers and any other 2 [person or officer appointed, designated or empowered] to perform any duty in connection with the preparation of a municipal election roll, the receipt of nominations or withdrawal of candidatures or the recording or counting of votes at an election: and the expression "official duty" shall for the purpose of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

1. The words "the Commissioner" were deleted by Mah. 41 of 1994, s. 24(a)

2. These words were substituted for the words "persons appointed" by Mah. 41 of 1994, s. 24(b)

28D. Removal Of Ballot Papers From Polling Stations To Be An Offence :-

(1) Any person, who at any election fraudulently takes, or attempts to take, a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act, shall on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

28E. Other Offences And Penalties Therefor :-

(1) A person shall be guilty of an offence if at any election he-

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of 1[the State Election Commissioner]; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in ; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall-

(a) if he is 2 [* * *] or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine or with both.

(b) if he is any other person, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of such election including the counting of votes or to be responsible after such election for the used ballot papers and other documents in connection with such election; but the expression "official duty" shall not include any duty imposed otherwise than by or under this Act.

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

1. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 25(a).

2. The words "the Commissioners" were deleted by Mah. 41 of 1994, s. 25(b)

28F. What Is A Corrupt Practice :-

A person shall be deemed to have committed a corrupt practice within the meaning of section 33,-

(i) who, with a view to inducing any vote to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or

holds out any promise of individual profit or holds out any threat of injury, to any person; or

(ii) who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote; or

(iii) who hires or procures, whether on payment or otherwise, any vehicle or vessel for the conveyance of any vote to, or from, any polling station:

Provided that-

(a) the hiring of a vehicle or vessel by a candidate for himself or his family or an election agent shall not be deemed to be a corrupt practice under this section;

(b) the hiring of a vehicle by a voter or by several voters at their joint cost for the purpose of conveying him or them, to, or from any such polling station shall not be deemed to be corrupt practice under this section, if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power;

(c) the use of any public transport vehicle or vessel or any tram-car or railway carriage by any voter at his own cost for the purpose of going to, or coming from, any such polling station shall not be deemed to be a corrupt practice under this section.

(d) And a corrupt practice shall be deemed to have been committed by a candidate if it has been committed with his knowledge and consent with reference to the elections.

Explanation:- The expression "a promise of individual profit"-

(i) does not include a promise to vote for or against any particular measure which may come before the Corporation for consideration, but

(ii) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

28G. What Is A Corrupt Practice :-

(1)

(a) Whoever in any election directly or indirectly, by himself or by any other person in this behalf, shall, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offer or give any money or valuable consideration or hold out any promise of individual profit or hold out any threat of injury to any person, or

(b) Whoever shall give, procure or abet the giving of a vote in the name of a voter, who is not the person giving such vote, or

(c) Whoever hires or procures any vehicle or vessel for the conveyance of any voter, to, or from, a polling station in the circumstances described in clause (iii) of section 28F. shall be liable to a fine not exceeding two hundred rupees for every such offence.

(2) Whoever, being qualified to vote at an election claiming to be so qualified accepts or obtains or agrees to accept Or attempts to obtain for himself or for any other person any money or valuable consideration or any individual profit as a motive or reward for giving or forbearing to give his vote in any such election shall be liable to a fine not exceeding one hundred rupees for every such offence. 118

Explanation:- In sub-sections (1), (2) "individual profit" includes a benefit accruing to the person himself or to any one in whom he is interested. It does not include a promise to vote for "or against any measure which may come before the Corporation for consideration.

1[

(2A) Whoever in connection with any election, directly or indirectly, by himself or by any other person on his behalf, promotes or attempts to promote feelings of enmity or hatred, between different classes of the citizens of India on grounds of religion, race, caste, community or language, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.]

(3) Every person convicted under sub-section (1) or sub-section (2) 2[or sub-section (2A)] shall, for such period not exceeding seven years from the date of the

conviction as the Court may direct, be disqualified from voting at any election.

(4) No Court shall take cognizance of any offence under this section except on the complaint of the Judge who has held an enquiry under section 33 or before whom such inquiry is pending.

(5) No prosecution for an offence under this section shall be instituted except within six months next after the date of the declaration of, the result of the election.

(6) An appeal shall lie to the High Court against any sentence or order passed by a Magistrate under sub-section (1), sub-section (2) 3 [subsection (2A)] or sub-section (3).

1. Sub-section (2A) was inserted by Mah. 21 of 1989, s. 3(a)

2. These words, brackets, figure and letter were inserted by Mah. 21 of 1989, s. 3(b)

3. These words, brackets, figure and letter were inserted by Mah. 21 of 1989, s. 3(c)

28H. Adjournment Of Poll In Emergencies :-

(1) If at an election the proceedings at any polling station are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause 4 [the State Election Commissioner, or subject to such directions as the State Election Commissioner may issue in this behalf, the presiding officer for such polling station as, the case may be, shall announce the adjournment of the poll to a date to be notified later, and where the poll is so adjourned by

(2) Whenever a poll is adjourned under sub-section (1), 1 [the State Election Commissioner] shall, as soon as may be, appoint the day on which the poll shall recommence and fix the polling station, at which, and the hours during which, the poll will be taken and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) The notice of the polling station and the date and hours fixed under sub-section (2) shall be published by 2 [the State Election Commissioner] in the Official Gazette and in the local newspaper at least three days before the date of the fresh poll.

1. these words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 26(b).

2. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 26(c).

28I. Fresh Ballot In The Case Of Destruction, Etc. Of Ballot Boxes :-

(1) If at any election any ballot box or boxes is or are unlawfully taken out of the custody of 1 [the State Election Commissioner], or any presiding officer or is or are in any way tampered with, or is or are either accidentally or intentionally destroyed or lost, the election to which such ballot box or boxes relate shall be void, but only in respect of the polling at the polling station or stations at which such ballot box or boxes was or were used and no further.

(2) Whenever the polling at any polling station or stations shall become void under sub-section (1), 2 [the State Election Commissioner] shall, as soon as practicable after the act or event causing such voidance has come to his knowledge, appoint a day for the taking for a fresh poll in such or every such polling station and fix the hours during which the poll will be taken and shall not count the votes cast at such election until such fresh poll shall have been completed.

(3) The notice of the polling station and the date and hours fixed under sub-section (2) shall be published by 2 [the State Election Commissioner] in the Official Gazette and in all local newspapers at least three days before the date of the fresh poll.]

1. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 27.

2. these words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 26(b).

29. State Government may make rules for the conduct of election :-

1. 2[3[Subject to the provisions of this Act 4[the State Government may in consultation with the State Election Commissioner], make rules for the conduct of election and in particular providing- 5[* ***** *]

(a) for the appointment of polling stations for each ward;

(b) for the appointment of 6[presiding officer and polling officers] and other persons to assist at the poll and for the remuneration of such 5[presiding officer and polling officers] and other persons for their services;

(c) for the hours during which polling stations shall be open for the recording of votes;

(d) for the printing and for the issue of voting papers;

(e) for the checking of voters by reference to the 6[municipal election] roll; 7[

(ee) with a view to preventing impersonation, for the marking with indelible ink of the left fore-finger or any other finger of every voter applying for a ballot paper including the provision for the withdrawal of the issue of a ballot paper to any voter who refuses to allow indelible ink mark to be put on his left fore-finger or any other finger or which has been found to have such indelible ink mark on his left fore-finger or any other finger;]

(f) for the manner in which votes are to be given and in particular for the case of illiterate voters or of voters under physical or other disability;

(g) the procedure to be followed in respect of the challenged votes, or tender of votes by persons representing themselves to be electors, after other persons have voted as such electors;

(h) for the scrutiny of votes;

(i) for the safe custody of ballot papers and other election papers, for the period for which such papers shall be reserved and for the inspection and production of such papers; and may make such other rules regarding the conduct of the elections as it thinks fit.] 8

[

Provided that, any such rules may provide for charging of fees for any of the purposes of the election].

1. These words were inserted for the word "Corporation" by Mah. 41 of 1994, s. 28(c).

2. This new section 29 was inserted by Bom. 1 of 1925, s. 9. the original section 29 was repealed by Bom. 6 of 1922.
3. Section 29(1) was renumbered as section 29 by Bom. 24 of 1936, s. 2, Sch.
4. These words were substituted for the words "the Corporation shall, with the sanction of the State Government" by Mah. 41 of 1994, s. 28(a)
5. Clause (aa) was deleted by Mah. 20 of 1980, s. 5
6. These words were substituted for the words "Polling Officers" by Bom. 54 of 1955, s.6(l)
7. This clause was inserted by Bom. 54 of 1955, s. 6(2)
8. Proviso added by Mah. 41 of 1994, s. 28(b)

30. Section 30 :-

[Proceedings at Fellows elections]. Repealed by Bom. 48 of 1950, s. 14

30A. Section 30A :-

[Proceedings at elections of co-opted councillors]. Repealed by Bom. 1 of 1925.

31. Section 31 :-

[Proceedings at elections by the Chamber or1 Association]. Repealed by Bom. 48 of 1950, s. 15

1. Section 79 of Bom. 48 of 1950 reads as follows:- "79. Savings - Nothing in sections 2(1), (4) and (5), and 4 to 16 shall affect the constitution of the Corporation, the Standing Committee, the Improvement Committee or any other Committee or sub-Committee as constituted or appointed under the said Act immediately before the coming into operation of this Act and any casual vacancy in the office of a Councillor or a member of any of the said committees or sub- Committee before the 1st day of April, 1952, shall, subject to the provisions of the said Act, be filled as if this Act had not been passed."

31A. Section 31A :-

[Repealed by Bom. 17 of 1931, s. 3.]

32. Declaration of results of elections :-

(1) The results of every election shall be declared 1[in such manner as the State Election Commissioner may think fit] certifying the names of the persons, if any, elected and, in the case of a contested election, the number of votes recorded for each candidate.

2 [* *****-]

1. This portion was substituted by Mah. 41 of 1994, s. 29

2. Sub-section (2) was deleted by Bom. 48 of 1950, s. 16(2)

33. Election petitions to be heard and disposed of by Chief Judge of the Small Cause Court :-

(1) If the qualification of any person declared elected for being a Councillor is disputed, or if the validity of any election is 1[by the State Election Commissioner] of a nomination or of the improper reception of refusal of a vote, or for any other cause 2[or if the validity of the election of a person is questioned on the ground that he has committed a corrupt practice within the meaning of section 28F], any person enrolled in the municipal election roll may, at any time, within 3[ten days] 4[from the date on which the list prescribed under clause (k) of section 28 was available for sale or inspection 5[* * *] apply to the Chief Judge of the Small Cause Court. 6[If the application is for a declaration that any particular candidate shall be deemed to have been elected, the applicant shall make parties to his application all candidates who although not declared elected, have, according to the results declared 7[by the State Election Commissioner] under section 32, a greater number of votes than the said candidate, and proceed against them in the same manner as against the said candidate.] 8[

(1 A) The applicant shall whenever so required by the Chief Judge, deposit in the Court a sum of Rs. 500 in cash or Government securities of equivalent value at the market rate of the day as security for any costs which the applicant, may be ordered to pay to other parties to the said application.]

(2) If the said Chief Judge, after making such inquiry as he deems necessary, finds that the election was valid election and that the person whose election is objected to is not disqualified he shall confirm the declared result of the election. 9[If he finds that the person whose election is objected to is disqualified for being a Councillor he shall declare such persons election null and void. If he finds that the election is not a valid election he shall set it aside. In either case, he shall direct that the candidate if any in whose

favour the next highest number of valid votes is 10[* * * * *] and against whose election no cause of objection is found, shall be deemed to have been elected.] 11[

(2A) When an election of a person is questioned on the ground that he has committed a corrupt practice within the meaning of section 28F, the Chief Judge shall, if he is satisfied that a candidate has committed such corrupt practice, declare a candidate disqualified both for the purposes of that election and of such fresh election as may be held during the current term of office of the councillors elected at the general election and shall set aside the election of such candidate if he has been elected.]

(3) the said Chief Judges order shall be conclusive.

12 [xxx]

(5) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election.

1. These words were substituted for the words " by the Commissioner" by Mah. 41 of 1994, s. 30(a).

2. This portion was inserted by Bom. 54 of 1955, s. 7(1)

3. These words "ten days" was substituted for "fifteen days" by Mah. 10 of 1998

4. These words were substituted for the original words by Bom. 1 of 1925, s. 12

5. The words "in the Commissioners Office" were deleted by Mah. 41 of 1994, s. 30(b)

6. These words were added by Bom. 5 of 1905, s. 5(1)(b)

7. These words were substituted for the words "by the Commissioner" by Mah. 41 of 1994, s. 30(a)

8. Sub-section (1 A) was inserted by Bom. 1 of 1946, s. 14 read with Bom. 8 of 1948, s. 4

9. These words were substituted for the original words by Bom. 5 of 1905, s. 5(2)

10. The words "or after all the person who were returned or elected at the said election" were deleted by Mah. 8 of 1965, s. 15

11. This sub-section was inserted by Mah. 54 of 1955, s. 7(2)

12. Sub-section (4) was deleted by Bom. 28 of 1935, s. 3

34. Procedure if election fails or is set aside :-

. . 1[2[

(1) If at any general election or an election held to fill a casual vacancy, no Councillor is elected, or the election of any Councillor is

set aside under sub-section (2) of section 33 and there is no other candidate who can be deemed to be elected in his place under the said subsection 3 [the State Election Commissioner] shall appoint another day for holding a fresh election and a fresh election shall be held accordingly.]

(2) A Councillor elected under this section shall be deemed to have been elected to fill a casual vacancy under section 9.]

1. Section 34 was substituted for the original section by Bom. 28 of 1935, s. 4

2. This sub-section was substituted by Mah. 8 of 1965, s. 16

3. These words were substituted for the words "the Commissioner" by Mah. 41 of 1994, s. 31.

35. Section 35 :-

[Appointment by [State] Government] of councillors when to be made.] Repealed by Bom. 13 of 1938, s. 14

36. Provision regulating the Corporations proceedings :-

The Corporation shall meet for the despatch of business and shall from time to time make such regulations with respect to the summoning, notice, place, management and adjournment of such meetings, and generally with respect to the mode of transacting and managing the business of the Corporation 5[including the submission, asking and answering of questions under section 66A] as they think fit, subject to the following conditions:- 1[

(a) there shall be one ordinary meeting in- each month, the ordinary meeting in the month of March shall be held not later than the twentieth day of that month;

(b) the first meeting in the month of April, after general elections shall be held as early as conveniently may be in the said month on a day and at a time and place to be fixed by the Commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the Commissioner;

(c) the day, time and place of meeting shall in every other case be fixed by the Mayor, or in the event of the office of Mayor being vacant, or of the death or resignation, of the Mayor or on his ceasing to be a Councillor, or of his being incapable of acting, by the Deputy Mayor or in the event of absence of both by the Chairman of the Standing Committee;

(d) the Mayor or in any such event as aforesaid, the Chairman of the Standing Committee may, whenever he thinks fit, and shall,

upon a written requisition signed by not less than one-sixth of the whole number of councillors call a special meeting];

(e) every meeting shall be open to the public, unless a majority of the councillors present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any Councillor present without previous discussion, that any inquiry or deliberation pending before the Corporation is such as should be held in private, and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings;

(f) if at any time during a meeting it shall be brought to the notice of the presiding authority that the number of Councillor present 2[inclusive of the presiding authority, falls short of one-fifth of the whole number of councillors] the presiding authority shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting or, if the latter meeting should be again adjourned, at any subsequent adjourned meeting, 3[whenever there is a quorum present] thereat or not;

4[

(g) every meeting shall be presided over by the Mayor if he is present at the time appointed for holding the same, and if the office of Mayor is vacant, or if the Mayor is absent, by the Deputy Mayor or if both the Mayor and the Deputy Mayor are absent by such one of the councillors present as may be chosen by the meeting to be Chairman for the occasion.]

(h) at least seven clear days notice shall ordinarily be given of every meeting, other than adjourned meeting, but in case of urgency any such meeting may be called except for the purpose of considering an annual budget estimate, in pursuance of a written requisition signed 5[by not less than four members of the Standing Committee] upon a notice of less than three 6[clear days and of adjourned meeting] such previous notice shall be given as shall be practicable having regard to the period of the adjournment.

(j) every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat 7[other than, questions under section 66A] and shall be given by the municipal secretary by advertisement in the local newspapers 8[* * * *];

(k) any Councillor who desires at any meeting to bring forward any-business 9[other than any question under section 66A] or to make

any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same to the municipal secretary at least three clear days before the day fixed for the meeting; and a supplementary announcement of the business or propositions, of which notice has been so given, shall be given by the said secretary in not less than one local daily newspaper not later than the day previous to the meeting;

10[

(l) except at a meeting called on a requisition of urgency or at the discussion at any meeting of a budget-estimate, no business shall be transacted at any meeting other than the business specified in the notice published under clause (j) and any questions asked under section 66A or urgent business not specified in the said notice which the Standing Committee, the Improvements Committee, the Brihan Mumbai Electric Supply and Transport Committee, the Education Committee or the Commissioner deem it expedient to bring before the meeting, and no substantive proposition shall be made or discussed which is not specified in the said notice or in the supplementary announcement, if any, published under clause (k), or which is not in support of the recommendation of the Standing Committee, the Improvements Committee, the Brihan Mumbai Electric Supply and Transport Committee, the Education Committee or Commissioner, as the case may be, with reference to any urgent business brought by any of those authorities, respectively before the meeting:

Provided that, no such urgent business as aforesaid shall be brought before any meeting unless at least three-fourths of the councillors present at such meeting, such three-fourths being not less than one-sixth of the whole number of councillors assent to its being brought forward thereat;]

(m) at a meeting called on a requisition of urgency and during the discussion at any meeting of a budget estimate, no business shall be transacted and no substantive proposition shall be made or discussed which does not directly relate to the business for which the urgent meeting was called, or to the budget estimate, as the case may be; and no proposition involving any change in the taxes 11[which the Standing Committee proposes to impose] or an increase or decrease of any item of expenditure in a budget estimate, shall be made or discussed at any meeting at which such budget estimate is under consideration, unless such proposition is specified in the notice of the meeting published under clause (j) or in the supplementary announcement, if any, published under clause

(k), or unless, in the case of an adjourned meeting, each of the conditions mentioned in the proviso to clause (n) has been fulfilled; 12[

(ma) Notwithstanding anything contained in clauses (1) and (m), the Commissioner may, at any time, either on his own behalf or on behalf

(n) any meeting may, with the consent of a majority of the councillors present, be adjourned from time to time, but no business shall be transacted and, except as is hereinafter provided, no proposition shall be discussed at any adjourned meeting other than the business and propositions remaining undisposed of at the meeting from which the adjournment took place:

Provided that at any adjourned meeting at which a budget estimate is under consideration a proposition involving any change such as is described in clause (m) may be made and discussed, notwithstanding that such proposition is not one remaining undisposed of at the meeting from which the adjournment took place, if each of the following conditions has been fulfilled, namely:-

(i) that written notice of such proposition has been given at the meeting from which the adjournment took place;

(ii) that the adjournment has been for not less than 13[two] clear days; and

(iii) that a special announcement of the proposition has been given by the municipal secretary (who shall be bound to give such announcement) in not less than one local daily newspaper not later than the day previous to the adjourned meeting;

(o) a minutes of the names of the councillors present and of the proceedings at every meeting shall, on the day following the meeting, or as soon thereafter as may be, 14[be kept] by the municipal secretary in a book to be provided for this purpose and shall be signed at, and by the 15[or any meeting held soon thereafter, after confirmation by the Corporation at such meeting]; and the said minute book shall at all reasonable times be open at the chief municipal office to inspection by any Councillor free of charge, and by any other person on payment of 16[a fee of fifty naye paise or such other amount as may be fixed by the Corporation but not exceeding two rupees];

(p) a Councillor shall not vote or take part in the discussion of any matters before a meeting 17[or ask any question under section 66A concerning any matter] in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described

in clauses (g) to (1), both inclusive, or section 16, or in which he is professionally interested on behalf of a client, principal or other person;

(q) every question other than the question whether the Standing Committee, the Improvements Committee, the Brihan Mumbai Electric Supply and Transport Committee, the Education Committee or Commissioner shall be permitted to bring urgent business before a meeting without notice, shall be decided, by a majority of votes of the councillors present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes:"

Provided that, the Councillors referred to in clause (b) of subsection (1) of section 5 shall not have the right to vote in any meeting of the Corporation];

(r) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute book shall, unless a poll be demanded at the time of such declaration by not less than four councillors, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition;

(s) when a poll is taken, the vote of each Councillor present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the councillors voting respectively for or against the proposition shall be recorded in the minute book;

18 [

(t) the Commissioner or where the Commissioner is unable to attend owing to absence or illness or for any other reasonable cause whatsoever, the Director, or a Deputy Commissioner, shall have the same right of being present at a meeting of the Corporation and of taking part in the discussions thereat as a Councillor, and with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon or to make any proposition at such meeting where the Commissioner, the Director or the Deputy Commissioner desires to make a statement or explanation of facts at a meeting and the consent as aforesaid is not given, the Commissioner, the Director or the Deputy Commissioner shall be entitled to lay a copy thereof on the Table of the House. But when required by the Corporation or the Mayor, the Commissioner shall himself attend the meeting of the Corporation, unless he is

prevented from doing so on account of absence, illness or any other reasonable cause;

(u) the Corporation may require any of its officers to attend any meeting or meetings of the Corporation at which any matter dealt with by such Officer in the course of his duties is being discussed. When any officer is thus required to attend any such meeting, he may be called upon to make a statement or explanation of facts or supply such information in his possession relating to any matter dealt with by him as the Corporation may require.]

1 . Clauses (a) to (d) were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5 (w.e.f. 23-4-1999).

2 . These words were substituted for the words "falls short of twenty-five inclusive of the Presiding Authority" by Bom. 7 of 1950, s. 8(ii).

3. These words were substituted for the words "whether there be a quorum of twenty-five members present" by Bom. 7 of 1950.

4. Clause (g) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5(b), (w.e.f. 23-4-1999).

5. These words were substituted for the words " by the Mayor" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5(c)(i), (w.e.f. 23-4-1999).

6 . These words were substituted for the words "clear days of adjourned meetings" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5(c)(ii), (w.e.f. 23-4- 1999).

7. The words, figures and letter were inserted by Bom. 23 of 1930, s. 2(ii)

8. The words "and, except in the case of adjourned meetings or of meetings called upon a requisition of urgency, in the Official Gazette " were deleted by Mah. 51 of 1975, s. 3

9. These words, figures and letter were inserted by Bom. 23 of 1930, s. 2(iii)

10. Clause (1) was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5(d), (w.e.f. 23-4-1999).

11. These words were substituted for the words "proposed to be imposed" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5(e), (w.e.f. 23-4-1999).

12. Clause (ma) was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5(f), (w.e.f. 23-4-1999).

13. This word was substituted for the word "three" by Bom. 76 of 1948, s. 2

14. These words were substituted for the words "be drawn up and fairly entered" by Mah. 1 of 1964, s. 2(a)

15. These words were inserted by Mah. 1 of 1964, s. 2(b)
16. These words were substituted for the words "a fee of eight annas" by Mah. 1 of 1964, s. 2(c)
17. These words, figures and letter were inserted by Bom. 23 of 1930, s. 2(v)
18. Clause (t) and (u) were inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 5(h) (w.e.f. 23-4-1999).

36A. Power To Order Withdrawal Of Member :-

(1) The 2[presiding authority] shall preserve order and may direct any Councillor whose conduct is in his opinion grossly disorderly to withdraw immediately from the meeting of the Corporation. Any Councillor so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the days meeting. If any Councillor is ordered to withdraw a second time within 15 days the 2[presiding authority] may suspend the Councillor from attending the meetings of the Corporation for any period not exceeding 15 days and the councillors so directed shall absent himself accordingly:

Provided that the 2[presiding authority] may revoke the period of suspension on apology being made to his satisfaction by the Councillor under suspension:

Provided also that such suspension from the service of the Corporation shall not prevent any Councillor from serving on any Committee.

(2) The 2 [presiding authority] may, in the case of grave disorder arising in the meeting, suspend the meeting for a period not exceeding three days].

1. New section 36A was inserted by Bom. 10 of 1928, s. 6

2. The words "presiding authority" were substituted for the word "president" by Bom. 21 of 1931, s. 2(ii)

37. Mayor and Deputy Mayor :-

(1) The Corporation shall subject to the provisions of subsection (2), at its first meeting after general elections, elect from amongst the Councillors one of its number to be the Mayor and another to be the Deputy Mayor. The tenure of the Mayor and the Deputy Mayor shall be of two and a half years:

Provided that, the term of the Mayor and the Deputy Mayor in office on the date of coming into force of the Maharashtra Municipal Corporation (Amendment) Act, 2000, shall be extended to, and be co- terminus with, the term of the office of the elected Councillors:

Provided further that, the roster relating to the reservation of the office of the Mayor shall be deemed to have been amended to provide for the extended tenure of the Mayor.]

(2) There shall be reservation for the office of the Mayor in the Corporation, by rotation, for the Scheduled Castes, the Scheduled Tribes, Women and the Backward Class of citizens, in the prescribed manner.

(3) The Mayor and the Deputy Mayor shall hold office until a new Mayor and a Deputy Mayor have been elected under sub-section (1) and, in a year in which general elections have been held, shall do so notwithstanding that they have not been returned as councillors on the results of the elections.

(4) Notwithstanding anything contained in sub-section (1), on the date of commencement of the Mumbai Municipal Corporation (Amendment) Act, 1999, the term of office of the Mayor, who is in office on the said date, shall be deemed to have come to an end and he shall have vacated his office on the said date. The Mayor in office having so vacated his office, the first meeting for the purpose of election of the new Mayor, after the said date, shall be held by the Commissioner, within a period of seven days from the said date and all other provisions of this Act relating to such election shall, mutatis mutandis, apply:

Provided that, the Mayor in office immediately before the said date shall continue till the new Mayor enters the office.

(5) All retiring Mayors or Deputy Mayors shall be eligible for reelection to either office.

(6) The Deputy Mayor may resign his office at any time by notice in writing to the Mayor and the Mayor may resign his office at any time by notice in writing to the Corporation.

(7) If any casual vacancy occurs in the office of the Mayor or the Deputy Mayor, the Corporation shall, as soon as convenient after the occurrence of the vacancy, choose one of its members to fill the vacancy and every Mayor or Deputy Mayor so elected shall hold office so long only as the person in whose place he is appointed would have been entitled to hold it if the vacancy had not occurred.]

1. Section 37 was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 6 (w.e.f. 23-4-1999).

2. Sub-section (1) was substituted by Mah. 25 of 2000, s. 2 (w.e.f. 4-3-2000)

37A. Leader Of Opposition :-

(1) An elected Councillor who is, for the time being, the leader of the party in opposition, having greatest numerical strength and recognised as such by the Mayor, shall be the Leader of the Opposition.

Explanation:-Where there are two or more parties in the opposition, having the same numerical strength, the Mayor shall, having regard to the status of the party, recognize any one of the leaders of such parties as a Leader of the Opposition for the purposes of this Act and such recognition shall be final and conclusive.

(2) There shall be paid to the Leader of the Opposition such honoraria and allowances and other facilities as may be provided by regulations made in this

behalf by the Corporation.]

1. Section 37-IA was substituted for the old section 37-IA to 37-IE by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 7 (w.e.f. 23-4-1999).

37C. Section 37C :-

1 [Deleted]

1. Section 37B was deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 9 (w.e.f. 23-4-1999)

38. Appointment of consultative committees for special purposes :-

The Corporation may from time to time appoint 1 [as laid down by the regulations made in this behalf] out of their own body such and so many committees consisting of such number of persons, and may refer to such committees for inquiry and report or for opinion, such special subjects relating to the purposes of this Act as they shall think fit.

1. These words were inserted by Mah. 10 of 1998, S. 13

38A. Special Committees Of The Corporation :-

(1) The Corporation may, from time to time appoint, out - of their own body, special committees including the Women and Child Welfare Committee and may by specific resolution carried by a vote of at least two-thirds of the members of the Corporation present at the meeting delegate any of their powers and duties to such committees, and may also by a like resolution define the sphere of business of each special Committee so appointed, and direct that all matters and questions included in any such sphere shall, in the first instance, be placed before the appropriate Committee and shall be submitted to the Corporation with such Committees recommendation.

(1A) On the Women and Child Welfare Committee not less than seventy-five percent, of the members shall be from amongst women Councillors.

Explanation:-For the purpose of computing the number of members at seventy-five percent., fraction, if any, shall be rounded off to one.

(2) Every special Committee shall conform to any instructions that may, from time to time, be given to them by the Corporation.

(3) The Corporation may, at any time, dissolve or subject to any rules made by them in this behalf after the constitution of any special Committee.

(4) Every special Committee shall appoint two of their members as their Chairperson and Deputy Chairperson:

Provided that, no member shall, at the same time, be the Chairman of more than one special Committee:

Provided further that, the Chairperson and the Deputy Chairperson on the Women and Child Welfare Committee shall be from amongst the women Councillor members thereof.

(5) In the absence of the Chairperson or Deputy Chairperson, the members of the special Committee present shall choose one of their members to preside over their meeting.

(6) All the proceedings of every special Committee shall be subject to confirmation

by the Corporation:

Provided that, any special Committee may by a resolution supported by at least one-half of the whole number of members of the Committee direct that action be taken in accordance with the decision of such Committee without waiting for confirmation of their proceedings by the Corporation, if the Committee considers that serious inconvenience would result from delay in taking such action; but the Corporation do not confirm the proceedings of the special Committee, such steps shall be taken to carry out any orders passed by the Corporation as may still be practicable:

Provided further that, if in delegating any of their powers or duties to a special Committee under sub-section (1), the Corporation direct that the decision of the special Committee shall be final, then so much of the proceedings of the special Committee as relate to such powers or duties shall not be subject to confirmation by the Corporation, if such decision is supported by at least one-half of the whole number of members of the Committee.

(7) The Corporation may make rules for regulating the constitution of special committees and the conduct of business at meetings of such committees, and for the keeping of minutes and the submission of reports.

1. Section 38A to 50S were substituted for 38A by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 10 w.e.f. 23-4-1999)

38B. Special Committees Of The Standing Committee, The Improvements Committee Or The Education Committee :-

The Standing Committee, the Improvements Committee or the Education Committee may, from time to time, by a resolution, carried by a vote of at least two-thirds of their members present at the meeting, delegate to any special Committee appointed under section 38A any of their powers and duties in respect of any matter with which such special Committee are competent to deal, or refer to any such Committee any such matter for disposal or report, and every such special Committee shall conform to any instructions that may, from time to time, be given to them by the Standing Committee, the Improvements Committee or the Education Committee as the case may be, in this behalf:

Provided that every such resolution shall be reported by the Standing Committee, the Improvements Committee or the Education Committee, as the case may be, to the Corporation as soon as possible, and the Corporation may at any time cancel such resolution.

38C. Appointment Of Subcommittees By The Improvements Committee :-

The Improvements Committee may from time to time appoint out of their own body sub-committees consisting of such number of persons as the Improvements Committee may think fit and may refer to such sub-committees for inquiry and report or for opinion any matter with which the Improvements Committee is competent to deal under the provisions of this Act.

39. Appointment of Primary Education Consultative Committee :-

(1) The Corporation may appoint a Primary Education Consultative Committee.

(2) Such Committee may be appointed by the Corporation either by

itself or in consultation with the State Government.

(3) The constitution of such Committee shall be as provided by bye-laws made under section 461.

(4) The Corporation may by any agreement with the State Government in this behalf refer to such Committee for inquiry and report or for opinion any question relating to the purposes of clause (q) of section 61.

40. A Committee may be appointed for other educational purposes :-

The Corporation may, for the purpose of giving effect to measures and arrangements in furtherance of secondary education or any branch of technical or other instructions, appoint or join in appointing a Committee as may be determined by any bye-law made under section 461, and such Committee shall have in relation to the branch of education and the institutions for which it is appointed, the like powers and duties as are herein assigned to the Education Committee, save as the same may be varied by any bye-law made under the said section.

41. Appointment of Hospital Committee :-

The Corporation, either singly or in concurrence with the State Government, may appoint a Hospital Committee with such constitution, powers and duties with respect to hospitals and institutions for the benefit of the aged, sick and infirm, vesting wholly or partly in the Corporation and supported or aided out of its funds as may be defined and provided by bye-laws made under section 461 or by any agreement made with the State Government in this behalf.

42. Constitution of Standing Committee :-

The Standing Committee shall consist of twenty-seven councillors.

43. Members of the Standing Committee when to be appointed :-

(1) The Corporation shall at their first meeting in the month of April, after general elections, appoint twenty six persons out of their own body to be members of the Standing Committee.

(2) The Chairman of the Education Committee shall also be a member of the Standing Committee.

44. Appointment of Chairman of Standing Committee :-

(1) The Standing Committee shall at their first meeting in each official year appoint one of their own number to be their Chairman until the first meeting of the said Committee in the next following official year.

(2) A member of the Standing Committee who ceases to be Chairman shall be re-eligible.

(3) If any casual vacancy occurs in the office of Chairman, the Standing Committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy and every Chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

45. Members of the Standing Committee to retire by rotation :-

(a) One-half of the members of the Standing Committee shall retire at noon on the first day of April every year.

(b) The members who shall retire one year after the Standing Committee is constituted under section 43 shall be selected by lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman may determine.

(c) During the succeeding years, the members who shall retire under this section shall be the members who were longest in office. Provided that, in the case of a member who has been re-elected for the term of his office for the purposes of this clause shall be computed from the date of his re-election.

(d) The term of office of the Chairman of the Education Committee as a member of the Standing Committee shall continue so long as he continues as such Chairman.

46. Appointment of members of Standing Committee to replace those who retire :-

(1) The Corporation shall at their ordinary meeting in the month of March appoint fresh members of the Standing Committee to fill the offices of those previously appointed by them who retire from time to time as aforesaid.

(2) Any Councillor who ceases to be a member of the Standing Committee shall be re-eligible.

46A. Member Of Standing Committee Absenting Himself For Three Months From Meetings To Vacate Seat :-

Any member of the Standing Committee who absents himself during three successive months from the meetings of the Committee, except on account of temporary illness or other cause to be approved by the Committee or absents himself from or is unable to attend the meeting of the Committee during eight successive months, from any cause whatever, whether approved by the Committee or not, shall cease to be a member of the Standing Committee and his seat shall thereupon be vacant.

47. Casual vacancies in the Standing Committee how to be filled up :-

In the event of non-acceptance of office by a Councillor appointed to be a member of the Standing Committee or of the death, resignation or disqualification of a member of the said Committee or of his becoming incapable of acting previous to the expiry of his term of office or of his seat becoming vacant under section 46A the vacancy shall be filled up as soon as it conveniently may be, by the appointment of a person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

48. Each Standing Committee to continue in office till a new Committee is appointed :-

The Standing Committee in existence on the day for the retirement of councillors shall continue to hold office until such time as a new Standing Committee is appointed under section 43, notwithstanding that the members of the said Committee or some of them may no longer be Councillors.

49. Provisions regulating the proceedings of the Standing Committee :-

The Standing Committee shall meet for the dispatch of business in the chief municipal office and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts as they think fit, subject to the following conditions:-

- (a) there shall be a meeting of the Standing Committee once a week and at such other times as shall be found necessary;
- (b) the first meeting of each Standing Committee shall be held on a

day and at a time to be fixed by the Commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the Commissioner; and at every such time as the said Committee, from time to time, determine;

(c) the Chairman of the Standing Committee shall, upon a written requisition signed by the Commissioner, call a special meeting of the said Committee within twenty-four hours of the transaction of any business which, in the opinion of the Commissioner, cannot be delayed until the next ordinary meeting of the said Committee;

(d) no business shall be transacted at a meeting of the Standing Committee unless at least nine members are present from the beginning to the end of such meeting;

(e) every meeting of the Standing Committee shall be presided over by the Chairman, if the Chairman is present at the time appointed for holding the meeting, and, if the Chairman is absent, by such one of the members present as may be chosen by the meeting to the Chairman for the occasion;

(f) every question shall be decided by a majority of votes of the members of the Standing Committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;

(g) subject to any bye-laws in this behalf made under clause(t) of section 461, the Standing Committee may, from time to time, by a specific resolution in this behalf, delegate any of their powers or duties to subcommittees consisting of such members of the said Committee not less in number than three on each sub-Committee as they think fit; and any sub- Committee so formed shall conform to any instructions that may, from time to time, be given to them by the Standing Committee and the said Committee may at any time discontinue or alter the constitution of any sub-Committee so formed.

(h) a sub-Committee may elect a Chairman of their meetings, and if no such Chairman is elected or if he is not present at the time appointed for holding any meeting, the members of the sub-Committee, present shall choose one of their member to be chairman of such meeting;

(i) sub-committees may meet and adjourn as they think proper, but the chairman of the standing Committee may, whenever he thinks fit, and shall, upon the written request of not less than two members of a sub- Committee, call a special meeting of such sub-Committee;

(j) questions at any meeting of a sub-Committee shall be decided

by a majority of votes of the members present and, in case of an equality of votes, the Chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-Committee are present from the beginning to the end thereof;

(k) a minute shall be kept by the municipal secretary of the names of the members present and of the proceedings at each meeting of the Standing Committee and at each sub-Committees meetings in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of the next ensuing meeting;

(l) a member of the Standing Committee shall not vote or take part in the discussion before the said Committee or before any sub-Committee of any matter in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (1) both inclusive, of section 16 or in which he is professionally interested on behalf of a client, principal or other persons;

(m) the Commissioner or where the Commissioner is unable to attend owing to absence or illness or for any other reasonable cause whatsoever, the Director or a Deputy Commissioner, shall have the same right of being present at a meeting of the Standing Committee and of taking part in the discussions thereat as a member of the said Committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting; but when required by the Standing Committee or the Chairman of that Committee the Commissioner shall himself attend the meeting of the Standing Committee, unless he is prevented from doing so on account of absence, illness or any other reasonable cause.

49A. Improvements Committee To Be Constituted For The Purpose Of Carrying Out The Improvement Of The City :-

The Corporation shall appoint a Committee to be called the Improvements Committee for the purpose of the improvement of the city, in accordance with the provisions of this Act, and subject to such conditions and limitations as are in this Act contained.

49B. Constitution Of The Improvements Committee :-

.. The Improvements Committee shall consist of twenty-six councillors.

49C. Members Of Improvements Committee When To Be Appointed :-

. The Corporation shall, at their first meeting in the month of April after each general election, appoint twenty-six persons out of their own body to be members of the Improvements Committee.

49D. Appointment Of Chairman Of Improvements Committee :-

..

(1) The Improvements Committee shall at their first meeting appoint one of their members to be their Chairman until the first meeting of the said Committee in the following official year, and thereafter, the said Committee shall at their first meeting in each official year appoint a member of their body to be their Chairman until the first meeting of the said Committee in the next following official year.

(2) A member of Improvements Committee who ceases to be the Chairman shall be re-eligible.

(3) If any casual vacancy occurs in the office of Chairman, the Improvements Committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their member to fill such vacancy and every Chairman so chosen shall continue in office so long only, as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

49E. Members Of Improvements Committee To Retire By Rotation :-

(a) One-half of the members of the Improvements Committee shall retire at noon on the first day of April every year.

(b) The members who shall retire one year after the Improvements Committee is constituted under section 49B shall be selected by lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman may determine.

(c) During the succeeding years, the members who shall retire under this section shall be the members who were longest in office.

Provided that, in the case of a member who has been re-elected for the term of his office for the purposes of this clause shall be computed from the date of his re-election.

49F. Appointment Of Members Of Improvements Committee To Replace-Those Who Retire :-

(1) The Corporation shall at their ordinary meeting in the month of March appoint fresh members of the Improvements Committee to fill the offices of those previously appointed by them who retire, from time to time, as aforesaid.

(2) Any Councillor who ceases to be a member of the Improvements Committee shall be re-eligible.

49G. Casual Vacancies In The Improvements Committee How To Be Filled Up :-

In the event of non-acceptance of office by a Councillor appointed to be a member of the Improvements Committee or of the death, resignation or disqualification of a member of the said Committee or of his becoming incapable of acting previous to the expiry of his term of office or of his seat becoming incapable of acting previous to the expiry of his term of office or of his seat becoming vacant under clause (i) of section 491, the vacancy shall be filled up, as soon as it conveniently may be, by

the appointment of a person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

49H. Improvements Committee To Continue In Office Till A New Committee Is Appointed :-

The Improvements Committee in existence on the day for the retirement of councillors shall continue to hold office until such time as a new Improvements Committee is appointed under section 49C, notwithstanding that the members of the said Committee or some of them may no longer be Councillors.

50. Constitution of Brihan Mumbai Electric Supply and Transport Committees and term of office of its members :-

(1) The Corporation shall appoint a Committee to be called the Brihan Mumbai Electric Supply and Transport Committee for the purpose of conducting the Brihan Mumbai Electric Supply and Transport Undertaking in accordance with the provisions of this Act, and subject to such conditions and limitations as are in this Act contained.

(2) The Committee shall consist of seventeen members.

(3) The Chairman of the Standing Committee shall be an ex-officio member of the Committee and the other members shall be appointed by the Corporation from among persons, who, in the opinion of the Corporation, have had experience of, and have shown capacity in, administration, transport, or electric supply, or in engineering, industrial, commercial, financial or labour matters and of whom one at least shall be a Councillor and remaining may or may not be Councillors.

(4)

(a) One-half of the members of the Brihan Mumbai Electric Supply and Transport Committee shall retire at noon on the first day of April every year.

(b) The members who shall retire one year after the Brihan Mumbai Electric Supply and Transport Committee is constituted under this section shall be selected by, lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman may determine.

(c) During the succeeding years, the members who shall retire under this section shall be the members who were longest in office: Provided that in the case of a member who has been elected the term of his office for the purposes this clause shall be computed from the date of his re-election.

50A. Disqualification Of Members Of Brihan Mumbai Electric Supply And Transport Committee :-

(1) Any person who, having been appointed as a Member of the Brihan Mumbai Electric Supply and Transport Committee,-

(a) becomes disqualified for being a Member of the Committee under the provisions of sub-section (5) of section 50; or

(b) absents himself during six successive meetings of the Committee except from temporary illness or other causes to be approved by the Committee; or

(c) absents himself from or is unable to attend the meeting of the Committee during six successive months from any cause whatsoever, shall cease to be a Member of the Committee and his office shall thereupon become vacant.

(2) If any question or dispute arises whether a vacancy has occurred under sub-section (1), the Commissioner shall, at the request of the Corporation, apply to the Chief Judge of the Small Cause Court, and the said Chief Judge, after making such inquiry as he deems necessary shall determine whether a vacancy has occurred, and his decision shall be final.

50B. Casual Vacancies How To Be Filled Up :-

In the event of non-acceptance of office by any person appointed to be a member of the Brihan Mumbai Electric Supply and Transport Committee or of the death, resignation or disqualification of a member of the Committee, or of his becoming incapable of acting, or of his office becoming vacant under the provisions of section 50A, the vacancy shall be filled up, as soon as conveniently may be, by the appointment, by the Corporation of a duly qualified person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

50C. Chairman Of Brihan Mumbai Electric Supply And Transport Committee :-

(1) The Brihan Mumbai Electric Supply and Transport Committee, shall after their appointment at their first meeting in each official year appoint one of their members, who is a Councillor, to be the Chairman, until the first meeting of the Committee in the next official year.

(2) The Committee shall thereafter at their first meeting in each official year appoint one of their members, being a Councillor, as Chairman until the first meeting of the Committee in the next following year.

(3) The retiring Chairman shall be eligible for reappointment as Chairman.

(4) Notwithstanding the provisions of sub-sections (1) and (2), the Chairman shall vacate office as soon as he ceases to be the member of the Committee.

(5) In the event of the office of Chairman falling vacant previous to the expiry of his term, the Committee shall, as soon as may be conveniently after the occurrence of the vacancy, appoint one of their members, being a Councillor, to fill such vacancy and the Chairman so appointed shall continue in office so long only as the person in whose place he is appointed would have held it if such vacancy had not occurred.

50D. Meetings Of The Brihan Mumbai Electric Supply And Transport Committee :-

(1) The Brihan Mumbai Electric Supply and Transport Committee shall meet for the dispatch of business at such place, as the Committee may from time to time decide

and until a decision has been taken to meet elsewhere, shall meet in the chief municipal office.

(2) The Committee may, from time to time, make such regulations with regard to the meetings of the Committee and sub-committees as the Committee think fit, subject to the following conditions:-

(a) there shall be a meeting of the Committee once a fortnight and at such other times as shall be found necessary;

(b) the first meeting of Committee shall be held on a day and at a time to be fixed by the Mayor and if not held on that day, shall be held on some subsequent day to be fixed by the Mayor; and every subsequent meeting of the Committee shall be held on such day and at such time as the Committee may from time to time determine;

(c) the Chairman of the Committee may, whenever he thinks fit, and shall, upon a written requisition signed by the Commissioner or the General Manager, or by not less than three members of the Committee, within forty-eight hours of the receipt by him of the requisition, call a special meeting of the Committee for the transaction of any business;

(d) no business shall be transacted at a meeting of the Committee unless at least seven members are present from the beginning to the end of such meeting;

(e) every meeting of the Committee shall be presided over by the Chairman, if the Chairman is present at the time for holding the meeting, and, if the Chairman is absent by such one of the members as may be chosen by the meeting to be Chairman for the occasion;

(f) every question shall be decided by a majority of votes of the members of the Committee present and voting on that question, the presiding authority having a second or casting vote when there is equality of votes;

(g) the Committee shall cause to be kept a minute of the names of the members present and of the proceedings at each meeting of the Committee in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of the next ensuing meeting after confirmation by the Committee at such meeting;

(h) a member of the Committee shall not vote upon or take part in the discussion before the Committee or before any sub-Committee of any matter in which he has directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (1), both inclusive, of sub-section (2) of Section 16, or in which he is professionally interested on behalf of a client, principal or other person.

(3) The Commissioner and in his absence, the Director or a Deputy Commissioner authorised by the Commissioner in this behalf and the General Manager and in his absence any officer authorised by the General Manager in this behalf, shall have the same right of being present at a meeting of the Committee and of taking part in the discussion thereat as a member of the Committee, but shall not be at liberty to vote upon or make any proposition at such meeting.

50E. Fees For Attendance At Meetings Of Brihan Mumbai Electric Supply And Transport Committee :-

The Chairman and members of the Brihan Mumbai Electric Supply and Transport Committee shall be paid such fees for attending meetings of the Committee as may be prescribed by rules framed by the Corporation under this section with the sanction of the State Government.

50F. Sub-Committees Of The Brihan Mumbai Electric Supply And Transport Committee :-

(1) The Brihan Mumbai Electric Supply and Transport Committee may, from time to time, appoint out of their own body subcommittees consisting of such number of persons as the Committee may think fit.

(2) The Committee may by specific resolution carried by the vote of at least two-third of their number present at the meeting delegate any of their powers and duties to a sub-Committee and may also by a like resolution define the sphere of business of such sub-Committee.

(3) The Committee may refer to a sub-Committee appointed under sub-section (1) for inquiry and report for opinion any matter with which a Committee is competent to deal.

50G. Constitution Of Education Committee :-

(1) The Corporation shall appoint a Committee to be called the Education Committee for the purpose of giving effect to the provisions as to primary education in this Act or in other law for the time being in force.

(2) The Education Committee shall consist of twenty-six members, of whom twenty-two shall be councillors and four shall be persons who are not councillors.

(3) The non-councillors to be so appointed shall be persons, -

(a) whose names are enrolled on the municipal election roll as voters;

(b) who are graduates of universities recognised by the Corporation in this behalf;

(c) who have five years teaching or administrative experience in educational institutions; and

(d) who possess such other qualifications as the Corporation may determine in this behalf.

50H. Members Of Education Committee When To Be Appointed :-

The Corporation shall, as soon as may be, after the commencement of the Mumbai Municipal Corporation (Amendment) Act, 1999, and thereafter at their first meeting in the month of April, after every general election, appoint sixteen duly qualified persons to be members of the Education Committee.

50I. Disqualifications Of Members Of Education Committee :-

(1) A person shall not be eligible for appointment as a member of the Education Committee, -

(a) if he is directly or indirectly interested in any immovable property on or in which any municipal school or office is located or in any institution or school which receives donation or grant-in-aid from the Corporation; or

(b) if, not being a Councillor he would have been disqualified for being elected a Councillor under section 16.

Explanation;- A person shall be deemed to be interested within the meaning of clause (a) of this sub-section, if he derives or has been promised directly or indirectly, any pecuniary gain from or in respect of such property, institution or school, whether by way of a price or rent or premium or other thing of value whether of the like nature or not.

(2) If any person having been appointed a member of the Education Committee, -

(a) becomes subject to any of the disqualifications mentioned in sub-section (1);

(b) absents himself during six successive meetings of the Committee except from temporary illness or other cause to be approved by the Committee; or

(c) absents himself from or is unable to attend the meetings of the Committee during six successive months from any cause whatsoever, he shall cease to be a member of the Committee and his office shall thereupon become vacant.

50J. Appointment Of Chairman Of Education Committee :-

- (1) The Education Committee shall at their first meeting in each official year, appoint one of their own member, being a Councillor, to be their Chairman, until the first meeting of the Committee in the next official year.
- (2) The retiring Chairman shall be eligible for re-election.
- (3) If any casual vacancy occurs in the office of the Chairman, the Education Committee shall, as soon as they conveniently can, after the occurrence of such vacancy, appoint one of their members, being a Councillor to fill such vacancy and every Chairman so appointed shall continue in office only so long as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

50K. Members Of Education Committee To Retire By Rotation :-

- (1) One-half of the Councillor members and one half of the other members of the Education Committee shall retire at noon on the first day of April every year.
- (2) The members who shall retire on the first day of April next after Education Committee is constituted under section 50G shall be selected by lot at such time previous to the first day of March immediately preceding and in such manner as the Chairman shall determine.
- (3) During the succeeding years the members who shall retire under sub-section (1) shall be the members who have been longest in office.
Provided that, in the case of a member who has been re-appointed, for the term of office for the purposes of this sub-section shall be computed from the date of his re-appointment.

50L. Appointment Of Members Of Education Committee To Replace These Who Retire :-

- (1) The Corporation shall, subject to the provisions of section 50H, at their ordinary meeting in the month of March, appoint fresh members of the Education Committee to fill the offices of those who retire from time to time as aforesaid.
- (2) Any retiring member of the Education Committee shall be eligible for re-election.

50M. Casual Vacancy In Education Committee How To Be Filled Up :-

- (1) In the event of non-acceptance of office by a person appointed to be a member of the Education Committee or of the death, resignation or disqualification of a member of the Committee or of his becoming incapable of acting previous to the expiry of his term of office or of his seat becoming vacant under sub-section (2) of section 50-I, the vacancy shall be filled up as soon as it conveniently may be by the appointment by the Corporation, of a person thereto who shall hold office so long only as the person in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.
- (2) If any question or dispute arises whether a vacancy has occurred under this section it shall be referred to the Corporation whose decision shall be final.

50N. Each Education Committee To Continue In Office Till New Committee Is Appointed :-

The Education Committee in existence on the day for the retirement of Councillors

shall continue to hold office until such time as a new Education Committee is appointed under section 50H notwithstanding that the members of the said Committee or some of them may no longer be Councillors.

50O. Education Committee To Act Notwithstanding Default Etc. In Appointment Of Member :-

The members duly appointed may perform all the functions legally pertaining to the Education Committee, notwithstanding any default, delay or defect in the appointment of any member.

50P. Meetings Of Education Committee :-

(1) The Education Committee shall meet for the dispatch of business in the chief Municipal office and may, from time to time, make such regulations with respect to such meetings and to the management of schools under their control as they think fit, subject to the following conditions:-

(a) there shall be a meeting of the Education Committee once a month and at such other times as shall be found necessary;

(b) the first meeting of Education Committee shall be held on a day and at a time to be fixed by the Mayor, and if not held on that day shall be held on some subsequent day to be fixed by the Mayor; and every subsequent meeting of the Education Committee shall be held on such day and at such time as the Committee may, from time to time determine;

(c) the Chairman of the Education Committee may, whenever he thinks fit, and shall, upon a written request signed by not less than four members of the Committee, call a special meeting of the said Committee for the transaction of any business;

(d) no business shall be transacted at a meeting of the Education Committee unless at least nine members are present;

(e) every meeting of the Education Committee shall be presided over by the Chairman, if the Chairman is present at the time appointed for holding the meeting, and if the Chairman is absent, by such one of the members as may be chosen by the meeting to be Chairman for the occasion;

(f) every question shall be decided by a majority of votes of the members of the Education Committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;

(g) a minute shall be kept by the municipal secretary of the names of the members present and of the proceedings at each meeting of the Education Committee in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of, the next ensuing meeting after confirmation by the Committee at such meeting;

(h) a member of the Education Committee shall not vote or take part in the discussion before the said Committee or before any sub-Committee of any matter in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (1) both inclusive, of sub-section (2) of Section 16 or in which he is professionally interested on behalf of a client, principal or other persons.

50Q. Right Of Municipal Commissioner And Education Officer To Be Present :-

The Commissioner and the Education Officer and, in the absence of the Commissioner, any other officer authorised by the Commissioner in this behalf shall have the same right of being present at a meeting of the Education

Committee and of taking part in the discussions thereat as a member of the said Committee, but none of them shall vote upon, or move any proposition at such meeting.

50R. Appointment Of Subcommittees By Education Committee :-

(1) The Education Committee may from time to time, appoint out of their own body, sub-committees consisting of such number of persons as the Education Committee may think fit, and may refer to such sub-committees for inquiry and report or for opinion any matter with which the Education Committee is empowered by or under this Act to deal.

50S. Elections To Committees To Be By Proportional Representation :-

Notwithstanding anything contained in this Act or the bye- laws made thereunder in the case of the following Committee, except where it is provided by this Act that the appointment of a Councillor to any Committee shall be by virtue of his holding any office, the appointment of Councillors to these Committees whether in regular or casual vacancies, shall be made by the Corporation by holding elections in accordance with the system of proportional representation by means of a single transferable vote, at which voting shall be by secret ballot. The Corporation may make rules to regulate all matters for holding such elections:-

- (1) Any consultative Committee appointed under section 38.
- (2) Any special Committee appointed under section 38 A.
- (3) The Standing Committee.
- (4) Improvements Committee.
- (5) The Brihan Mumbai Electric Supply and Transport Committee.
- (6) The Education Committee.

50T. Section 50T :-

Deleted by Mah. 10 of] 998, s. 14.

50U. Constitution Of Wards Committee :-

(1) The Corporation shall constitute not more than Twenty- five Wards Committees each comprising such contiguous electoral wards as may be decided by the Corporation.

(2) Each Wards Committee shall consist of, -

(a) the Councillors representing the electoral wards within the territorial area of the Wards Committee;

2[xxx]

(b) the Ward Officer in charge of the territorial area of the Wards Committee;

(c) Such number of other members, not exceeding three, nominated by the Councillors referred to in clause (a), from amongst the members of

Provided that such persons are registered as electors in the Wards within the jurisdiction of the Wards Committee:

Provided further that the norms for recognition of non-Government Organisations, the requisite qualification for nomination as members and the manner in which they are to be nominated shall be such as the State Government may prescribe.

(3) The duration of the Wards Committee shall be co-terminus with the duration of the Corporation.

(4) The elected Councillors referred to in clause (a) of sub-section (2) shall at the first meeting of the Ward Committee in each official year, elect from among themselves the Chairperson who shall hold office until the first meeting in the next following official year.

(5) The Chairperson of the Wards Committee shall be deemed to have vacated the office as soon as he ceases to be a Councillor.

(6) In the event of the person of the Chairperson falling vacant before the expiry of its term, the Wards Committee shall elect a new Chairperson:

Provided that, the Chairperson so selected shall hold office so long only as the Chairperson in whose place he is elected would have held office if such vacancy had not occurred.

(7) The functions of the Wards Committee shall, subject to the general supervision and control of the Corporation, be,

(a) speedy redressal of common grievances of citizens, connected with local and essential municipal services like water supply, drainage, sanitation and storm water disposal;

(b) to consider and make recommendations on the proposals regarding estimates of expenditure pertaining to the wards under different heads of account of the budget before being forwarded to 3 [the Commissioner]

(c) to grant administrative approval and financial sanction to the plans for municipal works to be carried out within the territorial area of 1 These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 1 I(b) (w.e.f. 23-4-1999) the Wards Committee costing upto rupees five lakhs provided that specific provision exists therefore in the budget sanctioned by the Corporation.

(8) Notwithstanding anything contained in sub-section (7); the Corporation may by a resolution delegate to a Wards Committee such other powers, authority and functions as it may deem fit and expedient.

(9) The Wards Committee shall meet at least once in a month at the Ward Office.]

1. This heading and section 50-TT was inserted by Mah. 41 of 1994, s. 34

2. This proviso was deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 1 I(a) (w.e.f. 23-4-1999)

3. Section 51 was substituted by the Mumbai Municipal Corporation Second (Amendment) Act No. 13 of 1998, s.9

51. Vacancy in Corporation or in any Committee not to invalidate its proceedings :-

1 [No act or proceeding of the Corporation or of any Committee appointed under this Act shall be questioned on account of any vacancy in the Corporation or in any such Committee, as the case may be.]

1. Section 51 was substituted by the Mumbai Municipal Corporation Second (Amendment) Act No. 13 of 1998, s.9

52. Proceedings of Corporation, etc. not vitiated by disqualification, etc. of members thereof :-

No disqualification of, or defect in, the election or appointment 1[*
*] of any person acting as a Councillor or as the 2[Mayor] or presiding authority of the Corporation or as the 3 [Chairman] or 5[of the Standing Committee or any Committee or sub-Committee

appointed under this Act shall be deemed to vitiate any act or proceeding of the Corporation or Standing Committee or of any such Committee or Sub-Committee] as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

1. Words "or co-option" which were added by Bom. 6 of 1922, s. 21-A, and which were deleted by Bom. 17 of 1931, s. 7 are omitted.

2. The word "Mayor" was substituted for the original word by Bom. 21 of 1931, s. 2(i)

3. This word was substituted for the words "Chairperson of the Corporation" " by the Mumbai Municipal Corporation Act 27 of 1999, s. 12(a) (w.e.f. 23-4-1999).

53. Proceedings of meeting to be deemed to be good and valid until the contrary is proved :-

Until the contrary is proved, every meeting of the Corporation 1[* * *] or of a 2[Committees or sub-Committees] in respect of the proceedings whereof a minute has been made and signed in accordance with this Act shall be deemed to have been fully convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are of a 2[Committees or sub-Committees] such 2 [Committees or sub-Committees] shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

1. The words "or standing Committee" were deleted by Mah. 10 of 1998, s. 17(d)

2. These words were substituted for the word "Committee" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 13, (w.e.f. 23-4-1999).

54. Appointment of the Commissioner :-

(1) The Municipal Commissioner for 1[Brihan Mumbai] shall be from time to time appointed by the 2[3[State] Government]. 4[He may hold office for such period not exceeding three years as the State Government may fix and his appointment may be renewed by the State Government for a further period not exceeding three years: Provided that, when the Commissioner holds a lien on the service of the State Government, he may be recalled to such service at any time by the State Government 5[* * *]

(2) 6[Notwithstanding the provisions of sub-section (1), the Commissioner shall] be forthwith removed by the 2[3[State] Government] from the office if at a meeting of the Corporation not less 9[five-eighth of the whole number of councillors] shall vote in favour of a proposition in 10[11[State] Government] at any time if it shall appear to the 8[9[State] Government] that he is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient: 14[Provided that -when the Commissioner holds a lien on the service of [the 8[9 [State] Government], he shall not during the period of his appointment as Commissioner be removed from office without the approval of the Corporation.]

(3) The State Government may appoint one or more persons to be called Additional Municipal Commissioners who shall, subject to the control of the Commissioner, exercise all or any of the powers and perform all or any of the duties and functions, of the Commissioner.

(4) The terms and conditions of service of a person appointed as Additional Municipal Commissioner shall be such as may from time to time be determined by the State Government by general or special order.

(5) Subject to the provisions of sub-section (4), every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is subject.]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

2. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

4 . This portion was substituted for the words "for a renewable period of three years" by Mah. 22 of 1968, s. 2(a)

5. The words "after consultation with the Corporation" shall be deemed to have been deleted with effect from 1st November, 1991 by Mah. 8 of 1992, s. 3

6 . These words were substituted for the words "But he shall" by Mah. 8 of 1992, s. 2(b)

9. These words were substituted for the words "sixty-four councillors" by Bom. 7 of 1950,s.9

10. The heading and section 54A were inserted by Mah. 53 of 1981, s. 8

11. The words "Provincial Government" were substituted for the

word "Government" by the Adaptation of Indian Laws Order in Council.

14. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

54A. Appointment of the Director :-

(1) Subject to confirmation by the State Government, the Corporation may at any time, and from time to time, appoint a person to be the Director (Engineering Services and Projects), if it shall appear to it expedient to do so.

(2) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is subject.]

55. Appointment of a Deputy Municipal Commissioner :-

(1) Subject to confirmation by the 1[2[State] Government], the Corporation may at any time, and from time to time, appoint a person to be a Deputy Municipal Commissioner, if it shall appear to it expedient so to do. 3 [

(1A) With the previous approval of the State Government the Corporation may at any time, and from time to time, create one or more posts of additional Deputy Municipal Commissioners which it considers necessary and may, subject to confirmation by the State Government, appoint a fit person or persons to hold such post or posts.]

(2) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is subject.

1. The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

3. Sub-section (1 A) was inserted by Bom. 7 of 1950, s. 10

56. Functions of [the Director and a Deputy Commissioner] :-

(1) 1[The Director or a Deputy Commissioner] 2[or an additional Deputy Commissioner] so appointed shall be subordinate to the Commissioner and, subject to his orders, shall exercise such of the

powers and perform such of the duties of the Commissioners as the Commissioner shall from time to time depute to him:

(2) Provided that - 3[xxx]

(b) The Commissioner shall inform the Corporation of the powers and duties which he from time to time deposes to 5[The Director or a Deputy Commissioner.]

4[

(2A) Provided further that when an additional Deputy Commissioner or more than one additional Deputy Commissioner have been "appointed, the Commissioner shall prescribe the respective spheres of duties of each of such additional Deputy Commissioners, and in so doing may allot to the Deputy Commissioner or the additional Deputy Commissioner designated by him responsibility, subject to the control of the Commissioner, for the municipal government of the suburbs in so far as such responsibility is consistent with the powers and duties deputed to him under sub-section (1).]

(3) All acts and things performed and done by 5[The Director or a Deputy Commissioner] 6 [and an additional Deputy Commissioner], during his tenure of the said office and in virtue thereof, shall for all purposes be deemed to have been performed and done by the Commissioner.

1. These words were substituted for the words "a Deputy Commissioner" by Mah. 53 of 1981, s. 9(a)

2. These words were inserted by Bom. 7 of 1950, s. 11 (a)

3. Clause (a) was deleted by Bom. 1 of 1897

4. Sub-section. (2A) was inserted by Bom. 7 of 1950, s. 11 (b)

5. These words were substituted for the words "a Deputy Commissioner" by Mah. 53 of 1981, s. 9(c)

6. These words were inserted by Bom. 7 of 1950, s. 11(c)

56A. Appointment Of Deputy Municipal Commissioner (Improvements) :-

(1) Subject to the previous approval of 2[3[State] Government] the Corporation shall, as soon as conveniently may be after the commencement of the City of Bombay Municipal (Amendment) Act, 1933, appoint a Deputy Municipal Commissioner to be styled the Deputy Municipal Commissioner (Improvements). Such appointment shall be in addition to any. appointment, of a Deputy Municipal Commissioner made under sub-section (1) of Section 55.

(2) Every person so appointed shall be subject to all the liabilities, restrictions, and conditions to which the Commissioner is subject under this Act.

(3) A person appointed as Deputy Municipal Commissioner (Improvements) shall be appointed in the first instance for a period of five years, which may be renewed thereafter from time to time for a like or lesser period: 4 Provided that if such

person is a municipal officer and due to retire under regulations made and applicable to him under Section 81 on a date earlier than the expiry of the period of five years from the date of appointment or reappointment, he may be appointed or reappointed for a period of five years or a lesser period.]

(4) The person appointed to be the Chief Officer, under section 26 of the City of Bombay Improvement Trust Transfer Act, 1925, and holding that office at the commencement of the City of Bombay Municipal (Amendment) Act, 1933, shall be the Deputy Municipal Commissioner (Improvements) under this Act until the Corporation shall have appointed a Deputy Municipal Commissioner (Improvements) under the provisions of sub-section (1) and until such Deputy Municipal Commissioner shall have entered on the discharge of the duties of his office.]

1. This section was inserted by Bom. 13 of 1933, s. 7

2. The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

4. This proviso was added by Bom. 76 of 1948, s. 3

56B. Functions Of The Deputy Municipal Commissioner (Improvements) :-

(1) The Deputy Municipal Commissioner (Improvements) shall be subordinate to the Commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the Commissioner in connection with the improvement of the City and such

Provided that the Commissioner shall inform the Corporation of the powers and duties which he from time to time deposes to the Deputy- Municipal Commissioner (Improvements).

(2) All acts and things performed and done by the Deputy Municipal Commissioner (Improvements), during his tenure of the said office and in virtue thereof shall for all purposes be deemed to have been performed and done by the Commissioner. Remuneration of Commissioner 2 [Director] and Deputy Commissioner.

1. This section was inserted by Bom. 13 of 1933, s. 7

2. The word "Director" was inserted by Mah. 53 of 1981, s. 10

57. Salary of the Commissioner :-

(1) The Commissioner shall receive 1[such monthly salary 2[as the State Government may from time to time, determine,]] in return wherever he shall, except as hereinafter provided, devote his whole time and attention to the duties of his office as prescribed in this Act or in any other enactment for the time being in force:

(2) Provided that he may at any time-

(a) hold the office of a trustee of the port of Bombay.

(b) with the sanction of the Corporation, serve on any Committee constituted for the purposes of any local inquiry or for the furtherance of any object of local importance or interest,

3 [xxx]

1. These words were substituted for the original words by Bom. 13 of 1938, s. 26(1).

2. These words were substituted for the words "not exceeding three thousand rupees and not less than two thousand rupees as the State Government may determine" by Mah. 8 of 1992, s. 4
3. Sub-section (3) was deleted by Bom. 13 of 1938, s. 26(2)

58. Remuneration of the [Director and a Deputy Commissioner] :-

1[The Director and a Deputy Commissioner] shall receive such monthly salary 2[as the Corporation shall, from time to time, with the approval of the State Government, determine:

Provided that, the salary of 3 [the Director or a Deputy Commissioner] shall not be altered to his disadvantage during his period of office.]

1. These words were substituted for the words "A Deputy Municipal Commissioner" by Mah. 53 of 1981, s. II(c)
2. This portion was substituted for the portion beginning with the words "not exceeding" and ending with the words "time to time, determine" by Mah. 5 of 1970, s. 2, with effect from 1st April 1966
3. These words were substituted for the words "A Deputy Municipal Commissioner" by Mah. 53 of 1981, s. II(b)

58A. Remuneration Of The Deputy Municipal Commissioner (Improvements) :-

1[The Deputy Municipal Commissioner (Improvements) shall receive such monthly salary 2[as the Corporation shall, from time to time, with the approval of the State Government, determine]:

Provided that the person holding office of the Chief Office under Section 26 of the City of Bombay Improvement Trust Transfer Act, 1925, at the commencement of the City of Bombay Municipal (Amendment) Act, 1933, shall, so long as he continues to be the Deputy Municipal Commissioner (Improvements) under the provisions of sub-section 4 of section 56A, receive a monthly salary of rupees two thousand and five hundred:

Provided further that if the said person be appointed Deputy Municipal Commissioner (Improvements) under sub-section (1) of Section 56A, he shall receive from the commencement of the City of Bombay Municipal (Amendment) Act, 1933 such monthly salary 3[* * *] as the Corporation shall from time to time, determine: 4[

Provided also that, the salary of the Deputy Municipal Commissioner (Improvements) shall not be altered to his disadvantage during his period of office. Provisions for absence of Commissioner, 5 [Director] or Deputy Commissioner on leave

1. New section 58A was inserted by Bom. 13 of 1933, s. 8
2. This was substituted for the portion beginning with the words "not exceeding" and ending with the words "time to time, determine" by Mah. 5 of 1970, s. 2, with effect from 1st April 1966
3. The words "not exceeding rupees two thousand" were deleted by Mah. 10 of 1998, s. 19
4. This proviso was added by Mah. 5 of 1970, s. 3(b), with effect from 1st April,

59. Grant of leave of absence to the Commissioner, [Director] or Deputy Commissioner :-

(1) Leave of absence may be granted, from time to time-

(a) to the Commissioner, by the 1[2[State] Government] with the assent of 3[the Standing Committee];

(b) to 4[the Director or a Deputy Commissioner,] by 5[the Commissioner].

(2) The allowance to be paid to the Commissioner or 5[to the Director or a Deputy Commissioner] whilst so absent on leave shall be of such amount, not exceeding respectively the amount of the salary or the Commissioner 6[or the Director or Deputy Commissioner], as shall be fixed by the 1[2[State] Government] or the Corporation, respectively:

Provided that if the Commissioner 6[or the Director or Deputy Commissioner] is a 10[Government officer], the amount of such allowance shall be regulated by the rules at the time in force relating to the leave allowances of officers of his class.

(3) During any absence of the Commissioner or of 9[the Director or a Deputy Commissioner] the 1[2[State] Government] or the Corporation may appoint a person to act as Commissioner or as 13[the Director or a Deputy Commissioner,] as the case may be. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act or by any other enactment at the time in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, 14[58 and 58A] 15[the Commissioner, Director and Deputy Commissioner,] as 16[17 [State] Government] or the Corporation, respectively, shall determine.

1. The word "Provincial Government" was substituted for the word "Governor-in- Council" by the Adaptation of Laws Order, 1950.

2 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

3. These words were substituted for the words "the Mayor-in-Council" by Mumbai Municipal Corporation (Amendment) Act 27 of 1999 (w.e.f. 23-4-1999)

4. These words were substituted for the word "A Deputy Commissioner" by Mah. 53 of 1981,s. 12(b)(i).

5 . These words were substituted for the word " To A Deputy

Commissioner" by Mah. 53 of 1981, s. 12(c)(i).

6. These words were substituted for the word "or A Deputy Commissioner" by Mah. 53 of 1981,s. 12(c)(ii).

10. The words "Government Officer" were substituted for the words "Servant of the Crown" by the Adaptation of Laws Order, 1950.

13. These words were substituted for the word "as Deputy Commissioner" by Mah. 53 of 1981.s. 12(d)(ii).

14. The word, figures and letter "58 and 58A" were inserted by Bom. 13 of 1933, s. 9

15. These words were substituted for the word " a Commissioner and a Deputy Commissioner" by Mah. 53 of 1981, s. 12(d)(iii).

16. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order, in council.

17. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

60. Commissioner, Director and Deputy Commissioner] not to be interested in any [contract] ith the Corporation :-

(1) No person shall be qualified to be appointed or to be Commissioner 1[or Director] or a Deputy Commissioner who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the Corporation 2[* * *].

(2) Any Commissioner 3[or Director] or Deputy Commissioner who shall acquire directly or indirectly, by himself or his partner, any share or interest in any such contract 4[* * *] as aforesaid shall cease to be the Commissioner, 5[the Director or a Deputy Commissioner,] as the case may be, and his office shall become vacant

6(3) Nothing in this section shall apply to any such share or interest in any contract 7 [* *].with, by or on behalf of the Corporation as, under clauses (h) and (k) of section 16, it is permissible for a Councillor to have without his being thereby disqualified for being a Councillor.

1. These words were inserted by Mah. 53 of 1981, s. 13(b).

2. The words "or in any employment with, by or on behalf of the Corporation other than as Commissioner or Deputy Commissioner" as the case may be were deleted by Mah. 42 of 1977, s. 2(a)

3. These words were inserted by Mah. 53 of 1981, s. 13(c)(i).

4. The words "or employment" were deleted by Mah. 42 of 1977, s. 2(b).

5. These words were substituted for the word "Commissioner or a Deputy Commissioner" by Mah. 53 of 1981, s. 13(c)(ii).
6. These words were substituted for the words "Commissioner and Deputy Commissioner" by Mah. 53 of 1981, s. 13(d)
7. The words "or employment" were deleted by Mah. 42 of 1977, s. 2(b).

60A. Appointment Of General Manager :-

(1) The Corporation shall, subject to the approval of the 2 [State] Government, appoint a fit person to be the General Manager of the Brihan Mumbai Electric Supply and Transport Undertaking who shall-

(a) devote his whole time and attention to the duties, of his office:

Provided that the General Manager may be permitted by the Corporation to accept any appointment, whether honorary or otherwise, which in the opinion of the Corporation would not interfere with his duties as General Manager;

(b) receive such monthly salary as the Corporation shall from time to time, with the approval of the [State] Government determine 4[but the salary of the General Manager shall not be altered to his disadvantage during his period of office];

(c) be removable at any time from office for misconduct or for neglect of, or incapacity for, the duties of his office on the votes of not less than one-half of the total number of Councillors.

(2) The General Manager shall be appointed for a period not exceeding five years in the first instance and his appointment may be renewed from time to time with the approval of the [State] Government for a period not exceeding five years at a time.

(3) The General Manager appointed by the Corporation with the approval of the 4[State] Government under section 11 of the City of Bombay Municipal (Electric Supply and Transport) Act, 1947, shall be deemed to have been appointed under sub-section (1) and the period of his appointment shall be deemed to have commenced from the date on which he took up the duties of his office under the City of Bombay Municipal (Electric Supply and Transport) Ordinance, 1947, or the City of Bombay Municipal (Electric Supply and Transport) Act, 1947, as the case may be.

1. Sections 60A to 60C were inserted by Bom, 48 of 1948, s.7.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws order, 1950.

60B. Leave Of Absence To General Manager :-

(1) Leave of absence may be granted from time to time to the General Manager 1[by the Brihan Mumbai Electric Supply and Transport Committee with the assent of the Corporation].

(2) The allowance to be paid to the General Manager whilst so absent on leave shall be of such amount, not exceeding the amount of his salary, as shall be fixed by the Corporation.

(3) During the absence of the General Manager on leave the 2 [Committee with the assent of the Corporation] may appoint a person to act as General Manager. Every person so appointed shall exercise the powers and perform the duties conferred and imposed on the General Manager and shall be subject to the same liabilities, restrictions and conditions to which the General Manager is liable and shall receive such monthly salary, not exceeding the salary of the General Manager, as the Corporation shall determine.

1. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 15(a) (w.e.f. 23-4-1999).

2. These words were substituted for the word "Mayor" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 15(b) (w.e.f. 23-4-1999).

60C. Disqualifications Of General Manager :-

(1) No person shall be qualified to be appointed or to be General Manager who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of, the Corporation¹[* * * *].

(2) Any General Manager who shall acquire, directly or indirectly, by himself or by his partner, any share or interest in any such contract ²[* * *] as aforesaid shall cease to be General Manager.

(3) Nothing in this section shall apply to any such share or interest in any contract ³[* * *] with, by or on behalf of the Corporation as under clauses (h) and (k) of sub-section (2) of Section 16, it is permissible for a Councillor to have without his being thereby disqualified for being a Councillor, or to any share or other interest in the Bombay Electric Supply and Tramways Company Limited.

1. The words "or in any employment with, by or on behalf of, the Corporation other than as General Manager" were deleted by Mah. 42 of 1977, s. 3(a)).

2. The words "or employment" were deleted by Mah. 42 of 1977, s. 3(b).

3. The words "or employment" were deleted by Mah. 42 of 1977, s. 3(c).

60D. Disqualifications Of General Manager :-

CHAPTER 3

Duties and Powers of the Municipal Authorities Obligatory and Discretionary Duties of the Corporation

61. Matters to be provided for by the Corporation :-

. . It shall be incumbent on the Corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take, for each of the following matters, namely:-

(a) the construction, maintenance and cleansing of drains and drainage works, and of public latrines, urinals and similar conveniences; ¹[

(aa) planning for economic and social development;

(ab) urban forestry, protection of environment and promotion of ecological aspects];

(b) the construction and maintenance of works and means for providing a supply of water for public and private purposes;

(c) scavenging and the removal and disposal of excrementitious and other filthy matters, and of all ashes, refuse and rubbish;

(d) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances;

(e) the regulation of places for the disposal of the dead and the provision of new places for the said purpose;

(f) the registration of births and deaths; ²[

(ff) public vaccination in accordance with the provision of the 3[Bombay Vaccination Act, 1877;]

(g) measures for preventing and checking the spread of dangerous diseases. 3[

(gg) establishing and maintaining public hospitals and dispensaries and carrying out other measures necessary for public medical relief;]

(h) the construction and maintenance of public markets .and slaughter houses and the regulation of all markets and slaughter houses;

(j) the regulation of offensive and dangerous trades;

(k) the entertainment of a fire brigade and the protection of life and property in the case of fire;

(l) the securing or removal of dangerous building and places;

(m) the construction, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like;

(n) the lighting, watering and cleansing of public streets;

(o) the removal of obstructions and projections in or upon streets, bridges and other public places;

(p) the naming of streets and the numbering of premises;

(q) maintaining, aiding and suitably accommodating schools for primary education 2[subject always to the grant of building grants by the 6[7[State] Government] in accordance with the Government Grant-in-aid Code for the time being in force];

(r) the maintenance of a municipal office and of all public monuments and other property vesting in the Corporation;

8[

(s) the obligations imposed by the City of Bombay Municipal (Amendment) Act, 1933, upon the Corporation arising out of the transfer to the Corporation of the powers, duties, assets and liabilities of the Board of Trustees for the Improvement of the City of Bombay constituted under the city of Bombay Improvement Trust Transfer Act, 1925;]

9 [

(t) the improvement of 4[Brihan Mumbai].]

1. Clauses (aa) and (ab) were inserted by Mah. 41 of 1994, s. 35

2. Clauses (ff) and (gg) were inserted by Bom. 3 of 1907, s. 9(1)

3. See now the Maharashtra Vaccination Act, 1964 (Mah. 37 of 1964)

6. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order, in council.

7. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

8. New clauses (s) and (t) were inserted by Bom. 13 of 1933, s. 10

9. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

62. Corporation to provide a monthly sum to 3[State] Government for maintaining certain medical institutions in [Mumbai] :-

(1) The Corporation shall also provide and pay to 2[the 3[State] Government] on the first day of every month a sum of thirty-four thousand five hundred and forty-one rupees ten annas and eight pies, and in consideration of such monthly payments 2[3 [State] Government] shall continue to control and maintain the institutions specified in Schedule U.

(2) Notwithstanding anything contained in clause (gg) of Section 61, the Corporation shall by such monthly payments be deemed to have made adequate provisions for the maintenance of the said institutions and shall not be liable for any further expenditure in connection therewith.

1. Sections 62 to 62D were substituted for s. 62 by Bom. 3 of 1907, s. 10

2. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order, in council 1.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

62A. Fees To Be Charged By The Corporation In Public Hospitals And Dispensaries :-

In public hospitals and dispensaries established and maintained, and in connection with other measures carried out, under clause (gg) of section 61 such fees, if any, may be charged as may be prescribed by the Corporation.]

62B. Extent Of Benefit To Corporation By Change In Policy Of 3[State] Government In Regard To Their Liability In Respect Of Primary Education :-

If there should be at any time a change in the general policy of 1[the 2 [State] Government] in regard to their liability in respect of primary education, the Corporation shall be entitled to benefit by such change in policy to the same extent as a city municipality.]

1. The word "the Provincial Government" was substituted for the word

"Government" by the Adaptation of Indian Laws Order, in council 1.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

62BB. Directions By State Government Regarding Subjects Etc. In Schools :-

The State Government shall have power to give to the Corporation all such directions as it considers necessary in respect of subjects, curricular, text books and standards of teaching in primary schools vesting wholly or partly in the Corporation and in schools wholly or partly maintained by grants payable from municipal fund and the Corporation shall comply with such directions.]

1. Section 62BB was inserted by Bom. 48 of 1950, s. 30.

62C. Primary School And Schools Maintained Hv Grants To In- Open To Officers. Appointed By [State] Government For Inspection :-

(1) All primary schools vesting wholly or partly in the Corporation and all schools wholly or partly maintained by grants payable from the municipal fund shall at all times be open to all officers appointed by 3[4[State] Government] for the inspection of schools, and all reasonable facilities shall be given to any such officer for visiting any such school for the purpose of inspection or examination.

(2) Every recommendation made regarding any such school by any such officer shall be duly considered by the 5[Corporation] and the 5[Corporation] may thereupon take such action as may in their opinion be required and shall, if so requested by the 7[Director of Education], in any particular case, inform him of their decision and the action, if any, taken.

(3) In all matters connected with grants for the aid of primary schools other than municipal schools the 5[Corporation] shall administer aid to schools complying with the necessary conditions in accordance with the provision of the Government Grant-in-aid Code, subject to such modifications, if any, as may from time to time be made in the said Code by the Corporation with the previous sanction of the 3[4 [State] Government].

1. Sections 62 to 62D were substituted by s. 62 by Bom. 3 of 1907, s. 10

2. Sections 62A and 62C came into force on the 1st March, 1909, see. B.G.G. 1909 Pt. 1, p. 229.

3. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order in council.

4. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

5. This word was substituted for the words "schools committee" by Bom. 48 of 1950, s. 31

7. These words were substituted for the words "Director of Public Instruction for the Presidency of Bombay" by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order, 1956

62D. Corporation To Provide Annual Sum For The Prince Of Wales Museum Of Western India :-

The Corporation shall provide and pay to the Trustees of the Prince of Wales Museum of Western India at the commencement of each official year a sum of fifty thousand rupees for the purposes of the said Museum].

1. This section was substituted for the original by Bom. 48 of 1950, s. 32

62E. Corporation To Provide For Maintenance Of Lunatics :-

(1)] The Corporation shall make payments at such rates per head as 3[4[State] Government] from time to time by general or special order, prescribe, for the maintenance and treatment either in the city or at any asylum, hospital or house, whether within or without the city which 3[4[State] Government] declares by notification to be suitable for such purpose, of pauper lunatics not being persons for whose confinement and other under Chapter XXXIV of the 5Code of Criminal Procedure, 1898, is in force, resident within, or under any enactment for the time being in force removed from the city.

Provided that the Corporation shall not be liable under this section for the maintenance and treatment of any lunatic in any such asylum, hospital or house as aforesaid, unless such lunatic, previous to his admission thereto, has been resident in the city for at least one year:

7[Provided also that where an application is made to the High Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no order for the payment of the cost of maintenance of the lunatic by the Corporation shall be made without an opportunity being given to the Corporation to show that the lunatic is not pauper and has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him]:

Provided further that the rates prescribed by 3[the4[State] Government] under this section shall not exceed half the total cost of maintenance and treatment incurred per head on account of the lunatics for whose maintenance and treatment the Corporation shall be liable under this section.

(2) The officer-in-charge of an asylum, hospital or house to which lunatics for whose maintenance and treatment the Corporation are liable

1. This new section 62E was inserted by Bom. 1 of 1905, s. 16

2. This section was renumbered as sub-section (1) of that section by Bom. 76 of 1948, s. 4(1)

3. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order in council.

4. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

7. This proviso was inserted by Bom. 76 of 1948.

10. This sub-section was inserted by Bom. 76 of 1948, s. 4(2).

63. Matters which maybe provided for by the Corporation at their discretion :-

The Corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely:- 1[xxx]

(a) slum improvement and upgradation

(aa) urban poverty alleviation;]

(b) the furtherance of educational objects other than those mentioned in clause (q) of section 61;

(c) the establishment, aiding or maintaining libraries, museums, art galleries, botanical or zoological collections;

(d) the laying out or the maintenance of public parks, gardens or recreation grounds;

(e) the planting and care of trees on road sides and elsewhere;]

- (f) surveys of buildings or lands;
- (g) registration of marriages;
- (h) the taking of a census of the population];
- (j) preparation and presentation of addresses to persons of distinction; 5[
- (jj) providing music in public places or places of public resort;
- (jja) the construction, purchase, organisation, maintenance, extension and management of tramways, trackless trams, or mechanically propelled transport facilities for the conveyance of the public;
- (jjb) the purchase, maintenance, management and conduct of any undertaking for the supply of electric energy or gas to the public or the subsidising of any such undertakings;
- (jjc) the acquisition of immovable or movable property for any of the purposes before mentioned, including payment of the cost of investigations, surveys or examinations in relation thereto, or the construction or adaptation of buildings necessary for such purposes[
- (jjd) with the previous sanction of the State Government and subject to such terms and conditions as the State Government may impose, subscribing to the share capital of any company or co-operative society, with the limited liability, established or to be established for providing any services in Greater Bombay, which are directly or indirectly, useful to the Corporation in carrying out any of the duties imposed upon it by or under this Act or any other law for the time being in force;]
- (jje) welfare measures for the Scheduled Castes, Scheduled Tribes, Vimukta Jatis and Nomadic Tribes and Nav-Budhas who are residing within the limits of the Corporation area, and in particular taking such measures for the amelioration of the conditions of these classes as the State Government may, from time to time, direct;]
- (k) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.
- (l) making any contribution towards any public reception, ceremony or entertainment:

Provided that, the total expenditure on account of such contributions during any official year shall not exceed one lakh of rupees

- (m) subject to such terms and conditions including provisions with regard to the control and supervision as the Corporation may deem fit to impose or make, making any contribution to a public trust registered under the Bombay Public Trust Act, 1950 for establishing or running a hospital to provide medical facilities to the employees

of the 10 [Brihan Mumbai Electric Supply and Transport Undertaking] and the members of their families.]

1. Clause (a) of this section was repealed by Bom. 3 of 1907, s. 11
2. Clauses (a) and (aa) were inserted by Mah. 41 of 1994, s. 36
3. Clauses (b) to (c) were substituted for the original clauses by Bom. 12 of 1947, s. 2(i)
4. Clauses (h) was substituted for the original clause by Bom. 12 of 1947, s. 2(ii)
5. Clauses (jj), (jja), (jjb) and (jjc) were substituted for clause (jj) by Bom. 12 of 1947, s. 2(iii).
6. Clause (jjd)) was inserted by Mah. 42 of 1976, s. 5
7. Clause (jje)) was inserted by Mah. 21 of 1989, s. 11 (a)
8. This was substituted for the portion beginning with the words "And with previous sanction" and ending with the words "Greater Bombay" by Mah. 42 of 1977, s. 4
9. Clause (m) was inserted by Mah. 21 of 1979, s. 11 (b)
10. These words were substituted" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

63A. Performance Of Functions By Agencies :-

Where any duty has been imposed on, or any function has been assigned to the Corporation under this Act, or any other law for the time being in force, or the Corporation has been entrusted with the implementation of a scheme,-

(a) the Corporation may either discharge such duties or perform such functions or implement such scheme by itself; or

(b) subject to such directions as may be issued and the terms and conditions as may be determined by the State Government, cause them to be discharged, performed or implemented by any agency:

Provided that the Corporation may also specify terms and conditions, not inconsistent with the terms and conditions determined by the State Government, for such agency arrangements.

63B. Environment Status Report :-

The 1[Commissioner] shall, before the 31st day of July every year, place before the Corporation a report on the status of environment within 2 [Brihan Mumbai] in respect of the last preceding financial year, covering such matters and in such manner as may be specified by the State Government, from time to time.]

1. This word was substituted for the word "Mayor" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 17 (w.e.f. 23-4-1999)
2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

64. Functions of the several municipal authorities :-

(1) The respective functions of the several municipal authorities and of any Committee appointed under sections 39, 40, 41, 49A or

50 shall be such as are specifically prescribed in or under this Act.

(2) Except as in this Act otherwise expressly provided, the municipal government of Brihan Mumbai vests in the Corporation.

(2A) On the occurrence of any accident or unforeseen event, or on the threatened occurrence of any disaster, involving or likely to involve extensive damage to any property of the Corporation or danger to human or animal life, the Mayor and the Commissioner with the approval of the Mayor shall take such immediate action, as the emergency shall appear to them to justify and require, reporting forthwith to the Standing Committee or the Corporation, when they have done so, the action they have taken and their reasons for taking the same and the cost, if any, incurred or likely to be incurred in consequence of such action which is not covered by a current budget grant:

Provided that, in the absence of either the Mayor or the Commissioner, any one who is present shall take such immediate decision and action;

(3) Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the Corporation or the Standing Committee or the Improvement Committee, or the Education Committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the Commissioner, who shall also,-

(a) perform all the duties and exercise all the powers specifically imposed are conferred upon him by this Act;

(b) prescribe the duties of, and exercise supervision and control over, the acts and proceedings of all municipal officers and servants, other than the municipal secretary and the municipal officers and servants immediately subordinate to him and subject to regulations at the time being in force under section 81 dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances;

(c) perform the duties and exercise the powers imposed or conferred upon the General Manager by this Act in his absence or on failure by him to perform or exercise the same;

(d) give such directives to the General Manager, in the performance of his duties and exercise of his powers, as the Commissioner may, from time to time, consider necessary. Where any such directives are given, the General Manager shall be bound to carry them out within the period specified on such directives or within such extended period as the Commissioner may, suo moto at the request

of the General Manager, permit so, however, that, the extended period shall not exceed three months in the aggregate. Where the General Manager fails to carry out the directives even within the extended period, the Commissioner shall be entitled to act under clause (c) above, as if there has been a failure by the General Manager to perform his duties or exercise his powers.

Provided that, the Brihan Mumbai Electric Supply and Transport Committee may, by a resolution passed by a majority of not less than three-fourths of the total number of its members restrain the General Manager from carrying out any such directive or directives received by him from the Commissioner, and in case of such a restraint, the General Manager shall not be deemed to have failed in carrying out any such directive;

(e) be responsible for implementing the decision of the Corporation, the Standing Committee, the Improvements Committee, the Brihan Mumbai Electric Supply and Transport Committee and the Education Committee:

Provided that, the Corporation, the Standing Committee or any other Committee, as the case may be, shall obtain and take into consideration the remarks of the Commissioner, before making any resolution:

Provided also that, if the Commissioner is of the opinion that the resolution passed or decision taken by the Corporation or any of the Committee is against the provisions of any law, for the time being in force or may lead to wastage of municipal fund or seeks to divert the funds allocated for any of the obligatory duties of the Corporation to some other purpose or is against the policy of the State Government, he may, before implementing the decision, seek the direction from the State Government and the State Government shall, within forty-five days from the date of receipt of such reference may by the Commissioner, issue direction to the Commissioner whether such decision should be implemented or not and the direction issued by the State Government shall be binding on the Corporation, as the concerned Committee, as the case may be.

(4) Subject whenever expressly so directed in this Act to the approval of the Corporation or the Brihan Mumbai Electric Supply and Transport Committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of Chapter XVIA of this Act, vests in the General Manager who shall also,-

(a) perform all the duties and exercise all the powers specifically

imposed or conferred upon him by this Act and perform such other duties in connection with the Brihan Mumbai Electric Supply and Transport undertaking as may be required of him by the Brihan Mumbai Electric Supply and Transport Committee.

(b) prescribe the duties of, and exercise supervision and control over the acts and proceedings of, all municipal officers and servants appointed under Chapter XVIA and subject to the regulations for the time being in force under section 460V, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances;

(c) On the occurrence or threatened occurrence of any sudden accident for unforeseen event involving or likely to involve extensive damage to any property of the Corporation pertaining to the Brihan Mumbai Electric Supply and Transport Undertaking or danger to human life arising from or in connection with any part of the undertaking, take such immediate action as the emergency shall appear to him to justify or require, reporting forthwith to the Brihan Mumbai Electric Supply and Transport Committee, when he has done so, the action he has taken and his reason for taking the same and the amount of cost, if any, incurred or likely to be incurred in consequence of such action, which is not covered by a budget grant within the meaning of the expression as defined in section 130.

1. Section 64 was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 18 (w.e.f. 23-4-1999)

65. Corporation may call for extracts from proceedings, etc. from Committees :-

The Corporation may at any time call for extracts from any proceedings of any Committee constituted under this Act, and for any return, statement, account or report concerning or connection with any matter with which any such Committee is empowered by or under this Act to deal, and every such requisition shall be complied with by the Committee without unreasonable delay.]

1. Section 65 was substituted by Mah. 10 of 1998, s. 25

66. Corporations may require the "Commissioner] to produce documents and furnish returns reports, etc. :-

(1) The Corporation may at any time require the 1[Commissioner]-
(a) to produce any record, correspondence, plan or other document which is in his possession or under his control as 2[Commissioner],

or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;

(b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal Government of 3[Brihan Mumbai] 4[except in regard to the Brihan Mumbai Electric Supply and Transport Undertaking]].

(c) to furnish a report by himself or to obtain from any head of the department subordinate to him and furnish, with his own remarks thereon, a report, from any subject concerning or connected with the administration of this Act or the municipal Government of 5[Brihan Mumbai] 6[except in regard to the 7[Brihan Mumbai Electric Supply and Transport Undertaking]].

(2) 5[Except as is otherwise hereinafter provided every] such requisition shall be complied with by the 1[Commissioner] without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the 7[Commissioner] in pursuance of any such requisition.

(3) Provided that if on such requisition as aforesaid being made, the 6[Commissioner] shall declare that immediate compliance therewith would be prejudicial to the interests of the Corporation or of the public, it 9[Commissioner] inexpedient to comply therewith, he shall make a declaration to that effect, whereon it shall be lawful for the Corporation 10[to elect one Councillor, who with the Mayor and Chairperson of the Standing Committee (or, if Mayor is also Chairperson of the Standing Committee, with the Mayor and one Member of their own body elected by the Standing Committee) shall form a Committee] who shall engage to keep secret, save as thereafter provided, the existence and purport of such documents and matter as may be disclosed by them; and to the said committee the 6[Commissioner] shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition, and the said committee having taken cognizance of the information, writings and matters so laid before them shall determine, by a majority in case of difference, whether or not the whole or any part, and which part, if any of such matters ought to be disclosed to the Corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the Corporation at the next ordinary meeting thereof, where also the 7[Commissioner] shall be prepared to produce documents and to make any report or statement requisite to give effect to the

decision of the Committee when called on to do so by the Corporation.

12[

(4) The heads of departments subordinate to the 7[Commissioner] are the City Engineer, the Hydraulic Engineer, the Executive Health Officer, the Assessor and Collector, the Chief Accountant and the Education Officer.]

14[

(5) In their application to matters relating to the 5[Brihan Mumbai Electric Supply and Transport Undertaking] the provisions of sub-sections (1), (2) and (3) shall have effect as if for the word 7[Commissioner] the words "General Manager" and for the words "standing committee" the 16 [Brihan Mumbai Electric Supply and Transport Committee] has been substituted].

1. This word was substituted for the word "Mayor" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 19(w.e.f. 23-4-1999)

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

3. These words were added by Bom. 48 of 1948, s. 9

4. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

5. These word were substituted for the word "Every" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 19(b) (w.e.f. 23-4-1999)

7. These words were added by Bom.48 of 1948, s. 9.

9. This word was substituted for the word "Mayor" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.19(a), (w.e.f. 23-4-1999)

10. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 19(c) (w.e.f. 23-4-1999)

12. This sub-section was substituted for the original by Bom. 48 of 1950, s. 34

14. This sub-section was added by Bom. 48 of 1948, s. 9

16. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

66A. Right To Ask Questions :-

(1) Subject to any regulations made in this behalf under section 36, a Councillor may question the 2[Commissioner] who shall answer any question concerning or connected with the administration of this Act or the municipal government of

3[Brihan Mumbai].

Provided that -

(a) not less than seven clear days notice in writing specifying the questions has been given to the Municipal Secretary;

(b) no question shall be asked-

(i) which calls for an expression of opinion or for the solution of an abstract legal question or of a hypothetical proposition; or

(ii) which concerns or is in connection with, either directly or indirectly, any pending suit or proceedings, in any court of law or before any tribunal in any part of 5[the territory of India]; or

(iii) which relates to the character or conduct of any Municipal Officer or servant except in his official or public capacity; or

(iv) which is or by implication may be, defamatory of or which makes or implies a charges of a personal character against any person or section of any community; or

(v) which contravenes any regulation made by the Corporation in this behalf under section 36 in contravention of the provisions of subsection (1),

(2) The 6[Mayor] shall disallow any question which is in his opinion, in contravention of the provisions of sub-section (1).

(3) If any doubt arises whether any question is or is not within the restrictions imposed by sub-section (1), the 4[Mayor] shall decide the point and his decision shall be final.

(4) The 5[Mayor] shall not be bound to answer a question if in his opinion, it cannot be answered without detriment to the interests of the Corporation or if, it asks for information which has been communicated to him in confidence.]

6[

(5) The General Manager shall without unreasonable delay furnish the 7[Commissioner] with such information relating to the 8 [Brihan Mumbai Electric Supply and Transport Undertaking] as he may require for the purpose of answering any question under this section.]

1. New Section 66A was inserted by Bom. 23 of 1930, s. 3

2. This word was substituted for the word "Mayor" or any member of the Mayor-in-council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 20(a) (w.e.f. 23-4-1999)

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

4. This word was substituted for the words "Chairperson of the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 20(b) and (c), (w.e.f. 23-4-1999).

5. This word was substituted for the words "Mayor or any member of the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 20(d), (w.e.f. 23-4-1999)

6. This sub-section was added by Bom. 48 of 1948, s. 10

7. This word was substituted for the word "Mayor" or member of the Mayor-in-council by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 20(c) (w.e.f. 23-4-1999)

8. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.96)

66B. Discussion On Urgent Public Matters :-

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

(2) Such notice supported by the signatures of at least two other elected Councillors shall reach the Secretary at least seventy-two hours before the date on which such discussion is sought and the Secretary shall place before 7[Mayor or in his absence, the Deputy Mayor] and circulate the same among the Councillors in such manner, as he may think fit.

(3) There shall be no formal resolution or voting.

1. Sections 66B and 66C were inserted by Mah. 10 of 1998, s. 28

66C. Asking For Statement From 8[Commissioner :-

(1) Any Councillor may ask for statement made by the 1[Commissioner] on an urgent matter relating to the administration of the 2[the Commissioner] at least one hour before the commencement of the sitting on any day.

(2) The 3[Commissioner] 4[* * *] may either make a brief statement on the same day or fix a date for the same.

(3) Not more than two such matters shall be raised at the same sitting and in the event of more than two matters being raised, priority shall be given to the matters which are, in the opinion of the 5 [Mayor] more urgent and important.

(4) There shall be no debate on such statement at the time it is made].

1. This word was substituted for the word "Mayor" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 22(a) (w.e.f. 23-4-1999)

2. This word was substituted for the word ""Chairperson of the Corporation or, in his absence, the Deputy Chairperson" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.22(b) (w.c.f. 23-4-1999)

3. This word was substituted for the word "Mayor" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 22(a) (w.e.f. 23-4-1999)

4. The words "or the member-in-charge" were deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 22(c) (w.e.f. 23-4-1999)

5. This word was substituted for the words "Chairperson of the Corporation or, in his absence, or, in his absence, the Deputy Chairperson" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 22(d) (w.e.f. 23-4-1999)

67. Exercise of powers to be subject to sanction by Corporation of the necessary expenditure :-

The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act, which will involve expenditure, shall, except in any case specified in subsection (2) of section 115 1[or section 470DD] be subject to the following provisos, namely:-

(a) that such expenditure, so far as it is to be incurred in the official year in which such power is exercised or duty performed, shall be provided for under a current budget grant within the meaning of that expression as defined in section 130; 2[* *]

(b) that, if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said official year, liability for such expenditure shall not be incurred without the sanction of the Corporation.

3 [

(c) that, where the sanction of the Corporation is sought by the General Manager for any contract for the purposes of Chapter XVIA, the

1. The words, figures and letter "or of Section 460DD" were inserted by Bom. 48 of 1948, s. 11

2. Word "and" was deleted by Mah. 42 of 1976, s. 6(a)
3. Clause (c) was added by Mah. 42 of 1976, s.6(b)

68. Delegation of powers of Municipal Authorities :-

1[. Any of the powers, duties and functions conferred upon, assigned to or vested in the Corporation, the 2 [Mayor], Commissioner or the General Manager, Brihan Mumbai Electric Supply and Transport Undertaking, by or under this Act, may be exercised, performed or discharged by any municipal officer to whom such powers, duties or functions are delegated by the concerned authority by general or special order made, from time to time, in this behalf].

1. Section 68 was substituted by Mah. 10 of 1998, s. 29
2. This word Was substituted for the words "Mayor-in-Council the Mayor, Member-in- charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 23 (w.e.f. 23-4-1999)

68A. Section 68A :-

1 [***]

1. Section 68A was deleted by Mah. 10 of 1998, s. 30

68AA. "Chairperson Of The Corporation Or, In His Absence, Or, In His Absence, The Deputy Chairperson" :-

(1) Notwithstanding anything contained in section 68 or any other provisions of the Act, the State Government may, after consultation with the Commissioner, by order published in the Official Gazette, empower any Government officer, who is holding or has held an office, which in its opinion is not lower in rank than that of Additional Collector, either by name or by virtue of office, also to exercise, perform and discharge the powers, duties and functions conferred or imposed upon and vested in the Commissioner by sections 314, 351 and 352 A.

(2) The Government officer empowered under sub-section (1) may by order in writing direct that the powers, duties and functions conferred or imposed upon and vested in him by the State Government may also be exercised, performed and discharged, by such officer or officers subordinate to him, who are holding or have held an office, which is not

(3) When any Government officer is empowered under sub-section (1) or is authorised under sub-section (2), in each of sections 314, 151 and 352 A, the word "Commissioner" shall be deemed to include any such officer.

1. This section was inserted by Mah. 71 of 1981, s. 2

68B. Section 68B :-

1 [* * *]

1. Section 68B was deleted by Mah. 10 of 1998, s. 30

69. Power to the Commissioner to execute contracts on

behalf of the Corporation :-

With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect, namely:-

(a) every such contract shall be made on behalf of the Corporation by the Commissioner;

(b) on such contract, for any purpose which in accordance with any provision of this Act, the Commissioner may not carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given:

1[

(c) no contract, other than a contract relating to the acquisition of immovable property or any interest therein or any right thereto, which will involve an expenditure exceeding ten lakh rupees but not exceeding twenty lakh rupees shall be made by the Commissioner unless the same is approved by the Mayor. For contracts involving an expenditure in excess of twenty lakh rupees approval of the Standing Committee shall be necessary:

Provided that, the Standing Committee shall consider and dispose of the proposals made by the Commissioner for previous approval, within thirty days from the date of receipt thereof, failing which the previous approval to such contract shall be deemed to have been given by the Standing Committee and a report to that effect shall be made by the Commissioner to the Corporation];

2[xxx]

(e) the foregoing provisions of this section 3 [shall, as far as may be, apply] to every contract which the Commissioner shall have occasion to make in the execution of this Act; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

1. Clause (c) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 24 (w.e.f. 23-4-1999)

2. Clause (d) was deleted by Mah. 37 of 1981, s. 4(b)

3. These words were substituted for the original words by Bom. 13 of 1933, s. 12(b)

70. Mode of executing contracts :-

(1) Every contract entered into by the Commissioner on behalf of the Corporation shall be entered into in such manner and form as would bind the Commissioner if such contract were on his own

behalf, and may in the like manner and form be varied or discharged: Provided that -

(a) where any such contract, if entered into by the Commissioner, would require to be under seal, the same shall be sealed with the common seal of the Corporation; and

(b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding 1[fifty thousand rupees] shall be in writing and shall be sealed with the common seal of the Corporation 2[in the manner prescribed in sub-section (2)] and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods,

3[

(1 A) Notwithstanding anything contained in proviso (b) to subsection (1) it shall be lawful for the Commissioner in the case of contracts relating to the execution of any work or the supply of any materials or goods to dispense, by an order in writing, with the execution of a written instrument, if such work has already been performed or the materials or goods have already been supplied to his satisfaction.]

4[

(2) The common seal of the Corporation which shall remain in the custody of the Municipal Secretary, shall be affixed in the presence of 5[two members of the Standing Committee] to every contract or other instrument 6[(other than contract relating to the acquisition of immovable property or interest therein or a right thereto), require to be under seal] and such contractor instrument shall be signed by the said 7[two members of the Standing Committee] in token that the same was sealed in 8[their] presence. 9[The signatures of the said members] shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.] 10 [

Provided that, in the case of any contract entered into for the purposes of clause (q) of section 61, the seal shall be so affixed in the presence of and contract shall be signed by, two members of the Education Committee in lieu of two members of the Standing Committee.]

1. These words were substituted for the words "ten thousand rupees" by Mah. 10 of 1998, s. 33(a)

2. These words, brackets and figure were inserted by Bom. 10 of 1935, s. 2(1)

3. Sub-section (I A) was inserted by Bom. 12 of 1936, s.4

4. Sub-section (2) was substituted for the original sub-section by Bom. 13 of 1933, s. 13
5. These words and brackets were substituted for the words "Members-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 25(a), (w.e.f. 23-4-1999)
6. These words and brackets were substituted for the words "other than a contract relating to the acquisition of immovable property or interest therein, or a right thereto" by Bom. 10 of 1935, s. 2(2)
7. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.25(a), (w.e.f.23-4-1999)
8. This word was substituted for the words "his" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 25(b), (w.c.f. 23-4-1999)
9. These words were substituted for the words "The signature of the Member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 25(c), (w.e.f. 23-4-1999)
10. This proviso was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 25(d), (w.e.f. 23-4-1999)

71. Contract not binding on the Corporation unless executed as prescribed in section 70 :-

No contract 1[of the nature specified in sub-section (2) of the last preceding Section] not executed as in the 2 [said] section provided shall be binding on the Corporation.

1. These words were inserted by Bom. 13 of 1933, s. 14(i)
2. The word "said" was substituted for the words "last preceding" by Bom. 13 of 1933, s. s. 14(ii)

72. Tenders to be invited for contracts involving expenditure exceeding 1[Rs. 50,000] :-

(1) Except as is hereinafter otherwise provided, the Commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding 1[fifty thousand rupees] give notice by advertisement in the local newspapers, inviting tenders for such contract.

(2) The Commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provision of clause (c) of section 69, any of the tenders so made which appears to him, upon a view of all the

circumstances, to be the most advantageous.

(3) Provided that the Standing Committee or in the case of a contract to be entered for the purposes of clause (q) of section 61, the Education Committee may authorize the Commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.]

1. These words were substituted for the words "ten thousand rupees" by Mah. 10 of 1998, s. 34(c)

2 . Sub-section (3) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 26 (w.e.f. 23-4-1999)

CHAPTER 4

Municipal Officers and Servants

73. Security when to be taken for performance of contract :-

The Commissioner shall require sufficient security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion require security for the due performance of any other contract into which he enters under this Act.

73A. Saving Of Contracts Under Chapter Xvia :-

Nothing in sections 69 to 73, both inclusive, shall apply to contracts made under Chapter XVIA of this Act.]

1. This section was inserted by Bom. 48 of 1948, s. 13

73B. Appointment Of Special Engineer :-

(1) The Corporation may as soon as conveniently may be after the coming into operation of the City of Bombay Municipal (Amendment) Act, 1947, appoint a Special Engineer to execute powers and perform duties in connection with all schemes for post-war reconstruction and general development of the city including schemes for water supply and slum clearance. A person appointed as Special Engineer shall hold the post for 5[such period not exceeding seven years as the Corporation may determine]. The Special Engineer shall also exercise and perform such powers, duties and functions under this Act as the Commissioner may from time to time direct.

(2) The Special Engineer shall receive such monthly salary and allowances as the Corporation shall from time to time determine.

(3) The Special Engineer shall devote his whole time and attention to the duties of his office.

(4) The provisions of section 80B shall not apply to the appointment of the Special Engineer.

(5) The appointment of the Special Engineer shall be subject to confirmation by the

2 [State] Government.

(6) During the continuance of the appointment of the Special Engineer, -

(i) the operation of provisions of sections 74 and 75 in so far as they relate to the appointment of the City Engineer shall remain suspended; and

(ii) any reference in this Act (other than this section and sections 74 and 75) to the "City Engineer" shall be deemed to be a reference to the "Special Engineer"]

1. Section 73 A was inserted by Bom. 4 of 1947, s. 3

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

74. Appointment of5[city engineer], executive health officer and hydraulic engineer :-

(1) The Corporation shall appoint fit persons to be municipal 1[city engineer] 2[* *] municipal executive health officer, 4[and municipal hydraulic engineer]

(2) Each of the said officers shall,-

(a) be appointed for a renewable term of five years: 3[

Provided that if any of such officers is a municipal officer and due to retire under the regulations made and applicable to him under section 81 on a date earlier than the expiry of the period of five years from the date of his appointment or reappointment, he may be appointed or reappointed for a period of five years or a lesser period].

(b) devote his whole time and attention to the duties of his office;

4[

(c) receive such monthly salary as the Corporation 5[shall, from time to time, with the approval of the State Government, determine: but the salary of any such officer shall not be altered to his disadvantage during his period of office;] 6[xxx]

(d) be removable at any time from office for misconduct or for neglect of or incapacity for, the duties of the office, on the votes of not less than two-thirds, of the members present at a meeting of the Corporation:

(3) Provided that -

(e) no person shall be appointed to be executive health officer who is not a legally qualified medical practitioner; 7[

(ee) the executive health officer may accept for such period as may be sanctioned by the Corporation any appointment, whether honorary or otherwise, which has for its object the promotion of public health, whether by means of education or otherwise, and which in the opinion of the Corporation would not interfere with the duties as executive health officer];

(f) the Corporation may, in their discretion, appoint a person

probationally, for a limited period only, to 5[any] of the said offices, previous to appointing him for the full term of five years:

(g) every appointment made under this section shall be subject to confirmation by the 8[9[State] Government].

(4) Any persons appointed as City Engineer and Hydraulic Engineer shall be subordinate to the Director and shall perform their duties, and exercise their powers, subject to the control and supervision of the Director.

1. The words "city engineer" were substituted for the original words "Executive Engineer" by Bom. 19 of 1930, s. 6

2. The word "and" was omitted by Bom. 2 of 1911, s. 2(a)

3. This proviso was added by Bom. 76 of 1948, s. 6

4. This clause was substituted for the original by Bom. 13 of 1938, s. 28 vide footnote with asterisk on p.365 supra

5. This was substituted for the portion beginning with the words "shall, subject to the following" and ending with the words, letters and figures "less than Rs. 1,200" by Mah. 5 of 1970, s. 5, with effect from 1st April 1966

6. Bom. 6 of 1943 by which the proviso was added to clause (c) of sub-section (2) of section 74 lapsed. The proviso, therefore, ceased to be in force with effect from 3rd April 1948 and has been deleted.

7. This clause was inserted by Bom. 6 of 1916, s. 3(3).

8. The words "Provincial Government" were substitutes for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

9. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

10. Sub-section (4) was inserted by Mah. 53 of 1981, s. 14

75. Time within which vacancy in office of 2[city engineer] or executive health officer or hydraulic engineer must be filled up :-

(1) On the occurrence of a vacancy in the office of 1[city engineer] or of executive health officer 2 [or of hydraulic engineer] an appointment shall be made thereto by the Corporation within four months from the date on which the vacancy occurred, or in the even of any appointment so made by them not being confirmed by the 4[the 5[State] Government] within thirty days from the date of the receipt by the Corporation of the order of the 8[the 9[State] Government].

(2) In default of an appointment being made by the Corporation as

aforesaid 8[the9[State] Government] may appoint a person to fill the vacancy, and such appointment shall for all purposes be deemed to have been made by the Corporation.

(3) Pending the settlement of an appointment under sub-section (1) or (2) the Corporation may appoint a person to fill the vacancy temporarily and may direct that the person so appointed shall receive such monthly salary not exceeding 6[the maximum permissible under clause (c) of sub-section (2) of section 74, in respect of the officer in whose place such person is appointed] as it shall think fit. A person so appointed to be temporary executive health officer need not be a legally qualified medical practitioner.

1 . The words "city engineer" were substituted for the words "Executive Engineer" by Bom. 19 of 1930, s. 6

2. These words were inserted by Bom. 2 of 1911, s. 3

76. Executive health officer to be the consulting office of health under Bombay Act VI of 1867 :-

The executive health officer appointed under this Act shall be the consulting officer of health for the purposes of Bombay Act VI of 1867 (An Act for the better sanitary regulation of the City of Bombay).

76A. Appointment Of Education Officer :-

The Corporation shall from time to time appoint a fit person to be the Municipal Education Officer, who shall,-

(a) be subordinate to the Commissioner and subject to his orders shall exercise such of the Commissioners powers and perform such of the Commissioners duties in regard to primary 1[and Secondary] education, as the Commissioner may from time to time assign to him;

(b) receive such monthly salary 2[as the Corporation shall, from time to time, with approval of the State Government, determine; but the salary of such officer shall not be altered to his disadvantage during his period of office;

(c) be removable at any time from office by the Corporation for misconduct or for neglect of or incapacity for duties of the office.]

3 {Appointment of medical officers in connection with measures of public medical relief.

1. These words were inserted by Mah. 21 of 1989, s. 14

2. This was substituted for the portion beginning with the words "not exceeding" and ending with the words "time to time determine" by Mah. 5 of 1970, s. 6, with effect from 1sApril 1966.

3. This heading and section 76B were inserted by Bom. 3 of 1907, s. 13(1)

76B. Corporation To Appoint Qualifiedmedical Practitioners To The Charge Of Hospitals Maintained By The Corporation :-

The Corporation shall from time to time appoint such legally qualified medical practitioners as may be necessary to the charge of any hospital maintained by the Corporation in connection with measures of public medical relief carried out under clause (gg) of section 61 and determine their salaries.]

1. This heading and section 76B were inserted by Bom. 3 of 1907, s. 13(1)

77. Appointment of Municipal Secretary :-

(1) The 1[Corporation] shall from time to time appoint a fit person to be municipal secretary.

(2) The municipal secretary shall be secretary of the Corporation and also of 2[the Standing Committee and the Improvements Committee], and shall-

(a) perform such duties as he is directed by this Act to perform and such other duties in and with regard to the Corporation and 2[the Standing Committee and the Improvements Committee], as shall be required by him by those bodies respectively.

(b) have the custody of all papers and documents connected with the proceedings of -

(i) the Corporation and any committee appointed by the Corporation 4[under Section 38 5[or 38A];]

6[

(ii) The Standing Committee and any sub-Committee thereof;

(iii) The Improvements Committee and any sub-Committee thereof;

(iv) The Education Committee and any sub-Committee thereof];

(v) 7[the Wards Committees];

(c) devote his whole time and attention to the duties of his office.

8[

(d) receive such monthly salary 9[as the Corporation shall, from time to time, with the approval of the State Government, determine; but the salary of such officer shall not be altered to his disadvantage during his period of office];]

(e) be removable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office by the 10 [* * *] Corporation.

1. The word "Corporation" was substituted for the original words "standing committee" by Bom. 6 of 1922, s. 24(a)

2. These words were substituted for the words "The Municipal Accounts Committee" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 37(a) and (b) (w.e.f. 23-4-1999)

4. These words, figures and letter were added by Bom. 48 of 1948, s. 14

5. This word and figures were inserted by the Mumbai Municipal

Corporation (Amendment) Act 27 of 1999, s. 27(c)(i) (w.e.f. 23-4-1999)

6. Clauses (ii) to (iv) were inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 27(c)(ii) (w.e.f. 23-4-1999)

7. Sub-clause (v) was inserted by Mah. 41 of 1994, s. 38

8. Clause (d) was substituted by Bom. 48 of 1950, s. 42(2)

9. This was substituted for the portion beginning with the words "not exceeding" and ending with the words "time to time determine" by Mah. 5 of 1970, s. 7, with effect from 1st April 1966.

10. The words repealed by Bom. 6 of 1922, s. 24(b), are omitted.

78. Appointment of clerks and servants subordinate to the municipal secretary :-

(1) 1[The Standing Committee in consultation with the Mayor and the Commissioner] may from time to time-

(a) appoint such clerks and servants to be immediately subordinate to the municipal secretary as they think fit;

(b) determine the nature and amount of the salaries, fees and allowances to be paid to the said servants and clerks respectively;

(c) prescribe or delegate to the municipal secretary the power of prescribing the duties of the said clerks and servants.

(2) Control, etc. of the said clerks and servants. The municipal secretary, subject to the orders 2[of the Standing Committee], shall exercise supervision and control over the acts and proceedings of the said clerks and servants, 3 [and the Standing Committee], subject to the regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said clerks and servants and their pay, privileges and allowances.

1. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 28(a) (w.e.f. 23-4-1999?)

2. These words were substituted for the words "of the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 28(b)(i) (w.e.f. 23-4-1999)

3. These words were substituted for the words "and the Chairperson of the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 28(b)(ii) (w.e.f. 23-4-1999)

78A. Appointment Of Municipal Chief Auditor :-

- (1) The Corporation shall from time to time appoint a fit person to be municipal chief auditor, who shall-
- 1[
 - (a) perform such duties as he is directed by this Act to perform and such other duties with regard to the audit of the accounts of the municipal funds 6[the Water and Sewage Fund and the Consolidated Water Supply and Sewage Disposal Loan Fund] as shall be required of him by the Corporation or by the 7[Standing Committee] and with regard to the audit of the accounts of the 8[Brihan Mumbai Electric Supply and 2[Brihan Mumbai Electric Supply and Transport Committee;]
 - (b) devote his whole time and attention to the duties of the office;]
 - (c) receive such monthly salary 3 [as the Corporation shall, from time to time, with the approval of the State Government, determine; but the salary of such officer shall not be altered to his disadvantage during his period of office;]
 - (d) be removable at any time from office for misconduct, or for neglect of or incapacity for the duties of his office on the votes of not less than two thirds of the members present at a meeting of the Corporation.
- (2) The municipal chief auditor shall not be eligible for further office under the Corporation after he has ceased to hold his office.
1. This clause was substituted for the original by Bom. 48 of 1948, s. 15
 2. These words were substituted for the words "Municipal Accounts Committee" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 29(b)(w.e.f. 23-4- 1999)
 3. This was substituted for the portion beginning with the words "not exceeding" and ending with the words "time to time determine;" by Mah. 5 of 1970, s. 8 with effect from 1" April 1966

78B. Appointment, Salaries, Fees, Allowances And Duties Of Assistant Auditors, Clerks And Servants Subordinate To The Municipal Chief Auditor :-

- (1) The 1[Standing Committee] may from timetotime-
- (a) appoint such assistant assistant auditors, clerks and servants to be immediately subordinate to the municipal chief auditor as they think fit;
 - (b)determine the nature and amount of the salaries, fees and allowances to be paid to the said assistant auditors, clerks and servants respectively;
 - (c) prescribe or delegate to the municipal chief auditor the powers of prescribing the duties of the said assistant auditors, clerks and servants.
- (2)Control, etc. of the said assistant auditors, clerks and servants. Subject to the orders of the 1[Standing Committee], the municipal chief auditor shall exercise supervision and control over the acts and proceedings of the said assistant auditors, clerks and servants, and the 1 [Standing Committee], subject to the regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said assistant auditors, clerks and servants and their pay, privileges and allowances.
1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 30 (w.e.f. 23-4-1999)

78C. Appointment Of Municipal Chief Accountant :-

- (1) The Corporation shall from time to time appoint a fit person to be Municipal Chief Accountant. He shall- 1[
- (a) be the Principal Municipal Finance Officer to advise the Commissioner on financial matters and perform such duties with regard to the municipal finance as shall be required of him by the Corporation, 2[Standing Committee] or the Commissioner;]
 - (b) devote his whole time and attention to the duties of his office;

(c) receive such monthly salary 4[as the Corporation shall, from time to time, with the approval of the State Government, determine; but the salary of such officer shall not be altered to his disadvantage during his period of office;]

(d) be removable at any time from office for misconduct, or for neglect of or incapacity for the duties of his office by the Corporation.

3 [xxx]

1. Clause (a) was substituted for the original by Mah. 70 of 1975, s. 5(a)

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, ss. 31 and 32(w.e.f. 23-4-1999)

3. Sub-section (2) was deleted by Mah. 70 of 1975, s. 5(b)

78D. Appointment Of Additional Municipal Chief Accountant

:-

The Corporation shall, from time to time, appoint a fit person to be the additional Municipal Chief Accountant. He shall-

(a) keep the accounts of the Water and Sewage Fund and the Consolidated Water Supply and Sewage Disposal Loan Fund and perform such duties with regard to the said accounts as shall be required of him by the Corporation or 7[Standing Committee] or the Commissioner;

(b) devote his whole time and attention to the duties of his office;

(c) receive such monthly salary as the Corporation shall, from time to time, with the approval of the State Government, determine; but the

(d) be removable at any time from office for misconduct, or for neglect of or incapacity for, the duties of his office, by the Corporation.]

1. Section 78D was inserted by Mah. 34 of 1973, s. 4

78E. Appointment Of Joint Municipal Chief Accountant :-

The Corporation shall, from time to time, appoint a fit person to be the Joint Municipal Chief Accountant. He shall-

(a) be the Principal Municipal Treasury Officer and keep such municipal accounts and perform such duties with regard to the municipal accounts as shall be required of him by the Corporation , 2 [Standing Committee] or the Commissioner;

(b) devote his whole time and attention to the duties of his office;

(c) receive such monthly salary as the Corporation shall, from time to time, with the approval of the State Government, determine; but the salary of such officer shall not be altered to his disadvantage during his period of office;

(d) be removable at any time from office for misconduct, or for neglect or incapacity for, the duties of his office, by the Corporation.]

1. Section 78E was inserted by Mah. 70 of 1975, s. 6

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, ss. 33, (w.e.f. 23-4-1999)

79. Schedule of other officers and servants to be prepared by the Commissioner and sanctioned by the standing committee or [the Education Committee.] :-

(1) The Commissioner shall, 1[* *] from time to time, prepare and bring before the 2[Standing Committee] a schedule setting forth the designations and grades of the other officers and servants 3[other than the officers and servants to be appointed for the

purposes of clause (q) of section 61]; who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which, he proposes, should be paid to each. 4[

(1A) The Commissioner shall from time to time, prepare and bring before the 5[Education Committee] a schedule setting forth the

(2) The 6[Standing Committee or the Education Committee as the case may be] shall sanction such schedule either as it stands or subject to such modifications as they deem expedient:

Provided that no new office of which the aggregate emoluments exceed 7[rupees five hundred] per month shall be created without the sanction of the Corporation: 8[

Provided further that the 5[Education Committee shall before sanctioning the schedule] obtain thereto the previous approval of the state Government and make such modifications therein as the State Government may direct:] 9[

Provided also that, any sanction accorded under this sub-section shall take effect from the date of such sanction, or such other date (which may be retrospective) as may be specified therein; but no such sanction shall take effect from a retrospective as date without the previous approval of the State Government, or so as to vary the conditions of service of any officer or servant to his disadvantage with retrospective effect.] 10 [(3) Nothing in this section shall be construed as affecting the right of the Corporation or of the Commissioner to make any temporary appointment which they or he are empowered to make under section 80A.]

1. Words repealed by Act 16 of 1895 are omitted.

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 34 (a) (w.e.f. 23-4-1999)

3. This portion was inserted by Bom. 48 of 1950, s. 45(1)

4. Sub-section (1 A) was inserted by Bom. 48 of 1950, s. 45(2)

5. Section 78E was inserted by Mah. 70 of 1975, s. 6

6. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 34(c) (i) (w.e.f. 23-4-1999)

7 . These words were substituted for the words "rupees two hundred" by Mah. 39 of 1961, s. 6

8. This proviso was added by Bom. 48 of 1950, s. 45(3)

9. This proviso was added by Mah. 7 of 1971, s. 2

10. This sub-section was added by Bom. 76 of 1948, s. 7

80. Restriction of employment of permanent officers and

servants :-

No permanent officer or servant shall be entertained in any department of the municipal administration unless he has been appointed under sections 1[* *] 2[60A], 3[73A], 74,4[76A, and 76B], 77 ,5[78, 78-A] 6[78B or 78C] or his office and emoluments are included in the schedule at the time in force prepared and sanctioned under the last preceding section: 7 [xxx]

1. The figures 39 were deleted by Bom. 48 of 1950, s. 46(1)
2. The figures and letter "60A" were inserted by Bom. 48 of 1948, s. 16
3. The figure and letter "73 A" were inserted by Bom. 4 of 1947, s. 5
4. The figures, words and letters were inserted by Bom. 3 of 1907, s. 13(1)
5. These figures, word and letters were substituted for "or 78" by Bom. 2 of 1938, s. 4
- 6 . The word, figures and letters were substituted for the word, figures and letters "or 78B" by Bom. 48 of 1950, s. 46(2).
7. This proviso was deleted by Mah. 10 of 1998, s. 43

80A. Power Of Appointment In Whom To Vest :-

(1) The power of appointing municipal officers, whether temporary or permanent, 3[to the posts which rank equivalent to, or higher 4[

Provided that, temporary appointment to such posts for loan works may be made for a period of not more than six months by the Commissioner with the previous sanction of the Standing Committee; or in the case of works undertaken of the purposes of clause (q) of section 61, of the Education Committee; and the Commissioner shall, forthwith report every such appointment, when made, to the Corporation. No such appointment shall be renewed on the expiry of the said period of six months without the previous sanction of the Corporation.]

(2) Save as otherwise provided in this Act, the power of appointing municipal officers and servants 5[whether temporary or permanent, shall] vest in the Commissioner:] 6[

Provided that such power in respect of permanent appointments shall be subject to the schedule for the time being in force prepared and sanctioned under section 79:

Provided further that no temporary appointment shall be made by the Commissioner for any period exceeding six months and no such appointment 7[to a post] 8[to a post which ranks higher than the post of a Registration Assistant set forth in a schedule for the time being in force prepared and sanctioned under section 79] shall be renewed by the Commissioner on the expiry of the said period of six months without the previous sanction of the 9[Standing Committee or of the Education Committee, as the case may be]

4 [Explanation:- For the purposes of this section, sub-section (1) of section 80B and section 460U, a post shall be deemed to rank equivalent to, or higher than, the post if the minimum of the pay-scale of the former is equivalent to or higher than, the minimum of the pay-scale of the latter.]

1. Section 6 of Bom. 4 of 1947 runs as follows.:- "6. Validation of Act of Special Engineer appointed under section 80A. All the powers, duties and functions of the

City Engineer exercised and performed by the Special Engineer appointed under section 80A of the said Act during the period from 26th September 1946 to the date on which the City of Bombay Municipal (Amendment) Act, 1947, comes into operation shall be deemed to be and always be deemed to have been validly exercised and performed; and no acts done by the said Special Engineer shall after the coming into operation of this Act be deemed to be invalid or called in question on the ground only that the said powers and duties in the purported exercise of which the said acts were done were not at the time when, the said acts were done lawfully vested in him, and the said Special Engineer, is now hereby indemnified and discharged from liability in respect of such acts.

2. Section 80A was added by Bom. 6 of 1922, s. 20

3. These words were substituted for the words "to the posts with a minimum monthly salary, exclusive of allowances, of rupees one thousand two hundred or more" by Mah. 33 of 1989, s. 6(a)(i)

4. This proviso was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 35(a) (w.e.f. 23-4-1999)

5. These words were substituted for the original by Bom. 76 of 1948, s. 8

6. These provisos were added by Bom. 76 of 1948, s. 8(ii)

7. This portion was substituted by Mah. 43 of 1983, s. 10(2)

8. These words were substituted for the words "to a post carrying a monthly salary of more than six hundred rupees exclusive of allowances" by Mah. 33 of 1989, s. 6(b)

9. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 35(b) (w.e.f. 23-4-1999)

80B. Manner Of Making Appointment :-

(1) No person shall be appointed to a post- 3[

(a) the power of appointment to which vests in the Corporation or the 4[Standing Committee] and which is equivalent to, or higher than, the post of Executive Engineer set forth in the schedule for the time being in force prepared and sanctioned under section 79; or]

5[

(b) the power of appointment to which vests in the Brihan Mumbai Electric Supply and Transport Committee and which is equivalent to, or higher than, the post of Secretary set forth in the Schedule sanctioned by the Brihan Mumbai Electric Supply and Transport Committee and the Corporation under section 460R];

except after consultation with the Commission in accordance with the rules made under this section;]

6[

Provided that, it shall not be necessary for the Commission to be consulted in the case of posts in the Water Supply and Sewerage Department falling under clause

(a) and connected with the Water Supply and Sewerage Projects financed partly with assistance from the International Development Association, being posts specified by the Commissioner in this behalf 7[and which ranks lower than the post of Executive Engineer set forth in the schedule for the time being in force prepared and sanctioned under Section 79.]

(2) Nothing in sub-section (1) shall apply to any acting or temporary appointment for a period not exceeding six months or to 8[appointments to such 9[non-technical] posts as may, from time to time, be specified by the State Government in consultation with the Commissioner when such posts are to be filled by promotion]. 10[

(2A) The provisions of sub-section (1) shall not apply also to appointment of any officer,-

(a) 11[* * *]

(b) who is a member of the Indian Administrative Service, 12[the Indian [Police Service or the Indian Audit and Account Service,] to any such post on foreign

service conditions.]

(3) The State Government shall after consultation with the Corporation and Commissioner make rules for prescribing-

(a) the procedure to be followed by the Commissioner in advertising the posts, calling for applications, scrutinizing the same and selecting the candidates for interview;

13[

(b) the procedure to be followed by the Commission for selecting candidates and by the Corporation or the Brihan Mumbai Electric Supply and Transport Committee, as the case may be, for consultation with the Commission];

(c) the procedure for enabling the Municipal 14[Brihan Mumbai Electric Supply and Transport Undertaking] Officer or Officers to attend the interview to advise the Commission;

(d) the procedure to be followed in case there is a difference of opinion between the Commission and the appointing authority;

(e) the fees and other costs to be paid to the Commissioner by the Corporation 14[Brihan Mumbai Electric Supply and Transport Undertaking] as the case may be, for consultation and other incidental matters;

(f) any other matter which is necessary or incidental for the purpose of consultation with the Commission.

(a) in the case of post referred to in clause (a) of sub-section (1) - the Corporation; and

(b) in the case of post referred to in clause (b) of that sub-section - the Brihan Mumbai Electric Supply and Transport Committee, shall with the previous sanction of the State Government make rules prescribing the qualifications to be possessed by candidates eligible for appointment to such posts:

Provided that, any such rules to be made by the Brihan Mumbai Electric Supply and Transport Committee, before submission to the State Government, shall be confirmed by the Corporation,]

(5) The rules made under this section shall be published in the Official Gazette.

(6) 17[

(a)] Any rules made prescribing qualifications for appointment in any such post which were in force immediately before the Bombay Municipal Corporation and City of Bombay Primary Education (Amendment) Act, 1950, comes into force, shall continue in force and be deemed to have been made under this section unless and until they are superseded or amended by rules made under this section.

16[

(b) Any rules made prescribing qualifications for appointment to posts referred to in clause (b) of sub-section (1) which were in force immediately before the Bombay Municipal Corporation (Amendment) Act, 1964, comes into force, shall continue in force and be deemed to have been made under this section, unless and until they are superseded or amended by rules made under this section.]

(7) All fees paid to the Commissioner under this section shall be credited to the State Government.

(8) All communications made by the Commission in regard to any matter relating to the appointment to any post for which it was consulted shall be deemed to be confidential and no discussion shall be permitted thereon in the Corporation, in the 19 [Standing Committee or Brihan Mumbai Electric Supply and Transport Committee] or any Committee of the Corporation or no disclosure relating thereto shall be made in the public.]

1. This section was substituted by Bom. 48 of 1950, s. 48

2. Sub-section (1) was substituted by Mah. 11 of 1964, s. 5(a)

3. Clause (a) was substituted for the original by Mah. 33 of 1989, s. 7(a)

4. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 36 (a) (i) (w.e.f. 23-4-1999)

5. Clause (b) was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 35 (a) (ii) (w.e.f. 23-4-1999)

6. This proviso was added by Mah. 34 of 1973, s. 5

7. This portion was substituted for the portion beginning with the words "and the

- minimum" and ending with the words "per mensem" by Mah. 33 of 1989, s. 7(c)
8. These words were inserted by Bom. 64 of 1953, s. 3
9. These words were substituted for the words "ministerial" by Mah. 43 of 1983, s. 11(2)
10. This sub-section was inserted by Bom. 62 of 1954, s. 2(1). This amendment shall be deemed to have been made on and to have effect from the 14th day of May 1954 [See s. 2 (2) of Bom. 62 of 1954]
11. Clause (a) was deleted by Mah. 10 of 1998, s. 45(b)
12. These words were substituted for the words "or Indian Police Service" by Mah. 1 of 1964, s. 3
13. Clause (b) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 36 (b)) (w.e.f. 23-4-1999)
14. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)
16. Sub-section (4) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 36 (c) (w.e.f. 23-4-1999).
17. Sub-section (6) was renumbered as clause (a) and clause (b) was inserted by Mah. 11 of 1964, s. 5(d)
19. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 36(d) (w.e.f. 23-4-1999)

81. Standing Committee to frame regulations for grant of leave, etc. :-

1(1) The 2[Standing Committee] shall from time to time frame regulations in consonance with any resolution that may to be passed by the Corporation,-

(a) fixed the amount and the nature of the security to be furnished by any municipal office or servant from whom it may be deemed expedient to require security;

(b) regulating the grant of leave to municipal officers and servants;

(c) authorizing the payment of allowances to the said officer and servants, or to certain of them, whilst absent on leave;

(d) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave; 3[

(dd) authorizing the payment of traveling or conveyance allowance to the said officers and servants;]

(e) regulating the period of service of all the said officers and servants;

(f) determining the conditions under which the said officers and servants, or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances and under which 1[the surviving spouse or children, and in the absence of the surviving spouse or children the parents, brothers, and sisters if any] dependent on any of the said officers and servants, shall, after their death, receive compassionate allowances and the amounts of such pensions, gratuities or compassionate allowances;

(g) authorizing the payment of contributions, at certain prescribed

rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of the 5[Standing Committee], be established by the said officers and servants 5[or to such

6[

(h) in general, prescribing any other conditions of service of the said officers and servants.]

(2) No regulation made by the 5[Standing Committee] under this section shall have force or validity, unless and until it has been confirmed by the Corporation, nor if it is made under clause (f), unless and until it has been confirmed by 8[the 9 [State] Government].

1. These words were substituted for the original by Bom. 76 of 1948, s. 9

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 37 (w.e.f. 23-4-1999)

3. This clause was inserted by Bom. 12 of 1936, s. 5(1)

5. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 37 (w.e.f. 23-4-1999)

6. This clause was inserted by Bom. 12 of 1936, s.5(2)

8. The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

9. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

82. Such regulations to be subject to confirmation by the Corporation, and, if made under clause (f), by 3[State] Government :-

. 1 [Power of appointment in whom to vest, Repealed by Bom. VI of 1922.]

1. Section 82 was repealed by Bom. VI of 1922, s. 28, is omitted and the repeal shall be deemed to have been made and to have had effect from such date as may be fixed by the Corporation.

83. [Power of suspending, reducing, removing or dismissing and imposing other penalties in whom to vest :-

1(1) Every municipal officer and servant may be 5[reduced, removed] or dismissed for any breach of departmental rules or

discipline of for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer or servant is appointed;

(2) Provided that -

(a) No officer 6[appointed to a post, 2[to which the provisions of 3[sub-section (1) of section 80A] apply shall be dismissed by the Commissioner, without the 4[previous approval of 5[the Standing

(b) any officer appointed by the Corporation under sections 54A, 55, 56A, 74, 75, 76A, 76B, 77, 78A, 78C, 78D or 78E maybe suspended by the Commissioner, and every such suspension with t h e reasons therefore, shall be forthwith reported to the Corporation, and such suspension shall come to an end if not confirmed by the Corporation within a period of six months from the date of such suspension;]

(c) any officer appointed by the Corporation under sections 54A, 55, 56A, 74, 75, 76A, 76B, 77, 78A, 78C, 78D or 78E may, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct, be suspended by the Commissioner, or may, with previous approval of the 5[the Standing Committee or in case of an officer appointed for the purposes of clause (q) of section 61, of the Education Committee] be reduced, removed or dismissed by the Commissioner;]

8[

(d) any officer or servant immediately subordinate to the municipal chief auditor and drawing a salary not exceeding rupees two hundred and fifty per month exclusive of allowances may, subject to such conditions and limitations, if any, as the 5[Standing Committee] may deem fit to prescribe, and subject to a right of appeal to the 9[Standing Committee], be fined, reduced or suspended for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct by the municipal chief auditor.]

(3) The Municipal Commissioner may, for good and sufficient reasons, impose following penalties on any municipal officer or servant, namely:-

(i) censure;

(ii) recovery from salary, of the whole or part of any pecuniary loss caused by him to the Corporation by negligence, misconduct, breach of orders or rules;

(iii) fine;

(iv) withholding of an increment or increments, for a specified period or with a permanent effect;

(v) withholding of promotion including stoppage at an efficiency bar;]

1. This marginal note was substituted by Mah. 8 of 1992, s. 5(d)

2. These words, figures and letter were substituted for the words "the minimum monthly salary exclusive of allowances of which is rupees one thousand two hundred or more" by Mah. 33 of 1989, s. 8

3. These words, brackets, figures and letter were substituted for the word, figures and letter, "Section 80A" by Mah. 12 of 1990, s. 4.

4. This word "previous" was inserted by Bom. 19 of 1930, s. 9

5. This clause was inserted by Bom. 12 of 1936, s.5(2)

6. This clause was substituted by Mah. 8 of 1992, s. 5(b) (i)

7. This clause was substituted by Mah. 8 of 1992, s. 5(b) (ii)

8. This clause was added by Bom. 76 of 1948, s. 10

9. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 38 (a) and (b), (w.e.f. 23-4- 1999)

10. Sub-section (3) was added by Mah. 8 of 1992, s. 5(c)

84. Leave of absence by whom to be granted :-

(1) Leave of absence may be granted by the Commissioner, subject to the regulations at the time being in force under section 81, to any municipal officer or servant the power of appointing whom is vested in him; and for a period not exceeding one month to any other municipal officer, other than an officer immediately subordinate to that municipal secretary 1[or the municipal chief auditor] 2[* *]

(2) Leave of absence may be granted, 3[subject to the regulations made in that behalf]. 4[

(a) to any clerk or servant appointed under section 78 by the Municipal Secretary: or to any assistant auditor, clerk or servant appointed under section 78B by the Municipal Chief Auditor]

(b) for a period exceeding one month, to any other municipal officer, the power of appointing whom is not vested in the Commissioner [or who is not employed for the purposes of clause (q) of section 61]

(3) Leave of absence may be granted, subject as aforesaid, by the Education Committee for a period exceeding one month to any municipal officer employed for the purposes of clause (q) of section 61, of power of appointing whom is not vested in the

Commissioner.]

1. These words were inserted by Bom. 2 of 1938 s. 6(1)
2. The words "and other than an officer or servant the power of appointing whom is vested in the Schools Committee," were deleted by Bom. 48 of 1950, s. 50
3. These words were substituted for the words "subject as aforesaid by the Standing Committee" by Mah. 10 of 1998, s. 48(a)(i)
4. Clause (a) was substituted by Mah. 10 of 1998, s. 48(a)(ii)
- 5 . Sub-section (3) was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 39(b) (w.e.f. 23-4-1999)

84A. Saving In Respect Of Officers And Servants Appointed Under Chapter Xvia :-

Nothing in section 79, 80, 80A, 1 [*] 81, 83 and 84 shall apply to officers and servants appointed under the provisions of Chapter XVIA of this Act.]

1. The figures and letter "SOB" were deleted by Mah. 11 of 1964, s. 6

85. Acting appointments :-

(1) The appointment of a person to act in the place of an officer absent on leave may be made, when necessary, and subject to the regulations aforesaid, by the same authority who grants the leave of absence:

(2) Provided that -

(a) when the 7[city engineer] or the executive health officer 8[or the hydraulic engineer] is granted leave of absence for a period exceeding one

(b) any appointment of a person to act as 1[city engineer] or as executive health officer - 1[or as hydraulic engineer] may be disallowed by the 3[4 [State] Government], and from the time of being so disallowed shall be null and void;

(c) no person shall be appointed to act for the executive health officer for a period exceeding three months, unless such person is a legally qualified medical practitioners, but a person appointed to act for the said officer for a period not exceeding three months need not be legally qualified medical practitioner.

(3) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers and be subject to the same liabilities, restrictions and conditions which the permanent incumbent of the office or place is bound to perform or may exercise or to which such

incumbent is liable.

1. These words were inserted by Bom. 2 of 1911, s. 4(b)

3. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

4. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

85A. Temporary Appointment :-

Notwithstanding anything contained in the foregoing provisions, when a vacancy occurs in any of the posts referred to in sub- section (1) of section 80B the Corporation 2[or 3[the Brihan Mumbai Electric Supply andTransport Committee], as the case may be] may, pending the appointment of a person in accordance with the provisions 4 [* * *] of the said section, appoint any person to fill such vacancy on a monthly salary not exceeding the maximum salary of the post:

Provided that no appointment under this section shall extend beyond, or be made after a lapse of, six months from the date on which the vacancy occurs.]

1. This section was inserted by Bom. 18 of 1939, s. 3

2. These words were inserted by Mah. 11 of 1964, s. 7

3. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 40 (w.e.f. 23-4-1999)

4. The words,brackets and figure "of sub-section(2) were deleted by Bom 48 of 1950, s 51.

86. Municipal officer or servant not to be interested in any [contract with the Corporation :-

(1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the Corporation 1[***** *] shall be disqualified for being a municipal officer or servant.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract as 2[* * *] aforesaid shall cease to be a municipal officer or servant and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract 3 [* * *] with, by or on behalf of the Corporation as under clauses (h) and (k) of section 16, it is permissible for a Councillor to have, without his being thereby disqualified for being a Councillor.

1. The words "or any employment with by, or on behalf of the Corporation, other than as a municipal officer or servant." This word was substituted for the words "contract, etc.," by Mah. 42 of 1977, s. 5(d)

2. The words "or employment" were deleted by Mah. 42 of 1977, s. 5(b)
3. The words "or employment" were deleted by Mah. 42 of 1977, s. 5(c)

CHAPTER 5

Municipal Property and Liabilities Acquisition of Property

87. Powers of Corporation as to acquisition of property :-

The Corporation shall, for the purpose of this Act, have power to acquire and hold movable and immovable property, whether within or without the limits of 1 [Brihan Mumbai].

1. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

88. Transfer to the Corporation of the property of the municipal Corporation :-

All such immovable and other property as is held by, or in trust for, or has been granted by the 1[the 2 [Govenmment]] to the Corporation under, or in pursuance or for the purposes of any Act hereby repealed, shall, upon and after the date when this Act comes into force, vest in the Corporation in trust for the purposes of this Act, but subject to all charges and liabilities affecting the same.

1. The words "the Crown" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.
2. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950

89. Conditions affecting the vesting of the Vehar water works in the Corporation :-

(1) On the expiry of the term of ninety-nine years, commencing on the first day of July 1863, for which in accordance with section 64 of the Bombay Municipal Acts of 1[1872] and 1[1878] the Vehar Lake and property appurtenant thereto, hereinafter referred to as "the Vehar waterworks," were vested in the Corporation the 3[4[State] Government] may direct that the said Vehar waterworks shall vest and the same shall as such vest, in the Corporation, on the conditions hereinafter provided and for the purposes of this Act, for such further period not exceeding ninety-nine years as shall

seem expedient:

(2) Provided that on the expiry of the said first term of ninety-nine years or of any further term for which the 5[6[State] Government] may have directed that the said Vehar waterworks shall vest in the Corporation, all rights and every power conveyed to the Corporation shall forthwith cease and determine and the said Vehar waterworks shall revert to and become vested in 7[the State Government].

(3) Notwithstanding anything contained in sub-sections (1) and (2), the State Government may at any time, by notification in the Official Gazette, direct that the Vehar Water works shall, with effect from the date specified therein, vest in the Corporation permanently, subject to the conditions that the Corporation shall supply and continue to supply water to the Aarey Milk Colony from the Powai Lake and to the National Park at Borivli from such source as the State Government may from time to time, specify. In both cases, the supply of water shall be in such quantities and at such rates and subject to such other conditions as the Corporation may, from time to time with the approval of the State Government, determine. With effect from the date aforesaid, all rights and liabilities enforceable by or against the State Government in relation to the Vehar waterworks under any law for the time being in force or under any contract shall be enforceable by or against the Corporation.]

1. Bom. 3 of 1872 and Born. 4 of 1878 are repealed by s. 2 read with Schedule A of this Act.

3. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

4. This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950

5. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

6. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

7. The words "the State Government" was substituted for the words "His Majesty for the purposes of the Provinces" by the Adaptation of Laws Order, 1950

8. Sub-section (3) was inserted by Mah. 51 of 1975, s. 6

89A. Lands And Buildings Specified In Schedule V To Vest In Government :-

12[On and from the commencement of the City of Bombay Police Charges Act, 1907, all the estate, right, title and interest of the Corporation in and to the lands and buildings specified in Schedule V free from all liabilities and charges affecting the same and created by the Corporation shall vest in 1 [Government]

Provided that nothing in this section shall affect any of the lands specified in the items in the said Schedule numbered 28 to 139 (both inclusive) on which any movable wooden chowk is situated at the commencement of the said Act.

1. This word was substituted for the word "His Majesty" by the Adaptation of Laws Order, 1950

2. Sections 89A to 89F were inserted by Bom. 3 of 1907, s. 14

89B. Section 89B :-

[The Statue of Her Majesty Queen Victoria and the site thereof in the Esplanade Road to vest in the Corporation subject to certain conditions.] Deleted by Mah. 5 of 1968, s.2(1).

89C. The Victoria And Albert Museum [Renamed As Dr. Bhau Daji Lad Museum] And The Site Thereof To Vest In The Corporation :-

(1) On and from the commencement of the City of Bombay police Charges Act, 1907, all the estate, right, title and interest of 1[Government] in and to the Victoria and Albert Museum and the site thereof shall vest in the Corporation free from all liabilities and charges affecting the same and 3[created by the 4[Government]] and Corporation may apply the said museum and the said site to any public purpose on and from such dates as the Prince of Wales Museum of Western India may be declared open by 5[6[State] Government]

7 [(2) On and from the commencement of the Bombay Municipal Corporation and Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1975, the Victoria and Albert Museum aforesaid shall be deemed to have been renamed as "Dr. Bhau Daji Lad Museum", and any reference to the Victoria and Albert Museum in any law for the time being in force or in any contract, instrument or other document shall be construed as, and shall be deemed to be, a reference to Dr. Bhau Daji Lad Museum.]

1. Section 89C was renumbered as sub-section (1) of that section and sub-section (2) was inserted by Mah. 51 of 1975, s. 7(1)

3. The words "created by the Crown" were substituted for the words "created by Government" by the Adaptation of Indian Laws Order in Council.

4. The word was substituted for the words "Crown" by the Adaptation of Laws Order. 1950

5. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order, 1950.

6. This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950

7. These words and letters were inserted by Mah. 51 of 1975, s. 7(2).

89D. Central Vaccine Depot At Parel To Vest In The Corporation :-

On and from the commencement of the City of Bombay Police Charges Act, 1907, all the estate, right, title and interest of 1[Government] in and to the Central Vaccine Depot at Parel shall vest in the Corporation free from all liabilities and charges affecting the same and 2 [created by the 7[Government]]

1. The word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950
2. The words "created by the Crown" were substituted for the words "created by Government" by the Adaptation of Indian Laws Order in Council.

89E. All Buildings Used For Primary Education And The Sites Thereof To vest In The Corporation :-

On and from the commencement of the City of Bombay Police Charges Act, 1907, all the buildings used for primary education and the sites thereof within the city thereto before vesting in 1[Government] shall vest in the Corporation free from all liabilities and charges affecting the same and 2[created by the 1 [Government]]

1. The word was substituted for the words "Crown" by the Adaptation of Laws Order, 1950
- 2 . The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order, in council.

89F. Corporation To Repay To 4[5[State] Government] The Amount Of Grant Made For Purposes Of Primary Education In Respect Of Certain Buildings Or Sites If Used For Other Purposes :-

Notwithstanding anything contained in section 89E, if any buildings or sites in respect of which, before or after the commencement of the City of Bombay Police Charges Act, 1907, any grant has been made by 1[the 2[State] Government] for the purposes of primary education shall without the sanction of the 3[[State] Government] for the purposes of primary education shall without the sanction of 3[[State] Government] be used for any other purpose, the Corporation shall thereupon repay to 3 [[State] Government] the amount of such grant.

1. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order, in council.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
3. These words were substituted for the portion beginning with "on such terms" and ending with "any particular case" by Mah. 34 of 1933, s.6(a)

90. Acquisition of immovable property by agreement :-

(1) Wherever it is provided by this Act that the Commissioner may acquire or whenever it is necessary or expedient for any purpose of this Act that the Commissioner shall acquire, any immovable property, such property may be acquired by the Commissioner on behalf of the Corporation by agreement 1[subject to the provisions of sub-section (3)]

(2) And whenever, under any provision of this Act, the Commissioner is authorised to agree to pay the whole or any portion of the expenses of acquiring any immovable property, he shall do so on such terms and at such rates or prices or at rates or

prices not exceeding such 2[the Improvements Committee] as aforesaid. 3[

(2A) Subject to the provisions of this Act, it shall be lawful for the Commissioner on behalf of the Corporation to agree with the owner of any land or of any interest in land needed by the Corporation for the purposes of any scheme under Chapter XII-A or with the owner of any right which may have been created by legislative enactment over any street forming part of the land so needed, for the purchase of such land or of any interest in such land or for compensating the owner of any such right in respect of any deprivation thereof or interference therewith.]

(3) No contract for the acquisition of any immovable property or of any interest therein or any right thereto or the payment of any compensation under sub-section (1) or (2) or (2A) shall be valid, if the price or compensation to be paid for such property or interest for right exceeds five lakh rupees unless such contract has been approved by the Improvements Committee; and by the Corporation if the price or compensation exceeds rupees two crores.] 5[* * *-]

(4) Every contract or other instrument relating to the acquisition of immovable property or any interest therein or any right thereto shall be executed by the Commissioner, shall have the common seal of the Corporation affixed thereto in the presence of 6[two members of the Improvements Committee and shall have signatures of the said members] in the manner prescribed in section 70.

(5) No contract for the acquisition of immovable property or any interest therein or any right thereto not executed as in sub-section (4) provided shall be binding on the Corporation.

(6) The foregoing provisions of this section which apply to an original contract relating to the acquisition of immovable property, or any

1. These words were substituted for the portion beginning with "on such terms" and ending with "any particular case" by Mah. 34 of 1933, s.6(a)

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 41(a), (w.e.f. 23-4-1999)

3. New sub-section (2A) was inserted by Bom. 13 of 1933, s. 17(c).

4. Sub-section (3) was substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 41 (a), (w.e.f. 23-4-1999).

5. The proviso was deleted by Mah. 10 of 1998, s. 50(b)(ii)

6. New sub-section (4), (5) and (6) were inserted by Bom. 13 of

1933, s. 17(e).

91. Procedure when immovable property cannot be acquired by agreement :-

(1) Whenever the Commissioner is unable to acquire any immovable property under the last preceding section by agreement 1[2[State] Government] may, in their discretion, upon the application of the Commissioner, made with the approval of 3[the Improvements Committee] 4[land subject to the other provisions of this Act] order proceedings to be taken for acquiring the same on behalf of the Corporation, as if such property were a land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.4

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act be forthwith paid by the Commissioner and thereupon the said property shall vest in the Corporation.

1. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order in council.

2 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

3. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 42 (w.e.f. 23-4-1999)

4. See now the Land Acquisition Act, 1894 (1 of 1894)

91A. Transfer Of Property To The Corporation :-

(1) From the date on which the City of Bombay Municipal (Amendment) Act, 1933, comes into operation there shall vest or revert in the Corporation, as the case may be, subject to all the charges and liabilities affecting the same, to be held by the Corporation for the purposes of this Act, subject to any restrictions and conditions contained in the City of Bombay Municipal (Amendment) Act, 1933, all the immovable and other property and all other interests and rights of the Board of Trustees for the Improvement of the City of Bombay constituted under the city of Bombay Improvement Trust Transfer Act, 1925, including all the estate, right, title and interest of the said Board in and to the lands specified in Schedule W and Schedule X and in the reclaimed lands specified in Schedule Y and shown on the deposited plans.

(2)

(a) In respect of the lands referred to as the Flats, specified in Schedule W as plots I(b), I(c) and I(d), the Corporation may, subject to the power of resumption reserved by sub-section (8) at any time, lay out the whole or any part or parts of these plots as recreation grounds or parks for the free use of the public, or appropriate the whole or any part of the said plots to building purposes.

(b) The lands specified in Schedule W or plot I(j) shall, subject as aforesaid, be

permanently appropriated as an open space, but such appropriation shall not preclude the Corporation from letting the said lands from time to time on lease for a term not exceeding one year, or with the previous sanction of 2[the 3[State] Government] and on such conditions as may be approved by 1[the 2[State] Government] for a term not exceeding 30 years, for the purposes of a race-course or for any purpose of public recreation or amusement.

(c) All the lands specified in Schedule W as plots I(a), I(g) to I(i) both inclusive and I(k) and the lands specified in Schedule Y shall, subject to the provisions of sub-section (1), vest in the Corporation.

(3) The lands respectively referred to in Schedule ZZ as plot I(d-I) part, I(b) Cadastral Survey No. 3/383 the Body Guard Lines Plot, Plot No. 3, the Cooperage Plot and Plot No. 4(b) the Marine Lines Maidan shall be maintained in perpetuity as open spaces, provided further that the aforesaid Plot Nos. 3 and 4(b) or any part thereof may at any time be occupied by or with the previous permission of 6[7[State] Government] for any temporary purpose.

(4) All the estate, right, title and interest of the said Board to and in any land specified in Schedule V vested or re-vested in the Corporation, under this section, with the exception of the lands specified in clause (c) of sub-section (2) and in sub-section (3) shall, subject to the provisions of this section, remain so vested or re-vested until such time as the whole of the lands so specified except those appropriated, as open spaces, shall have been let on a building lease either by the said Board or by the Corporation or as to any part thereof until such time as such time as such part shall have been so let, and thereafter, as to the whole, except as aforesaid, or any such part for a further period, which shall not as regards the whole or any such part exceed ninety-nine years from the date on which the whole or any such part shall have been first let.

(5) All lands specified in Schedule X shall, subject to the provisions of sub-section (1), vest in the Corporation.

(6) It shall be lawful for the Corporation from time to time, in the case of land specified in Schedule W, with the sanction of the 8[the 9[State] Government], to take out of said Schedule W any land or to take any land out of Schedule X in exchange for any freehold land, the property of the Corporation, which they wish to bring on to the Schedules. An exchange made under this sub-section shall operate to transfer the land taken out of the Schedules to the Corporation free from all conditions of resumption and re-vesting created by this Act and free from all encumbrances and to vest the land brought on to the Schedules in the Corporation as if it were part of the property originally entered in Schedule W or X, as the case may be.

(7) Without prejudice, and in addition to the powers conferred on the Corporation by section 87, it shall be lawful for the Corporation to take over and hold any other lands within the city of which they may be put in possession by the 10[Central or 11[State] Government] to the intent that such lands, shall vest in the Corporation in the same manner and subject to same conditions as if such lands, if taken over from the 8[Central or 9[State] Government], were included in Schedule W, and such vesting shall in every such case take effect upon delivery to the Corporation of possession of the land.

(8) Any land, other than land specified in clause (c) of sub-section (2) and other than land leased or agreed to be leased by the said Board or by the Corporation specified in Schedule W, which shall be required by 8[the Central or the 9[State] Government] for a public purpose, may at any time, after giving six months notice to the Corporation, be resumed by 16[that Government].

(9) 17[The [State] Government] may, by notification in the 18 [Official Gazette], from time to time add to or amend the entries in Schedule W and, with the concurrence of the Corporation, the entries in Schedule X so far as may be necessary in consequence of any exchange, resumption, acquisition or other transfer of land, and, with the like concurrence in the case of lands specified in Schedule X, correct mistakes in the said schedules or in the deposited plans, and upon such notification the said schedules or plans shall be read subject to such addition, amendment or correction. Such notification shall in the case of any

alteration of Schedule W or Schedule X include a notification of the whole schedule or schedules as so altered.]

1. New sections 91A to 91C were inserted by Bom. 13 of 1933, s. 19

2. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order in council.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

6. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order in council.

7. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

8. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws Order in Council

9. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

10. The word "Central or Provincial Government" was substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

11. The word was substituted for the word "Provincial" by the Adaptation of Laws order, 1950.

16. The words "that Government" were substituted for the word "Government" by the Adaptation of Indian Laws order in council.

17. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Laws Order in Council.

18. The words "Official Gazette" were substituted for the word "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

91AA. Section 91Aa :-

Power to grant lease of plot No.3, the cooperage plot, or part thereof[. 2 [

(1) Notwithstanding anything contained in sub-section (3) of section 91A, it shall be lawful and shall be deemed to have been lawful for the State Government to lease Plot No.3, the Cooperage Plot, or any part thereof for a term not exceeding sixty years commencing from the 1 st day of March nineteen hundred and forty-three for the construction of a club-house for ratings of the Indian Navy or for any other similar purpose and the provisions of the first proviso in sub-section (3) of the said section 91A shall not apply to the said plot or any part thereof, as the case may be so long as such lease remains in force and has not determined or has not been surrendered or otherwise terminated in accordance with law.]

[

(2) Notwithstanding anything contained in sub-section (3) of section 91-A or sub-section (1) of this section or in the Maharashtra Regional and Town Planning Act, 1966, or the provisions of any Development Plan thereunder, it shall also be lawful and shall be deemed to have been lawful for the State Government to lease a part of the Cooperage Plot, for a term ending on and inclusive of the 31 st December, 2003 or such later date as the State Government may specify for the construction of a football stadium, with ancillary structures for gymnasium, indoor games, residential quarters, club-house, dormitory, canteen, library, conference rooms, show rooms and similar purposes and the provisions of the first proviso in sub-section (3) of the said section 91- A shall not apply to the part of said Plot leased for the above purposes, so long as such lease remains in force and has not determined or has not been surrendered or otherwise terminated in accordance with law.]

1. Section 91 AA was inserted by Bom.20 of 1952, s. 5

2. Section 91 AA was renumbered as sub-section(1), and sub-section (2) was added by Mah. 62 of 1977, s. 2

91AAA. Power To Lease Part Of Plot No.4(B)The Marine

Lines Maiden, For Certain Purposes :-

Notwithstanding anything contained in sub-section (3) of section 91 A, it shall be lawful for the State Government to lease a part of Plot No.4(b) the Marine Lines Maidan, not exceeding 7,200 sq.metres in area and for a term not exceeding 99 years, for the construction of a hospital or for any similar purpose, and the provisions of the first provision that sub-section shall not apply to the said part of the plot, so long as such lease remains in force and has not been determined or has not been surrendered or otherwise terminated in accordance with law.]

1. Section 91AAA was inserted by Mah. 10 of 1969, s. 2

91B. Vesting Of Property In [Government] On The Termination Of Lease Granted By The Corporation :-

Upon the determination of the further period mentioned in sub-section (4) of section 91A the property vested or re-vested in the Corporation, under the said section in any part of the land specified in Schedule W except those appropriated as open spaces, and the plots I(a) and I(e) to I(i) both inclusive and I(k) of the Flats shall be forthwith divested and such part of such lands shall vest or re-vest absolutely in 2 [the State Government].

1. New sections 91A to 91C were inserted by Bom.13 of 1933, s. 19 These words were substituted for the original words by the Adaptation of Laws Order, 1950.

2. This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

91C. Power To Apply Certain Lands Vested In The Corporation To The Purpose Of Any Scheme Under This Act :-

The Corporation shall have power, subject to the provisions of section 91A, to apply any of the lands specified in Schedules W, X and Y for 2 [any of the purposes for which land acquired under Chapter XII-A may be applied including the purposes of] any of the schemes referred to in sub-section (2) of section 354B.]

1. New sections 91A to 91C were inserted by Bom. 13 of 1933, s. 19

2. These words were substituted for the original words by Bom. 34 of 1954, s.2

91D. Property Of Abolished Municipalities And Local Authorities Vesting In Corporation :-

All immovable and other property, which on the date immediately preceding the appointed date was held by or vested in -

(a) any municipality or other local authority which has been abolished by or under the Bombay Municipal (Extension of Limits) Act, 1950, in consequence of the inclusion in 6[Brihan Mumbai] of the area for which it was constituted; or

(b) the State Government by reason of the supersession or dissolution of such municipality or local authority under any law relating to such municipality or local authority. shall vest in the Corporation in trust for the purposes of this Act, but subject to all charges and liabilities affecting the same:

Provided that the immovable property held by or vested in the District Local Board of the Bombay Suburban District and the District School Board of the Bombay Suburban District shall vest in the Corporation to the extent it is situated in the area included in Greater

Explanation:- For the purposes of this section, the immovable property and other

property shall include primary schools with their lands, buildings, roads and equipment belonging to or vesting in any municipality or local authority under the provisions of any law for the time being in force.

1. Section 91D and 91E were inserted by Bom. 7 of 1950, s. 12

91DA. Property Of Abolished Municipalities And Local Authorities In Extended Suburbs Vesting In Corporation :-

All immovable and other property, which on the day immediately preceding the date of the commencement of the Bombay Municipal (Further Extension of Limits and Schedule BBA (Amendment) Act, 1956, was held by or vested in-

(a) any municipality or other local authority which has been abolished by or under that Act in consequence of the inclusion in 2[Brihan Mumbai] of the area for which it was constituted, or

(b) the State Government by reason of the supersession or dissolution of such municipality or local authority under any law relating to such municipality or local authority. shall vest in the Corporation in trust for the purposes of this Act, but subject to all charges and liabilities affecting the same:

Provided that the immovable property held by or vested in any District Local Board or District School Board in that area shall vest in the Corporation to the extent it is situated in the area included in 2 [Brihan Mumbai] and that any other property so held by or vested in the said Board shall vest in the Corporation to such extent as may be determined by the State Government.

Explanation:- For the purposes of this section, the immovable property and other property shall include primary schools with their lands, buildings, roads and equipment belonging to or vesting in any municipality or local authority under the provision of any law for the time being in force.]

1. Section 91 DA was inserted by Bom. 58 of 1956, s. 5

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

91E. Decision Of Claims To Property By Or Against The Corporation In The Suburbs :-

(1) Where any immovable property situated in the suburbs, 1[or the extended suburbs] or any right in or over such property, is claimed

(2) The Corporation or any person aggrieved by an order passed by the Collector under sub-section (1) may, notwithstanding anything contained in any law for the time being in force, within one year from the date on which the Corporation or such person had due notice of such order, institute a suit in any competent civil court to set aside such order or to claim a relief inconsistent therewith. If any suit is instituted after the expiration of one year from the date on which the notice of such order has been given such suit shall be dismissed although limitation has not been set up as a defence.

(3) The Collector may, by general or special order, delegate the powers conferred on him under this section to an Assistant or Deputy Collector or a Survey Officer as defined in the Bombay Land Revenue Code, 1879.2

(4) The formal inquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(5) A person shall be deemed to have had due notice of an inquiry under this section if notice thereof has been given in accordance with rules made in this behalf by the State Government.]

1. These words were inserted by Bom. 58 of 1956, s. 6(1)

2. See now the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966)

91F. Requisitioning Of Premises, Vehicles, Etc. For Elections

:-

(1) If in connection with any election a request is made by the State Election Commission, the State Government or an officer authorised by the State Government (hereinafter referred to as "the Requisitioning Authority") may, by order in writing requisition-

(a) any premises which are required or are likely to be required for the purpose of being used as a polling station or storage of ballot boxes after the poll has been taken;

(b) any vehicle, vessel or animal needed or likely to be needed for the purpose of transport of ballot boxes to, or from any polling station or transport of members of the police force for maintaining order during the conduct of such election or transport of any officer or other person for the performance of any duties in connection with such election;

Provided that, no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property and such order shall be served in the manner prescribed by rules made by the State Government under section 91K on the person to whom it is addressed.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that subsection.

Explanation:- For the purpose of this section, "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof.

1. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8

2. Sub-section (1) was substituted by Mah.10 of 1998, s. 52

91G. Payment Of Compensation :-

(1) Whenever in pursuance of section 91F, the requisitioning authority requisitions any premises the Corporation shall pay to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:-

(i) the rent payable in respect of the premises or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government under section 91K for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by requisitioning authority may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the requisitioning authority to an arbitrator in this behalf by the State Government or the requisitioning authority for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation:- For the purpose of this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned under section 91F immediately before the requisition, or where no person was in actual possession the owner of such premises.

(2) Whenever in pursuance of section 91F, requisitioning authority requisitions any vehicle, vessel or animal, the Corporation shall pay to the owner thereof compensation the amount of which shall be determined by the requisitioning authority on the basis of the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal.

Provided that where the owner of such vehicle, vessel or animal being aggrieved by the amount of compensation so determined makes an application to the requisitioning authority within the time prescribed by rules made by the State Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the requisitioning authority may determine:

Provided further that where immediately before the date of the requisitioning, the vehicle or vessel was by virtue of a hire-purchase agreement in the possession of the person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement, in such manner as an arbitrator appointed by the requisitioning authority in this behalf may decide.

1. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8

91H. Power To Obtain Information :-

The requisitioning authority may, with a view to requisitioning any property under section 91F or determining the compensation payable under section 91G by order, require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

1. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8

91I. Eviction From Requisitioned Premises :-

(1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 91F may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

1. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8

91J. Release Of Premises From Requisition :-

(1) When any premises requisitioned under section 91F are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned, or if there were no such persons, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 91F is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisitioning to be affixed on some conspicuous part

of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the Corporation shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

1. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8

91K. Power To Make Rules :-

The State Government shall make rules for prescribing-

(1) the manner in which an order of requisition shall be served under sub-section (2) of section 91F, and

(2) the time within which an application for determining the amount of compensation by an Arbitrator shall be made under section 91G.

1. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8

91L. Penalty For Contravention Of Any Order, Regarding Requisitioning :-

If any person contravenes any order made under section 91F he shall, on conviction be punished with imprisonment for a term which may extend to one year or with fine or with both.]

1. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8.

92. Provisions governing the disposal of municipal property :-

With respect to the disposal of property belonging to the Corporation 1[other than property vesting in the Corporation for the purposes of the 2[Brihan Mumbai Electric Supply and Transport Undertaking], the following provisions shall have effect, namely:-

(a) the Commissioner may, 3[subject to the regulations made in this behalf] dispose of, by sale or otherwise, any movable property belonging to the Corporation not exceeding in value, in each instance, 4[five lakh rupees], or grant a lease of any immovable property belonging to the Corporation, including any right of fishing or of gathering and taking fruit and the like, for any period not exceeding twelve months at a time: 5[

Provided that every lease of immovable property granted by the Commissioner (other than a contract for a monthly tenancy) the annual rent whereof at a rack rent exceeds 6[fifty thousand rupees] shall be reported by him, within fifteen days after the same has been granted, to the 7[Improvement Committee];

(b) the Commissioner may,-

(i) with the sanction of the concerned Committee, dispose off, by

sale or otherwise any movable property held by the Corporation, the value of which exceeds five lakh rupees;

(ii) with the sanction of the 9[Standing Committee], dispose off any movable property held by the Corporation, the value of which exceeds rupees two crore;

(iii) with the sanction of the concerned Committee, grant a lease (other than a lease in perpetuity) of any immovable property belonging to the Corporation, including any such right as aforesaid, or sell, or grant a lease in perpetuity of any immovable property, the value of which does not exceed 50,000 rupees or the annual rent of which does not exceed 3,000 rupees];

(c) With the sanction of the Corporation, the Commissioner may lease, sell or otherwise convey 10[any immovable property] belonging to the Corporation; 11[

(cc) the consideration for which any immovable property or any right belonging to the Corporation may be sold, leased or otherwise transferred shall not be less than the market value of such premium, rent or other consideration;]

(d)) sanction of the 5[Standing Committee] under clauses (b) and (c), may be given either generally for any class of cases or specially in any particular case;] 13[

(dd) notwithstanding anything contained in this section, the Commissioner may, with the sanction of the Corporation, and with the approval of the State Government, grant a lease of immovable property belonging to the Corporation to a Cooperative Housing Society formed exclusively by the officers and servants of the Corporation, or to a public trust exclusively for medical and educational purposes registered under 14[or to a society registered under the Societies Registration Act, 1860 or the Maharashtra Cooperative Societies Act, 1960, a public trust registered under the Bombay Public Trust Act, 1950, or a company registered under the Companies Act, 1956 15[or any person] for the purposes of provision of public latrines, urinals and similar conveniences or construction of a plant for processing excrementitious and other filthy matters of garbages,] or to a person who is dishoused as a result of the implementation of any Development Scheme of the Corporations or to a co-operative Housing Society formed exclusively by the persons who are dishoused as a result of the implementation of any Development scheme of the Corporations, at such rent, which may be less than the market value of the premium, rent, or other consideration, for the grant of such lease, and subject to such conditions, as may be provided by the bye-laws

made under section 461;] 16[

(ddd) notwithstanding anything contained in this section, the Commissioner may, with the sanction of the Corporation, and with the approval of the State Government, grant a lease for a period 17[not exceeding 60 years], of municipal land which is declared as a slum area under the provisions of the Maharashtra Slum Areas (Improvement, Clearance and Re-development) Act, 1971 to a co-operative society of slum dwellers occupying such land, at such rent, which, may be less than the market value of the premium, rent or other consideration, for grant of such lease, and subject to such conditions, as the Corporation may impose. The approval of the State Government under this clause may be given either generally for any class or classes of such lands or specifically in any particular case of such land.

Provided that, the Commissioner may in like manner renew, from time to time, the lease for such period and subject to such conditions as the Corporation may determine and impose.

(e) the aforesaid provisions of this section shall apply, respectively, to every disposal of property belonging to the Corporation made under or for any purpose of this Act: 18[

Provided that nothing in this section shall apply 19[* * * *] to 20[Dr. Bhau Daji Lad Museum] 21[or to the site thereof referred to in section 89C] except with the previous sanction of the 22[the 23 [State] Government].

1. These words were inserted by Bom. 48 of 1948, s. 18

2. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

3. These words were substituted for the words "at his discretion" by Mah. 10 of 1998, s. 53(a)(i)

4. These words were substituted for the words "one lakh rupees" by Mah. 10 of 1998, s. 53(a)(ii)

5. These words were substituted for the original by Bom. 13 of 1933, s. 20(a).

6. Sections 91F to 91L were inserted by Bom. 54 of 1955, s. 8.

7. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 43(a), (w.e.f. 23-4-1999)

8. Clause (b) was substituted by the Mumbai Municipal Corporation (Second Amendment) Act No. 13 of 1998, s. 16.

9. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 43(b), (w.e.f. 23-4-1999)

10. These words were substituted for the words "any property movable or immovable" by Mah. 21 of 1989, s. 8(3).
11. New sub-clause(cc) was inserted by Bom. 13 of 1933, s. 20(c)
12. Clause (d) was substituted by Mah. 10 of 1998, s. 53(c)
13. Clause (dd) was inserted by Mah. 50 of 1981, s. 2
14. This portion was inserted by Mah. 13 of 1990, s.3
15. These words were inserted by Mah. 12 of 1993, s.2
16. Clause (ddd) was inserted by Mah. 5 of 1986, s.3
17. These words and figures were substituted for the words and figures "not exceeding 30 years" by Mah. 8 of 1992, s. 6
18. This proviso was added to section 92 by Bom. 3 of 1907, s. 15
19. The words "to the Statue of Her Majesty Queen Victoria or" were deleted by Mah. 5 of 1968,s.2(l)
20. These words and letters were substituted for the words "the Victoria and Albert Museum" by Mah. 51 of 1975, s. 8
21. These words were substituted for the words "or to the sites thereof referred to in sections 89B and 89C" by Mah. 5 of 1968, s. 2(I).
22. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws order in Council.
23. This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950

92A. Obligation Annexed To Property Binding On Transferee

:-

Where-

- (1) the Commissioner has transferred by way of sale or exchange any immovable property belonging to the Corporation and the terms of such transfer direct that the property shall be applied or enjoyed in a particular manner or the use or enjoyment thereof shall be restricted in a particular manner, or
- (2) the owner of any immovable property has entered into an agreement with the Corporation concerning the application, enjoyment or use of the property in a particular manner, or such term, condition or obligation shall be held to be annexed to the property which is the subject-matter of the transfer or agreement and shall be enforced against the transferee or owner and all persons deriving title or interest under or through him, notwithstanding-
 - (a) any law for the time being in force, and
 - (b) that the Corporation are not in possession of or interested in any immovable property for the benefit of which, the term, condition or obligation was agreed to, entered into or imposed.]

1. Section 92A was inserted by Bom. 34 of 1954, s. 3

93. Debts payable by the Corporation :-

So much of the following moneys as are still repayable on the day when this Act comes into force shall be repaid, together with the interest due thereupon, by the Corporation, namely-

(a) to the 1[Government]-

(i) the balance of the debt due on account of the Vehar water works preferred to] in section 140 of the Bombay Municipal Acts of 1872 and 18783, with simple interest thereon at the rate of four per centum per annum;

(ii) the balance of the consolidated loan, at the same was defined in section 3, clause (3) of the Bombay Municipalitys Consolidated Loan Act, 1880,3 due on various accounts, with interest thereon at the rate of four-and-a-half per centum per annum;

(b) to municipal security-holders-

(iii) the house rate loan and the two market loans raised in 1867 and 1868 under the provisions of the Bombay Municipal Act, 18654 with interest thereon at the rate of six per centum per annum;

(iv) the drainage loan of 1878 raised under the provisions of the Public Works Loan Act, 1871,5 with interest thereon at the rate of five per centum per annum;

(v) the sanitary works loans of 1885, 1886 and 1888 contracted under the provisions of the Local Authorities Loans Act, 1879,6 with interest thereon at the rate of five per centum per annum;

(vi) the portion of the Tansa water works loan contracted under the Act last aforesaid previous to coming into force of this Act.

(vii) the portion of the drainage and water works loan of 1888 contracted under the said Act previous to the coming into force of this Act.

2 [Government]

1 . This word was substituted for the word "Crown" by theAdaptation of Laws Order, 1950.

2. This word was substituted for the word "Crown" by theAdaptation of Laws Order, 1950.

94. Vehar water works debt repayable in monthly instalments :-

In order to secure the repayment of the Vehar water works debt, the Commissioner shall, on the first day of every month, until the whole of the said debt, together with the interest due thereon, shall be liquidated pay to 1[the Government] a sum of rupees 2 [nine thousand four hundred and ninety-eight.]

1. These words were substituted for the word "Crown" by the

Adaptation of Laws Order. 1950.

2. These words were substituted with effect from 31st December, 1892 for the original words by Bom 1 of 1894, s.3.

95. Period of repayment of consolidated loan :-

.

(1) The whole of the consolidated loan, together with the interest due thereon, shall be repaid within thirty days from the first day of January 1881.

(2) For better securing the repayment of the said loan, the Commissioner shall pay half-yearly to the 1 [Government], on every first day of January and every first day of July, until the whole of the said loan, together with the interest due thereon, shall be liquidated, a sum of one lakh seventy-eight thousand three hundred and twenty-six rupees, two annas and five pies.

1 . This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

96. Payments to whom to be made :-

..

(1) Every payment to be made by the Commissioner under either of the two last preceding sections shall be made 1[to the officer for the time being appointed to receive 2[the 3[State] Government] dues or into the Bank of Bombay.]

(2) Notice of every such payment having been made shall be forthwith, published by the Commissioner in the 4 [Official Gazette}.

1. These words were substituted for the original words by Bom 1 of 1894, s.4(1). The reference to the Bank of Bombay should be read as referring to the Reserve Bank of India, Bombay.

2. The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

3 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

97. In case of nonpayment repon to be made to the Chief Secretary to 2[State] Government :-

If the Commissioner fails to make any of the said payments at the prescribed time the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to 1[the 2 [State] Government] or other officer acting in that capacity.

1. The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

98. Arrears may be recovered by detention of moneys due to the Corporation :-

(1) It shall be lawful for the said Chief Secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any 1[Government Officer], not being a municipal authority or officer, to detain, to the extent of any payment or payments then in arrear, any moneys due or that may become due to the Corporation, which he may then or thereafter have in his custody or control.

(2) Such officer shall detain the moneys which he is so directed to detain and pay the same, as they become due to the Corporation 2[to the officer for the time being appointed to receive 3[the 4 [State] Government] dues, or into the Bank of Bombay].

(3) The moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the Vehar water works debt or of the consolidated loan, in preference to and with priority over all other encumbrances on and claims to such moneys.

1. These words were substituted for the words "servant of the Crown" by the Adaptation of Laws Order, 1950.

2. These words were substituted for the original word by Bom. 1 of 1894, s.4(I) the reference to the Bank of Bombay should be read as referring to the Reserve Bank of India, Bombay.

3. The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

4. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

99. Or by attachment or the municipal fund, etc. :-

.

(1) If the amount in arrear cannot be recovered in the manner provided in the last preceding section, 1[2[State] Government], may attach the municipal fund, or any tax leviable by the Corporation.

(2) After such attachment no person, except an officer appointed by the 1[2 [State] Government], shall in any way deal with the attached fund or tax; but such officer may do all acts in respect thereof which the Corporation or any municipal authority might have done, if such attachment had not taken place and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings.

(3) Provided that no such attachment shall defeat or prejudice any debt for which the fund or tax attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund or tax attached before any part of the proceeds is applied to the satisfaction of a liability for the Vehar water works debt or the consolidated loan.

1. The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

100. Reversion of Vehar water works to the 8[Government] in case of default in payment of any installment of the debt due on their account :-

If the Commissioner fails to make any monthly payment in accordance with section 94, on account of the Vehar water works debt and after notice in writing, signed by one of the Secretaries to 1[the 2[State] Government] requiring payment of the same has been served upon him and forwarded 3[to the Mayor] and published for a period of not less than two months in the 4[Official Gazette] shall still fail to make such payment , the said Vehar water works shall, notwithstanding anything contained in section 88, cease to vest in the Corporation and shall forthwith become vested in 5 [Government] in trust for the purposes for which the same were previously vested in the Corporation.

1. The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
3. These words were substituted for the words "to the President of the Corporation" by Man. 10 of 1998,s.54
4. The words "Official Gazette" were substituted for the word "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.
5. This word was substituted for the words "Her Majesty" by the Adaptation of Laws Order, 1950.

101. Other rights, remedies of the 8[Government] not to be affected :-

Nothing in the four last preceding sections shall affect the rights or remedies which the 1 [Government] has or shall have independently of this Act for the recovery of the moneys aforesaid.

1 . This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

102. Method of appropriating payments on account of the Vehar water works :-

The annual sum of the monthly instalments paid by the Commissioner under section 94 and all recoveries made under any of the foregoing sections on account of the Vehar water works debt shall be appropriated as follows, namely:- firstly, to the payment of the interest accrued on account of the principal sum of rupees thirty-seven lakhs thirty thousand and fifty-three due on account of the said debt on the first day of July 1863; secondly, to the payment of interest on all sums advanced by the 1 [Government] in connection with the said works since the first day of July 1863; thirdly, to the payment of all sums subsequently advanced as aforesaid; and lastly, to the liquidation of the said principal sum of rupees thirty- seven lakhs thirty thousand and fifty-three.

1. This word was substituted for the word "Her Majesty" by the Adaptation of Laws Order, 1950.

103. Method of appropriating payment* on account of the consolidated loan :-

Every payment made by the Commissioner under section 95 and all recoveries made under any of the foregoing sections on account of the consolidated loan shall be appropriated first to the payment of

the interest due at the time of such payment or recovery and secondly to the reduction of the principal.

104. Sinking fund for house rate and market loans to be maintained :-

(1) Until such times as the Corporation repay the house rate loan and the two market loans raised in 1867 and 1868 under the provisions of sections 253 to 258 of the 1 [Bombay Municipal Act, 1865, it shall be incumbent on the Corporation to maintain out of the taxes, on the security of which the said loans were raised, the sinking fund prescribed by section 257 of the said Act;

(2) Provided that in the event of the Corporations discharging any portion of the said loans at any time previous to the time at which they are repayable in full, it shall be competent to the Corporation to reduce pro tanto the amount of the said sinking fund.

1. Bom. 2 of 1865 was repealed by Bom. 3 of 1872.

105. Account of balances due on loans to be published by the Commissioner yearly :-

(1) The Commissioner shall, in the month of 1[April] in each year, publish in the 2[Official Gazette] an account showing the balances due by the Corporation on the last preceding thirty-first day of 1[March] to the 4[Government] and to municipal security holders, 5 [and holders of

(2) The Commissioner shall also cause the said account to be printed and a printed copy thereof to be forwarded to the usual or last known local place of abode of each Councillor.

1. The words "April" and "March" were respectively substituted for the original words "January" and "December" by Bom. 10 of 1928.

2. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

4. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

5. This word was substituted for the word "Her Majesty" by the Adaptation of Laws Order, 1950.

CHAPTER 5A Power to evict persons from Corporation Premises

105A. Definitions :-

In this Chapter-

- (a) "Commissioner" in relation to premises of the Corporation which vest in it for the purposes of the [Brihan Mumbai Electric Supply and Transport Undertaking], means the General Manager.
- (b) "Corporation premises" means any premises belonging to, or vesting in, or taken on lease by, the Corporation;
- (c) "regulations" means regulations made by the Commissioner under section 105H;
- (d) "unauthorized occupation in relation to any Corporation premises" means the occupation by any person of Corporation premises without authority for such occupation; and includes the continuance in occupation by any person of the premises after the authority under which he was allowed to occupy the premises has expired, or has been duly determined.

105B. Power To Evict Person From Corporation Premises :-

(1) Where the Commissioner is satisfied-

(a) that the person authorised to occupy any Corporation premises has, whether before or after the commencement of the Bombay Municipal Corporation (Amendment) Act, 1960,-

- (i) not paid for a period of more than two months, 1 [the rent, taxes, fees or compensation] lawfully due from him in respect of such premises; or
- (ii) sublet, [* * * *] the whole or any part of such premises; or
- (iii) committed, or is committing, such acts of waste as are likely to diminish materially the value, or impair substantially the utility, of the premises, or
- (iv) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such premises;

(b) that any person is in unauthorized occupation of any Corporation premises;

(c) that any Corporation premises in the occupation of any person are required by the Corporation in the public interest, the Commissioner may notwithstanding anything contained in any law for the time being in force, by notice (served by post, or by affixing a copy of it on the outer door or some other conspicuous part of such premises, or in such other manner as may be provided for by regulations), order that that person, as well as any other person who may be in occupation of the whole or any part of the premises, shall vacate them within one month of the date of the service of the notice.

(2) Before an order under sub-section (1) is made against any person, the Commissioner shall issue, in the manner hereinafter provided, a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made, The notice shall,

- (a) specify the grounds on which the order of eviction is proposed to be made, and
- (b) require all persons concerned, that is to say, all persons who are or may be in occupation of, or claim interest in, the Corporation premises, to show cause against the proposed order, on or before such date as is specified in the notice. If such person makes an application to the Commissioner for the extension of the period specified in the notice, the Commissioner may grant the same on such terms as to payment and recovery of the amount claimed in the notice, as he deems fit. Any written statement put in by any person and documents produced, in pursuance of the notice, shall be filed with the record of the case, and such person shall be entitled to appear before the Commissioner by advocate, attorney or pleader. The notice to be served under this sub-section shall be served in the manner provided for the service of a notice under sub-section (1); and thereupon, the notice shall be deemed to have duly given to all persons concerned.

(3) If any person refuses or fails to comply with an order made, under sub-section (1), the Commissioner may evict that person and any other person who obstructs and take possession of the premises: and may for that purpose use such force as may be necessary;

(4) The Commissioner may, after giving fourteen clear days notice to the person from whom possession of the Corporation premises has been under sub-section (3)

and after publishing such notice in the Official Gazette and in at least one newspaper circulating in the locality, remove or cause to be removed, or dispose of by public auction any property remaining on such premises. Such notice shall be served in the manner provided for the service of a notice under sub-section (1).

(5) Where the property is sold under sub-section (4), the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may appear to the Commissioner to be entitled to the same: Provided that, where the Commissioner is unable to decide as to the person or persons to whom the balance of the amount is payable or as to the apportionment of the same, he shall refer such dispute to a civil court of competent jurisdiction, and the decision of the Court thereon shall be final.

(6) If a person, who has been ordered to vacate any premises under sub-clause (i) or (iv) of clause (a) of sub-section (1), within one month of the date of service of the notice, or such longer time as the Commissioner may allow, pays to the Commissioner the rent and taxes in arrears, or as the case may be, carries out or otherwise complies with the terms contravened by him to the satisfaction of the Commissioner, the Commissioner shall on such terms, if any (including the payment of any sum by way of damages or compensation for the contravention aforesaid), in lieu of evicting such person under sub-section (2), cancel his order made under sub-section (1); and thereupon such person shall continue to hold the premises on the same terms on which he held them immediately before such notice was served on him.

1. Those words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 44 (w.c.f. 23-4-1999)

105C. Power To Recover Rent Or Damages As Arrears Of Property Taxes :-

(1) Subject to any regulations made by the Commissioner in this behalf, but without prejudice to the provisions of Section 105B, where any person is in arrears of rent payable in respect of any Corporation premises, the Commissioner may, by notice served in the manner provided for service of notice under sub-section (1) of Section 105B, order that person to pay the same within such time not less than ten days as may be specified in the notice.

(2) Where any person is in unauthorized occupation of any Corporation premises the Commissioner may, in the manner and having regard to the principles of assessment of damages, provided for by regulations, assess such damages on account of the use and occupation of the premises as he may deem fit, and may, by notice served in the manner referred to in sub-section (1), order that person to pay the damages within such time as may be specified in the notice.

(3) If any person refuses or fails to pay within the time specified in the notice, the arrears of rent under sub-section (1), or damages under subsection (2), the Commissioner may recover the amount of rent, or as the case may be, of damages in the same manner as the general or property tax due from such person.

(4) No order shall be made under sub-section (2), until after the issue of a notice in writing to the person calling upon him to show cause, within a reasonable period to be specified in such notice, why such order should not be made, and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the Commissioner.

105D. Rent To Be Recovered By Deduction From Salary Or Wages In Case Of Corporation Employees :-

Without prejudice to the provisions of Section 105B, in the case of any person who is an employee of the Corporation and who has been allotted any Corporation

premises, the amount of rent due by him in respect of such premises shall, on a requisition in writing made in this behalf by the Commissioner to the Head of the Corporation Department or Officer under whom such person is employed, be liable to be deducted from the salary or wages payable to such person. On receipt of such requisition, the Head of such Department or Officer, as the case may be, shall deduct from the salary or wages payable to such person the amount specified in the requisition and pay the amount so deducted to the Commissioner in satisfaction of the rent due by him.

105E. Commissionc R To Have Powers Of Civil Court :-

The Commissioner shall, for the purpose of holding any inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining on oath;
- (b) requiring the discovery and production of documents;
- (c) any other matter which may be prescribed by regulations made under Section 105H.

105F. Appeals :-

(1) An appeal shall lie from every order of the Commissioner, made in respect of any Corporation premises, under Section 105B or Section 105C, to an appellate officer who shall be the principal Judge of the City Civil Court of Bombay or such other judicial officer in 1 [Brihan Mumbai] of not less than ten years standing, as the principal Judge may designate in this behalf.

(2) An appeal under sub-section (1) shall be preferred.-

(a) in the case of an appeal from an order under Section 105B, within thirty days from the date of the service of that notice relating to the order under sub-section (1) of that section, and

(b) in the case of an appeal from an order under Section 105C, within thirty days from the date of the service of notice relating to the order under sub-section (1) or (2) of that section, as the case may be:

Provided that, the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) Where an appeal is preferred from an order of the Commissioner, the appellate officer may stay the enforcement of that order for such period, and on such conditions as he deems fit.

(4) Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.

1. Those words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 44 (w.c.f. 23-4-1999)

105G. Finality Of Orders :-

Save as otherwise expressly provided in this Chapter, every order made by the Commissioner or the appellate officer under this Chapter shall be final, and shall not be called in question in any original suit, application or execution proceeding.

105H. Power To Make Regulations :-

1 [The Commissioner, with the approval of the Standing Committee and the General Manager with the approval of Brihan Mumbai Electric Supply and Transport

Committee], may make regulations for all or any of the following matters namely :-

- (a) the forms of notices under Sections 105B and 105C and for prescribing the other manner in which they may be served under those sections;
- (b) the holding of inquiries under this Chapter;
- (c) the procedure to be followed in taking possession of any Corporation premises under Section 105B;
- (d) the manner in which the damages under Section 105C may be assessed and the principles which may be taken into account in assessing such damage;
- (e) the manner in which appeals may be preferred under Section 105F and the procedure to be followed in such appeals;
- (f) any other matter which has to be, or may be, prescribed under this Chapter by regulations.]

1. Those words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 44 (w.c.f. 23-4-1999)

CHAPTER 6

Borrowing Powers

106. Power to borrow from Central or State Government or other persons :-

The Corporation may from time to time borrow or re- borrow and take up at interest from 2[the Central or 3[State] Government] or with the sanction of the 4[2[State] Government], from any other person, any sum necessary for the purpose of -

- (a) defraying any costs, charges or expenses incurred or to be incurred by them in the execution of this Act,
- (b) discharging any loan contracted under this Act or any other loan or debt for the repayment of which they are liable,
- (c) making good any deficit in budget estimate "B" framed under Section 126,
- (d) generally, carrying out the purposes of this Act including the advance of loans under Section 354W.

1. The words "the Central or the Provincial Government" were substituted for the words "Secretary of State for India -in-Council" by the Adaptation of Indian Laws Order in Council.

3. These words were inserted by Bom. 48 of 1948, s. 19

5. Clauses (b), (c) and (d) were substituted for the original clause (b) by Bom. 13 of 1933, s. 23(a).

107. Provisions applicable to any new loan contracted with Central or State Government :-

If any loan shall be contracted by the Corporation under this Act with 2[the Central or 3[State] Government], the same shall be subject, as regards repayment and security and in every other

respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan save only that the rate of interest, the period of repayment and the number and amount of the instalments shall, in the case of any such new loan, be fixed 2[by the Central, Government or, as the case may be, the 3 [State] Government],

1. The words "the Central or the Provincial Government" were substituted for the words "Secretary of State for India -in-Council" by the Adaptation of Indian Laws Order in Council.
2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
3. These words were inserted by Bom. 48 of 1948, s. 19

108. Mortgage of taxes or immovable property :-

(1) The Corporation may borrow or re-borrow any such sum as aforesaid from any person other than 1[the Central or the 2[State] Government], on the security of any immovable property belonging to them or proposed to be acquired by them under this Act or of all the taxes or of any tax which they are authorised to levy for the purposes of the Act 3[or of Brihan Mumbai Electric Supply and Transport Undertaking] or of all or any of these securities.

(2) And for the purpose of securing the repayment of any sum so borrowed, with interest thereon, they may mortgage to the person by or on behalf of whom such sum is advanced any such immovable property or tax 3 [or the said undertaking].

1. The words "the Central or the Provincial Government" were substituted for the words "Secretary of State for India -in-Council" by the Adaptation of Indian Laws Order in Council.
- 2 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
3. These words were inserted by Bom. 48 of 1948, s. 19

109. Provisions as to exercise of borrowing powers :-

The exercise of the powers of borrowing conferred by this Act shall be subject to the following provisions, namely:-

(a) money shall not be borrowed for the execution of any work other than a permanent work including under this expression any work, of which the cost ought, in the opinion of 1[the 2[State] Government], to be spread over a term of years:

3[

(b) the sum borrowed for any purpose other than for discharging

any of the obligations arising out of the transfer of the Corporation of the powers, duties, assets and liabilities of the Board of Trustees for the Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925 4[or other than for discharging any obligation arising out of the acquisition, extension, administration, operation or maintenance of the Brihan Mumbai Electric Supply and Transport Undertaking,] 5[or other than for discharging any obligations arising out of any of the provisions contained in Chapter IX 6[three times] the rateable value of the premises in 7[Brihan Mumbai] assessable, as hereinafter provided, to property taxes, and 8[

(c) the sum borrowed for the purpose of discharging any of the obligations arising out of the transfer to the Corporation of the powers, duties, assets and liabilities of the Board of Trustees for the Improvement of the city of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925, including the balances of all outstanding loans and debts borrowed by the Board of Trustees for the Improvement of the City of Bombay under the City of Bombay Improvement 1898, and the City of Bombay Improvement Trust Transfer Act, 1925, and by the Corporation for the purpose of discharging the aforesaid obligations, shall not at any time exceed in the whole double the rateable value of the premises in 8[Brihan Mumbai] assessable, as hereinafter provided, to property taxes; and

10[

(d) the sum borrowed under clause (c) for the purpose of making good any deficit in budget estimate B framed under Section 126 shall not in any year exceed twenty lakhs of rupees; 9[and

(dd) the sum borrowed for the purpose of discharging any obligation arising out of the acquisition, extension, administration, operation, or maintenance of the Brihan Mumbai Electric Supply and Transport Undertaking including the balances of all the outstanding loans and debts borrowed for the said purpose, shall not at any time exceed in the whole 12[three times] the rateable value of the premises in 8[Brihan Mumbai] assessable, as hereinafter provided, to property taxes, and 14[

(ddd) the sum borrowed for the purpose of discharging any obligations arising out of any of the provisions of Chapters IX and X, including the balances of all the outstanding loans and debts borrowed for 15[on the whole thrice] the rateable value of the premises in 7[Brihan Mumbai] assessable, as hereinafter provided,

to property taxes; and]

(e) the money may be borrowed for such time not exceeding sixty years, as the Corporation, with the sanction of the 18[19[State] Government], determine in each case;

(f) the Corporation shall either pay off the money so borrowed, within the period sanctioned, by equal annual instalments of principal or of principal and interest, or in such other manner as may be approved by 21[the 14[State] Government], or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest, by investing the same in the purchase of public securities, such sum as will, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned or within such other period as may be approved by 16[the 14[State] Government];

(g) the Corporation may at any time apply the whole or any part of a sinking fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established:

Provided that they pay into the fund each time that interest which would have been received by the Corporation in respect of the sinking fund or the part of the sinking fund so applied, and accumulate until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received.

(h) the investment every year of any sum set apart as portion of the principal of a sinking fund shall be made within fifteen days after the day on which the second half-yearly payment of interest is due by the Corporation in respect of the loan for repayment of which such sinking fund is established; and the reinvestment of any sum received by the Corporation on account of interest on moneys appertaining to a sinking fund already invested, and the investment of any sum payable into the fund under clause 27[(g)] as the equivalent of interest which the Corporation would have received, if the sinking fund or a part thereof had not been applied in any manner authorized by the said clause, shall be made within one month from the day on which such interest is received or from the day on which such interest would have been received, as the case may be: 28[

Provided that during the year in which the loan for repayment of which a sinking fund has been established is due for repayment, the sum to be set apart as portion of the principal of such sinking

fund and the sum received on account of interest on moneys forming part of such sinking fund may be retained by the Corporation in such form as they think fit;]

19[

(i) where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not, unless with the sanction of 30[the 15[State] Government] extend beyond the unexpired portion of the period for which the original loan was sanctioned and shall in no case be extended beyond the period of sixty years from the date of the original loan. 32 [

Provided that, nothing contained in this clause shall apply to any sum borrowed for the purposes of any capital works in relation to Chapters IX and X.]

1. The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

3. Clauses (b), (c) and (d) were substituted for the original clause (b) by Bom. 13 of 1933, s. 23(a).

4. These words were inserted by Bom. 48 of 1948, s. 20

5. These words and figures were inserted by Mah. 34 of 1973, s.7(a)

6. These words were substituted for the word "double" by Mah. 21 of 1989, s. 17(a)

7. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

8. Clauses (b), (c) and (d) were substituted for the original clause (b) by Bom. 13 of 1933, s. 23(a).

10. This portion was inserted by Bom. 48 of 1948, S. 20

12. These words were substituted for the word "double" by Mah. 21 of 1989, s. 17(b)

14. Clause (ddd) was inserted by Mah. 34 of 1973, s. 7(b)

15. These words were substituted for the words "in the whole double" by Mali. 10 of 1998. s.56

17. Original clauses (c) to (g) of section 109 were rclcttcrd (c) to (i) by Bom. 13 of 1933, s. 23(b).

18. The words "Provincial Government" were substituted for the words "Govcnror-in- Council" by the Adaptation of Indian Laws Order in Council.

19. This word was substituted for the word "Provincial" by the

Adaptation of Laws Order, 1950

20. New Clause (f) was substituted for the original by Bom. 13 of 1933, s. 23(c)

21. The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

25. Original clauses (c) to (g) of section 109 were relettered (e) to (i) by Bom. 13 of 1933, s. 23(b).

26. Original clauses (c) to (g) of section 109 were relettered (e) to (i) by Bom. 13 of 1933, s. 23(b).

27. The brackets and letter "(g)" were substituted for the brackets and letter "(c)" by Bom. 76 of 1948, s. 12

28. This proviso was inserted by Bom. 13 of 1933, s. 23(d).

30. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

32. This proviso was added by Mah. 34 of 1973, s. 7(c)

109A. Investment Of Sinking Fund And Surplus Moneys In Debentures Issued By The Corporation :-

(1) In respect of any sinking funds which by this Act the Corporation are directed or empowered to invest in public securities, and 2[3[State] Government], 4[* * *] shall have been duly obtained under section 106 or issued by the Board of Trustees for the Improvement of the City of Bombay under section 52 of the City of Bombay Improvement Act, 1898 or section 68 of the City of Bombay Improvement Trust Transfer Act, 1925, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(2) The issue of any such debentures direct to and in the name of "The Municipal Commissioner for 5 [Brihan Mumbai] on behalf of the Corporation shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Corporation or to the Municipal Commissioner on behalf of the Corporation of any debenture issued by the Corporation or by the Board of Trustees for the Improvement of the City of Bombay shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.

1. New sections 109A, 109B and 109C were inserted by Bom. 13 of 1933, s. 24

2. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

4. The words "or of the Governor-General in Council" were omitted, by the Adaptation of Indian Laws Order in Council

5. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

109B. Annual Examinations Of Sinking Funds :-

(1) All sinking funds established under this Act shall be subject to annual examination by 2[the Chief Auditor, Local Fund Accounts,] who shall ascertain whether the cash and the value of the securities belonging thereto are actually equal to the amount which should be at the credit of such funds had investments been regularly made and had the rate of interest as originally estimated been obtained therefrom.

(2) The amount which should be at the credit of a sinking fund shall be calculated on the basis of the present value of all future payments required to be made to such fund under the provisions of this Act, on the assumption that all investments are regularly made and the rate of interest as originally estimated is obtained therefrom.

(3) The securities belonging to a sinking fund shall be valued for the purposes of this section at their current market value, except in the case of debentures issued under this Act or under any previous Act relating to the municipal government of the city or under the City of Bombay Improvement Act, 1898 or under the City of Bombay Improvement Trust Transfer Act, 1925, which shall always be valued at par, provided that the Corporation shall make good immediately any loss which may accrue on the actual sale of such debentures at the time of the repayment of the loan.

(4) The Corporation shall forthwith pay into any sinking fund any amount which 3[the Chief Auditor, Local Fund Accounts,] may certify to be deficient, unless the 4[5[State] Government] specially sanctions a gradual readjustment.

(5) If the cash and the value of the securities at the credit of any sinking fund are in excess of the amount which should be at its credit 6[the Chief Auditor, Local Fund Accounts,] shall certify the amount of such excess sum and the Corporation may thereupon transfer the excess sum to the municipal fund.

(6) If any dispute arises as to the accuracy of any certificate made by 3[the Chief Auditor, Local Fund Accounts,] under sub-section (4) or (5) the Corporation may, after making the payment or transfer, as the case may be, refer the matter to 8[the 9 [State] Government] whose decision shall be final.]

1. This section was inserted by Bom. 76 of 1948, s. 13

2. These words were substituted for the words "the Accountant General, Bombay", by Mah. 42 of 1976, s. 7

3. These words were substituted for the words "the Accountant General, Bombay." by Mah. 42 of 1976, s. 7

4. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

6. These words were substituted for the words "the Accountant General, Bombay." by Mah. 42 of 1976, s. 7

8. The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

9. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

109C. Corporation May Take Advance From Banks And Grant Mortgage :-

(1) Notwithstanding anything contained in sections 106, 108 and 109 the Corporation may, with the previous sanction of the 2[3[State] Government], and for the purpose of discharging any liability arising out of the transfer to the Corporation of the powers, duties, assets and liabilities of the Board of Trustees constituted under the City of Bombay Improvement Trust Transfer Act, 1925 take from any bank or banks credit on a cash account to be opened and kept with such bank or banks in the name of the Corporation, for a sum not exceeding in aggregate fifteen lakhs of rupees on the security of all or any of the taxes which

the Corporation are authorised to levy for the purposes of this Act.

(2) The Corporation may also, with the previous sanction of the 2[3 [State] Government] and subject to the provisions of this Act, mortgage any lands of property vesting or revesting or belonging to the Corporation in security or the payment of the amount of such credit or of the sums advanced from time to time on such cash account with interest thereon.

1. New sections 109-A, 109-B and 109-C were inserted by Bom. 13 of 1933, s. 24

2. These words and figures were inserted by Bom. 13 of 1933, s. 25(a)

3. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

109D. Corporation To Have Power To Borrow From Banks Against Government Promissory Notes Or Securities :-

Notwithstanding anything contained in sections 106 and 109, the Corporation may also borrow, for the purpose of this Act, from any banks in which under section 122 the surplus moneys at the credit of the municipal fund may be deposited, against any Government promissory notes or other securities in which for the time being the cash balance of the Corporation may be invested.]

110. Form of security :-

(1) Every mortgage authorized to be made under this Chapter 1[other than a mortgage made under section 109B] shall be by debenture in the form contained in Schedule C or in such other form as the Corporation, with the consent of 2[the Provincial Government] shall from time to time determine.

(2) Every debenture issued under this Act 4[other than a debenture issued under section 110D] shall be transferable by the endorsement 3 [xxx]

(3) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder thereof for the. time being, without any preference by reason of some of such debentures being prior in date to others.

1. These words and figures were inserted by Bom. 13 of 1933, s. 25(a)

2. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

3. The words and letter "and such transfers may be in the form of Schedule D, or to the like effect" were deleted and have been deemed always to have been deleted by Bom. 76 of 1948, s. 14

110A. Issue Of Duplicate Securities :-

(1) When a debenture issued under this Act or any previous Act relating to the municipal government of the city 2[or under the City of Bombay Improvement Act,

1898 or under the City of Bombay Improvement Trust Transfer Act, 1925], is alleged to have been 3[lost, stolen or destroyed either or wholly or in part] and a person claims to be the person to whom but for the loss, 4[theft] or destruction it would be payable, he may, on application to the Municipal Commissioner, and on producing proof to his satisfaction of the loss 4[theft] or destruction and of the justice of the claim, obtain from him an order for- [

(a) if the debenture alleged to have been lost, stolen or destroyed is payable more than six years after the date of publication of the notification referred to in sub-section (2),

(i) for the payment of interest in respect of the debenture pending the issue of a duplicate debenture, and

(ii) for the issue of a duplicate debenture payable to the applicant, or

(b) if the debenture alleged to have been lost, stolen or destroyed is payable not more than six years after the date of publication of the notification referred to in sub-section (2),

(i) for the payment of interest in respect of the debenture without the issue of a duplicate debenture, and

(ii) for the payment to the applicant of the principal sum due in respect of the debenture on or after the date on which the payment becomes due.]

(2) An order shall not be passed under sub-section (1) until after the issue of such notification of the loss 6[theft] or destruction of the debenture as may be prescribed by the Corporation, and after the 1 Sections 11 OA to 110C were inserted by Bom. 1 of 1910, s. 2, Serial No. 16 2 These words and figures were inserted by Bom. 13 of 1933, s. 26 3 These words were substituted for the words "wholly or partly lost or destroyed" by Bom. 5 of 1938, s. 12(a)(i) 4 This word was inserted by Bom. 5 of 1938, s. 12(a)(ii) 5 These clauses were substituted for the original by Bom. 5 of 1938, s. 12(a)(iii) 6 This word was inserted by Bom. 5 of 1938, s. 12(b)(i) 110AB expiration of such period as may be prescribed by the Corporation, nor until the applicant has given such indemnity as may be required by the Corporation against the claims of all persons deriving title under the debenture lost, 1[stolen] or destroyed.

2[

(3) A .list of the debentures in respect of which an order is passed under sub-section (1) shall be published in the Official Gazette.]

3 [

(4) If at any time before the Corporation becomes discharged under the provisions of section 110AD from liability in respect of any debenture the whole of which is alleged to have been lost, stolen or destroyed, such debenture is found, any order passed in respect thereof under, this section shall be cancelled.]

1. This word was inserted by Bom. 5 of 1938, s. 12(b)(ii)

2. This sub-section was substituted for the original by Bom. 5 of 1938, s. 12(c).

3. This sub-section was added by Bom. 5 of 1938, s. 12(d)

4. Sections 110AA to 110AE were inserted by Bom. 5 of 1938, s. 13

110B. Renewal Of Debentures :-

Subject to the provisions of section 110AB , a person claiming to be entitled to a debenture issued under this Act or any previous Act relating to the municipal government of the city or under the City of Bombay Improvement Act, 1898 or under the City of Bombay Improvement Trust Transfer Act, 1925, may on applying to the Commissioner and on satisfying him of the justice of his claim and delivering the debenture receipted in such manner and paying such fee as may be prescribed by the Commissioner obtain a renewed debenture payable to the person applying.

1. Sections 110AA to 110AE were inserted by Bom. 5 of 1938, s. 13

110C. Renewal Of Debentures In Case Of Dispute As To Title :-

(1) Where there is a dispute as to the title to a debenture issued under this Act or any previous Act relating to the municipal government of the city or under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, in respect of which an application for renewal has been made, the Commissioner may-

(a) where any party to the dispute has obtained a final decision from a Court of competent jurisdiction declaring him to be entitled to such debenture, issue a renewed debenture in favour of such party, or

(b) refuse to renew the debenture until such a decision has been obtained, or

(c) after such inquiry as is hereinafter provided and on consideration of the result thereof, declare by order in writing which of the

Explanation:- For the purposes of this sub-section the expression "final decision" means a decision which is not appealable or a decision which is appealable but against which no appeal has been filed within the period of limitation allowed by law.

(2) For the purposes of the inquiry referred to in sub-section (1) the Commissioner may himself record, or may request the District Magistrate to record or to have recorded, the whole or any part of such evidence as the parties may produce. The District Magistrate to whom such request has been made may himself record the evidence or may direct any Magistrate subordinate to him to record the evidence and shall forward the record of such evidence to the Commissioner.

(3) The Commissioner or any Magistrate acting under this section may, if he thinks fit, record evidence on oath.

110D. Liability In Respect Of Debenture Renewed :-

(1) When a renewed debenture has been issued under section 110AA in favour of any person, the debenture so issued shall be deemed to constitute a new contract between the Corporation and such person and all persons deriving title thereafter through him.

(2) No such renewal shall affect the rights as against the Corporation of any other person to the debenture so renewed.

110E. Discharge In Certain Cases :-

When a duplicate debenture has been issued under section 110A, or when a renewed debenture has been issued under section 110AA or section 110AB, or when the principal sum due on a debenture in respect of which an order has been made under section 110A for the payment of the principal sum without the issue of a duplicate debenture has been paid on or after the date on which such payment became due, the Corporation shall be discharged from all liability in respect of the debenture in place of which a duplicate or renewed debenture has been so issued, or in respect of which such payment has been made, as the case may be-

(a) in the case of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section 110A or from the date, of the last payment of interest on the original debenture, whichever date is later.

(b) in the case of a renewed debenture after the lapse of six years from the date of the issue thereof, and

(c) in the case of payment of the principal sum without the issue of a duplicate debenture, after the lapse of six years from the date of the publication of the notification referred to in sub-section (3) of section 110A.

110F. Indemnity :-

Notwithstanding anything in section 110AA or 110AB, the Commissioner may in any case arising under either of those sections-

- (1) issue a renewed debenture upon receiving such indemnity in favour of the Corporation and the Commissioner as he shall think fit against the claims of all persons claiming under the original debenture, or
- (2) refuse to issue a renewed debenture unless such indemnity is given.]

110G. Right Of Survivors Of Joint Payees Of Securities :-

(1) Notwithstanding anything contained in section 45 of the Indian Contract Act, 1872, when any debenture issued under this Act or any previous Act relating to the municipal government of the city 2[or under the City of Bombay Improvement Act, 1898 or under the City of Bombay Improvement Trust Transfer Act, 1925], is payable to two or more persons jointly and either or any of them dies, the debenture shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the debenture jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the debenture or security was jointly payable occurred or occurs before or after this section comes into force.

1. Sections 110A to 1 IOC were inserted by Bom. 1 of 1910, s. 2, Serial No. 16

110H. Power Of One Or Two Or More Joint Holders To Grant Receipts :-

Notwithstanding anything in section 45 of the Indian Contract Act, 1872, when two or more persons are joint holders of any debentures issued under this Act or any previous Act relating to the municipal government of the city 2 [or under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925], any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture unless notice to the contrary has been given to the Commissioner by any other of the holders.

1. Sections 110A to 1 IOC were inserted by Bom. 1 of 1910, s. 2, Serial No. 16

2. These words and figures were inserted by Bom. 13 of 1933, s. 26

110I. Debentures Issued Under Bombay Acts Iv Of 1898 And Xvi Of 1925 :-

(1) The holder of any debenture issued by the Board of Trustees for the Improvement of the City of Bombay under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, may obtain in exchange therefore, upon such terms as the Corporation shall from time to time determine, a debenture in any other form which the Corporation may, with the previous consent of 2 [the Provincial Government], prescribe.

(2) Every debenture issued under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, or by the Corporation under sub-section (1) shall be transferable-

(a) if it is in the form of Schedule AA by endorsement, and

(b) if it is in any other form, in such manner as is therein expressed.

(3) The rights to sue in respect of the moneys secured by debentures issued under this section or the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, shall vest, in the respective holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.

1. Sections 110D to 110H were inserted by Bom. 13 of 1933, s. 27
2. The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

110J. Issue Of Stock Certificates :-

(1) The 4[Standing Committee] at its discretion may, at the time of issue or at any time during the currency of any debentures or securities issued under the provisions of this Act or any previous act relating to the municipal government of the city or under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, upon the application of the subscriber for, or holder of any such debentures or securities, issue to him, in lieu of the debentures or securities deliverable or held by him, a certificate in the nature of a stock certificate in respect of the loan to which such debentures or securities relate, which shall be in such form as the Corporation with 2[

(1A) The repayment of the principal sum mentioned in a stock certificate issued under sub-section (1) in lieu of a debenture or any other security, not being a debenture issued under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, or a debenture issued under the Act in renewal of such a debenture, and the interest payable thereon shall be deemed to be secured by a mortgage of a proportion of all the taxes which may be levied under this Act in the same manner and to the same extent as if a debenture for the same sum has been issued in the form contained in Schedule C to this Act.]

(2) The 3[Standing Committee] shall upon the application of the holder of a stock certificate convert the same into debentures or securities of the loan to which it relates.

4 [

(3) The Corporation may from time to time make, alter or rescind rules prescribing-

- (a) the amounts for which stock certificates may be issued;
- (b) the fees to be levied in respect of the issue of stock certificates;
- (c) the form of keeping a register of the holders of stock;
- (d) the mode in which payment of interest to holders of stock is to be made, recorded and acknowledged;
- (e) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock;
- (f) the circumstances and manner in which duplicate stock certificates may be issued and the fees to be levied or the indemnity to be required on any other issue;
- (g) generally the measures to be adopted for carrying out the objects of this section.

(4) No rule, or alteration or rescission of a rule, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the Official Gazette; and no rule, or alteration or rescission of a rule, shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.]

1. Sections 110D to 110H were inserted by Bom. 13 of 1933, s. 27
2. Sub-section (I A) was inserted by Bom. 32 of 1935, s. 6
3. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 45(b)(w.c.f. 23-4-1999)
4. These sub-sections were added by Bom. 5 of 1938, s. 14

110K. Provisions For Loans, Etc. Raised By The Board Of Trustees Under Bombay Act Iv Of 1898 And Bombay Xvi Of 1925 :-

In the case of all loans raised, sinking funds established, debentures or other

securities issued and debts incurred by the Board of Trustees for the Improvement of the City of Bombay under- and in accordance with the City of Bombay Improvement Act, 1898 and the City of Bombay Improvement Trust Transfer Act, 1925, before the City of Bombay Municipal (Amendment) Act, 1933, comes into operation the following provisions shall apply-

(i) if when such loans were raised the loans were made repayable from sinking fund, the Corporation shall establish sinking funds for the repayment of such loans and shall pay into such funds such sums, on such dates as may have been fixed when the loans were raised;

(ii) if when such loans were raised the loans were made repayable by equal payments of principal and interest or by equal payments of principal, the Corporation shall make such payments on such dates and in such manner as may have been fixed when the loans were raised;

(iii) the provisions of clause (f) of section 109 shall, so far as may be, apply to such loans and the said clause shall be construed as if (a) for the word "annual" the words "yearly or half-yearly" were substituted and (b) the words "or in such other manner as may be approved by 2[the Provincial Government]" were omitted;

(iv) the provisions of clause (g) of section 109 shall, so far as may be, apply to such sinking funds and the said clause shall be construed as if for the words "under this section" the words "under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925" were substituted.

(v) the provisions of clause (h) of section 109 (except the proviso) shall, so far as may be, apply and the said clause shall be construed as if the word "year" the words "or every half year" were inserted and as if the words "second half-yearly" were omitted;

1 Sections 110D to 110H were inserted by Bom. 13 of 1933, s.27 2The words "the provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

(vi) the provisions of section 109A shall, so far as may be, apply to such sinking funds;

(vii) the provisions of section 110F shall apply to such loans;

(viii) the provisions of section 106 shall, so far as may be, apply, and the said section shall be construed as if for the words "contracted under this Act" the words "or debt contracted or incurred under this Act or by the Board of Trustees for the Improvement of the City of Bombay under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925", were substituted;

(ix) all securities and cash held by the Board of Trustees for the Improvement of the City of Bombay in existence when the City of Bombay Municipal (Amendment) Act, 1933, comes into operation in sinking funds established for the repayment of such loans shall be transferred to the Corporation and shall be held by them as part of the sinking funds established under clause (i);

(x) when money is borrowed for the purpose of discharging any loan contracted by the said Board of Trustees for the Improvement of the City of Bombay, the time for repayment of the loan so borrowed shall not extend beyond the unexpired portion of the period for which the original loan was sanctioned; and

(xi) for the removal of doubts, it is hereby declared that-

(a) All loans contracted, sinking funds established and debts incurred by the Board of Trustees for the Improvement of the City of Bombay under the City of Bombay Improvement Act, 1898 and the City of Bombay Improvement Trust Transfer Act, 1925, shall continue to be subject as regards repayment, rate of interest, period, guarantee for fulfillment of liabilities and in all other respects to the same terms and conditions as were fixed by the said Board when such loans, funds, and debts were contracted, established or incurred or as were provided by or under the aforesaid Acts;

(b) All loans contracted, sinking funds established and debts incurred by the Corporation under the provisions of this Act or any Act relating to the municipal government of the City of Bombay prior to the date on which the City of Bombay Municipal (Amendment) Act, 1933, comes into force, shall continue to be subject,

as regards repayment, rate of interest, period, guarantee for fulfillment of liabilities and in all other respects, to the same terms and conditions as were fixed when such loans, funds, and debts were contracted, established or incurred or as were provided by or under the provisions of the aforesaid Acts prior to the date mentioned above:

Provided that nothing contained in clauses (a) and (b) above shall affect any express provision of the City of Bombay Municipal Amendment Act, 1933, relating to such loans, funds and debts.

1. Sections 110D to 110H were inserted by Bom. 13 of 1933, s. 27

110L. Procedure In Event Of Default By Corporation In Payment Of Interest Or Investment Of Sinking Fund Charges :-

(1) If the Corporation fail-

(a) to pay any interest due in respect of any loan taken by the Board of Trustees for the Improvement of the City of Bombay under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, for the repayment of which the Corporation have become liable under section 110E;

(b) to pay or to set aside and invest any sum required by section 110E or which the said Board were required to pay or set aside and invest under the provisions of the said Acts; the Accountant General of Bombay shall make such payment or shall set aside and invest such sum as ought to have been set aside and invested under the said provisions or Acts; and the Commissioner shall forthwith pay from the municipal fund to the said Accountant General a sum equivalent to the sum so paid or invested by him; and if the amount is not so paid 2[the Provincial Government] may attach the rents and other income of the Corporation sufficient to pay the said sum and thereupon the provisions of sub-sections (2) and (3) of section 99 shall with all necessary modifications be deemed to apply.

(2) The Corporation may, with the previous sanction of 3[4[State] Government], levy any such special tax as may be sufficient to repay to the municipal fund the amount paid by the Commissioner as aforesaid. Such special tax shall be in addition to any of the taxes from time to time leviable under this Act: 5[

Provided that nothing in this sub-section shall authorize the levying of any tax which could not be imposed in the 4[State] by the 4[State] Legislature under the 1 [Constitution].]

1. Sections 110D to 110H were inserted by Bom. 13 of 1933, s. 27

2. The words "the provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

3. The words "Provincial Government" were substituted for the word "Governor-in-Council" by the Adaptation of Indian Laws Order in Council.

4. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

5. This proviso was substituted for the original proviso by the Adaptation of Indian Laws Order in Council.

110M. Procedure In Case Of Default By Commissioner :-

If the Commissioner fails to make the payment as required by section 110F, 2[1[State] Government], may attach the municipal fund or any tax leviable by the Corporation or any special tax leviable under sub-section (2) of section 110F sufficient so far as can be estimated to cover such payment and thereupon the provisions of subsection (2) and (3) of section 99 shall with all modifications be deemed to apply:

Provided that before 4[the 1[State] Government] may attach the municipal fund or

any tax leviable by the Corporation or any special tax leviable under sub-section (2) of section 110F sufficient so far as can be estimated to cover such payment and thereupon the provisions of subsections (2) and (3) of section 99 shall with all modifications be deemed to apply:

Provided that before 3[the 1[State] Government] attaches a special tax leviable under sub-section (2) of section 110F, 3[the 1 [State] Government] may require the Corporation to levy the said tax].

1. Sections 110D to 1 iOH were inserted by Bom. 13 of 1933, s. 27

2. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

4. This portion was inserted by Bom. 48 of 1948, s. 21

110N. Certain Sums To Be A Charge Upon The Property Of The :-

All mpneys payable under sub-section (1) of section 110F and levied under section 10G shall constitute a charge upon the property of the Corporation.]

1. Sections 110D to 110H were inserted by Bom. 13 of 1933, s. 27

CHAPTER 7

Revenue and Expenditure The Municipal Fund

111. Constitution of the municipal fund :-

1[Subject to the provisions of sections 2[119A, 119B,] 120, 120A and 460Z] all moneys received by or on behalf of the Corporation under the provisions of this Act or of any other enactment at the time in force, or under any contract, all proceeds of the disposal of property by, or on behalf of, the Corporation. all rents accruing from any property of the Corporation, all moneys raised by any tax, levied for the purposes of this Act, all fees and fines payable and levied under this Act or under any rule, regulation or by law in force thereunder 3[other than fines imposed by a Court], 4[the balance, after all necessary contingent expenses have been defrayed, of all fees] for licences for public conveyances granted by the Police Commissioner under 5[the Bombay Public Conveyance Act, 1920], 6[the balance, after all necessary contingent expenses have been defrayed, of all fees for licences for the playing of music in streets and public places granted under paragraph (ii) of clause (f) of section 22 of the City of Bombay Police Act, 1902], 7[* *****-] all moneys received by or on behalf of the Corporation 6[from any Government] or private individuals by way of grant or gift or deposit, and all interest and profits arising from any investment of, or from any transaction in connection with, any money belonging to the Corporation, 8[including loans advanced under section 354W, 9[354WA or 354WB]], shall be credited to a fund, which shall be called "the municipal fund", and which shall be held by the

Corporation in trust for the purposes of this Act, subject to the provisions herein contained: 10 [xxx]

1. This portion was inserted by Bom. 48 of 1948, s. 21
2. These figures and letters were inserted by Mah. 34 of 1973, s. 8
3. These words were inserted by the Adaptation of Indian Laws Order in Council.
4. These words were substituted for the words "all fees" by Bom. 3 of 1907, s. 16(a)
5. These words and figures were substituted for the original by Bom. 76 of 1948, s. 15
6. This clause was inserted by Bom. 3 of 1907, s. 16(b)
7. The words, figures, letter and brackets "the balance, after all expenses referred to in sub-section (3) of section 513A have been defrayed of all fines levied by an magistrate in respect of any offence against the provisions of this Act, or of any regulation or by- law made under this Act," were omitted by the Adaptation of Indian Laws Order in Council.
8. These words, figures and letter were inserted by Bom. 13 of 1933, s. 28
9. These figures, letters and word were inserted by Bom. 34 of 1954, s. 4
10. The proviso was deleted by Bom. 48 of 1948, s. 21

111A. Annual Grant By State Government; From Proceeds Of Entertainments Duty :-

The State Government may, under appropriation duly made in this behalf, make a grant to the Corporation every year of such amount as it may, from time to time, determine having regard to the proceeds of the entertainments duty levied and collected by it in 2[Brihan Mumbai] under the Bombay Entertainments Duty Act, 1923. The grant shall be made in such manner and shall be subject to such terms and conditions, as the State Government may, from time to time, determine. All moneys received by the Corporation by way of such grants shall be credited to the municipal fund.] 3 [

Provided that it shall be competent for the State Government to deduct,-

- (a) from the grants made by the State Government, or
- (b) from any sum representing the grant-in-aid or the share of the Corporation in the net proceeds of the taxes, duties, tolls and fees levied by the State Government on the recommendations of the Finance Commissioner: any amount which is due to the State Government, or to any Government Corporation, Government Company or any other statutory authority constituted by the Government of Maharashtra .

Provided further that before making such deductions, the Corporations say in the matter shall be considered by the Government.]

1. Section 111A was inserted by Mah. 63 of 1975, s. 3
2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)
3. This proviso was added by Mah. 41 of 1994, s. 39

112. Commissioner to receive payments on account of the municipal fund and to lodge them in a bank :-

All moneys payable to the credit of the municipal fund shall be received by the Commissioner and shall be forthwith paid 1[into 4[the State Bank of India, constituted under the State Bank of India Act, 1955 or any corresponding new Bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970] or in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980) to the credit of an account, which shall be styled the account of the municipal fund of 2[Brihan Mumbai]. 3 [xxx]

1. These words were substituted for the original by Bom. I of 1894, s. 4(2).
2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)
3. The proviso was deleted by Mah. 21 of 1989, s. 18(b)

113. How the fund shall be drawn against :-

(1) Subject to the provisions of section 520, no payment shall be made by the Bank aforesaid out of the municipal fund.

(a) by the Commissioner, Additional Commissioner, the Director or a Deputy Commissioner, 3[or in the absence of all of them by a municipal officer who is authorised by 4[the Standing Committee]] and,

(b) by the Municipal Chief Accountant, Additional Municipal Chief Accountant, Joint Municipal Chief Accountant or Deputy Accountant:]

Provided that , any cheque for an amount not exceeding 5[one lakh rupees] if signed by the Chief Accountant or Deputy Accountant shall be sufficient authority for the payment of the amount thereof out of the fund by the said Bank.

(2) Payment of any sum due by the Corporation in excess of one hundred rupees (or such higher amount as 4[the Standing Committee] from time to time may fix generally or for any specified class of payments) shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payments not covered by sub-section (2) may be made by the Commissioner in cash or cheques for a sum not exceeding five thousand rupees each rupees (or such higher amount as 2 [the Standing Committee] from time to time may from time to time fix)

signed as aforesaid, being drawn from time to time to cover such payments.]

1. Section I 13 was substituted by Mah. 39 of 1961, s. 9
2. These clauses were substituted for the original by Mah. 21 of 1989, s. 19(a)
3. These words were inserted by Mah. 22 of 1993, s. 3(a)
4. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, ss. 46 and 47 (w.e.f. 23-4-1999)
5. These words were substituted for the words "ten thousand rupees" by Mah. 12 of 1993. s. 3(b)

114. Deposit of portion of the municipal fund may be made with bank or agency out of [Mumbai] when convenient :-

Notwithstanding anything contained in the last two last preceding sections, the Commissioner may, with the 6[previous] approval of the 1 [the Standing Committee] from time to time, remit any portion of the municipal fund to a bank or other agency at any place beyond the city at which it may be desirable for the Corporation to have funds in deposit and any moneys payable to the credit of the municipal fund or chargeable there against, which can, in the opinion of the Commissioner be most conveniently paid into or out of the account of the Corporation at any such bank or agency, may be so paid.

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, ss. 46 and 47 (w.e.f. 23-4-1999)

115. Only sums covered by budget grant to be expended from the municipal fund :-

(1) Except as hereinafter provided, no payment of any sum shall be made by the Commissioner out of the municipal fund, unless the expenditure of the same is covered by a current budget grant, and sufficient balance of such budget grant is still available, notwithstanding any reduction or transfer thereof which may have been made under section 133 or section 134;

(2) Provided that the following items shall be excepted from this prohibition, namely:-

(a) sums of which the expenditure has been sanctioned by the 1[Standing Committee] under section 132;

(b) temporary payments under section 119 for works urgently

required in the public service;

(c) refunds of taxes and other moneys which the Commissioner is by or under this Act authorised to make;

(d) repayments of moneys belonging to contractors or other persons held in deposit and of moneys collected or credited to the municipal fund by mistake;

(e) sums which the Commissioner is by section 222, sub-section (3), 309, sub-section (2), 315, sub-section (2), 334, sub-section (2), 395, sub-section (2), 426, sub-section (2), 427, sub-section (4), 501 and 515, clause (b) required or empowered to pay by way of compensation;

(f) sums payable in any of the circumstances mentioned in clause (f) of section 118;

(g) expenses incurred by the Commissioner in the exercise of the power conferred upon him by section 434;

(h) costs incurred by the Commissioner under 2[clause (c) or (d) of sub-section (3)] of section 64: 1[Provided further that, in the case of an emergent necessity for funds, and upon a representation by the :[Brihan Mumbai Electric Supply 3[Brihan Mumbai Electric Supply and Transport Fund] such sums as may be specified, as a temporary advance for meeting such emergency.]

(3) In sub-section (1), "budget grant" means a budget grant within the meaning of that term as defined in section 130 and includes any sum by which such budget grant may at any time be increased by a transfer under 4 [sub-section (1)] of section 133.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 48(a) (w.e.f. 23-4-1999)

3. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.96)

4. This was substituted for "clause (b)" by Bom. 5 of 1938, s. 15

116. Drafts on the municipal fund to be checked by officer of the Corporation :-

The 1[Officers of the Corporation] 2 [* * *] shall not sign any cheque under section 113 without first satisfying themselves that the sum for which such cheque is drawn is either covered by a budget grant as aforesaid or is an item of one of the excepted descriptions specified in sub-section (2) of the last preceding section.

1. These words were substituted for the words "members of the

Standing Committee" by Mah. I Oof 1998, s. 61

2. The words "and the municipal secretary" were omitted by Bom. 32 of 1935, s. 8

117. Procedure when money not covered by a budget grant is expended under clause (e), (f), (g) or (h) of section 115 :-

Whenever any sum is expended by the Commissioner under clause (e), (f), (g) or (h) of 7[sub-section (2) of] section 115, he shall forthwith communicate the circumstances to 8[the Standing Committee] who shall take such action under 1[sub-section (2) of] section 133 or recommend the Corporation to take, under section 131 1 [or under subsection (1) of section 133] such actions as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

1. This was substituted for "clause (b)" by Bom. 5 of 1938, s. 15

118. Purpose for which the municipal fund is to be applied :-

The moneys from time to time credited to the municipal fund shall be applied in payment of all sums, charges and costs necessary for the purposes specified in sections 61, 62, 1[62D], 2[62E] and 63, or for otherwise carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act inclusive of-

(a) the expenses of every ward-election 2[* * *] held under this Act;

3[

(b) sums payable to the 4[Brihan Mumbai] Electric Supply and Transport Fund] in repayment of amounts disbursed therefrom for any of the purposes of this Act other than for the purpose of the 5[Brihan Mumbai Electric Supply and Transport Undertaking] and including the expenses of, or reasonable charges for, all supplies provided and services rendered for any such purpose by the General Manager at the charge of the 3[Brihan Mumbai Electric Supply and Transport Fund];]

(c) the salaries 7[joining time allowances] and other allowances of the Commissioner 8[or the Director] and of any Deputy Commissioner appointed under this Act 9[and of any officer whose services may, at the request of the Corporation, be placed by 10[the 11[State] Government] at their disposal];]

(d) the salaries and other allowances of all municipal officers and servants and all 5[contributions to provident funds,] pensions, gratuities and compassionate allowances payable under the provisions of this Act or of any schedule or regulations framed under this Act and at the time in force 11[and the interest on the accumulations of Municipal Officers and servants in the provident funds aforesaid, at such rate as is sanctioned by the State Government, from time to time, in the case of such accumulations of its own employees]; 13[

(dd)] the fees and costs payable to the Commission in connection with consultation relating to any appointment to any post in any department of the Municipal administration;]

(e) all expenses and costs incurred by the Commissioner in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including moneys which he is required or empowered to pay by way of compensation; 14[

(ee) the loans advanced in accordance with the provisions of section 354W 15[354 WA/or 354WB];

(f) every sum payable-

(i) under "[sub-section (1) of section 110F], 16[section 513A, and] sub-section (1) of section 520 to 17[the 18[State] Government];

(ii) under a decree or order of a civil or criminal court passed against the Corporation or against the Commissioner 19 [the Director] or a Deputy Commissioner Ex Officio;

(iii) under a compromise of any suit or other legal proceeding or claim effected under section 517.

1. The figures and letter "62D were inserted by Bom. 3 of 1907, s. 17

2. This proviso was added by Mah. 32 of 1996, s. 2

3. Clause (b) was inserted by Bom. 48 of 1948, s. 23

4 . These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.96)

5. These words were added by Bom. 6 of 1922, s. 30

7. These words were inserted by Bom. 5 of 1905, s. 8(a)

8. These words were inserted by Mah. 53 of 1981, s. 16(a)

9. These words were added by Bom. 5 of 1905, s. 8(b)

10. The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

11. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

13. Clause (dd) was inserted by Bom. 48 of 1950, s. 53

14. The new clause (cc) was inserted by Bom. 13 of 1933, s. 29(i)
15. These figures, letters and word were inserted by Bom. 20 of 1982, s. 3
16. These words, figures and letter were inserted by Bom. 10 of 1930, s. 3
17. The words "the Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.
18. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950
19. These words were inserted by Mah. 53 of 1981, s. 16(b)

118A. Municipal Fund Where To Be Expended :-

Expenditure by the Corporation out of the municipal fund shall, save as otherwise provided by this Act, be made within 2[Brihan Mumbai] only, but may by a resolution of the Corporation supported by at least 3 [half the total number of] Councillors, be made outside the city for any of the purposes of this Act.]

1. New section 118A was inserted by Bom. 10 of 1928, s. 11.
2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)
3. These words were substituted for the words "fifty-four" by Bom. 7 of 1950, s. 13.

119. Temporary payments from the Municipal fund for works urgently required for public service :-

(1) On the written requisition of a Secretary to 1[The State] Government], the Commissioner may at any time undertake the execution of any work certified by such Secretary to be urgently required in the public service, and for this purpose may temporarily make payments from the municipal fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration. The cost of all work so executed and of the establishment engaged in executing the same shall be paid by 1[the [State] Government] and credited to the municipal fund.

(2) On receipt of any requisition under sub-section (1), the Commissioner shall forthwith forward a copy thereof to the Corporation, together with a report of the steps taken by him in pursuance of the same. 3[xxx]

4 [xxx] Special Funds.

1. Sections 119A and 119B were inserted by Mah. 34 of 1973, s. 9
3. The heading "School fund and section 120" were repealed by Bom. 3 of 1907, s. 18

4. Portions repealed by Bom. 3 of 1907, s. 19 were omitted.

119A. Constitution Of The Consolidated Water Supply And Sewage Disposal Loan Fund :-

(1) The Corporation shall establish and set apart for the purposes of G budget a separate fund to be called the Consolidated Water Supply and Sewage Disposal Loan Fund for the purposes of carrying into effect the provisions of Chapter IX and X.

(2) The following moneys shall be credited to the said Loan Fund, namely:-

(a) any sums borrowed in exercise of the powers conferred by or under this Act for the purposes of Chapters IX and X;

(b) such portion of the Sinking Fund referred to in clause (f) of section 109 as the Corporation may, from time to time, determine.

(3) The Fund so established shall be applied for-

(a) the expenditure on capital works for the purposes of Chapters IX and X;

(b) the repayment of the previous loans raised for such capital works.

(4) Any moneys of the said Fund, not used or not immediately to be used in accordance with the last preceding sub-section, shall be 2 [the Standing Committee] in such manner as he deems fit and proper.

1. Sections 119A and 119B were inserted by Mah. 34 of 1973, s. 9

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 50 (w.e.f. 23-4-1999)

119B. Constitution Of The Water And Sewage Fund :-

(1) The Corporation shall establish and set apart a separate fund to be called the Water and Sewage Fund.

(2) All moneys received by or on behalf of the Corporation under clause (a) or (b) of section 140 or under sections 169 to 172 (both inclusive) or any other moneys received for the purposes of Chapters IX and X shall be credited to the Water and Sewage Fund.

(3) All moneys payable to the credit of the said Fund shall be received by the Commissioner and forthwith paid by him into the Bank or Banks approved by 1 [the Standing Committee] from time to time in this behalf to the credit of account, which shall be styled the Account of the Water and Sewage Fund:

Provided that, the Commissioner may, subject to any general or special directions issued by 2 [the Standing Committee] retain such balance in cash as may be necessary for the purposes of Chapters IX and X.

(4) The moneys from time to time credited to the said Fund shall be applied only in payment of all sums, charges and costs necessary for the purposes of carrying into effect the provisions of Chapters IX and X.

(5) Surplus moneys at the credit of the said Fund, which cannot immediately or at an early date be applied as provided in the last preceding sub-section may, from time to time, be deposited by the Commissioner at interest in the Bank or Banks approved by 1 [the Standing Committee] or be invested in public securities.

(6) All such deposits and investments shall be made by the Commissioner on behalf of the Corporation, with the sanction of 1 [the Standing Committee], and with the like sanction, the Commissioner may at any time withdraw any deposits so made or dispose of any securities and redeposit or reinvest the moneys so withdrawn or the proceeds of the disposal of the securities; but no order for making any such deposit or investment or withdrawal or disposal shall have any validity, unless the same be in writing signed by two persons in the manner specified in subsection (1) of section 113 for signing cheques.

(7) The loss, if any, arising from any such deposit or investment shall be debited to

the Water and Sewage Fund.]

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 51 (w.e.f. 23-4-1999)

120. Constitution of Fines Fund :-

Fines collected under 2 [Section 83] shall be credited to a separate fund to be called "the Fines Fund" the proceeds of which shall be expended in promoting the well-being of municipal officers and servants other than those appointed under the provisions of Chapter XVI-A of this Act, and for the payment of compassionate allowances to the widows of such officers and servants who die while in municipal service and to such other relations of the officers and servants as the Corporation may from time to time determine.]

1. Sections 120 and 120A were added by Bom. 48 of 1948, s. 24

2. This words and figures were substituted for the words and figures "section 82" by Mah. 10 of 1998, s. 65

120A. Constitution Of Welfare Fund :-

Amounts transferred to the municipal fund under the provisions of clause (c) of sub-section (1) of section 460LL shall be credited to a special fund to be called "the Welfare Fund" and shall be expended in providing such benefits and amenities to municipal officers and servants, including those appointed under the provisions of Chapter XVI-A of this Act and to such members who die while in municipal service and to such members of their families and their descendants as the Corporation may from time to time determine other relations of the officers and servants as the Corporation may from time to time determine.]

1. Sections 120 and 120A were added by Bom. 48 of 1948, s. 24

121. Special funds may be created with the approval of the Corporation :-

With the 1[previous] approval of the Corporation, any 2[* * *]. Portion of the municipal fund may, 2 [* *] from time to time, be credited to a separate heading in the municipal accounts, provided that there shall be credited and debited to such special heading such sums only as shall expressly relate to the objects for which a special fund is so created.

1. The word "previous" was inserted by Bom. 19 of 1936, s. 9

2. Portions repealed by Bom. 3 of 1907, s. 19 are omitted.

122. Investment of surplus money :-

(1) Surplus moneys at the credit of the municipal fund which

cannot immediately or at an early date be applied to the purposes of this Act or of any loan raised thereunder may be, from time to time, deposited at interest in 2[Nationalised Bank] 3[or deposited with the State

(2) All such surplus moneys which it is necessary to keep readily available for application to such purposes, and all such surplus moneys which cannot in the opinion of the Municipal Commissioner, concurred in by 4[the Standing Committee], be favourably deposited or invested as aforesaid, may be deposited at interest at any bank or banks in the City of Bombay which 5[the Standing Committee] may, subject to the control of the Corporation, from time to time, select for the purpose.

(3) All such deposits and investments shall be made by the Commissioner on behalf of the Corporation, with the sanction of 5[the Standing Committee], and with the like sanction, the Commissioner may at any time withdraw any deposit so made or dispose of any securities and re-deposit or reinvest the money so withdrawn, or the proceeds of the disposal of such securities; but no order for making any deposit or investment, withdrawal or disposal under this section shall have any validity unless the same be in writing, signed 5[8 [by two persons] in the manner specified in sub-section (1) of section 113, for signing of cheques].

(4) The loss, if any, arising from any such deposit or investment shall be debited to the municipal fund.]

1. This section was substituted for the original section 122 by Bom. 1 of 1894, s. 5

2. These words were substituted for the words "the Bank of Bombay" by Mah. 10 of 1998, s. 66(a)

3. Sections 120 and 120A were added by Bom. 48 of 1948, s. 24

4. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 52 (w.c.f. 23-4-1999)

5. These words were substituted for the words "the Commissioner and one member of the standing committee and municipal secretary" by Bom. 32 of 1935, s. 10

8. These words were substituted for the words "by three persons" by Mah. 10 of 1998, s. 66(c)(ii)

123. Accounts to be kept in forms prescribed by 2[Standing Committee] :-

1[Subject to the provisions of Chapter XVI-A of this Act]accounts

of the receipts and expenditure of the Corporation shall be kept in such manner and in such forms as the 2[Standing Committee] shall from time to time prescribe: 3[

Provided that, the accounts of the Water and Sewage Fund and the Consolidated Water Supply and Sewage Disposal Loan Fund shall be 4 [Standing Committee].]

1. This portion was inserted by Bom. 48 of 1948, s. 25

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 53 and 54 (w.e.f. 23-4-1999)

3. This proviso was added by Mah. 34 of 1973, s. 10

4. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 53 and 54 (w.e.f. 23-4-1999)

123A. Separate Proforma Accounts To Be Kept By The Commissioner :-

(1) There shall be kept by the Commissioner under a separate heading in the municipal accounts, of all the property vested or vesting in the- Corporation and of all receipts and expenditure of the Corporation on account of the transfer to them of the powers, duties, assets and liabilities of the Board of Trustees constituted under the City of Bombay Improvement Act, 1898 or the City of Bombay Improvement Trust Transfer Act, 1925, 2[and of all property acquired by, and of all receipts and expenditure of, the Corporation for any of the purposes of Chapter XII-A.]

(2) Such accounts shall be maintained so far as may be, in such manner and in such forms as the 3[Standing Committee] shall from time to time prescribe in accordance with the rules contained in Schedule BB.

(3) The Commissioner shall publish such accounts in the 3[Official Gazette] every 5 [*] year.]

1. New section 123A was inserted by Bom. 13 of 1933, s. 30

2. These words were added by Bom. 34 of 1954. s. 6

3. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

5. The word "half" was omitted by Bom. 5 of 1938, s. 17

123B. Section 123B :-

[Separate proforma accounts in respect of the suburbs to be kept.] Deleted by Mah. I of 1964. s. 4

123C. Section 123C :-

[Provisions of section 231 B to apply imitates mutandis in respect of extended suburbs.] Deleted by Mah. 1 of 1964. s. 4

123D. Accounts In Respect Of Primary Education :-

(1) There shall be kept by the Commissioner under a separate heading in the municipal accounts, accounts of all receipts and expenditure of the Corporation for, or in connection with, the purposes of clause (q) of section 61.

(2) Such accounts shall be maintained so far as may be, in such manner and in such forms as the 2 [Education Committee] shall from time to time prescribe in accordance with the rules contained in Schedule BBA.]

1. Section 123 C was inserted by Bom. 48 of 1950, s. 54

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 55 (w.e.f. 23-4-1999)

124. Preparation of annual administration report and statement of accounts :-

1(1) [The Commissioner] shall, as soon as may be after each first day of April but not later than thirtieth day of November], have prepared a detailed report of the municipal administration of 3[Brihan Mumbai] 3[other than the administration of the 4[Brihan Mumbai] Electric Supply and Transport Undertaking]] during the previous official year, together with a statement showing the amounts of the receipts and disbursement respectively credited and debited to the municipal fund during the said year and the balance at the credit of the fund at the close of the said year.

(2) The Commissioner shall incorporate with his said report and statement-

(a) a report for the same period from each head of a department subordinate to him;

(b) the account of balance due on loans then last published under section 105; and shall cause the same to be printed;

(3) After examination and review of the said printed report and statement by the Standing Committee, there shall be added to the compilation printed copies of such of the appendices attached to the reports of the several heads of departments, if any, as the Standing Committee direct and a printed copy of the Standing Committees review; and a copy of the complete compilation shall be forwarded to the usual or last known local place of abode of each Councillor at least eight days previous to the ordinary meeting of the Corporation in the next following months of January and copies thereof shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as the Commissioner, with the previous approval of the Standing Committee, shall determine.]

1. This word was substituted for the word "The Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 56(a) (w.e.f. 23-4-1999)

2. Sub-section (2) and (3) were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 56(b) (w.e.f. 23-4-1999)

125. Estimates of expenditure and income to be prepared annually by 2[Commissioner] :-

1[The Commissioner] shall, on or before each 2[fifth day of February] have prepared and lay before 3[the Standing Committee in such form as the said committee] shall from time to time approve,-

(1)

(a) an estimate of the expenditure which must or should, in his opinion be incurred by the Corporation in the next ensuing official year, other than- 4[xxx]

(ii) expenditure to be incurred by reason of the obligations imposed on the Corporation arising out of the transfer to the Corporation of the powers, duties, assets and liabilities of the by the Board of Trustees for the Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925 6[or for any of the purposes of Chapter XII-A]; and

(iii) expenditure to be incurred on account of the 5[Brihan Mumbai Electric Supply and Transport Undertaking]

6[

(iv) expenditure to be incurred for the purposes of clause (q) of section 61;]

7[

(v) expenditure to be incurred for the purposes of Chapters IX and X]

(b) an estimates of all balances, if any (other than balances shown in the 8[accounts maintained under sections 9[123A 1[* *] and 123C] which

(c) an estimate of the Corporations receipts and income for the next ensuing official year other than from taxation 11[and from the 12[Brihan Mumbai Electric Supply and Transport Undertaking]] and other than that referred to 13[* *] in clause (c) of sub-section (2) 14[and in clause (d) of section 126] 15[and in section 126E]; 16[

(cc) an estimate of the amounts due to be transferred during the next ensuing official year to the municipal fund under the provisions of sections 460KK and 460LL;]

(d) a statement of proposals as to the taxation which it will, in his

opinion, be necessary or expedient to impose under the provisions of this Act in the next ensuing official year;

17[xxx]

(a) an estimate of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next ensuing official year by reason of the obligations imposed upon the Corporation arising out of the transfer to the Corporation of the powers, duties, assets and liabilities of the Board of Trustees for the Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925 18[or for any of the purposes of Chapter XII-A];

(b) an estimate of all balances, if any, in the account maintained under section 122A, which will be available for reappropriation or expenditure at the commencement of the next ensuing official year;

(c) an estimate of the Corporations receipts and income for the next ensuing official year-

(i) arising from sales, leases and other dispositions of immovable property vesting in the Corporation by reason of the enactment of the City of Bombay Municipal (Amendment) Act, 1933 1[or acquired by the Corporation for any of the purposes of Chapter XII-A]; and

(ii) being payments of interest on and repayments in whole or part of the capital of loans granted by the Corporation and secured on the aforesaid immovable property;

(d) an estimate of three times the amount of the net estimated realisations of the Corporation in the then current financial year under the head of general tax (including arrears and payments in advance) divided by the rate fixed for general tax for the then current financial year: 19[* * *] 20[

Provided further that, with effect from the financial year 1974-75, this sub-clause shall have effect as if for the words "three times" the word "twice" were substituted].

21 [

(e) an estimate of the Corporations receipts and income, other than receipts and income referred to in other clauses of this sub-section arising from or relating to, transaction connected with the obligations imposed upon the Corporation by the transfer to the Corporation of the powers, duties, assets and liabilities of the said Board of Trustees or with the exercise of the power and duties conferred or imposed upon the Corporation by Chapter XII-A including grants from the State Government].

1. This word was substituted for the word "The Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 57(a) and (c) (w.e.f. 23-4- 1999)
2. These words were substituted for the words " first day of March" by Mah. 21 of 1989, s. 21
3. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 57(b) (w.c.f. 23-4-1999)
4. Paragraph (i) was deleted by Mah. I of 1964, s.5(a)(i)
5. These words were substituted by Mah. 25 of 1996 (w.c.f. 4.9.96)
6. Sub-clause (iv) was inserted by Bom. 48 of 1950, s. 55(1)
7. Paragraph (v) was inserted by Mah. 34 of 1973, s. (11)(a)
8. This portion was substituted for the portion "account maintained under section 123A By Bom. 7 of 1950, s. 15(l)(b)
9. Section 125 was substituted for the original section by Bom. 13 of 1933, s. 31
11. These words were inserted by Bom. 48 of 1948, s. 27
12. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.96)
13. The portion "in clause (c) of sub-section (I A) and" was deleted by Mah. 1 of 1964, s. 5(a)(iii).
14. The portion was inserted by Bom. 48 of 1950, s. 55(3).
15. This portion was inserted by Mah. 34 of 1973, s. I l(b)
16. This clause was inserted by Bom. 48 of 1948, s. 27
17. Clause (1 A) was deleted by Mah. 1 of 1964, s. 5(b)
18. These words figures and letter were inserted by Bom. 34 of 1954, s. 7(2)(a)
19. This proviso was deleted by Mah. 10 of 1998, s. 21(c)
20. This proviso was deemed always to have been added with effect from 1st day of April, 1974 by Mah. 70 of 1975, s. 7(d)
21. Sub-clause (e) was substituted for the original by Bom. 34 of 1953, s.7(2)(c)

125A. Classification Of Budget Heads :-

The expenditure side of a budget estimate shall be classified under major heads, minor heads, subordinate heads and primary units,-

- (a) "Major Head" means the principal head of accounts corresponding to the different services under which expenditure is
- (b) "Minor Head" means the head of accounts immediately subordinate to a major head under which each major head is classified, and may be further sub-divided into two or more sub-ordinate heads;
- (c) "Subordinate Head" means the head of accounts immediately subordinate to a minor head under which each major head is classified, and may be further sub-

divided into two or more primary units;

(d) "Primary unit" means the ultimate group or groups into which individual items of expenditure in the budget estimates are arranged].

1. This section was inserted by Bom. 5 of 1938, s. 18

126. Budget estimates to be prepared by the [Standing Committee] :-

(1) The 2[Standing Committee] shall, on or as soon as may be after each 3[fifth day of February] consider the estimate and proposals of the Commissioner and after having obtained from the 4[Commissioner] such further detailed information, if any, as they shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom subject to such modifications and additions therein or thereto as they shall think fit, 5[two budget estimates] as follows:- 6[

(a) Budget Estimates "A" - of the income and expenditure other than-

(i)7[xxx]

(ii) income and expenditure to be received or incurred by reason of the transfer to the Corporation of the powers, duties, assets and liabilities of the Board of Trustees for the Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925 8[or for any of the other purposes of Chapter XX-A] 9[* * *].

(iii) income and expenditure in respect of the 10[Brihan Mumbai Electric Supply and Transport Undertaking]];

11[

(iv) income and expenditure for, or in connection with, the purposes of clause (q) of section 61];

12[

(v) income and expenditure for, or in connection with, the purposes of Chapters IX and X;

(b) Budget Estimate "B" of the income and expenditure of the Corporation for the next official year to be received and incurred by reason of the transfer to the Corporation of the said powers, duties, assets and liabilities 4[or for any of the purposes of Chapter XII-A].

13[* * * * *]-]

(2) In budget estimate "A" the 6[Standing Committee]-

(a) propose with reference to the provisions of Chapter VIII, the levy of municipal taxes at such rates, and in the case of 14[octroi] on such articles as they shall think fit.

(b) provide for the payment, as they fall due, of all sums and of all

instalments of principal and interest for which the Corporation may be liable under this Act other than sums and instalments as aforesaid (i) for which the Corporation but for the enactment of the City of Bombay Municipal (Amendment) Act, 1933, would not have been liable and (ii) for which the Corporation may be liable, in carrying out the duties imposed upon them by clause (r) of section 61, 15[and (iii) for which the Corporation may be liable by reason of the acquisition, extension, administration, operation and maintenance of the 9[Brihan Mumbai Electric Supply and Transport Undertaking];] 16[* * * 17[(v) for which the Corporation may be liable by reason of the construction or school buildings;]

(c) allow for an appropriation to budget estimate "B" of the sum estimated, revised as they shall think proper, under clause (d) of subsection (2) of section 125; 18[xxx]

(c2) allow for appropriation to budget estimate "E" of the sum estimated, revised as they shall think proper, under clause (c) of section 126C 20[and such additional sum estimated under clause (cl) of that section and revised, as they shall think proper];]

(d) allow for a cash balance at the end of the said year of not less than one lakh of rupees.

(3) In budget estimate "B" the 21[Standing Committee] shall, if necessary, make proposals to meet any deficit in such budget estimate by borrowing:

Provided that the standing committee shall not make any proposal to borrow for that purpose a sum of more than twenty lakhs of rupees, 22[xxx]

(4) The 23[Commissioner] shall cause the budget estimates, as finally approved by the 23[Standing Committee], 25[to be printed or corrected, and shall not later than the 26 [first day of March] forward a printed or corrected copy] thereof to the usual or last known local place of abode of each Councillor.

1. Section 126 was substituted for the original section by Bom. 13 of 1933, s. 32.

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 58 (w.c.f. 23-4-1999)

3. These words were substituted for the words "first day of March" by Mah. 21 of 1989, s.22(a)

4. This word was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 58 (w.e.f. 23-4-1999)

5. These words were substituted for the words "four budget estimates" by Mah. 1 of 1964, s. 6(a)(i).

6. Clause (a) was substituted for the original by Bom. 7 of 1950, s. 16(1)(b)
7. Sub-clause (i) was deleted by Mah. I of 1964, s. 6(a)(ii)
8. These words were inserted by Bom. 34 of 1954, s. 8(1)
9. The word "and" was deleted by Bom. 48 of 1950, s. 56 (1)
10. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.96)
11. Paragraph (iv) was inserted by Bom. 48 of 1950, s. 56(1)
12. Paragraph (v) was inserted by Mah. 34 of 1973, s. 12
13. Clause (b1) and (b2) were deleted by Mah. 1 of 1964, s. 6(a) (iii)
14. This word was substituted for the words "town duties" by Mah. 32 of 1964. s. 3
15. This portion was added by Bom. 4 of 1948, s. 28
16. Sub-clause (iv) was deleted by Mah. 1 of 1964, s. 6(b)(i)
17. This portion was added by Bom. 48 of 1950, s. 56(2)
18. Clause (c1) was deleted by Mah. 1 of 1964, s. 6(d)(ii)
19. Clause (c2) was inserted by Bom. 48 of 1950, s. 56(2)
20. This portion was added by Bom. 13 of 1958, s. 3
21. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 58 (w.e.f. 23-4-1999)
22. Sub-sections (3A) and (3B) were deleted by Mah. I of 1964, s. 6(c)
23. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 58, (w.e.f. 23-4-1999)
25. This portion was substituted for the portion beginning with "to be printed and ending with a printed copy" by Mah. 70 of 1975, s. 8(b).
26. These words were substituted for the words "fifteenth day of March" by Mah. 21 of 1989, s.22(b)

126A. Estimates Of Expenditure And Income Of The [Brihan Mumbai Electric Supply And Transport Undertaking] To Be Prepared Annually By [General Manager] :-

2[The General Manager shall, on or before each tenin day of October, have prepared and lay before the Brihan Mumbai Electric Supply andTransport Committee, in such form as the Committee shall from time to time, approve]-
 (a)an estimate, classified in accordance with section 125A, of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next ensuing official year on account of the 3[Brihan Mumbai Electric Supply and Transport Undertaking];

(b) an estimate of all balances, if any, which will be available for reappropriation or expenditure at the commencement of the next ensuing official year and an estimate of the amounts to be transferred to the municipal fund during the next ensuing financial year under sections 460KK and 460 LL; and

(c) an estimate of the Corporations receipts and income from the 3 [Brihan Mumbai Electric Supply and Transport Undertaking] for the next ensuing official year.]

1. Sections 126A and 126B were inserted by Bom. 48 of 1948, s. 29

2. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 59(a) (w.e.f. 23-4-1999)

3. These words were substituted by Mali. 25 of 1996 (w.e.f. 4.9.96)

126B. Budget Estimate To Be Prepared By 4[Brihan Mumbai Electric Supply And Transport Committee] :-

(1) 1[Brihan Mumbai Electric Supply and Transport Committee] shall, on or as soon as may be after each tenth day of October, consider the estimates of 5[the General Manager and, after having obtained from the General Manager] such further detailed information, if any, as it shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom, subject to such modifications and additions therein or thereto as it shall think fit, a budget estimate, to be called "budget estimate C", of the income and expenditure for the next official year to be received and incurred in respect of the Brihan Mumbai Electric Supply and Transport Undertaking.

(2) In budget estimate "C", 2[the Committee] shall- 3[(i-a) propose, subject to the provisions of the Motor Vehicles Act, 1939, 2 the Electricity (Supply) Act, 1948, and any other enactment for the 4[the Committee] bring inadequate revenue for meeting the proposed expenditure and for complying with the provisions of the next succeeding clauses of this sub-section;]

(a) provide for the payment, as they fall due, of all sums and of all instalments of principal and interest for which the Corporation may be liable under this Act by reason of the acquisition, extension, administration, operation and maintenance of the 4[Brihan Mumbai Electric Supply and Transport Undertaking];

(b) allow for the amounts to be transferred during the next ensuing official year to the municipal fund as provided in sections 460KK and 460 LL; and

(c) allow for a cash balance at the end of the said year of not less than one lakh of rupees.

(3) The General Manager shall lay budget estimate C as framed by the Brihan Mumbai Electric Supply and Transport Committee before the Standing Committee on or before each first day of December and the Standing Committee shall prepare a report of the Corporation thereon, incorporating the remarks and recommendations, if any, of the Standing Committee.

(4) The Municipal Secretary shall cause budget estimate C and the report of the Standing Committee thereon to be printed and shall, not later than the 31st day of December, forward a printed copy thereof to the usual or last known local place of abode of each Councillor.]

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 60 (a)(i) (w.e.f. 23-4-1999)

2. These words were substituted for the words "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 60 (b) (w.e.f. 23-4-1999)

3. Sections 126A and 126B were inserted by Bom. 48 of 1948, s. 29

4. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.96)

5. Sub-section (3) and (4) were inserted the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 60 (c) (w.e.f. 23-4-1999)

126C. Estimates Of Expenditure And Receipts Of Primary

Education :-

1[The Commissioner] shall on or before each 3[fifth day of February] have prepared and lay before 4[The Education Committee in such form as the committee] shall from time to time approve-

(a) an estimate, classified in accordance with section 125 A of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next official year for the purposes of clause (q) of section 61;

(b) an estimate of all balances, if any, which will be available for reappropriation of expenditure for the purposes of clause (q) of section 61 at the commencement of the next official year;

(c) an estimate of five times the amount of the net estimated realisations of the Corporation in the then financial year under the head of general tax (including arrears and payments in advance) divided by the rate fixed for general tax for the then current financial year; 5[(c-1) an estimate of the amount, if any, which should, in his opinion, be utilized by the Corporation, for the purposes of clause (q) of section 61, out of its receipts and income referred to in clause (1) of section 125, in addition to the amount referred to in clause (c);]

(d) an estimate of the receipts of the Corporation for or in connection with the purposes of clause (q) of section 61 other than those referred to in 6 [clause (c) and (c-1)].

1. Sections 126C and 126D were inserted by Bom. 48 of 1950, s. 57

3. Now see Motor Vehicles Act, 1988 (59 of 1988)

4. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.96)

5. This clause was inserted by Bom. 13 of 1958, s.4 (1)

6. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 62 (c) (w.e.f. 23-4-1999)

126D. Budget Estimate "C" To Be Prepared By 2[Education Committee :-

(1) 1[The Education Committee] shall on or as on or as soon as may be after each 2[fifth day of February] consider the estimates of 3[The Commissioner] and after having obtained 9[from the Commissioner] such further information, if any, as they shall think fit to require and having regard to all the requirements of this Act, shall frame therefrom, subject to such modifications and additions therein or thereto

(2) In budget estimate "E", 4[the Education Committee] shall-

(a) provide for payment as- they fall due of all sums and of all instalments of principal and interest for which the Corporation may be liable under this Act by reason of the construction of school buildings; and

(b) allow for a cash balance at the end of the said year of not less than twenty thousand rupees.

5[

(3) The Education Committee shall forward the budget estimate "E" as framed by them to the Standing Committee on or before each first day of March, and the Standing Committee shall prepare a report to the Corporation thereon incorporating the remarks and recommendations, if any, of the Standing Committee.]

(4) 6 [The Municipal Secretary shall forward a printed or corrected copy of budget estimate "E" together with the report of the Standing Committee thereon].

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 62 (a) (i) (w.e.f. 23-4-1999)

2. These words were substituted for the words "first day of March" by Mah. 21 of 1989, s. 24(a)

3. These words were substituted for the words "The Member-in-Charge" by the

Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 62(a)(ii) (w.e.f. 23-4-1999)

4. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 62 (b)) (w.e.f. 23-4-1999)

5 . Sub-section (3) was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 62 (c) (w.e.f. 23-4-1999)

6. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 62 (d) (w.e.f. 23-4-1999)

126E. Estimate Of Expenditure And Receipts For For The Purpose Of Chapters IX And X :-

(1) 2[The Commissioner] shall on or before each 3[fifth day of February] have prepared and lay before 4 [the Standing Committee in such form as the Committee] shall from time to time approve;-

(a) an estimate, classified in accordance with section 125 A, of the expenditure which must or should, in his opinion, be incurred by the Corporation in the next official year for the purposes of Chapters IX and X;

(b) an estimate of all balances, if any, which will be available for reappropriation or expenditure for the said purposes at the commencement of the next official year;

(c) an estimate of the Corporations receipts and expenditure for the next official year from the services under Chapters IX and X.

1. Sections 126E and 126F were inserted by Mah. 34 of 1973, s. 13

2. This word was substituted for the word "The Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 63(a) (w.e.f. 23-4-1999)

3. These words were substituted for the words "first day of March" by Mah. 21 of 1989, s. 25

4. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 64(d) (w.e.f. 23-4-1999)

126F. Budget Estimate "G" To Be Prepared By 6[The Standing Committee :-

(1) The 1[Standing Committee] shall, on or as soon as may be after the 2[fifth day of February] consider the said estimates of 3[The Commissioner]. After having obtained from 4[The Commissioner] such further information, if any, as it shall think fit to seek, and having regard to all the requirements of this Act, the 1[Standing Committee] shall frame therefrom, subject to such modifications and additions therein or thereto as it thinks fit, a budget estimate to be called budget estimate "G" of the income and expenditure for the next year to be received and incurred for purposes of Chapters IX and X.

(2) In budget estimate "G", the 6[Committee] shall propose the levy of water tax, water benefit tax, sewerage tax and sewerage benefit tax (in place of former water and halalkhor taxes) at such rates, as would in the opinion of the 1[Committee] bring in adequate revenue for meeting the expenditure and all other obligations for which the Corporation may be liable for the purposes of Chapters IX and X.

(3) The 8[Municipal Secretary] shall cause the budget estimate "G". as finally approved by 9[the Standing Committee], 10[to be printed or corrected and shall, not later than the 4 [first day of March], forward a

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 64(a) (w.e.f. 23-4-1999)

2. These words were substituted for the words "first day of March" by Mah. 21 of 1989. s. 26(a)

3. This word was substituted for the word "the Member-in-Charge" by the Mumbai

Municipal Corporation (Amendment) Act 27 of 1999, s. 63(b) (w.e.f. 23-4-1999)

4. These words were substituted for the words "fifteenth day of March" by Mah. 21 of 1989, s.26(b)

6 . These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 64(b) (w.e.f. 23-4-1999)

8. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 64(c)(i) (w.e.f. 23-4-1999)

9. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 64(c)(ii) (w.e.f. 23-4-1999)

10. This portion was substituted for the portion beginning with "to be printed" an ending with "a printed copy" by Mah. 70 of 1975, s. 12(b)

126G. Report On Services Provided In A Subsidised Manner

:-

(1) Notwithstanding anything contained in this Chapter, 2[the Commissioner or as the case may be, the General Manager, shall, while submitting the budget estimates to the Standing Committee or the BrihanMumbai Electric Supply and Transport Committee] append thereto a report indicating whether the following services are being provided in a subsidized manner and, if so, the extent of the subsidy, the source from which the subsidy was met and the sections or categories of the local population who were the beneficiaries of such subsidy, namely:-

- (a) water supply and disposal of sewage,
- (b) scavenging, transporting and disposal of wastes,
- (c) municipal transport, and
- (d) street lighting.

Explanation:- A service shall be construed as being provided in a subsidised manner if its total cost, comprising the expenditure on operations and maintenance and adequate provision for depreciation of assets and for debt servicing, exceeds the income relatable to the rendering of that service.

3 [

(2) The Standing Committee or, as the case may be the Brihan Mumbai Electric Supply and Transport Committee, shall examine the report and place it before the Corporation, with its recommendations, if any.]

1. Section 126G was inserted by Mah.41 of 1994, s.40.

2. These words were substituted by the Mumbai Municipal Corporation (Amendment)Act 27 of 1999s.65(a).

3 . Sub-section (2) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 65(b) (w.e.f. 23-4-1999)

127. Consideration of budget estimates by Corporation :-

(1) At a meeting of a Corporation which shall be called for some day 2[in March , 3[not later than the tenth] the 4[Budget Estimates A B and C prepared by the Standing Committee, as also Budget

5[

(2) At a meeting of the Corporation which shall be called for some day in January, not later than the tenth, the budget estimate C prepared by the 6 [Brihan Mumbai Electric Supply and Committee with the report of the Standing Committee thereon] shall be laid

before the Corporation and they shall proceed to consider the same.

1. Section 127 renumbered as sub-section (1) and sub-section (2) was inserted by Mah. 70 of 1975, s. 13(1)
2. These words were substituted for the words "in January, not later than the tenth" by Mah. 70 of 1975, s. 13(2)(a)
3. These words were substituted for the words "not later than the twentieth" by Mah. 21 of 1989, s. 27
4. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 66 (a) (w.e.f. 23-4-1999)
5. Section 127 renumbered as sub-section (1) and sub-section (2) was inserted by Mah. 70 of 1975, s. 13(1)
6. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 66 (b) (w.e.f. 23-4-1999)

128. Fixing rates, of municipal taxes and of fares and charges of 10[Brihan Mumbai Electric Supply and Transport Undertaking] :-

(1) The Corporation shall, on or before the 1[twentieth day of March] after considering the 2 [Standing Committee] proposals in this behalf,-

(a) determine, subject to the limitations and conditions prescribed in Chapter VIII, the rates at which municipal taxes shall be levied, and the articles on which octroi shall be levied, in the next ensuing official year; and

(b) approve, subject to the limitations and conditions which may have been prescribed by or under any of the enactments to any licence referred to in clause (la) of sub-section (2) of section 126B, the rates at which the fares and charges in respect of the 6[Brihan Mumbai Electric Supply and Transport Undertaking] shall be levied.

(2) Except under sections 134, 196, 460H and 460I, the rates so fixed and the articles so appointed shall not be subsequently altered for the year for which they have been fixed].

1. These words were substituted by Mah. 25 of 1996, w.e.f. 4.9.1996

2. These words were substituted for the words "twenty-fifth day of March" by Mah. 21 of 1989, s. 28

129. Final adoption of budget estimates :-

Subject to the requirements of sub-section (1) of section 128, the Corporation may refer 2[Budget Estimate "A" or Budget Estimate "B" or Budget Estimate "E" or all or any of those estimates back to the Standing Committee and Budget Estimate "C" back to the Brihan Mumbai Electric Supply and Transport Committee and Budget Estimate "E" back to the Education Committee] for further consideration, or adopt the budget estimates or any revised budget estimates submitted to them as they stand or subject to such alteration as they deem expedient:

Provided that the budget estimates finally adopted by the Corporation shall fully provide for each of the matters specified in clauses (b), (c) and (d) of sub-section (2) 3[of section 126] and for each of the matters specified in sub-section (3) of section 126B 4[and clauses (a) and (b) of sub-section (2) of section 126D] 5 [and sub-section (2) of section 126F], as the case may be.]

1. This section was substituted for the original by Bom. 48 of 1948, s. 31
2. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 68 (w.e.f. 23-4-1999)
3. These words and figures were substituted for the portion beginning with "and clauses (a) and (b) of sub-section (3A)" and ending with "said section 126" by Mah. 1 of 1964, s. 8(b)
4. This portion was inserted by Bom. 48 of 1950, s. 59(2)
5. This portion was inserted by Mah. 34 of 1973, s. 15(b)

130. Budget grant defined :-

The total sum entered under a major head on the expenditure side, which has been adopted by the Corporation, shall be termed a "budget grant".]

1. This section was substituted for the original by Bom. 5 of 1938, s. 19

131. Corporation may increase amount of budget grants and make additional grants :-

(1) On the recommendation of the 2[Standing Committee in case of expenditure from the municipal fund for purposes other than clause (q) of section 61 and the Brihan Mumbai Electric Supply and Transport Committee in case of expenditure from the Brihan Mumbai Electric Supply and Transport Fund, the Corporation may] from time to time during an official year increase the amount of any budget grant, or make an additional budget grant for the purpose

of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year shall be reduced below one lakh of rupees in the case of either the municipal fund of the 3[Brihan Mumbai Electric Supply and Transport Fund]] 4[* * ****-] 5[6[Provided that] in the case of expenditure from municipal fund for purposes of clause (q) of section 61 the estimated cash balance at the

(2) Such increased or additional budget grants shall be deemed to be included in the 7 [budget estimates] adopted by the Corporation for the year in which they are made.

1. This sub-section was substituted for the original by Bom. 48 of 1948, s. 32

2. This portion was substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 69 (w.e.f. 23-4-1999)

3. these words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

4. The first proviso was deleted by Mah. 1 of 1964, s. 9(a)

5. This proviso was added by Bom. 48 of 1950, s. 60(2)

6 . These words and figures were substituted for the portion beginning with "and clauses (a) and (b) of sub-section (3A)" and ending with "said section 126" by Mah. 1 of 1964, s. 8(b)

7. The words "budget estimates" were substituted for the original by Bom. 13 of 1933, s. 33

132. Rules as to unexpended budget grants :-

. . 1[If the whole budget grant or any portion thereof] remains unexpended at the close of the year in the 1[budget estimates] for which such grant was included, and if the amount thereof has not been taken into account in the opening balance of the municipal fund 3[or the 4[Brihan Mumbai Electric Supply and Transport Fund], as the case may be], entered in the 1[budget estimates] of 6[any of the next two following years], 7 [the Standing Committee or the Education Committee or the Brihan Mumbai Electric Supply and Transport Committee as the case may be] may sanction the expenditure of such budget grant or such unexpended portion thereof, as the case may be, during the next two following years for the completion, according to the original intention or sanction, of the purpose or object for which the budget grant was made, but not upon any other purpose or object.

1. These words were substituted for the original by Bom. 76 of 1948, s. 17

3. These words were inserted by Bom. 48 of 1948, s.33
4. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)
6. These words were substituted for the original by Bom. 76 of 1948, s. 17
7. These words were substituted by the Mumbai Corporation (Amendment) Act 27 of 1999. s. 70 (w.c.f. 23-4-1999)

133. Reduction or transfer :-

. 1[. Reductions in, and transfers from, a budget grant shall be made as under:-

(a) Subject to the provisions of sub-section (1) of section 131, on the recommendations of 2[the Standing Committee], the Corporation may, from time to time during an official year, sanction the transfer of any amount exceeding 3[twenty lakh rupees] from one budget grant to another budget grant.

(b) 4[The Standing Committee] may at any time during an official year-

(i) reduce the amount of a budget grant;

(ii) sanction the transfer of any amount, not exceeding fifteen thousand rupees, from one budget grant to another budget grant:

(iii) 1[xxx]

(c) The Commissioner may, at any time during an official year sanction the transfer of any amount not exceeding five thousand rupees within the budget grant if such transfer does not involve a recurring liability:

Provided that, every transfer of an amount exceeding one thousand rupees made under this clause shall be reported forthwith by the Commissioner to the Standing Committee and the Committee may pass with regard thereto such order as they may think fit, and it shall be incumbent on the Commissioner to give effect to such order].

(d) When making any transfer under clause (a), (b) or (c), due regard shall be had to all the requirements of this Act.

(e) If any such reduction as is referred to in sub-clause (i) of clause (b) is of an amount exceeding 6[five lakh rupees], the Corporation may pass with regard thereto such order as they may think fit; and it shall be incumbent on 7[the Standing Committee] and the Commissioner to give effect to such order.

8[

(f) In case of expenditure for the purposes of clause (q) of section

6 1 the provisions of this section shall apply as if for the words "Standing Committee" the words "Education Committee" had been substituted.]

9 [

(g) For the purposes of expenditure from the Brihan Mumbai Electric Supply and Transport Fund, the provisions of this section shall apply as if for the words "Standing Committee" and "Commissioner" the words "Brihan Mumbai Electric Supply and Transport Committee" and "General Manager" respectively, had been substituted].

1. Section 133 was substituted by Mah. 39 of 1961, s. 10

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 71 (a) (w.e.f. 23-4-1999)

3. These words were substituted for the words "fifteen thousand rupees" by Mah. Id of 1998, s. 85(b)

4. Sub-section (c) was substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 7 l(b) (w.e.f. 23-4-1999)

6. These words were substituted for the words "five hundred rupees" by Mah. 10 of 1998. s. 85(e).

7 . These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 7l(a) (w.e.f. 23-4-1999)

8. Clause (0 was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 71(c) (w.e.f. 23-4-1999)

9. Clause (g) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 71(d) (w.e.f. 23-4-1999)

134. Readjustment of income and expenditure to be made by the Corporation during course of official year whenever necessary :-

. 1[.

(1) If it shall at any time during any official year appear to the Corporation, upon the representation of 2[the Standing Committee or the Brihan Mumbai Electric Supply and Transport Committee, that, notwithstanding any reduction of budget grants that may have been made by the appropriate committee] under section 133, the income of the municipal fund or the 3[Brihan Mumbai Electric Supply and Transport Fund], as the case may be, during the said year will not suffice to meet the expenditure sanctioned in the budget estimates of the said year as so reduced and to leave at the

close of the year a cash balance of not less than one lakh of rupees in the case of either the municipal fund or the 4[Brihan Mumbai Electric Supply and Transport Fund], it shall be incumbent on the Corporation to sanction forthwith any measure which shall be necessary for proportioning the years income to the expenditure. 4 [xxx]

(2) For this purpose the Corporation may diminish the sanctioned expenditure of the year, so far as it may be possible so to do with due regard to the provisions of this Act or to the obligation pertaining to the 6[Brihan Mumbai Electric Supply and Transport Undertaking], or have recourse to supplementary taxation or a revision of fares and charges levied in respect of the 7[Brihan Mumbai Electric Supply and Transport Undertaking], as the case may be] 7[or, with the previous sanction of the State Government and subject to such terms and conditions (if any) as the Corporation may deem fit to impose, transfer the whole or any portion of surplus cash balance from any budget estimate to any other budget estimate as an additional grant to make good any deficit which has arisen

1. This section was substituted for the original by Bom. 48 of 1948, s. 35

2. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 72 (w.c.f. 23-4-1999)

3. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

4. The proviso was deleted by Mah. I of 1994, s. 10

135. 2[Monthly] scrutiny of accounts by municipal chief auditor and scrutiny of account by [Standing Committee], chief auditor :-

(1) The Municipal Chief Auditor shall conduct a monthly examination and audit of the municipal accounts and shall report thereon to the Standing Committee who shall publish, monthly, an abstract of the receipts and expenditure of the month last preceding, signed by not less than two members of the said Committee and by the Municipal Chief Auditor. The Standing Committee may also from time to time and for such period as they think fit conduct independently an examination and audit of the Municipal account.]

(2) For these purposes 3[the Standing Committee] and the municipal chief auditor shall have access to all the municipal

accounts and to all records and correspondence relating thereto, and 4[the Commissioner] shall forthwith furnish to 5 [the Standing Committee] or the municipal chief auditor any explanation concerning receipts and disbursements which they may call for.]

1. Section 135 was substituted for the original by Bom. 2 of 1938, s.7

2. Sub-section (1) was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 73(a) (w.e.f. 23-4-1999)

3. These words were substituted for the words "the Municipal Accounts Committee" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 73(b)(i) (w.e.f. 23-4-1999)

4. These words were substituted for the words "the Member-in-charge " by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 73(b)(ii) (w.e.f. 23-4-1999)

5. These words were substituted for the words "the Municipal Accounts Committee" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 73(b)(i) (w.e.f. 23-4-1999)

136. Duties and powers of the municipal chief auditor :-

The municipal chief auditor in addition to any other duties or powers imposed or conferred upon him under this Act shall perform the duties and may exercise the powers specified in Schedule EE.

1. Section 136 and 137 was substituted for the original by Bom. 2 of 1938, s.7.

137. Report by the municipal chief auditor :-

(1) The municipal chief auditor shall-

(a) report to 1[the Standing Committee]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 municipal accounts;

(b) furnish to 1[the Standing Committee] such information as the said committee shall from time to time require concerning the progress of the audit.

(2) 2[The Standing Committee] shall cause to be laid before the Corporation every report made by the municipal chief auditor to 3[the Standing Committee] and every statement of the views of the municipal chief auditor on any matter affecting the pursuance and exercise of the duties and powers assigned to him under this Act which the municipal chief auditor may require to 3[the Standing

Committee] to place before the Corporation, together with a report stating what orders have been passed by 3[the Standing Committee] upon such report or statement, and the Corporation may take such action in regard to the matters aforesaid as the Corporation may deem necessary.

(3) As soon as may be after the commencement of each official year the municipal chief auditor shall deliver to 6[the Standing Committee] a report upon the whole of the municipal accounts for the previous official year.

(4) The 7 [Commissioner] shall cause the said report to be printed and forward a printed copy thereof along with the printed copy of the Administration Report and Statement of Accounts which he is required by sub-section (3) of section 124 to forward to each councilor.]

1. These words were substituted for the words "the Municipal Accounts Committee" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 74(a)(ii) (w.e.f. 23-4-1999)

2. These words were substituted for the words "the Municipal Accounts Committee" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 74 (b) (w.e.f. 23-4-1999)

3. This section was inserted by Bom. 4 of 1948, s. 36

6 . These words were substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 74(c) (w.e.f. 23-4-1999)

7. This words were substituted for the words " Member-in-Charge" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 74(d) (w.e.f. 23-4-1999)

137A. Application Of Sections 135, 136 And 137 To Accounts Of The "[Brihan Mumbai Electric supply And Transport Fund :-

Sections 135, 136 and 137 shall apply to accounts of the 2[Brihan Mumbai Electric Supply and Transport Fund] as if - 3 [

(i) for the words "Standing Committee", wherever, they occur, the words "Brihan Mumbai Electric Supply and Transport Committee" and for the word "Commissioner", wherever it occurs, the words "General Manager" had been substituted, and]

(ii) for the words, brackets and figures "sub-section (3) of section 124" in sub-section (4) of section 137, the words, brackets, figures and letters "sub-section (2) of section 460NN has been substituted.]

1. This section was inserted by Bom. 4 of 1948, s. 36

2. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

3. Clause (i) was inserted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 75 (w.e.f. 23-4-1999)

138. A special audit maybe directed by 3[State]

Government :-

(1) The 2[State] Government may at any time appoint an auditor for the purpose of making a special audit of the municipal accounts, including the accounts of the 3[Brihan Mumbai Electric Supply and Transport Undertaking], and of reporting thereon to the 4[State] Government and the costs of any such audit as determined by the 4[State] Government shall be chargeable to the municipal fund or to the 6[Brihan Mumbai Electric Supply and Transport Fund], as the case may be,]

(2) An auditor so appointed may exercise any power which the 7 [municipal chief auditor] may exercise.

1. This sub-section were substituted for the original by Bom. 48 of 1948, s.37

2 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

3. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

4. This entry was inserted by Bom. 44 of 1950, s. 63

6. The figures and words repealed by Bom. 7 of 1921, s. 4 are omitted and the repeal shall have effect from 1st April, 1920.

7 . These words were substituted for the words "an auditor appointed by the Corporation" by Bom. 2 of 1938, s. 8

CHAPTER 8

Municipal Taxation Municipal Taxes defined

139. Taxes to be imposed under this Act :-

For the purpose of this Act, taxations shall be imposed as follows, namely:-

(1) property taxes;

(2) a tax on vehicles and animals;

1[

(3) a theatre tax;] 2[* * *];and

3[

(4) octroi;] 4 [

Provided that no tax shall be levied on motor vehicles save as provided in section 20 of the Bombay Motor Vehicles Tax Act, 1958.]

1. This entry was inserted by Bom. 44 of 1950, s. 63

2. The figures and words repealed by Bom. 7 of 1921, s. 4 are omitted and the repeal shall have effect from 1st April, 1920.

3. This entry was substituted by Mah. 32 of 1964, s. 6

4. this proviso was added by Bom. 65 of 1958, s.25. Third Schedule.

140. Property taxes of what to consist and at what rate leviable :-

(1) The following taxes shall be levied on buildings and lands in 2[Brihan Mumbai] and shall be called "property taxes," namely:-

(a) (i) the water tax of so many per centum of their rateable value, as the 4[Standing Committee] may consider necessary for providing water supply;

(ii) an additional water tax which shall be called "the water benefit tax" of so many per centum of their rateable value, as the 3[Standing Committee] may consider necessary for meeting the whole or part of the expenditure incurred or to be incurred on capital works for making and improving the facilities of water supply and for maintaining and operating such works; 3[Provided that all or any of the property taxes may be imposed on a graduated scale.]

(b) (i) the sewerage tax of so many per centum of their rateable value, as the 3[Standing Committee] may consider necessary for collection, removal and disposal of human waste and other wastes;

(ii) an additional sewerage tax which shall be called the "sewerage benefit tax" of so many per centum of their rateable value, as the 3[Standing Committee] may consider necessary for meeting the whole or a part of the expenditure incurred or to be incurred on capital works for making and improving facilities for the collection, removal and disposal of human waste and other wastes and for maintaining and operating such works;]

(c) a general tax of not less than eight and not more than 9[fifty] per centum of their rateable value, together with not less than one-eighth and 10[not more than five per centum] of their rateable value added thereto in order to provide for the expense necessary for fulfilling the duties of the Corporation arising under clause (k) of section 61 of Chapter XIV; 11[

(ca) the education cess leviable under section 1959;] 12[the street tax leviable under section 195G.]

(b) betterment charges leviable under Chapter XII-A] 14[

Explanation:- For the purposes of this sub-section, the expression "building" includes a flat, gala, a unit or any portion of the building.]

(2) Any reference in this Act or in any instrument to a water tax or a halalkhor tax shall after the commencement of the Bombay Municipal Corporation (Amendment) Ordinance, 1973, be construed as a reference to the water tax or water benefit tax or both, or the sewerage tax or the sewerage benefit tax, or both as the context may require.]

1. Section 140 was renumbered as sub-section (1) and clauses (a) and (b) were substituted by Mah. 34 of 1973, s. 16(1)
2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)
3. This proviso was added by Mah. 41 of 1994, s. 41
4. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 76 (w.e.f. 23-4-1999)
9. This word were substituted for the word "twenty-six" by Mah. 20 of 1995 (w.e.f. 31.8.1995)
10. These words were substituted for the words "not more than two per centum" by Mah. 20 of 1995 (w.e.f. 31.8.1995)
11. This clause was inserted by Bom. 13 of 1958, s. 5
12. Clause (cb) was inserted by Mah. 33 of 1989, s. 9
13. This was added by Bom. 34 of 1954, s. 9
14. This explanation was added by Mah. 10 of 1998, s. 90(b)
15. Sub-section (2) was added by Mah. 34 of 1973, s. 16(2)

141. Water taxes on what premises to be levied :-

(1)] Subject to the provisions of section 169, the water shall be levied only in respect of premises-

(a) to which a private water supply is furnished from or which are connected by means of communication pipes with, any municipal water works; or

(b) which are situated in a portion of 2 [Brihan Mumbai] in which the Commissioner has given public notice that sufficient water is available from the municipal water works for furnishing a reasonable supply to all the premises in the said portion.

[

(2) Subject to the provision of section 169, the water benefit tax shall be levied in respect of all premises situated in 4[Brihan Mumbai].]

1. Section 141 was renumbered as sub-section (1) and sub-section (2) was added by Mah. 34 of 1973, s. 17(1)
2. These words were substituted for the words "Greater Bombay"

by Mah. 25 of 1996 (w.e.f. 4.9.96)

142. [Sewerage taxes on what premises to be levied :-

(1) 1[Subject to the provisions of section 170, the sewerage tax] shall be levied only in respect of premises-

(a) situated in any portion of 2[Brihan Mumbai] in which public notice has been given by the Commissioner that the collection, removal and disposal of all excrementitious and polluted matter from preview, urinals and cesspools, will be undertaken by municipal agency; or

(b) in which wherever situated, there is a privy, water-closets, cesspool, urinal, bathing place or cooking place connected by a drain with a municipal drain.

(2) Provided that the said tax shall not be levied in respect of any premises situated in any portion of 2[Brihan Mumbai] specified in clause (a), in or upon which, in the opinion of the Commissioner, no such matter as aforesaid accumulates or is deposited.

(3) If the Commissioner directs, under sub-section (2) 4[or (3)] of section 248, that a separate water-closet, privy or urinal need to be required for any premises 5[the sewerage tax] shall nevertheless be levied in respect of the said premises, if but for such direction the same should be leviable in respect thereof.

6[

(4) Subject to the provisions of section 170, the sewerage benefit tax shall be levied in respect of all premises situated in 7 [Brihan Mumbai]

1. These words were substituted for the words "The Halalkhor tax" by Mah. 34 of 1973, s. 18(a)

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

4. The word, brackets and figure "or (3)" were inserted by Bom. 2 of 1911, s. 5

5. These words were substituted for the words "the Halalkhor tax" by Mah. 34 of 1973, s. 18(b)

6. Sub-section (4) was added by Mah. 34 of 1973, s. 18(c)

7. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

143. General tax on what premises to be levied :-

.

(1) The general tax shall be levied in respect of all buildings and

lands in 1[Greater Bombay] except- 2[

(a) buildings and lands or portions thereof exclusively occupied for public worship or for charitable purposes;]

(b) buildings and lands vesting in 3[Brihan Mumbai] 4[used solely for public purposes and not used or intended to be used for purposes of profit] or in the Corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the 5[Government] or, the Corporation, respectively;

6[

(c) such buildings and lands belonging to any Diplomatic or Consular Mission of a foreign State as Government may by general or special order specify in this behalf.]

(2) The following buildings 7[and lands or portions thereof] shall not be deemed to be 8[* * *] exclusively occupied for public worship or for charitable purposes within the meaning of clause (a), namely :-

(c) 9[those] in which any trade or business is carried on; and

(d) 8[those] in respect of which rent is derived whether such rent is or is not applied exclusively to religious or charitable purposes.

(3) Where any portion of any building or land is exempt from the general tax by reason of its being exclusively occupied for public worship or for charitable purposes, such portion shall be deemed to be a separate property for the purpose of municipal taxation.]

1. These words were substituted for the words "the City" by Bom. 7 of 1950, s. 6(i)

2. This clause was substituted for the original by Bom. 2 of 1911, s. 6(1)

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

4. These words were inserted by Bom. 2 of 1911, s. 6(2)(a)

5. The words "Government" was substituted for the word "Crown" by the Adaptation of Laws Order, 1950

6. Clause (c) was deemed always to have been inserted by Mah. 6 of 1970, s. 2, with effect from 1 st day of April, 1967

7. These words were inserted by Bom. 2 of 1911, s. 6(2)(a)

8. Portion repealed by Bom. 2 of 1911, s. 6(2)(b)

9. The word "those" was substituted for the word "buildings" by Bom. 2 of 1911. s. 6(2)(c)

11. This sub-section was added by Bom. 2 of 1911, s. 6(3)

144. Payment to be made to the Corporation in lieu of the

**general tax by the Central Government; or2[* * *]the
6[State] Government, as the case may be :-**

(1) The 1[Central Government 2[xxx] or the 3[State] Government, as the case may be,] shall pay to the Corporation annually, in lieu of the general tax from which buildings and lands vesting 4[Government] are exempted by clause (b) of section 143, a sum ascertained in the manner provided in sub-sections (2) and (3).

(2) The rateable value of the buildings and lands in 5[Brihan Mumbai] vesting in 2[Government] and beneficially occupied, in respect of which but for the said exemption, general tax would be leviable from [Central Government [xxx] or the 7[State] Government, as the case may be,] shall be fixed by a person from time to time appointed in this behalf by the [State] 6[Government] with the concurrence of the Corporation. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valuation of property assessable to property taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the mean time the number or extent of the buildings and lands vesting in 9[Government] in 7[Brihan Mumbai] materially increases or decreases.

(3) The sum to be paid annually to the Corporation by the 11 [Central Government [* * * * *] or the [State] Government, as the case may be,] shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings or lands in [Brihan Mumbai], on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).

1. The words "Central Government, or the Crown Representative, or the Provincial Government, as the case may be", were substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

2. The words "or the Crown Representative" were deleted by the India (Adaptation of Existing Indian Laws) Order, 1947.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

4. The words "Provincial Government" were substituted for the words "Governor-in- council- by the Adaptation of Indian Laws Order in Council.

5. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996. (w.e.f. 4.9.1996)

7. The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
9. The word was substituted for the original by the Adaptation of Laws Order, 1950
11. This proviso was added by Bom. 28 of 1957, s. 5(1)

144A. Concession In General Tax On Newly Constructed Small Tenements :-

(1) Notwithstanding anything contained in section 140, the general tax leviable in respect of any building used for residential purposes-

(a) completed, or first let out or occupied on or after the 1st day of April, 1956; and

(b) consisting exclusively of tenements the annual rent of each of which tenements determined as provided in sub-section (1) of section 154, does not exceed rupees twelve hundred or such lower sum as may be generally determined by the Corporation, 1 This word "Government" was substituted for the original words by the Adaptation of Laws Order, 1950. 2 These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996) 3 The "Central Government, or the Crown Representative, or the Provincial Government, as the case may be", were substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council. 4 The words "or the Crown Representative" were deleted by the India (Adaptation of Existing Indian Laws) Order, 1950. 5 This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950 6 This section was inserted by Bom. 28 of 1957, s. 4 shall, where an application is made to the Commissioner in that behalf and for the period specified in sub-section (2), be-

(i) if such building is owned by or belongs to a co-operative society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, seven-tenths of the amount leviable under section 140 in respect of any other building excepting those referred to in section 143;

(ii) if such building is owned by or belongs to any other person, eight-tenths of such amount.

(a) If any such building was completed, or first let out or occupied on or before the date of commencement of the Bombay Municipal Corporation (Amendment) Act, 1957, concession in general tax under this section shall be available for the period counted from the said date of commencement up to the 1st day of April, 1966.

(b) In all other cases, concession in general tax under this section shall be available for the period of ten years counted from the date on which any such building shall be completed, first let out or occupied, whichever shall be the earliest.

Explanation:- For the purposes of this section, a building shall be deemed to be completed on the date on which the permission for its occupation or use is given or is deemed to be given under section 353-A.]

145. Amendment of section 36, Bombay Act VI of 1879 :-

For section 36 of the Bombay Port Trust Act, 1879, the following section shall be substituted, namely. - See Supra

146. Primary responsibility for property taxes on whom to rest :-

(1) Property taxes shall be leviable primarily from the actual occupier of the premises upon which the said taxes are assessed, if such occupier holds the said premises immediately from 1[the 2[Government]] or from the Corporation or from a fazendar. 3[Provided that the property taxes due in respect of any premises owned by or vested in the Government and occupied by a government servant or any other person on behalf of the government for residential

(2) Otherwise the said taxes shall be primarily leviable as follows, namely:-

(a) if the premises are let. from the lessor;

(b) if the premises are sublet, from the superior lessor; and

(c) if the premises are unlet, from the person in whom the right to let the same vests.

(3) But if any land has been let for any term exceeding one year to a tenant, and such tenant or any person deriving title howsoever from such tenant has built upon the land, the property taxes assessed upon the said land and upon the building erected thereon shall be leviable primarily from the said tenant or such person, whether or not the premises be in the occupation of the said tenant or such person.]

1. The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

2. The word was substituted for the original by the Adaptation of Laws Order, 1950

3. This proviso was added by Bom. 28 of 1957, s. 5(1)

4. This sub-section was substituted for the original by Bom. 28 of 1957. s.5(2)

147. Apportionment of responsibility for property tax when the premises assessed are let or sublet :-

(1) If any premises assessed to any property tax are let, and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provision of the last preceding section, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the property tax levied from him, and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(2) If the premises are sublet and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-

tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under this section from such tenant or sub-tenant and the amount of property tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(3) Any person entitled to receive any sum under this section shall have, for the 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 receive the same.

148. Person primarily liable for property tax entitled to credit, if he is a rent payer :-

If any person who is primarily liable for the payment of any property tax himself pays rent to another other than 1[the 2 [Government]] or the Corporation in respect of the premises upon which such tax is assessed, he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said tax if the amount of the rent payable by him where the rateable value of the said premises.

1. The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
2. The word was substituted for the original by the Adaptation of Laws Order, 1950

149. Notice to be given to the Commissioner of all transfers of title of persons primarily liable to payment of property tax :-

(1) Whenever the title of any person primarily liable for the payment of property taxes on any premises to or over such premises is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall, within three months after execution of the instrument of transfers, or after its registration, if it be

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give notice of such transfer

to Commissioner within one year from the death of the deceased.

150. Form of notice :-

(1) The notice to be given under the last preceding section shall be in the form either of Schedule E or Schedule F, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the Commissioner may, if he thinks it necessary require the production of the instrument of transfer, if any, or of a copy thereof obtained under section 57 of the Indian Registration Act, 1 1877.

1. See now the Indian Registration Act, 1908 (16 of 1908)

151. Liability payment property taxes to continue in the absence of any notice of transfer :-

(1) Every person primarily liable for the payment of a property tax on any premises who transfers his title to or over such premises without giving notice of such transfer to the Commissioner as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all property taxes from time to time payable in respect of the said premises until he gives such notice, or until the transfer shall have been recorded in the Commissioners books.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said property taxes, or to affect the prior claim of the Commissioner on the premises conferred by section 212, for the recovery of the property taxes due thereupon.

152. Notice to be given to the Commissioner of the erection of a new building etc. :-

(1) When any new building is erected, or when any building is rebuilt or enlarged, or when any building which has been vacant is reoccupied. the person primarily liable for the property taxes assessed on the building shall within fifteen days give notice thereof, in writing, to the Commissioner.

(2) The said period of fifteen days shall be counted from the date of the completion or of the occupation whichever first occurs, of the building which has been newly erected or rebuilt, or of the enlargement, as the case may be, and in the case of a building which has been vacant, from the date of the reoccupation thereof.

153. Notice to be given to the Commissioner of demolition or removal of a building :-

(1) When any building or any portion of a building, which is liable to the payment of a property tax, is demolished or removed, otherwise than by order of the Commissioner, the person primarily liable for the payment of the said tax shall give notice thereof, in writing, to the commissioner.

(2) Until such notice is given the person aforesaid shall continue liable to pay every such property tax as he would have been liable to pay in respect of such building if the same, or any portion thereof, had not been demolished or removed :

1 [

(3) Provided that nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.]

1. This sub-section was added by Bom 8 of 1918, s. 3

154. Rateable value how to be determined :-

(1) In order to fix the rateable value of any building or land assessable to a property tax, there shall be deducted from the amount of the annual rent for which such land or building might reasonably be expected to let from year to year a sum equal to ten per centum of the said annual rent and the said deduction shall be in lieu of all allowances for repairs or on any other account whatever.

(2) The value of any machinery contained or situated in or upon any building or land shall not be included in the rateable value of such building or land.

1 [

(3) Notwithstanding anything contained in this section, the rateable value in the case of a building -

(a) owned by or belonging to the Government or the Bombay Housing Board constituted under the Bombay Housing Board Act, 1948, or other similar body constituted by any law for the time being in force for the purpose of providing housing accommodation;

(b) constructed, purchased or occupied on or after the 1st day of April 1947 as part of a recognised scheme of subsidised housing for industrial workers or persons belonging to lower income groups or poorer classes; and

(c) comprising in part or in whole of tenements let out to such

workers or persons on a monthly rent, inclusive of all service and other charges not exceeding rupees thirty-two and fifty naye paise for each such tenement shall be fixed--

- (i) with respect to such tenements comprised therein, with retrospective effect from the date of their construction, purchase or occupation as stated in clause (b), on the actual rent charged for such tenements and not on the rent, for which such tenements might reasonably be expected to let from year to year less a deduction of ten per centum of the said annual actual rent in lieu of all allowances for repairs or on any other account whatsoever; and
- (ii) with respect to the remaining portions, if any, of such building, on the basis of the provisions of sub-sections (1) and (2).

Explanation:- For the purpose of this sub-section, "recognised scheme of subsidised housing for industrial workers or persons belonging to lower income groups or poorer classes" shall mean such scheme as may be recognised by the State Government from time to time in this behalf, after consultation with the Corporation.]

1. This portion was inserted by Bom. 28 of 1957, s. 6

155. Commissioner may call for information or returns from owner or occupier or enter and inspect assessable premises :-

(1) To enable him to determine the rateable value of any building or land and the person primarily liable for the payment of any property tax leviable in respect thereof the Commissioner may require the owner or occupier of such building or land, or of any portion thereof, to furnish him, within such reasonable period as the Commissioner prescribes in this behalf, with information or with a written return signed by such owner or occupier -

(a) as to the name and place of abode of the owner or occupier, or of both the owner and occupier of such building or land; and

(b) as to the dimensions of such building or land, or of any portion thereof, and the rent, if any, obtained for such building, or land, or any portion thereof.

(2) Every owner or occupier on whom any such requisitions made shall be bound to comply with the same and to give true information or to make a true return to the best of his knowledge or belief.

(3) The Commissioner may also for the purpose aforesaid make an inspection of any such building or land.

156. Assessment book what to contain :-

The Commissioner shall keep a book, to be called "the assessment book" in which it shall be entered every official year -

- (a) a list of all buildings and lands in 1[Brihan Mumbai] distinguishing each either by name or number, as he shall think fit;
- (b) the rateable value of each such building and land determined in accordance with the foregoing provisions of this Act;
- (c) the name of the person primarily liable for the payment of the property taxes, if any, leviable on each such building or land;
- (d) if any such building or land is not liable to be assessed to the general tax, the reason of such non-liability;
- (e) when the rates of the property taxes to be levied for the year have been duly fixed by the corporation and the period fixed by public notice, as hereinafter provided, for the receipt of complaints against the amount of rateable value entered in any portion of the assessment book, has expired, and in the case of any such entry which is complained against, when such complaint has been disposed of in accordance with the provisions hereinafter contained, the amount at which each building or land entered in such portion of the assessment book is assessed to each of the property taxes, if any, leviable thereon;

2 [

- (f) if under section 169, a charge is made for water supplied to any buildings or land by measurement or the water taxes or charges for water by measurement are compounded for, or if, under section 170, the sewerage taxes or sewerage charges for any building or land are fixed at a

(g) such other details, if any, as the Commissioner from time to time thinks fit to direct.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

2. Clause (0 was substituted by Mah. 34 of 1973 s. 19.

157. The assessment book to be made separately for each ward and in parts, if necessary :-

(1) The assessment book shall be made in separate books, called "ward assessment books" one for each of the wards into which 1 [Brihan Mumbai] is for the time being divided under the provisions of section 24; and each ward assessment book may, if the Commissioner thinks fit, be divided into two or more parts for such purposes and with such several designations as the Commissioner

shall determine.

(2) The ward assessment books and their respective parts, if any, shall collectively constitute the assessment book.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

158. Treatment of property which is let to two or more persons in separate occupancies :-

(1) When any building or land is let to two or more persons holding in severally, the Commissioner may, for the purpose of assessing such building or land to the property taxes, either treat the whole thereof as one property, or, with the written consent of the owner of such building or land, treat each several holding therein or any two or more of such several holdings together , or each floor or flat, as a separate property.

1 [xxx]

1. Sub-sections (2) and (3) were deleted by Mah. 10 of 1998, s. 91

159. Person primarily liable for property taxes how to be designated, if his name cannot be ascertained occupier liable for property taxes until he gives information :-

(1) When the name of the person primarily liable for the payment of property taxes in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment book and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all property taxes leviable on the premises of which he is in occupation.

160. Public notice to be given when valuation of property in any ward has been completed :-

(1) When the entries required by clauses (a), (b), (c) and (d) of section 156 have been completed, as far as practicable, in any ward assessment book, the Commissioner shall give public notice thereof and of the place where the ward assessment book, or a copy of it may be inspected.

(2) Such public notice shall be given by advertisement in the 1 [Official Gazette] and in the local newspapers, and also by posting placards in conspicuous places throughout the ward.

1. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council

161. Assessment book to be open to inspection :-

(1) Every person who reasonably claims to be the owner or occupier of some premises entered in the assessment book or the agent of any such owner or occupier shall be permitted, free of charge, to inspect; and to take extracts from any portion of the said book which relates to the said premises.

(2) Any person not entitled under sub-section (1) to inspect and take extracts from any portion of the assessment book free of charge shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf 1 [by the Commissioner with the approval of the Standing Committee].

1 . These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 77, (w.e.f. 23-4-1999)

162. Time for filing complaints against valuations to be publicly announced :-

(1) The Commissioner shall, at the time and in the manner prescribed in section 160, give public notice of a day, not being less than fifteen days from the publication of such notice, on or before which complaints against the amount of any rateable value entered in the ward assessment book will be received in his office.

(2) In every case in which any premises have for the first time been entered in the assessment book as liable to the payment of property taxes or in which the rateable value of any premises liable to such payment has been increased, the Commissioner shall, as soon as conveniently may be after the issue of the public notice under sub-section (1), give a special written notice to the owner or occupier of the said premises specifying the nature of such entry and informing him that any complaint against the same will be received in his office at any time within fifteen days from the service of the special notice.

163. Time and manner of filing complaints against

valuation :-

(1) Every complaint against the amount of any rateable value entered in the assessment book must be made by written application to the Commissioner, which shall be left at his office on or before the day or the latest day fixed in this behalf in the public or special notice aforesaid.

(2) Every such application shall set forth briefly but fully the grounds on which the valuation is complained against.

164. Notice to complainants of day fixed for investigating their complaints :-

The Commissioner shall cause all complaints so received to be registered in a book to be kept for this purpose and shall give notice, in writing, to each complainant, of the day, time and place when and whereat his complaint shall be investigated.

165. Hearing of complaint :-

(1) At the time and place so fixed, the Commissioner shall investigate and dispose of the complaint in the presence of the complainant, if he shall appear, and, if not, in his absence.

(2) For reasonable cause, the Commissioner may from time to time adjourn the investigation.

(3) When the complaint is disposed of, the result thereof shall be noted in the book of complaints kept under section 164, and any necessary amendment shall be made in accordance with such result, in the assessment book.

166. Authentication of ward assessment book when all complaints have been disposed of :-

(1) When all such complaints, if any, have been disposed of and the entries required by clause (e) of section 156 have been completed in the ward assessment book, the said book shall be authenticated by the Commissioner, who shall certify under his signature, that except in the cases, if any, in which amendments have been made as shown therein, no valid objection has been made to the rateable values entered in the said book.

(2) Thereupon the said ward assessment book subject to such alteration as may thereafter be made therein, under the provisions of the next following section, shall be accepted as conclusive

evidence of the amount of each property tax leviable on each building and land in the ward in the official year to which the book relates.

167. Assessment book may be amended by the Commissioner during the official year :-

(1) The Commissioner may, upon the representation of any person concerned, or upon any other information, at any time during the official year to which an assessment book relates amend the same by inserting therein the name of any person whose name ought to be so inserted or any premises previously omitted or by striking out the name of any person not liable for the payment of any property tax or by increasing or reducing the amount of any rateable value and of the assessment, based thereupon, or by making or cancelling an entry exempting any premises from liability to any property tax.

(2) Every such amendment shall be deemed to have been made, for the purpose of determining the liability or exemption of the person concerned in accordance with the altered entry, from the earliest day in the current official year when the circumstances justifying the amendment existed.

168. New assessment book need not be prepared every official year :-

(1) It shall not be necessary to prepare a new assessment book every official year. Subject to the provisions of sub-section (3), the Commissioner may adopt the entries in the last preceding years book with such alterations as he thinks fit, as the entries for each new year.

(2) But public notice shall be given in accordance with sections 160 and 162 every year and the provisions of the said sections and of sections 163 to 167, both inclusive, shall be applicable each year.

(3) A new assessment book shall be prepared at the least once in every four years.

169. Rules for water taxes and charges :-

(1) Notwithstanding anything contained in section 128, the 1[Standing Committee] shall, from time to time, make such rules as shall be necessary for supply of water and for charging for the supply of water and for any fittings, fixtures or services rendered

by the Corporation under Chapter X and shall by such rules determine-

- (i) the charges for the supply of water by a water tax and a water benefit tax levied under section 140 of a percentage of the rateable value of any property provided with a supply of water; or
- (ii) a water charge in lieu of water tax, based on a measurement or estimated measurement of the quantity of water supplied, or
- (iii) combined charges under clauses (i) and (ii); or
- (iv) a compounded charge in lieu of charges under clauses (i) and (ii).

(2) A person who is charged for supply of water under clause (ii) or (iv) of sub-section (1) shall not be liable for payment of the water tax, but

2 [

(3) Notwithstanding anything contained in section 146, the water taxes and charges shall be primarily recoverable from person or persons actually occupying the premises.]

1. These words were substituted for the words "Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 78 (w.e.f. 23-4-1999)

2. Sub-section (3) was added by Mah. 21 of 1989, s. 29

170. Rules for sewerage taxes and charges :-

(1) Notwithstanding anything contained in section 128, the 1[Standing Committee] shall, from time to time, make such rules as shall be necessary for removing human wastes, excrementitious and polluted matters, liquid wastes and effluents and any other materials as shall from time to time be specified 2 [by the Committee] in such rules and for charging any fittings, fixtures or services rendered by the Corporation under Chapter IX and shall by such rules determine-

- (i) the charges for the supply of such services by a sewerage tax and a sewerage benefit tax levied under section 140 of a percentage of the rateable value of any property in respect of which such services are provided; or
- (ii) a sewerage charge in lieu of a sewerage tax, based on a measurement or estimated measurement of the quantity of water supplied for the premises or of the quantity of wastes discharged from the premises; or
- (iii) combined charges under clauses (i) and (ii); or
- (iv) a compounded charge in lieu of charges under clauses (i) and

(ii).

(2) A person who is charged for sewerage services under clause (ii) or (iv) of sub-section (1) shall not be liable for payment of the sewerage tax, but any sum payable by him and not paid when it becomes due, shall be recoverable by the Commissioner as if it were an arrear of property tax due.

1. These words were substituted for the words "Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 79(a) (w.e.f. 23-4-1999)

2. These words were inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 79(b), (w.e.f. 23-4-1999)

171. Section 171 :-

1 [xxx]

1. Section 171 was deleted by Mah. 10 of 1998, s. 95

172. Power to amend rules :-

The 1[Standing Committee] may, from time to time, add to, amend or rescind any rules made or deemed to be made by it under sections 169 to 171 (all inclusive), but any such revision of the rules shall come into force on the date appointed by 2 [the committee] for this purpose, so however that such date shall not be less than 30 days nor more than 90 days from the date on to make such revision.

1. These words were substituted for the words "corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 80(a) (w.e.f. 23-4-1999)

2. These words were substituted for the words "the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 80(b) (w.e.f. 23-4-1999)

173. Water tax [water charges] and[sewerage tax or sewerage charges] paid by any person may be recovered by him from the occupier of the premises for which it is paid :-

(1) Any person who has paid to the Commissioner any 1[water tax. or a sum on account of water charges or] 2 [any sewerage tax or a sum on account of sewerage charges] in respect of any premises shall if he was not himself in occupation of the said premises during the period for which he had made such payment, be entitled to receive the amount of the said payment from the person, if any,

in actual occupation of the said premises for the said period.

(2) For the recovery of the said amount from the person aforesaid, the person who has paid the same shall have the same rights and remedies as if such amount were rent payable to him by the person from whom he is entitled to receive the same.

1. These words were substituted for the words "Water tax or" by Bom. 62 of 1954, s. 4(1)

2. These words were substituted for the words "any halalkhor tax" by Mah. 51 of 1975, s.9(a).

173A. Owner Of Premises Entitled To Recover Water Charges From Occupiers Of Tenements :-

(1) If the premises to which water is supplied by measurement consists of more than one tenement and water is supplied thereto through a common meter and if water charges in respect of the water supplied are paid to the Commissioner by the owner of the said premises or any person acting on his behalf, such owner shall be entitled to recover the sum of such Water charges pro rata from the occupiers of the tenements during the period for which water is supplied to the said tenements through the common meter, in proportion to the amount of the rent for which each of such tenements is let:

Provided that if-

(a) any of the tenements is in the occupation of the owner or any person acting on his behalf, or

(b) by the terms of the tenancy, the owner has agreed to-pay the water charges for an occupier of a tenement, the amount payable pro rata in respect of such tenements shall not be recovered from the occupiers of other tenements.

(2) If under the terms of the tenancy, the rent charges for any such tenement is inclusive of water tax and subsequently water is supplied thereto through a common meter and if water charges are paid by the owner or any person acting on his behalf, such owner shall be entitled to recover under this section from the occupier of such tenement only the difference between the water tax previously payable by him and the water charges payable in respect of such tenement on pro rata basis under subsection (1).

1. Sections 173A and 173B were inserted by Bom. 62 of 1954,s. 5

173B. Water Charges Paid By Owners Not Recovered From Occupiers Not To Operate To Diminish Annual Rent For Purposes Of Section 154 :-

If the owner of any premises has paid to the Commissioner the sum of water charges in respect of water supplied to the premises and though entitled to recover from the person in actual occupation of the said premises a sum as determined under section 173 A, omits or fails to recover the same wholly or in part for whatever reason the fact of the omission or failure to recover such sum shall not operate to diminish the amount of the annual rent of the said premises calculated for the purposes of section 154].

173BB. Owner Of Premises Entitled To Recover Sewerage Charges From Occupiers Of Tenements :-

If the premises in respect of which sewerage charges in lieu of sewerage tax are recovered from the owner of the premises or any person acting on his behalf, such owner shall be entitled to recover the sum or such charges pro rata from the occupiers of the tenements, in proportion to the amount of the rent for which each of such tenements is let:

Provided that if-

(a) any of the tenements is in the occupation of the owner or any person acting on his behalf, or

(b) by the terms of the tenancy, the owner has agreed to pay the sewerage charges for an occupier of a tenement. the amount payable pro rata in respect of such tenements shall not be recovered from the occupiers of other tenements.

1. Section 173BB was inserted by Mah. 34 of 1973, s. 21

173C. Occupier Of Premises Entitled To Recover Water Taxes And Charges From Owner When He Not Bound To Pay But Pays Them To Commissioner :-

If under the terms of tenancy, the rent for any premises is inclusive of water taxes or water charges for supply of water by measurement and the person in actual occupation of the premises has, on behalf of the owner thereof, paid to the Commissioner any water taxes or water charges in respect of the premises, such person shall be entitled to recover from the owner the amount so paid and may deduct the amount from the rent which from time to time becomes due to the owner].

1. Section 173C was inserted by Mah. 51 of 1975, s. 10

174. Refund of [the water tax and sewerage tax] when and to what extent obtainable :-

When any building or land or any portion of any premises which the Commissioner has treated under section 158 as a separate property, has been vacant for not less than thirty consecutive days, the Commissioner shall, subject to the provisions hereinafter contained, refund the amount of water tax 1 [and the sewerage tax], if any, paid for the number of days that such vacancy lasted.

1. These words were substituted for the words "and halalkhore tax" by Mah. 34 of 1973, s. 22(a)

175. Section 175 :-

1 [xxx]

1. Section 175 and 178 were deleted by Mah. 10 of 1998, s. 97

176. Refund not claimable unless notice of vacancy is given to the Commissioner :-

(1) No refund of any property tax shall be claimable from the Commissioner, as aforesaid, unless notice in writing of the vacancy

shall have been given by the person liable for the tax, or his agent, to the Commissioner.

(2) No refund shall be paid by the Commissioner for any period previous to the day of the delivery of such notice.

(3) When a vacancy continues from one-half year in respect of which property taxes are, under section 197 recoverable, into the next following half year, no refund of any property tax shall be claimable from the Commissioner as aforesaid on account of such continued vacancy unless notice thereof shall be given to the Commissioner as aforesaid within thirty days from the commencement of the said next following half year.

177. Refund of water tax inadmissible unless application for stopping water supply has been made :-

No refund of water tax shall be claimable except from such time as a written application shall have been made to the Commissioner to stop the water supply to the vacant premises.

178. Section 178 :-

1 [xxx]

1 . This proviso was added by Bom. 65 of 1958, s. 25, Third Schedule.

179. Applications for refund when and how to be made :-

It shall be in the discretion of the Commissioner to disallow any claim for refund of any property tax unless application therefor is made to him in writing within thirty days after the expiry of the half year to which the claim relates accompanied by the bill presented to the applicant under section 200 for the amount of the tax from which the refund is claimed.

180. Tax on what vehicles and animals to be levied :-

Except as hereinafter provided, a tax at rates not exceeding those specified in Schedule G shall be levied on all vehicles and on all animals of the description specified in the said schedule which are kept within 1[Brihan Mumbai] ; 2 [Provided that no tax shall be levied on motor vehicles save as provided in section 20 of the Bombay Motor Vehicles Tax Act, 1958.]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

2 . This proviso was added by Bom. 65 of 1958, s. 25, Third Schedule.

181. Exemptions from the tax :-

(1)] The said tax shall not be levied in respect of-

(a) any vehicle or animal certified by the Commissioner or the Police Commissioner, as the case may be, to be employed by the owner thereof for Municipal or Police purposes;

(b) gun carriages, ordinance carts or wagons, and artillery and cavalry horses;

(c) any horse which any person, exempted by an order issued under section 3 of the Municipal Taxation Act, 1881, from the operation of any municipal tax on horses, is bound by the regulations of the service to which he belongs to keep;

(d) any vehicle or animal exempted from municipal taxation under section 16 of the Indian Territorial Force Act, 1920, or section 34 of the Auxiliary Force Act, 1920;]

(e) vehicles and animals vesting in 4[* * *] the Central Government;

(e-1) Vehicles and animals, other than those specified in clause (e), vesting in [Government] and used solely for public purposes and not used or intended to be used for purpose of profit;

(e-2) vehicles and animals belonging to the Corporation;] 56[(e-3) any motor vehicle belonging to a Foreign Consular Officer de Carrier 7[or a Trade Commissioner] stationed at 2[Mumbai] provided 9[or a Trade Commissioner] proves¹ to the satisfaction of the Commissioner that such motor vehicle has been exempted under 10[section 13 of the Bombay Motor Vehicles Tax Act, 1958;] 11[Explanation:-for the purposes of this clause, the expression "Trade Commissioner" includes a Deputy Trade Commissioner, an Assistant Trade Commissioner and a Trade Agent;]

12[xxx]

(g) vehicles kept by bona fide dealers in vehicles for sale merely, and not used; 8[

Provided that 14[a tax at the rate of rupees one hundred and twenty shall be levied yearly] in advance from every dealer in motor vehicles for every seven motor vehicles in respect of which a Trade Certificate is issued to him under rules made under the Motor Vehicles Act, 1939:]

(h) trucks used exclusively on a wharf or in or upon any premises appertaining to a factory, workshop, warehouse or railway;

(i) hand-barrows having one wheel only, [bicycles, tricycles, other than motor bicycles and tricycles] and childrens perambulators:

15[

(2) If any question arises under clause (e-1) of sub-section (1) whether any vehicle or animal belonging to 16[Government]-is or is not used solely for public purposes or is or is not used or intended to be used for purposes of profit, such question shall be determined by the17 [State) Government, whose decision shall be final.]

1. Section 181 was renumbered as sub-section (1) by Bom. 8 of 1942, s. 2(1), read with Bom. 8 of 1948, s. 3

2. This clause was substituted for the original by Bom. 8 of 1942, s.2(1)(i), read with Bom. 8 of 1948, s. 3

3. Clauses (e), (e-1) and (e-2) were substituted for clause (e) by Bom. 8 of 1942, s. 2(1)(ii)

4. The words "His Majesty for purposes of were omitted by the Adaptation of Laws Order, 1950.

5. This word was substituted by the original words by the Adaptation of Laws Order, 1950.

6. Section 80 of Bom. 48of 1950 reads as follows:- "80. Amendments made by sections 64, 65, 67, 68 and 76 to have retrospective effect. (1) The amendments made by sections 64, 65 and 67 shall be deemed to have been made on and to have effect from the 15th day of August, 1947. (2) The amendments made by sections 68 and 76 shall be deemed to have been made on and to have effect from the 14th day of March 1944 and any order made or action taken under the said Act before the commencement of this Act shall be deemed to have been made or taken under the said Act as amended by this Act and no prosecution suit or other proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of any such order or action, as the case may be."

7. These words were inserted by Bom. 6 of 1959, s. 3

9. This proviso was added by Bom. 8 of 1942, s. 2(I)(iii), read with Bom. 8 of 1948, s. 3

10. These words and figures were substituted for the words and figures "section 18 of the Bombay Motor Vehicles Tax Act, 1935" by Bom. 6 of 1959.

11. This Explanation was added by Bom. 6 of 1959.

12. Clause (0 was deleted by Bom. 48 of 1948. s. 38

14. These words were substituted for the words "a tax at the rate of rupees thirty shall be levied quarterly" by Mah. 70 of 1975. s. 16

15. This sub-section was inserted by Bom. 8 of 1942, s. 2(2), read

with Bom. 8 of 1948, s.3

16. These words were substituted for the original words by Bom. 8 of 1942

17. This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950

182. Persons responsible for the payment of tax :-

(1) The said tax shall be leviable from the owner of or person having possession or control of any vehicle or animal in respect of which the said tax is leviable; 2[Provided that in the case of an animal generally used or employed in drawing any vehicle the tax in respect of such animal shall be leviable from the owner of or person having possession or control of, such vehicle, whether or not such animal is owned by such owner or person.]

(2) For the purpose of this section, the person in whose name a motor vehicle is for the time being registered under the Motor Vehicles Act. 1939 shall, until the contrary is proved, be presumed to be the owner or person in possession or control of such motor vehicle.]

1. This section was substituted for the original by Bom. 8 of 1942, s. 2(2), read with Bom. 8 of 1948, s. 3

2. This proviso was added by Bom. 76 of 1948, s. 20

3. Now sec Motor Vehicle Act, 1988 (59 of 1988)

183. Vehicles under repair, or standing at carriage-makers exempt :-

Repealed by Bom. 8 of 1942, s. 4 read with Bom. 8 of 1948. s. 3

184. Animals unfit for use, and not used, exempt :-

Repealed by Bom. A of 1942, s. 4 read with Bom. 8 of 1948, s.3.

185. Livery-stable- keepers and others may be compounded with :-

The Commissioner may, with the approval of the 1[Standing Committee], compound with any livery-stable-keeper or other person keeping vehicles or horses or bullocks for hire, or with any dealer having stables in which horses are kept for sale on commission or otherwise, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of the taxes 2 [leviable under section 180 which such livery- stable-keeper or

other person or dealer would otherwise be liable to pay].

1. These words were substituted for the words "Vlembr-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 81 and 82 (w.c.f. 23-4-1999)
2. This was substituted for the original by Bom. 8 of 1942, s. 5, read with Bom. 8 of 1948. s 3

186. Vehicle and animal tax book to be kept :-

(1) The Commissioner shall keep a book, in which it shall be entered from time to time -

- (a) a list of the persons liable to pay any tax under section 180;
- (b) a specification of the vehicles and animals in respect of which the said persons, are respectively, liable to the said tax;
- (c) The amount of tax payable by each such person and the period for which it is payable;
- (d) The particulars of every composition made under section 185.

(2) Any person whose name is entered in the said book, or the agent of any such person shall be permitted, free of charge, to inspect and take extracts from any portion of the said book which relates to such person.

(3) Any person not entitled under sub-section (2) to inspect and take extracts from any portion of the said book free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the Commissioner, with the approval of the 1 [Standing Committee].

1. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 81 and 82, (w.e.f. 23-4-1999).

187. Returns may be called for from owners of premises and persons supposed to be liable to the tax :-

(1) In order that the said list may be prepared, the Commissioner may require -

- (a) the owner of any premises let to or occupied by more than one person, owning or having 2[possession or control] of vehicles and animals to furnish him with a written return, signed by such owner, of the name and address of each of the said persons, and of the animals and vehicles owned by or in 3[the possession or under the control] of each of the said persons kept upon such owners premises;
- (b) any person supposed to be liable to the payment of any tax on

a vehicle or animal to furnish him with a written return, signed by such person and containing such information concerning the vehicles and animals, if any, owned by or in 3[the possession or under the control] of such person as the Commissioner shall deem necessary.

(2) Every person on whom any such requisition is made shall be bound to comply with the same, within such reasonable period as the Commissioner prescribes in this behalf, whether such person be liable to the payment of any such tax or not, and to make a true return to the best of his knowledge or belief.

188. Notice to be given to Commissioner by a person who becomes owner or possessed of a vehicle or animal in respect of which liability arises, etc. :-

(1) Every person who becomes the owner or obtains possession or control of any vehicle or animal in respect of which the said tax is leviable shall give notice in writing to the Commissioner within fifteen days after he has become the owner or has obtained possession or control of such vehicle or animal, of the fact that he has become the owner or has obtained possession or control of such vehicle or animal, as the case may be. (2) Every person who ceases to own or have possession or control of any vehicle or animal in respect of which the said tax is leviable shall give notice in writing to the Commissioner of the fact that he has ceased to own or have possession or control of such vehicle or animal. Such person shall, in addition to any other penalty to which he may be liable, continue to be liable for the payment of the said tax leviable from time to time in respect of such vehicle or animal until he gives such notice : Provided that nothing herein contained shall be held to diminish the liability to pay the said tax of the person who becomes the owner or obtains possession or control of such vehicle or animal or affect the prior claim of the Commissioner on such vehicle or animal for the recovery of any tax due in respect thereof].

189. Power to inspect stables and summon persons liable to the tax :-

(1) The Commissioner may make an inspection of any stable, 1[garage] or coach house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax under this Act.

(2) The Commissioner may, by written summons, require the

attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle or animal, or of any servant of any such person, and may examine such person or servant as to the number and description of vehicles and animals owned by or in 2[the possession or under the control] of such person; and every person so summoned shall be bound to attend before the Commissioner and to give true information, to the best of his knowledge or belief, as to the said matters.

2 [xxx]

1. This word was inserted by Bom. 8 of 1942, s. 8(1).

2. The heading and sections 190 and 191 repealed by Bom. 7 of 1921, s. 5 is omitted and the repeal shall have effect from 1st April, 1920.

190. Refund of tax on vehicles and animals when and to what extent obtainable :-

1[If the tax leviable on any vehicle or animal in respect of any year has been paid and if during such year such vehicle or animal ceases to be kept within 5[Brihan Mumbai] or is destroyed or is otherwise rendered unfit for use or if such vehicle has been under repairs or if such animal has been kept in any institution for the reception of infirm or disused animals or is certified by a Veterinary Surgeon to have become unfit for use and has not been used, the person who paid the tax leviable on such vehicle or animal shall, subject to the provisions hereinafter contained, and on the Commissioner (or any officer authorised by him) being satisfied in this behalf, be entitled to receive from the Commissioner if the period in such year for which such vehicle or animal has not been kept in 2 [Brihan Mumbai] or has not been used, on account of such vehicle or animal being destroyed or rendered unfit for use or on account of such vehicle being under repairs or such animal being kept in any institution for the reception of infirm or disused animals or such animal having been certified by a Veterinary Surgeon to have become unfit for use, is

(a) not less than three hundred and forty days, the full amount of the tax paid,

(b) not less than three hundred days, three-fourth of the tax paid.

(c) not less than two hundred and forty days, two-third of the tax paid,

(d) not less than one hundred and eighty days one-half of the tax paid,

(e) not less than one hundred and twenty days, one-third of the tax paid,
(f) not less than ninety days, one-fourth of the tax paid,
(g) not less than sixty days, one-sixth of the tax paid. No refund of the tax shall be granted if such period is less than sixty days.]

1. Section 190 was substituted for the original by Mah. 70 of 1975, s. 17.

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f 4.9.1996)

191. Refund not claimable unless notice is given to the Commissioner :-

(1) No refund of the tax shall be claimable from the Commissioner under section 190 unless notice in writing of the occurrence of the circumstances giving rise to such claim or of the commencement of circumstances which may give rise to such claim has been given to the Commissioner by the person who paid the tax or his agent.

(2) If such notice is not received by the Commissioner within three days of the occurrence or commencement of the circumstances as aforesaid, the period previous to the date of the receipt of the notice shall be excluded in computing the period of 2 [three hundred and forty, three hundred, two hundred and forty, one hundred and eighty, one hundred and twenty, ninety and sixty days] referred to in section 190, for the purposes of granting any refund.

(3) It shall be in the discretion of the Commissioner to disallow any claim for refund of the tax, unless application claiming such refund is made to him in writing before the expiry of 15 days after the end of the

1. Section 191 was inserted by Bom. 8 of 1942. s. 9 read with Bom. 8 of 1948 s. 3

2. These words were substituted for the words "eighty, sixty and thirty days" by Mah. 70 of 1975. s. 18(a).

191A. Tax On Dogs :-

(1) A tax not exceeding 2[one hundred rupees] per annum shall be levied on every dog kept within 3 [Brihan Mumbai]. Such tax. however, shall not be levied on any dog under the age of six months, if the owner or person in charge thereof declares in writing to the Commissioner on or before the eighth day of April that the dog owned by him or in his charge is under the age of six months.

(2) Every person who owns or is in charge of a dog on which the tax is leviable under sub-section (1) shall be liable for such tax.

(3) Every person who owns or is in charge of a dog on which the tax is leviable

shall forward to the Commissioner a return signed by him during the-month of April in each official year in such form as the Commissioner may specify.

(4) Every person who owns or is in charge of such dog shall pay the tax during the month of April in each official year:

Provided that, when a person becomes owner or takes charge of such dog on or after the first day of May, he shall forward a like return to the Commissioner and pay the tax due, within one week from the date on which he becomes the owner or takes charge of the dog.

(5) The amount of the tax for the full year shall be payable in lump sum and shall not be in proportion to the period for which any dog is kept. But the tax shall not be payable more than once for any official year in respect of the same dog.

(6) The commissioner shall maintain a register showing the names and addresses of the persons liable to pay the tax under this section.].

1. Section 191A was substituted for the original by Mah. 51 of 1975, s. II.

2. These words were substituted for the words "seven rupees" by Mah. 12 of 1993, s. 4.

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

191B. Licence And Number Ticket For Dogs :-

(1) When the owner or person in charge of a dog has paid the tax leviable on such dog, the Commissioner shall -

(a) grant him a licence to keep the dog during the official year for which the tax has been paid, subject, however, to such conditions as may be specified in the licence by the Commissioner;

(b) provide him with a number ticket, the number of which shall be specified in the licence.

(2) The owner or person in charge of any dog so licensed, shall at all times cause the said number ticket to be kept attached to the collar or otherwise suspended from the neck of the dog.

(3) Any dog which has no number ticket so attached or suspended or is kept in contravention of any of the conditions specified in the licence -

(a) shall be presumed to be a dog in respect of which no licence has been granted; and

(b) may be seized by the police or by any officer duly authorised by the Commissioner, and detained until the tax due, if any, has been paid or the conditions subject to which the licence is granted are or are agreed to be complied with].

1. Sections 191B and 191BA were inserted by Bom. 2 of 1943. s. 3 read with Bom. 8 of 1948. s. 2.

2. This word was substituted for the word "quarter" by Mah. 70 of 1975, s. 18(b).

191BA. Control And Other Provisions As To Dogs :-

(1) If any dogs are found or reported to be a source of nuisance to the residents of any building or locality, the Commissioner or any person duly authorised by him may enter any premises for the purposes of seizing such dogs.

(2) Any dog so seized shall be kept in the municipal kennel and if any person, within three days from the date of such seizure, satisfies the Commissioner that he is the owner or person in charge of such dog, the Commissioner may order it to be delivered to such person on payment of the tax, if any due and the costs incurred by the Commissioner by reason of its detention and on such person giving an undertaking that the dog will thereafter be kept in accordance with the conditions of the licence and will not be a source of nuisance to the residents of the building or locality:

Provided that, if, within the said three days, no person satisfies the Commissioner

that he is the owner or person in charge of the dog and pays the tax and the costs or gives the undertaking aforesaid, the Commissioner may cause the dog to be destroyed.

(3) If a stray dog has bitten any person the Commissioner may order it to be detained in the municipal kennel for its incubation period, if it is so desired by the person who has been bitten by that dog, and no charge shall be recovered from any person for such detention. If a licenced dog, which

(4) If any dog detained under sub-section (2) or (3) is after examination found to be suffering from rabies, the Commissioner shall order it to be destroyed forthwith.

(5) No damage shall be payable in respect of any dog destroyed under this section.]

1. Section 191BA was inserted by Mah. 51 of 1975. s. 13.

191BB. Exemption Of Dogs Kept By Certain Consular Officers :-

Nothing contained in sections 191A and 191B shall apply to any dog kept by or in charge of such diplomatic and consular officers as the State Government may by general or special order specify in this behalf.]

*. Section 80 of Bom. 48 of 1950 reads as follows :- "80. Amendments made by sections 64, 65, 67, 68 and 76 to have retrospective effect: (1) The amendments made by sections 64, 65, and 67 shall be deemed to have been made on and to have effect from the 15th day of August 1947. (2) The amendments made by sections 68 and 76 shall be deemed to have been made on and to have effect from the 14th day of March, 1944 and any order made or action taken under the said Act before the commencement of this Act shall be deemed to have been made or taken under the said Act as amended by this Act and no prosecution, suit or other proceeding shall lie against any person from anything in good faith done or intended to be done in pursuance of any such order or action, as the case may be."

191C. Protection Of Persons Acting In Good Faith :-

No suit, prosecution or other legal proceeding shall be instituted against any person in respect of any act done in good faith in pursuance of the provisions of 2 [section 191B or section 191BA.]

1. Sections 191C and 191D were inserted by Bom. 2 of 1943, s. 3 read with Bom. 8 of 1948, 5.2.

2. This portion was substituted for the words and brackets "sub-sections (2), (3) and (5) of section 191B" by Mah. 51 of 1975, s. 14.

191D. Certain Sections Not To Apply :-

Nothing contained in sections 180 to 182, 185 to 188, 190, 191, 198 and the second sentence of sub-section (2) of section 200 shall apply in respect of the tax leviable under section 191 A.]

1. Sections 191C and 191D were inserted by Bom. 2 of 1943, s. 3 read with Bom. 8 of 1948, 5.2.

191E. Theatre Tax :-

(1) Except as hereinafter provided, there shall, from such date as the State Government may by notification in the Official Gazette specify in this behalf, be levied and paid to the Corporation a tax referred to in this Act as theatre tax on cinemas, theatres, circuses, carnivals and other performances or shows.

(2) The theatre tax shall be levied in respect of a theatre, cinema, circus, carnival

and other place of entertainment for every performance or show held or conducted thereat of therein and to which persons are admitted on payment, at the rate prescribed by or under the provisions of this Act.

(3) The theatre tax shall be levied at the rates not exceeding those specified in Schedule G-1 as the corporation shall from year to year, in accordance with section 128, determine.

191F. Liability To Pay Theatre Tax :-

Every proprietor, manager or person in charge of the entertainment shall be liable to pay the theatre tax, and shall pay the same in advance before the commencement of each show or if there are no separate shows before any person is admitted to the entertainment on any day:

Provided that the Commissioner may, subject to such terms and conditions as he may impose, 1 [* * *] allow a lump sum payment of the tax to be made in respect of a series of such shows or a period of one week or one month.

1. These words, "with the sanction to the Member-in-Charge" were deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 83,(w.e.f. 23-4-1999)

191G. Register Of Persons Liable To Pay Theatre Tax :-

The Commissioner shall maintain a register, in which it shall be entered from time to time -

- (a) a list of the persons liable to pay the theatre tax ;
- (b) the particulars of the cinemas, theatres and other places of entertainment belonging to or in charge of such persons;
- (c) the approximate amount of tax payable by each such person and the period in respect of which it is payable.

191H. Returns By Persons Liable To Pay Theatre Tax :-

It shall be, the duty of every proprietor, manager or person in charge of the entertainment to submit to the Commissioner, such returns signed by him, at such intervals in such form and containing such inuoirrnauon for the purpose of levy of the theatre tax shall be prescribed by rules made under section 191K.

191I. Power Of Inspection :-

The Commissioner may enter upon and inspect any premises or place which he has reason to believe are being used or are about to be used for any performance or show, in respect of which the theatre tax is payable or would be payable.

191J. Notice Of Demand :-

(1) If any person has failed to pay the theatre tax, the Commissioner shall with the least practicable delay cause to be served on the defaulter a notice of demand in such form as may be prescribed by rules made in this behalf under section 191K. No fee shall be payable in respect of the service of such notice.

(2) If the person on whom a notice is served under sub-section (1) does not within fifteen days from the service of the notice on him pay the amount due or show sufficient cause for non-payment of the same to the satisfaction of the Commissioner, the Commissioner may recover the amount by distress and sale of the movable property or attachment and sale of the immovable property of the

defaulter as if the amount were a property tax due by him.

191K. Rules Governing Theatre Tax :-

[The Commissioner may, with the previous approval of the Standing Committee], make rules for securing the payment of the theatre tax and generally for carrying into effect the provisions of this Act relating to the said tax and in particular for the following matter, namely :-

- (a) the publication of the rates of the theatre tax determined by the Corporation;
- (b) the entertainments or classes of entertainments exempted from the payment of the tax and the extent to which they are so exempted;
- (c) when and to what extent the amount of the tax paid may be refunded;
- (d) the form in which and the intervals at which the return shall be submitted to the Commissioner under section 191H;
- (e) the form of notice of demand under section 191 J.

1. These words were substituted for the words "The Corporation may" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 84, (w.e.f. 23-4-1999)

192. Octroi on what articles and at what rates leviable :-

(1) Except as hereinafter provided, a tax, at rates not exceeding those respectively specified in Schedule H, shall be levied in respect of the 1[Brihan Mumbai] for consumption, use or sale therein. The said tax shall be called an "octroi".

(2) On the first levy of the tax, if the tax cannot be levied by following the provisions of section 128 and the other relevant provisions of this Act be brought into force in the 1st day of April of any year, then in that case, notwithstanding anything in section 128 the Corporation may in a special meeting called for the purpose (at any time after the passing of the Bombay Municipal Corporation (Second Amendment) Act, 1964, and even although that Act has not been brought into force) decide upon the articles to be so taxed, and upon the rates at which they are to be taxed, and the date from which the tax is to be levied (which shall be a date not earlier than the date on which that Act is brought into force}; and thereupon, the tax shall be levied on the articles, at the rates, from the date so determined, and all the relevant provisions of this Act shall as far as may be applied to the tax as if the procedure prescribed by section 128 and the other provisions of this Act had been followed.

(3) In determining the articles to be taxed, the Corporation may select all or any one or more, of the articles specified in any entry in the 2[Schedule H], and in determining the rates at which articles are to be taxed, the Corporation may fix different rates for different articles comprised in the same entry.

(4) On a request being made by the Corporation, the State

Government may, by notification in the Official Gazette, from time to time 3[add to, amend or delete any item specified in Schedule H, or vary the rates specified therein] and thereupon, the Schedule shall be deemed to have been amended accordingly.]

(5) 4[xxx]

(6) Notwithstanding anything contained in this section, no octroi shall be payable on the articles specified in Schedule H-1 on the entry of 6[Brihan Mumbai] for consumption, use or sale therein.] 7 [The State Government may, by notification in the Official Gazette, add to, amend or delete any item specified in Schedule H-I]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

2. These words were substituted for the word "the said Schedule" by Mah. 12 of 1993, s. 5(a)

3. These words were substituted for the portion beginning with the words "vary the rates" and ending with the words "whichever is less" by Mah. 10 of 1998, s. 102(a).

4. Sub-section (5) was deleted by the Mumbai Municipal Corporation (Second Amendment) Act No. 13 of 1998, s. 17

5. This sub-section was added by Mah. 12 of 1993, s. 5(c)

6. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996. (w.e.f.4.9.1996).

7. this portion was added by Mah. 10 of 1998, s. 102(b)

193. Table of rates of 5[octroi] to be affixed on certain places :-

The Commissioner shall cause tables of 1[octroi] for the time being leviable, specifying the rates at which and the articles on which the same 2[is leviable] to be printed in the English, Gujarati, Marathi and Urdu languages and to be affixed in conspicuous position at every place at which 3 [the octroi is levied.]

1. This word was substituted for the words "the town duties" by Mah. 32 of 1964., s.8(a)

2. These words were substituted for the words "are leviable" by Mah. 32 of 1964. s. 8(b).

3. These words were substituted for the words "the same duties are levied" by Mah. 32 of 1964, s. 8(c)

194. Exemption of articles belonging to the 4 [Government] from 1[octroi] :-

(1) No 1[octroi] shall be leviable on any article which at the time of

its importation is certified by an officer empowered 2[by the government concerned] in this behalf to be the property 3[of the 4[Government]].

(2) If any article on which 5[octroi] is paid is imported under a written declaration signed by the importer that such article is being imported for the purpose of fulfilling a specified contract with 5[7[the [State] Government] or otherwise for the use of 8[the 9[Government], the full amount of 10[the tax paid] thereon shall be refunded on production, at any time within six months after importation, of a certificate signed by an officer empowered by 11[the Government concerned] in this behalf certifying that the article so imported has become the property of 12[the 8 [Government]].

1. This word was substituted for the words "town duty" by Mah. 32 of 1964, s. 9(a)

2. The words "by the Government concerned were substituted for the words "by Government" by the Adaptation of Indian Laws order in Council.

3. The words "of the Crown" were substituted for the words "of Government" by the Adaptation of Indian Laws Order in Council.

4 . This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

5. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

7. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

8. The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

9. This word was substituted for the word "Crown" by the Adaptation of Laws Order. 1950.

10. These words were substituted for the words "the duty paid" by Mah. 32 of 1964, s. 9(b).

11. The words "the Government concerned" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

12. The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

194A. Exemption Of Articles Belonging To Certain Consular Officer From 6[Octroi] :-

Any articles imported by or on behalf of such diplomatic or consular officers stationed at 3/FNR>[Mumbai] as may be specified in this behalf by the State Government by any special or general order shall be exempted from the levy of 10 [octroi] to such extent and subject to such conditions as may be specified in the said order.]

2. These words were substituted for the word "Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996) 4, 65, 67, 68 and 76 to have retrospective effect. (1) The amendments made by sections 64, 65 and 67 shall be deemed to have been made on and to have effect from the 15th day of August, 1947. (2) The amendments made by sections 68 and 76 shall be deemed to have been made on and to have effect from the 14th day of March, 1944 and any order made or action taken under the said Act before the commencement of this Act shall be deemed to have been made or taken under the said Act as amended by this Act, and no prosecution, suit or other proceeding shall lie against any person or anything in good faith done or intended to be done in pursuance of any such order or action, as the case may be".

3. This word was substituted for the words "town duty" by Mah. 32 of 1964, ss. 10 and 11.

10. This word was substituted for the words "town duty" by Mah. 32 of 1964, ss. 10 and 11.

194B. Exemption Of Articles Imported For Immediate Exportation :-

Subject to such rules, not inconsistent with this Act, as 2[the Commissioner with the approval of the Standing Committee], shall from time to time frame in this behalf, any article imported into 3[Brihan Mumbai] 4[for the purpose of immediate exportation shall] be exempted from the levy of 5[octroi], if such article is conveyed direct from the place of import to the place of export under such supervision and on payment of such fees therefore as shall be determined in the said rules: provided that no rule framed as aforesaid shall have effect unless and until it is confirmed by 6[the 5 [State] Government].

1. This section was inserted by Bom. 2 of 1911, s. 8.

2. These words were substituted for the words "the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 85, (w.e.f. 23-4-1999)

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

4. This portion was substituted for the portion beginning with "for the purpose" and ending with "the importer" by Mah. 32 of 1964. s. 1 l(a) and (b).

5. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

6. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

195. Refund of octroi on export :-

1(1) When any article upon which 1[octroi] has been paid shall be exported from 3[Brihan Mumbai] 4[such amount of 5[tax] levied as is specified in sub-section (allowance) shall, subject to the provisions contained in sub-sections (2) and (3), be refunded] 6[

(1A) The amount of 3[tax] to be refunded under sub-section (1) shall be 8[90 per centum] of 1[octroi] levied upon the articles. The balance 10[10 per centum] shall be credited to the municipal fund as a fee for collection and refund.

- (2) Such refund shall be paid under such rules as 2[the Commissioner may, with the approval of the Standing Committee], shall from time to time frame in this behalf:
- (3) Provided that - 11[
- (a) any article imported into 12[Brihan Mumbai] and not exported within six months of such entry of the article shall, unless the contrary is proved, be deemed to have been imported for consumption, use or sale in 13[Brihan Mumbai];]
- (b) a refund shall be claimable on all flour exported from 10[Brihan Mumbai] without proof of the importation of the same into 10[Brihan Mumbai], equal to 16[70 5/16] per centum of the amount of 17[tax] at the time being leviable on the grain from which such flour has been prepared.
- (c) no refund shall be paid unless the same is applied for within one month from the date of exportation 18[or within such longer period as the Commissioner may in any special case or class of cases allow];
- (d) no refund shall be made of any less amount than 19[ten rupees];
- (e) no rule framed by 20[the Commissioner] under this section shall have effect unless and until it is confirmed by 21[the 22 [State] Government].
1. This word was substituted for the words "town duty" by Mah. 32 of 1964, s. 12(a), (b) and (d)
3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f.4.9.1996)
4. This portion was substituted for the words "the full amount of the duty so paid shall, subject to the provisions thereafter contained, be refunded" by Bom. 64 of 1953.
5. This word was substituted for the words "duty" by Mah. 32 of 1964, s. 12(a), (b) and (d)
6. This sub-section was inserted by Bom. 64 of 1953, s. 4(2)
8. These figures and word were substituted for the figures and words "933/4 per centum" by Mah. 10 of 1998, s. 104(a)(i)
10. These figures and words were for the figures and words "6% per centum" by Mah. 10 of 1998,s. 104(a)(ii).
11. This clause was substituted by Mah. 32 of 1964, s. 12 (c)(i)
12. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.c.f.4.9.1996)
13. These words were substituted for the words "the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 86, (w.e.f. 23-4-1999)

16. These figures were substituted for the words "seventy-five" by Mah. 32 of 1964, s. 4(3)
17. This word was substituted for the word "duty" by Mah. 32 of 1964, s. 12(a), (b) and (d)
18. This portion was inserted by Bom. 48 of 1950, s. 68.
19. These words were substituted for the words "five rupees" by Bom. 64 of 1953. s. 4(3)
20. These words were substituted for the words "the corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 86(b) (w.e.f. 23-4-1999)
21. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
22. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

195A. Exemption Of Gifts.Etc., From Octroi :-

- 1[. Subject to such rules as 2[the Commissioner with the approval of the Standing Committee], may from, time to time frame in this behalf, the Commissioner may by general or special order exempt any articles -
- (i) Which are received as a free gift to relieve distress;
 - (ii) Which are imported by any charitable institution for a charitable purpose;
 - (iii) Which are brought as personal luggage by any passenger and the value of which does not exceed one hundred and fifty rupees, or the quantity of which does not exceed such limits as may be fixed by 3 [the Commissioner, with the approval of the Standing Committee];
 - (iv) Which are imported in such other circumstances, and subject to such conditions and restrictions, as the Corporation may specify.
1. Sections 195-1A and 195-1B were inserted by Man. 32 of 1964, s. 13
 2. These words were substituted for the words "the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.87 (a), (w.e.f.23-4-1999).
 3. These words were substituted for the words "the Member-in-charge with the sanction of the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.87(b), (w.e.f. 23-4-1999)

195B. General Rules Regarding Octroi :-

- 1[The Commissioner shall, with the approval of the Standing Committee], frame rules as respects the levy, assessment and collection of octroi under this Act, and may by such rules provide for the following among other matters, that is to say ;-
- (a) the examination of articles liable to payment of octroi;
 - (b) the inspection, weighing or examining the contents. of any conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable;
 - (c) the seizure and confiscation of articles liable to octroi in case of refusal to pay such tax ;
 - (d) measures to prevent evasion of tax;
 - (e) any other matter which is to be or may be prescribed for the levy, assessment or collection of octroi. No rule framed by the 2 [Commissioner] under this section shall have effect, unless and until it is confirmed by the State Government]

1. These words were substituted for the words "The Corporation shall" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.88(9), (w.e.f.23-4-1999)
2. This word was substituted for the word "corporation" by the Mumbai Municipal Corporation (Amendment) Act, 27 of 1999, s. 88(b), (w.e.f.23-4-1999)

195C. Levy Of Town Duty On Raw Cotton :-

Repealed by Bom. II of 1934, s.2.

195D. Payment Of 4/7Ths Of Gross Revenue To Government Allocation Of Duty :-

Repealed by Bom. II of 1934, s.2.

195E. Accounts To Be Kept; Exercise By Corporation Of Option To Take Over Arbitration :-

(1) 2[The 3[State] Government] shall keep a separate account of all moneys 4[which have been paid to them by the corporation from the town duty levied on raw cotton under section 195A, now repealed, and allotted to the provision of tenements for the working classes in the City of Bombay, as constituted on the 1st day of October 1920] of all loans raised and utilized for the provision of such tenements and of any sinking funds formed for the repayment of such loans and shall supply the corporation with a copy of the account for each year.

(2) The corporation shall have the right, after giving six months previous notice in writing, to acquire from 5[the 6[Government] on the 1st day of April 1936, of any subsequent year the right, title the interest of 7[the 1[Government]] in all lands and buildings acquired and all buildings constructed in the City of Bombay constituted as aforesaid, with the aid of such moneys and loans, on indemnifying 4[the 5[Government]] against all then existing and all future liabilities of 4[the 5[Government]] in respect of such lands and buildings and in respect of such loans.

(3) For the purpose of determining the amount of any indemnity in respect of any such loan regard shall be had to any then existing sinking fund formed for the repayment of such loan ; the intention being that the corporation shall pay to 13[The 14[State] Government] from time to time sufficient moneys -

(a) to satisfy all interest on such loan as the same may become payable by 15[The 16[State] Government] and

(b) to make up, after taking into account any such sinking fund, the amount which 8[the 9[State] Government] may be liable to repay at the maturity of such loan.

(4) For the purpose of enabling the corporation to determine whether such right shall be exercised 8[the 9[State] Government] shall at all reasonable times, after the 1st day of April 1935 cause inspection of such separate account to be given to the corporation.

(5) On the giving of such notice as is referred to in sub-section (2) the question as to the amount and form of such indemnity shall stand referred to the sole arbitration of some person to be nominated by the 21[Chief Justice of Maharashtra] who shall be assisted by two assessors, one to be nominated by 8[the 9[State] Government] and one by the corporation and his decision shall be final.

(6) Upon the corporation giving such indemnity the right, title and interest of 24[the 25[Government]] in such lands and buildings shall vest in the corporation.

26 [* * * * *]

1. Section 195C was inserted by Bom. 20 of 1920, s. 2.

2. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in council.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
4. These words, figures and letter were substituted for the original words, letter, figures and brackets by Bom. 2 of 1934, s. 3.
5. The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
6. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
7. This word was substituted for the word "corporation" by the Mumbai Municipal Corporation (Amendment) Act, 27 of 1999, s. 88(b), (w.e.f.23-4-1999)
13. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in council.
14. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
15. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in council.
16. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
21. These words were substituted for the words "Chief Justice of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.
24. The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
25. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
26. Sub-sections (7) and (8) were repealed by Bom. 2 of 1934, s. 2.

195F. Definitions Of Loan :-

.1[Loans raised and utilised for the purpose of repaying (Whether directly or indirectly) loans raised and utilized 2[* * * *] for the provision of such tenements as are referred to in sub-section 3[(1) of section 195C] shall be deemed to be loans raised and utilized 4[* * *] for the provision of such tenements 4[* * *].6 [Education Cess]

1. Section 195D was inserted by Bom. 20 of 1920, s. 2.
2. The words "for such schemes of improvement or" " for such schemes or" and "as the case may be" were omitted by Bom. 2 of 1934, s. 4(1).
3. These words, figures, letter and brackets were substituted for the original by Bom. 2 of 1934,s.4(2)
4. This portion was substituted for the original by Bom. 13 of 1958, s. 6 (2)
6. This heading and sections 195E and 195F were inserted by Bom. 48 of 1950, s. 69.

195G. Levy Of Education Cess :-

(1) For the purpose of clause (q) of section 61, the Corporation may, 2[* * *], levy within its area an additional tax on buildings and lands (hereinafter referred to as "the education cess"), of so many per centum, 3[not exceeding twelve], or their rateable value, as the Corporation may determine. Such tax may be levied, if the Corporation so determines, on a graduated scale :

Provided that -

- (a) all buildings and lands vesting in the Central Government,
- (b) all other buildings and lands exempted from the general tax under section 143,
- (c) all buildings and lands of a rateable value below such sum as the Corporation may determine, shall be exempted from the education cess]
- (2) 4 [The Corporation may require the Municipal Commissioner to recover the amount of the education cess determined under sub-section (1) by an addition to the general tax levied under this Act.] Every addition to the general tax imposed

under this sub-section shall be recovered by the Municipal Commissioner from each person liable therefore in the same manner as the general tax due from him. The provisions of sections 147 and 148 shall apply to the education cess as if it were part of the general tax levied under this Act.

(3) The amount so recovered shall be credited to the municipal fund constituted under section 111.

1. This sub-section was substituted for the original by Bom. 13 of 1958, s. 6(1)

2. The words "with the previous sanction of the State Government" were deleted by Man. 20 of 1995, (w.e.f. 31.8.1995)

3. These words substituted for the words "not exceeding five" by Mah. 20 of 1995. (w.e.f. 31.8.1995).

4. This portion was substituted for the original by Bom. 13 of 1958, s. 6 (2)

195H. Payment To Be Made To Corporation In Lieu Of Education Cess By State Government :-

(1) With effect from the first day of April 1958 and in respect of the period during which the education cess is levied under section 195E, the State Government shall pay to the corporation annually, in lieu of the education cess from which buildings and lands vesting in the State Government are exempted by virtue of clause (b) of the proviso to sub-section (1) of Section 195E (hereinafter in this section referred to as the exempted buildings and lands), a sum ascertained in the manner provided in sub-section (2).

(2) The sum to be paid annually to the Corporation by the State Government shall be eight-tenths of the amount which would be, or would have been, payable by an ordinary owner of buildings or lands in 2[Brihan Mumbai], on account of the education cess, on a rateable value of the same amount as that fixed under sub-section (2) of section 144 in respect of the exempted buildings and lands.]2 [Street Tax

1. Section 195F was inserted by Bom. 6 of 1959, s. 4.

2. This heading and section 195G was inserted by Mah. 33 of 1989, s. 10.

195I. Street Tax :-

(1) The corporation may, for the purposes of clause (m) of section 61 levy within its area, an additional tax on buildings and lands (hereinafter referred to as "the street"), of so many per centum, not exceeding fifteen, of their, rateable value, as the 1 [Standing Committee] may, from time to time determine:

Provided that,

(a) all buildings and lands vesting in the Central Government,

(b) all other buildings and lands exempted from the general tax under section 143,

(c) all buildings and lands of a rateable value below such sum as the corporation may determine,

(2) The corporation may require the Municipal Commissioner to recover the amount of the street tax determined under sub-section (1) by an addition to the general tax levied under this Act. Every addition to the

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 89, (w.e.f. 23-4-1999).

196. Any tax imposable under this Act may be increased by way of imposing supplementary taxation :-

Whenever the corporation determine, under section 134, to have recourse to supplementary taxation in any official year, they shall

do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable under this Act is being levied or by adding to the number of articles on which 1 [octroi is being levied] but every such increase or addition shall be made subject to the limitations and conditions on which any such tax is imposable.

1. These words were substituted for the words "town duties are being levied" by Mah, 32 of 1964, s. 14.

197. Property taxes payable half- yearly in advance :-

Each of the property taxes shall be payable in advance in half-yearly instalments on each first day of April and each first day of October.

198. Tax on vehicles, animals and public conveyances payable in advance :-

(1) Except as hereinafter otherwise provided, the tax on vehicles and animals (including the tax payable under the proviso to clause (g) of sub-section (1) of section 181 shall be paid yearly in advance on the first day of April.] 2[

(1A) If in any year a vehicle or animal becomes liable to such tax, such tax shall be leviable thereon from the earliest day in the year on which such vehicle or animal so becomes liable and the amount of tax leviable for such year shall be, if such earliest day occurs -

(a) in the first quarter of such year, the whole tax for such year,

(b) in the second quarter of such year, three-fourth of the tax for such year,

(c) in the third quarter of such year, one-half of the tax for such year,

(d) in the last quarter of such year, one-fourth of the tax for such year:

Provided that no tax shall be leviable for such quarter if such earliest day occurs within the last 30 days of such quarter.]

(2) Provided that in the case of any public conveyance licensed by the Police Commissioner under 3[the Bombay Public Conveyances Act, 1920] the person who keeps or lets such public conveyance for hire shall be required by the said Commissioner, before any licence is issued to him under the said Act, to pay into the municipal office the tax leviable on the said public conveyance and the animal or animals used for the same, for the whole period for which such licence is to be granted, together with the fee payable for such licence.

4[5 [

(3) In the case of any vehicle falling under item 7, 8 or 9 in Schedule G other than a public conveyance referred to in sub-section (2), the Commissioner shall issue a number plate in token of the payment of the tax and the owner of, or the person having possession or control of, such vehicle shall affix such number plate to the vehicle.]

(4) The municipal commissioner shall, on or before the fifteenth day of March in every year, by advertisement in the local newspapers invite the attention of all persons concerned to their liability to pay the tax in respect of vehicles or animals referred to in sub-section (3).]

1. Sub-section (I) was substituted for the original by Mah. 70 of 1975, s. 19(a). This marginal note was substituted for the original by Bom. 76 of 1948, s. 22.

2. Sub-section (I A) was substituted for the original by Mah. 70 of 1975, S. 19(b)

3. These words and figures were substituted for the original by Bom. 76 of 1948, s. 22.

4. Sub-section (3) and (4) were added by Bom. 20 of 1952, s. 6.

5. Sub-section (3) was substituted for the original by Mah. 70 of 1975, s. 19(c).

199. Octroi payable on demand :-

12[xxx] 3 [Octroi] shall be payable on demand

1. Sub-section (3) and (4) were added by Bom. 20 of 1952, s. 6.

2. Words repealed by Bom. 7 of 1921, s. 6 are omitted, and the repeal shall have effect from 1st April, 1920.

3. This word was substituted for the words "Town duties" by Mah. 32 of 1964, s. 15

200. [Service] of bills for certain taxes :-

1(1) When any property tax or tax on vehicles and animals, other than 2[vehicles and animals referred to in sub-sections (2) and (3) of section 198], or any instalment of any such tax, shall have become due, the Commissioner shall, with the least practicable delay, cause to be 3[served upon] the person liable for the payment thereof a bill for the sum due.

(2) Every such bill shall specify the period for which, and the premises, vehicle or animal in respect of which, the tax is charged, and shall also give notice of the time within which an appeal may

be preferred, as hereinafter provided, against such tax. 4 [Every such bill for the payment of tax on vehicles and animals shall have printed on the reverse side of the bill the provisions of sections 188 to 191.]

1. This words was substituted for the word "Presentation" by Bom. 8 of 1942, s. 7(2)

2. This portion was substituted for the words "public conveyances and the animals used therefor" by Bom. 20 of 1952 s. 7(1)(a)

3. These words were substituted for the words "presented to" by Bom. 20 of 1952, s. 7(l)(b).

4. This portion was added by Bom. 8 of 1942, s. 11 read with Bom. 8 of 1948. s. 3

201. When one bill may be ^[served for several claims :-

(1) All the sums due for each half-year for all or any of the three property taxes by any one person on account of one and the same property shall be charged to such person in one bill and shall be recoverable from him in the lump:

Provided that nothing herein contained shall affect the liability of such person to pay increased tax to which he may be assessed on account of the said property under section 167.

(2) If any one person is liable for all or any of the said taxes on account of more properties than one it shall be competent to the Commissioner to charge to such person in one or several bills, as he shall think fit the several sums payable by him on account of such properties :

Provided that if such person, by written notice to the Commissioner, requests to be furnished with several bills, the Commissioner shall comply with such request in respect of all the said taxes for which such person becomes liable after receipt by the Commissioner of his said notice : 1 [

provided however that notwithstanding anything in the foregoing proviso no person shall be entitled to be furnished with more than one bill in respect of any building or land which has been treated as comprising more than one separate property under section 158.]

1. This proviso was added by Bom. 2 of 1911, s. 9.

202. Notice of demand :-

(1) If the amount of tax for which any bill has been 1[served] as aforesaid is not paid into the municipal office 2[or deposited with the Commissioner within fifteen days from the service] thereof, the

Commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the form of Schedule I, or to the like effect.

(2) For every notice of demand which the Commissioner causes to be served on any person under this section, a fee of such amount not exceeding 3 [rupees fifty] as shall in each case be fixed by the

1. This word was substituted for the word "presented" by Bom. 20 of 1952, s.9(1)

2. These words were substituted for the words "within fifteen days from the presentation" by Bom. 20 of 1952, s. 9(2).

3. These words were substituted for the words "rupee five" by Mah. 20 of 1995. (w.e.f. 31.8.1995)

203. Distress and attachment :-

(1)] If the person liable for the payment of the said tax do not within fifteen days from the service of the notice of demand pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the Commissioner, and if no appeal is preferred against the said tax, as hereinafter provided, such sum, with all costs of the recovery, may be levied under a warrant in the form of Schedule J, or to the like effect, to be issued by the Commissioner by distress and sale of the goods and chattels of the defaulter 2[or the attachment and sale of the immovable property of the defaulter], or, if the defaulter be the occupier of any premises in respect of which a property tax is due, by distress and sale of any goods and chattels found on the said premises 3[or, if the tax be due in respect of any vehicle or animal, by distress and sale of such vehicle or animal in whomsoever's ownership, possession or control, the same may be.]

(2) If after the service of the notice of demand the amount of the said tax is paid but the fee for the notice is not paid, the sum due on account of the said fee may be levied under a warrant in the form of Schedule J (mutatis mutandis) to be issued by the Commissioner in the same manner as if such sum were due on account of the tax.]

5 [

(3) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, and declaring that such property will be sold

unless the amount of tax due with all costs of recovery is paid into the municipal office within 15 days.

(4) Such order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed in some conspicuous part of the property and upon a conspicuous part of the municipal office and also, when the property is land paying revenue to the State Government, in the office of the Collector.

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

1. These words were substituted for the word "Distress" by Bom. 64 of 1953 s. 6(3)

2. Section 203 was numbered sub-section (1) of s. 203 by Bom. 8 of 1918, s. 4.

3. These words were added by Bom. 8 of 1942, s. 12, read with Bom. 8 of 1948, s. 3.

4. This sub-section was added by Bom. 8 of 1918, s. 4

5. Sub-section (3) to (5) were inserted by Bom. 64 of 1953, s. 6(2)

204. Goods of defaulter maybe distrained wherever found :-

The goods and chattels of any person liable for the payment of any tax, 1 [or the vehicles or animals in respect of which the tax is due] for levy of which a warrant has been issued as aforesaid, may be distrained wherever the same may be found.

1. These words were inserted by Bom. 8 of 1942, s. 13, read with Bom. 8 of 1948, s. 3.

205. Inventory and notice of distress and sale :-

The officer charged with the execution of a warrant of distress issued under section 203 shall forthwith make an inventory of the goods and chattels 1[and vehicles or animals] which he seizes under such warrant, and shall at the same time give a written notice, in the form of Schedule K 1 [or in a similar form] to the person in possession thereof at the time of seizure, that the said goods and chattels 2[and vehicles or animals will be sold as therein mentioned.

1. These words were inserted by Bom. 8 of 1942, s. 14.

206. Sale :-

(1) Where the property seized is subject to speedy and natural decay or when the expenses of keeping it in custody together with the amount to be levied is likely to exceed its value, the Commissioner shall at once give notice to the person in whose possession the property was, when distrained, to the effect that it will be sold at once, and shall sell it accordingly unless the sum due and all costs of recovery are paid forthwith.

(2) If not sold at once under sub-section (1), the property distrained or attached or, in the case of immovable property, sufficient portion thereof, if the same can be conveniently severed may, after the expiry of the period stated in sub-section (3) of section 203, or named in the notice served under section 205, as the case may be, be sold by public auction by order of the Commissioner, unless the warrant is suspended by him or the sum due and all costs of recovery are paid by the defaulter, and the Commissioner shall apply the proceeds or such part thereof as shall be requisite in discharge of the sum due and the costs of recovery.

(3) The surplus, if any, shall be forthwith credited to the municipal fund, but if the same be claimed by a written application to the Commissioner within one year from the date of the sale, a refund thereof shall be made to the person in possession of the property at the time of seizure or attachment and any surplus not claimed within one year as aforesaid shall be the property of the Corporation.

(4) Where the sum due and all costs of recovery are paid by the defaulter before a sale is effected, the property seized shall be returned to him and the attachment, if any, of immovable property, shall be deemed to have been removed.

(5) Sales of immovable property under this section shall be held in the manner laid down in the regulations 2 [made by the Commissioner in this behalf with the approval of the Standing Committee].

(6) After the sale of the immovable property as aforesaid, the Commissioner shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(7) It shall be lawful for the Commissioner on behalf of the Corporation to bid in the case of any immovable property put up for sale, provided the previous approval of the 2[the Improvement Committee] is obtained whether generally or for any particular

property.

(8) Subject to sub-section (7), no officer or servant in the service of the Corporation shall directly or indirectly purchase any property at any such sale.

(9) The Commissioner may direct the removal from the immovable property by any police officer of any person who obstructs him in any

1. This section was substituted for the original by Bom. 64 of 1953, s. 7.

2. These words were substituted for the words "made by the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 90(a), (w.e.f. 23-4- 1999)

207. Fees for warrants, distrains and attachment and maintenance of animals seized :-

(1) For every warrant issued and distraint or attachment made under this Act, a fee shall be charged at such rates, as 2[the Standing Committee] may, from time to time specify.

(2) For the maintenance of any animal seized under this Act, a fee shall be charged at such rate as 2[the Standing Committee] may, from time to time, specify.

(3) IOn addition to the fees chargeable under sub-section (1) or (2), when peons are kept in-charge of the distrained property, a fee of 3[rupees fifty] per day, for each peon employed shall be charged.

(4) All fees charged under this section shall be included in the costs of recovery.]

1. Section 207 was substituted for the original by Mah. 42 of 1976, s .8

207A. Penalty :-

(1) If the person liable for the payment of any tax in respect of which a notice of demand has been served under section 202 does not pay the sum due within three months of the service of such notice and if no appeal is preferred against the said tax under section 217, he shall be liable to pay such amount by way of penalty, as may be determined by the Commissioner, not exceeding twenty per centum of the amount of the tax.

(2) The order of the Commissioner determining the amount of penalty shall be served on such person in the manner provided for the service of a notice of demand.

(3) If the amount of the penalty referred to in sub-section (2) is not paid within fifteen days of the service of the order of the Commissioner it shall be recoverable by distress and sale of the goods and chattels or attachment and sale of the immovable property of the defaulter as if the

1. Section 208A was inserted by Bom. 20 of 1952, s. 10

208. Fees for cost of recovery [and penalty may be remitted.] :-

.1[The Commissioner may, in his discretion], remit the whole or any part of any fee chargeable under the last preceding section or under sub-section (2) of section 202 2 [and the penalty payable under section 207-A]

1. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 92, (w.e.f.23-4-1999)

2. These words, figures and letter were inserted by Bom. 64 of 1953, s.10 (1)

208A. Seizure Of Vehicles And Animals If Tax On Vehicles And Animals Not Paid And Number Plate Not Obtained :-

(1) If the tax on any vehicle or animal governed by the provisions of sub-section (3) of section 198, is not paid and a number plate is not obtained and affixed to the vehicle within thirty days from the date on which the tax became due, the Commissioner may at any time thereafter seize and detain the vehicle and the animal or animals, if any, used or employed in drawing the vehicle and, if the owner or other person entitled thereto does not within seven days from the date of such seizure and detention claim the same and pay the tax due together with the charges incurred in connection with the seizure and detention, the Commissioner may cause the same to be sold and apply the proceeds of the sale or such part thereof as shall be requisite in discharge of sum due and the charges incurred as aforesaid:

Provided that if any person becomes the owner or obtains possession or control of any vehicle or animal on which the tax is due after the expiry of the said period of thirty days and the tax thereon has remained unpaid, he shall pay the same in the manner prescribed immediately after he becomes the owner or obtains possession or control of such vehicle or animal and on failure to do so the vehicle or animal shall, if it is not already seized and detained be liable to be seized and detained and sold as aforesaid:

Provided further that no vehicle or animal used therefore shall be seized and detained under this section when actually employed in the conveyance of goods.

(2) The surplus, if any, remaining after the application of the proceeds of a sale under sub-section (1) in the manner provided therein shall be disposed of in the manner prescribed in sub-section (2) of section 206].

1. Section 208A was inserted by Bom. 20 of 1952, s. 10

209. When occupiers may be held liable for payment of property taxes :-

(1) If the sum due on account of any property tax remains unpaid after a bill for the same has been daily 1[served on] the person primarily liable for the payment thereof and the said person be not the occupier for the time being of the premises in respect of which

the tax is due, the Commissioner may 2[serve a bill for the amount on] the occupier of the said premises, or, if there are two or more occupiers thereof, may [serve a bill on] each of them for such portion of the sum due as bears to the whole amount due the same ratio which the rent paid occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails within fifteen days from the 3 [service] of any such bill to pay the amount therein claimed, the said amount may be recovered from him in accordance with the foregoing provisions.

(3) No arrear of a property tax shall be recovered from any occupier under this section, which has remained due for more than one year, or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from an occupier under this section, he shall be entitled to credit therefore in account with the person primarily liable for the payment of the same.

1. These words were substituted for the words "presented to" by Bom. 20 of 1952, s. 11(1)

2. These words were substituted for the words "present a bill for the amount to" by Bom. 20 of 1952.

3. This word was substituted for the word "presentation" by Bom. 20 of 1952. s. 11(2)

209A. When Tenant- Members May Be Held Liable For Payment Of Property Taxes Due From Cooperative Housing Societies :-

(1) Notwithstanding anything contained in the Maharashtra Co-operative Societies Act, 1960 or any other law for the time being in force, if any sum due on account of any property tax, in respect of any property owned by a co-operative housing society registered under that Act, remains unpaid, after a bill for the same has been duly served on the society primarily liable for the payment thereof, the Commissioner may serve a bill on each of the tenant-members of the society for such portion of the sum due as bears to the whole amount due the same ratio which the rent estimated under section 154 in respect of his tenement bears to the aggregate amount of estimated rent for the whole property.

(2) If the tenant-member fails within fifteen days from the service of any such bill to pay the amount therein claimed, the same amount may be recovered from him, as if the amount were a property tax due by him.

(3) If any sum is paid by, or recovered from, a tenant-member under this section, he shall be entitled to credit thereof in account with the society primarily liable for the payment of the same.

Explanation:- For the purposes of this section, the expression "tenant-member" in the case of a tenant co-partnership co-operative housing society, means a member of such society to whom a tenement has been allotted by the society in the building owned by it]

1. Section 209A was inserted by Man. 63 of 1975, s. 4.

209B. When Joint Owners Of Property May Be Held Liable Severally For Payment Of Property Tax Due From Them :-

(1) Notwithstanding anything contained in this Act or any other law for the time being in force, if any property taxes jointly due in respect of any property jointly owned by two or more persons remains unpaid, after a bill for the same has duly been served upon them jointly, the Commissioner may serve a bill on each of the joint owners for payment of his share of the taxes due in respect of such property. The amount of the tax due from each joint owner shall be worked out with reference to the rateable value of that part of the property as is owned by him.

(2) If any of the joint owners fails to pay the amount claimed within fifteen days from the service of any such bill, the same may be recovered from him as if the amount were a property tax due by him.

(3) If any sum is paid by or recovered from any of the owners under this section he shall be entitled to credit thereof in account of the joint owners primarily liable for the payment of the same].

1. Section 209B was inserted by Mah. 10 of 1998, s. 111

210. Summary proceedings may be taken against persons about to leave, Brihan Mumbai :-

(1) If the Commissioner shall at any time have reason to believe that any person from whom any sum is due on account of any 1[or theatre tax] 2[* * *] is about forthwith to remove from 3[Brihan Mumbai] the Commissioner may direct the immediate payment by such person of the sum so due 2[* * *] by him and cause a bill for the same to be 5[served on] him.

(2) If, on 6[service] of such bill, the said person do not forthwith pay the sum due 3 [* * * *] by him, the amount shall be leviable by distress and sale in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the commissioners warrant for distress and sale may be issued and executed without any delay.

1. These words were inserted by Bom. 30 of 1951, s.4

2. Words deleted by s. 16 of Bom. 8 of 1942, read with Bom. 8 of 1948, s. 3 are omitted.

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996,(w.e.f 4.9.1996)

5. This word was substituted for the words "presented to" by Bom. 20 of 1952, s. 12(1)

6. This word was substituted for the word "presentation" by Bom. 20 of 1952, s. 12 (2)

211. Defaulters may be used for arrears, if necessary :-

Instead of proceeding against a defaulter by distress and sale as

hereinbefore provided, or after a defaulter shall have been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, by such defaulter, on account of a property tax or of the tax on vehicles and animals, may be recovered from him by a suit in any court of competent jurisdiction.

212. Property taxes to be a first charge on premises on which they are assessed :-

Property taxes due under this Act in respect of any building or land shall, subject to the prior payment of the land revenue, if any, due to 1[the 2[State] Government] thereupon be a first charge 8[in the case of any building or land held] immediately from the 3 [Government] upon the interest in such building or land of the person liable for such taxes and. upon the goods and chattels, if any, found within or upon such building or land and belongings to such person; and, in the case of any other building or land, upon the said building or land and upon the goods and chattels, if any, found within or upon such building or land and belonging to the person liable for such taxes.

1. The words tkthe Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

2 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

3. This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

213. Collection of octroi how to be effected :-

(1) The octroi 2[may be collected, under the orders of the Commissioner, by] the municipal officers and servants appointed in this behalf.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for, the 3[Standing Committee], with the approval of the Corporation, to lease by public auction the collection of octroi for any period not exceeding one year at a time or to appoint an agent for collection thereof.

(3) The octroi shall be collected and refunds thereof shall be made at such places and be managed and controlled in such manner as the 4 [Commissioner with the approval of the Standing Committee] shall, from time to time, direct.]

1. Section 213 was substituted by Mah. 10 of 1998, s. 112.
2. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 93 (a), (w.e.f. 23-4-1999).
3. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 93(b), (w.e.f. 23-4-1999)
4. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 93(c), (w.c.f. 23-4-1999)

214. Section 214 :-

[Repealed by Bom. VII of 1921.]

215. Powers of persons authorised to collect and refund town duties :-

Deleted by Mah. 32 of 1964, s. 17

216. Writing off of irrecoverable taxes :-

The Commissioner may, with the approval of the standing committee, from time to time write off any sum due on account of any tax or of the costs of recovering any tax, which shall, in his opinion, be irrecoverable.

217. Appeals when and to whom to lie :-

- (1) Subject to the provisions hereinafter contained, appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Chief Judge of the Small Cause Court.
- (2) But no such appeal 3[shall be entertained] by the said Chief Judge, unless -
 - (a) it is brought within fifteen days after the accrual of the cause of complaint;
 - (b) in the case of an appeal against a rateable value a complaint has previously been made to the Commissioner under section 163, and such complaint has been disposed of;
 - (c) in the case of an appeal against any amendment made in the assessment book under section 167 during the official year, a complaint has been made by the person aggrieved within fifteen days after he first received notice of such amendment, and his complaint has been disposed of;

(d) in the case of an appeal against a tax, or in the case of an appeal made against a rateable value 4[the amount of the disputed tax claimed from the appellant, or the amount of the tax chargeable on the basis of the

2[

(3) In the case of any appeal entertained by the Chief Judge, but not heard by him, before the date of commencement of the Maharashtra municipal Corporation (Amendment) Act, 1975, the Chief Judge shall not hear and decide such appeal, unless the amount of the dispute tax claimed from the appellant, or the amount of the tax chargeable on the basis of the disputed rateable value, as the case may be, up to the date of filing the appeal, has been deposited by the appellant with the Commissioner within thirty days from the date of publication of a general notice by the Commissioner in this behalf in the local newspapers. The Commissioner shall simultaneously serve on each such appellant a notice under sections 484 and 485 and other relevant provisions of this Act, for intimating the amount to be deposited by the appellant with him.

(4) As far as possible, within fifteen days from the expiry of the period of thirty days prescribed under sub-section (3), the Commissioner shall intimate to the Chief Judge the names and other particulars of the appellants who have deposited with him the required amount within the prescribed period and the names and other particulars of the appellants who have deposited with him such amount within such period, on receipt of such intimation the Chief Judge shall summarily dismiss the appeal of . any appellant who has not deposited the required amount with the Commissioner within the prescribed period.

3 [

(5) In the case of any appeal against any rateable value or property tax fixed or charged under this Act, which may have been entertained by Chief Judge before the commencement of the Act aforesaid or which may be entertained by him after the said date the Chief Judge shall not hear and decide such appeal unless the property tax, if any, payable on the basis of the original rateable value plus eighty per centum, of the property tax claimed from the, appellant on the increased portion of the rateable value of the property out of the property tax claimed under each of the bills which may have been issued, from time to time, since the filing of appeal, is also deposited with the Commissioner within the period prescribed under the Act. In case of default by the appellant, on

getting an intimation to that effect from the Commissioner, at any time before the appeal is decided, the Chief Judge shall summarily, dismiss the appeal:

Provided that, in case the appeal is decided in favour of the Corporation interest at 6.25 per centum per annum shall be payable by the applicant on the balance amount of the property tax from the date on which the amount of property tax, was payable:

Provided further that, in case the appeal is decided in favour of the appellant and the amount of property tax deposited with the Corporation is more than the property tax payable by him, the Commissioner shall adjust the excess amount of the property tax with interest at 6.25 per centum per annum from the date on while the amount is deposited with the Corporation towards the property taxes payable thereafter].

1. As to references by the Chief Judge of the Court of Small Causes to the High Court, before or on the hearing of an appeal under section 217 (see Act 12 of 1888, s. 2)

2. Sub-section (3), (4) and (5) were inserted by Man. 63 of 1975, s. 5(b).

3. Sub-section.(5) was substituted and deemed to have been substituted w.e.f. the date of commencement of the Mah. Municipal Corporation (Amendment) Act, 1975 by Mah. 10 of 1998, s. 113.

218. Cause of complaint when to be deemed to have accrued :-

For the purposes of the last preceeding section, cause of complaint shall be deemed to have accrued as follows, namely :-

(a) in the case of an appeal against a rateable value, on the day when the complaint made to the Commissioner under section 163 against such value is disposed of;

(b) in the case of an appeal against any amendment made in the assessment book, under section 167, during the official year, on the day when the complaint made to the Commissioner by the person aggrieved against such amendment is disposed of;

(c) in the case of an appeal against a tax, on the day when payment thereof is demanded or when a bill therefore is 1 [served].

1. This word was substituted for the word "presented" by Bom. 20 of 1952, s. 14.

218A. Arbitration :-

Where in any appeal under section 217 all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may, at any time before a decision is given in such appeal, apply in writing to the Chief Judge of the Small Cause Court for an order of reference on such matter and on such application being made, the provisions of 2 [the Arbitration and Conciliation Act, 1996], relating to arbitration in suits shall, so far as they can be made applicable, apply to such application and the proceedings to follow thereon, as if the said Chief Judge were a Court within the meaning of that Act and the application were an application made in a suit.]

1. Section 218A, 218C, 218D and 218E were inserted by Bom. 76 of 1948, s. 23.

2. These words were substituted for the words "the Arbitration Act, 1940" by Mah. 10 of 1998, s. 114.

218B. Appointment Of Expert Valuer :-

(1) If any party to an appeal against a rateable value under section 217 makes an application to the Chief Judge of the Small Cause Court either before the hearing of the appeal or at any time during the hearing of the appeal, but before evidence as to value has been adduced, to direct a valuation of any premises in relation to which the appeal is made, the Chief Judge may, in his discretion, appoint a competent person to make the valuation and any person so appointed shall, have power to enter on, survey and value the premises in respect of which the direction is given:

Provided that, except when the application is made by the Commissioner no such direction shall be made by the Chief Judge unless the applicant gives such security as the Chief Judge thinks proper for the payment of the costs of valuation under this sub-section.

(2) The costs incurred for valuation under sub-section (1) shall be costs of the appeal, but shall be payable in the first instance by the applicant.

(3) The Chief Judge may, and on the application of any party to the appeal shall, call as a witness the person appointed under sub-section (1) for making the valuation and, when he is so called, any party to the appeal shall be entitled to cross-examine him.]

1. These words were substituted for the words "the Arbitration Act, 1940" by Mah. 10 of 1998, s. 114.

218C. Reference To High Court :-

(1) If, before or on the hearing of an appeal under section 217, any question of law" or usage having the force of law, or the construction of a document arises, the Chief Judge of the Small Cause Court may, and on the application of any party to the appeal shall, draw up a statement of the facts of the case and the question so arising, and refer the statement with his own opinion on the point for the decision of the High Court. Where a reference is made to the High Court under sub-section (1), the provisions of Rules 2 to 5, both inclusive, of order XLVI in the First Schedule to the Code of Civil Procedure, 1908, shall, so far as they can be made applicable, apply to the said Chief Judge and to the High Court, respectively.]

1. Section 218A, 218B. 218C, 218D and 218E were inserted by Bom. 76 of 1948, s.23.

218D. Appeals :-

(1) An appeal shall lie to the High Court -

(a) from any decision of the Chief Judge of the Small Cause Court in an appeal under section 217 by which a rateable value in excess of two thousand rupees is

fixed, and

(b) from any other decision of the said Chief Judge in an appeal under the said section, upon a question of law or usage having the force of law or the construction of a document.

(2) The provisions of the Code of Civil Procedure, 1908, with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1) and orders passed therein by the High Court may on application to the said Chief Judge be executed by him as if they were decrees made by himself:

Provided that no such appeal shall be heard by the High Court unless it is filed within one month from the date of the decision of the Chief Judge.]

1. Section 218A, 218B, 218C, 218D and 218E were inserted by Bom. 76 of 1948, s.23.

218E. Cost Of Proceedings In Appeal :-

The costs of all proceedings in appeal under section 217 before the Chief Judge of the Small Cause Court including those of arbitration under section 218A and of valuation under section 218B shall be payable by such parties in such proportion as the Chief Judge of the Small Cause Court shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Small Cause Court.]

1. Section 218A, 218B, 218C, 218D and 218E were inserted by Bom. 76 of 1948, s.23.

219. Unappealed values and taxes and decisions on appeal to be final :-

(1) Every rateable value fixed under this Act against which no complaint is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Chief Judge aforesaid upon any appeal against any such value or tax, 1 [if no appeal is made therefrom under section 218D], shall be final.

(2) Effect shall be given by the Commissioner to every decision of the said Chief Judge on any appeal against any such value or tax.

1. This portion was inserted by Bom. 76 of 1948, s. 24.

CHAPTER 9

Drains and Drainage Works

220. Municipal drains to be under the control of the Commissioner :-

All drains 1 [vesting in or] belonging to the Corporation - which in this Act are referred to as " municipal drains" - shall be under the control of the Commissioner.

1. These words were inserted by Bom. 5 of 1905, s. 10.

220A. Vesting Of Water Courses :-

(1) Any natural water course heretofore belonging to 2[Govemment] by which rain water or drainage of any kind is carried, may, on application to 3[the 4[State] Government] made by the Commissioner with the previous approval of 5 [the Standing Committee], be vested in the Corporation:

Provided that -

(a) it shall be in the discretion of [the [State] Government] in each case to determine whether a particular water course so applied for shall be so vested, and
(b) a resolution of [the [State] Government] declaring that a water course so applied for may be made over to the Corporation shall, from the date thereof, operate to vest such water course in the Corporation.]

1. Section 220A, was added by Bom. 5 of 1905, s. 11

2. This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

3. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

4. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

5. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 94 (w.e.f. 23-4-1999)

221. Drains to be constructed and kept in repair by the Commissioner :-

(1) The Commissioner shall maintain and keep in repair all municipal drains and, when authorised by the Corporation in this behalf, shall construct such new drains as shall from time to time be necessary for effectually draining 1[Brihan Mumbai]

2 [

(2) The Commissioner shall also, in the case of any street in which there is a municipal drain, construct at the charge of the municipal fund such portion of the drain of any premises to be connected with such municipal drain as it shall be necessary to lay under any part of such street and the portion of any connecting drain so laid under the street shall vest in the Corporation and be maintained and kept in repair by the Commissioner as a municipal drain.]

1. These words were substituted for the words "Greater Bombay" by Mart. 25 of 1996, (w.e.f.4.9.1996)

2. Sub-section (2) was inserted by Bom. 5 of 1905, s. 12(2).

222. Powers for making drains :-

(1) The Commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner

or occupier, into, through or under any land whatsoever within 1 [Brihan Mumbai], or, for the purposes of outfall or distribution of sewages, without 1[Brihan Mumbai]

(2) The Commissioner may enter upon, and construct any new drain in the place of an existing drain in, any land wherein any municipal drain has been already lawfully constructed or repair or alter any municipal drain so constructed.

(3) In the exercise of any power under this section, as little damage as can be shall be done, and compensation shall be paid by the Commissioner to any person who sustains damage by the exercise of such power.

1. Section 221 was renumbered 221, sub-section (1) by Bom. 5 of 1905, s. 12(1)

223. Buildings, etc, not to be erected without permission over drains :-

(1) Without the written permission of the Commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed over any municipal drain.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the Commissioner may, with the approval of the 1 [Standing Committee], remove or otherwise deal with the same as he shall think fit, and the expenses thereby incurred shall be paid by the person offending.

1. These words were substituted for the words "Mayor-in Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 95, (w.e.f. 23-4-1999)

224. Alteration and discontinuance of drains :-

(1) The Commissioner may enlarge, arch over or otherwise improve any municipal drain, and may discontinue, close up or destroy any such drain which has, in his opinion become useless or unnecessary;

(2) Provided that the discontinuance, closing up or destruction of any drain shall be so done as to create the least practicable nuisance or inconvenience to any person, and, if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed.

225. Cleansing drains :-

(1) The municipal drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed; cleansed and emptied.

(2) For the purpose of flushing, cleaning and emptying the said drains, the Commissioner may, when authorised by the Corporation in this behalf, construct or set up such reservoirs, sluices, engines and other works, as he shall from time to time deem necessary.

226. Powers of Commissioner to dig, construct and maintain tunnels below any land and to undertake related works for carrying sewage or storm water :-

(1) For the purpose of carrying sewage or storm water, the Commissioner may dig, construct and maintain a tunnel or tunnels below any land, whether such land is built upon or is vacant, and undertake related works and do such other acts as he deems necessary for digging, construction, maintaining such tunnel or tunnels and undertaking other related works.

(2) Before digging and construction of any tunnel, or any other related work is undertaken by the Commissioner under sub-section (1), he shall cause to be published in the local newspapers in English, Marathi,

Provided that, simultaneously with the publication of such notice in the newspapers, the Commissioner shall, by a notice served in the manner provided in sections 484 and 485, call upon the owner of, or any other person, who, in the opinion of the Commissioner, may be interested in, the land below which such tunnel is to be dug and constructed or such related work is to be undertaken, to show cause, within thirty days from the date of its publication in the local newspapers, why such tunnel should not be constructed and such related work should not be undertaken. After considering the cause, if any, shown by the owner or such other person interested in, such land, and after giving a reasonable opportunity to the persons concerned of being heard, the Commissioner may pass such orders as he deems fit.

(3) Any person aggrieved by any order passed by the Commissioner under sub-section (20) may, within thirty days from the receipt of such order, refer the matter for the decision of the Chief Judge of the Small Cause Courts, whose decision shall be final and shall not be called in question in any suit or other legal

proceeding in any Court:

Provided that, the Chief Judge shall not entertain any such reference, which is not made to him. within the period specified in this sub-section and he shall summarily dismiss such reference.

(4) Whether a reference is made to the Chief Judge under subsection (3) within the specified period and a notice thereof is served by the party concerned on the Commissioner, the Commissioner shall not commence the digging and construction of the tunnel or undertake any related work, unless the Chief Judge has summarily dismissed such reference or has decided the reference and allowed the digging and construction of such tunnel and undertaking of such related work.

1. Sections 226 and 226A were inserted by Mah. 37 of 1981, s. 7.

226A. Provision For Payment Of Amount For Any Damage Sustained By Reason Of Powers To Construct Tunnels Etc, Under Last Preceding Section :-

(1) In exercise of the powers conferred by the last preceding section, as little damage as possible shall be done, and when the Commissioner has exercised those powers in respect of any property, other than the property vested in or belonging to the Government or any local authority, the Commissioner shall, after giving a reasonable opportunity to the persons concerned of being heard, by order determine the amount payable to them for any damage sustained by them by reason of the exercise of those powers.

(2) Any person aggrieved by any order passed by the Commissioner under subsection (1) may, within thirty days from the receipt of such order, refer the matter for the decision on the Chief Judge of the Small Cause Court, whose decision shall be final and shall not be called in question in any suit or other legal proceeding in any Court:

Provided that, the Chief Judge shall not entertain any such reference, which is not made to him within the period specified in this sub-section and he shall summarily dismiss such reference.

(3) Nothing contained in sub-sections (1) and (2) shall debar or prevent the Commissioner from continuing the digging, construction and maintenance of the tunnel or any other related work which he has undertaken in accordance with the decision of the Chief Judge under the last preceding section.]

227. Power to connect drains of private streets with municipal drains :-

The owner of a private street shall be entitled to connect the drain of such street with a municipal drain, subject to the following conditions, namely:-

(a) before commencing to construct such drain, the owner of the street shall submit to the Commissioner a plan of the street, bearing the signature of a licensed surveyor in token of its having

been made by him or under his supervision, and drawn, to such a convenient scale as the Commissioner shall require, and there shall be shown on such plan the position, course and dimensions of the proposed drain, with a section or sections thereof, and such other particulars in relation thereto as the Commissioner shall deem necessary and require, and no such drain shall be proceeded with without the approval in writing or contrary to the directions of the Commissioner;

(b) the drain of such private street shall, at the expense of the owner of the street, be constructed of such size, material and description, and be 1 [Standing Committee], shall direct;

(c) the Commissioner may, if he thinks fit, construct such part of such drain and such part of the work necessary for branching the same into the municipal drain as shall be in or under any public street or place vesting in the Corporation and, in such case, the expenses incurred by the Commissioner shall be paid by the owner of the private street.

1. These words were inserted by Bom. 5 of 1905, s. 14(1)

228. Power of owner and occupiers of premises to drain into municipal drains :-

The owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain 1[or other place legally set apart for the discharge of drainage,] provided that he first obtains the written permission of the Commissioner and that he complies with such conditions as the Commissioner prescribes as to the mode in which and the superintendence under which 1 [connection with municipal drains or other places aforesaid] are to be made.

1. These words were substituted for the original words by Bom 5 of 1905, s. 16.

229. Connections with municipal drains into to be made except in conformity with section 227 or 228 :-

No person shall, without complying with the provisions of section 227 or 228, as the case may be, make or cause to be made any connection of a drain belonging to himself or to some other person with any municipal drain 1[or other place legally set apart for the discharge of drainage]; and the Commissioner may, [* * *] close, demolish, alter or remake any such connection made in contravention of this section, and the expenses incurred by the Commissioner in so doing shall be paid by the owner of the street,

or the owner or occupier of the premises, for the benefit of which the connection was made, or by the person offending.

229A. Buildings, Etc. Not To Be Erected Without Permission Over Any Drains :-

(1) Without the written permission of the Commissioner no building, wall or other structure shall be newly erected over any drain.

(2) If any building, wall or other structure be so erected, the Commissioner, after giving the offending person ten days notice of his intention, may [* * *] remove or otherwise deal with the same as he

230. Right of owners and occupiers of premises to carry drains through land belonging to other persons :-

(1) If it shall appear to the Commissioner that the only means or the most convenient means, by which the owner or occupier of any premises can cause his drain to empty into a municipal drain 1[or other place legally set apart for the discharge of drainage,] is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Commissioner, after giving to the owner of the land a reasonable opportunity of stating any objection, may, with the approval of the 2[Standing Committee], if no objection is raised, or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) Every such order, bearing the signature of the Commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises, or any agent or person employed by him for this purpose, may after giving to the owner or any land, wherein a drain has been already lawfully constructed for the drainage of his said premises reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section, as little damage as can be shall be done, and the owner or occupier of premises 3[for the benefit of which] the work is done shall -

- (a) cause the work to be executed with the least practicable delay;
- (b) fill in, reinstate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction, opened, broken up or removed for the purpose of executing the said work;
- (c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section whilst such land was unbuilt upon, shall, at any time afterwards, desire to erect a building on such land, the Commissioner shall, with the approval of the 4[Standing Committee], by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by the 5[said Committee], and to fill in, reinstate and make good the land as if the drain had not been carried into, through or under the same: Provided that no such requisition shall be made, unless, in the opinion of the 4 [Standing Committee], it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

1. These words were substituted for the words "Member-in-charge" by the Mumbai
2. These words were substituted for the words "said member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 97(b), (w.e.f. 23-4-1999)
3. This section was inserted by Bom. 8 of 1918, s. 6
4. These words were inserted by Bom. 5 of 1905, s. 17(b).
5. This proviso was added by Bom. 5 of 1905, s. 17(d)

230A. Owner Of Land To Allow Others To Carry Drains Through The Land :-

Every owner of land shall be bound to allow any person, in whose favour an order has been made under section 230, sub-section (1), to carry a dram into, through or under the land of such owner on such terms as may be prescribed in such order.]

1. These words were substituted for the original words by Bom. 5 of 1905, s. 18(a)

231. Commissioner may enforce drainage of undraincd premises situated within a hundred feet of a municipal

drain :-

Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage and a municipal drain or some place legally set apart for the discharge of drainage is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises-

(a) to make a drain of such material, size and description and laid at such level 1[and according to such alignment] and with such fall and outlet as may appear to the Commissioner necessary, emptying into such municipal drain or place aforesaid: 2[

Provided that where any premises have already been drained under municipal rules and have to be re-drained, no such requisition shall be made without the previous sanctions of the 1 [the Standing Committee];]

(b) to provide and set up all such appliances and fittings as may appear to the Commissioner necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith;

(c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health.

1. Section 232A, was inserted by Bom. 5 of 1905, s. 19

2. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 99, (w.e.f. 23-4-1999)

232. Commissioner may enforce drainage of undrained premises not situate within a hundred feet of a municipal drain :-

(1) Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage, but no municipal drain or, such place as aforesaid is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises - 1 [

(a) to construct a drain up to a point to be prescribed in such notice, but not distant more than one hundred feet from same part of the said premises, or

(b) to construct a closed cesspool of such material, size and

description in such position, at such level, and with allowance for such all as the Commissioner thinks necessary, and drain or drains emptying into such cesspool.]

[

(2) Any requisition for the construction of any drain under subsection (1) may comprise any detail specified in clause (a), (b) or (c) of section 231.]

1. These words were inserted by Bom. 5 of 1905, s. 14(1)

232A. Power Of Commissioner To Drain Premises In Combination :-

(1) Where the Commissioner is of opinion that any group or block of premises, any part of which is situate within one hundred feet of a municipal drain, or other place legally set apart for the discharge of drainage, already existing or about to be constructed, may be drained more economically or advantageously in combination than separately, the Commissioner may, with the approval of 2[the Standing Committee], cause such group or block of premises to be drained by such method as appears to the Commissioner to be best suited therefor, and the expenses incurred by the Commissioner in so doing shall be paid by the owners of such premises in such proportion as 3 [the Standing Committee] may think fit.

(2) Not less than fifteen days before any work under this section is commenced, the Commissioner shall give written notice to the owners of all the premises to be drained, of-

(a) the nature of the intended work,

(b) the estimated expenses thereof, and

(c) the proportion such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain, constructed, erected or fixed, or continued, for the special use and benefit only of such premises, and shall, in the proportions in which it is determined that the owners of such premises, are to contribute to the expenses incurred by the Commissioner under sub- section (I), be responsible for the expense of maintaining every such drain in good repair and efficient condition, but every such drain shall from time to time be flushed, cleansed and emptied by the Commissioner at the charge of the municipal fund.]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, w.e.f. 4.9.1996.

2. These words were inserted by Bom. 5 of 1905, s. 20(a)

3. This clause was substituted for the original clause (b) by Bom 5 of 1905, s.20(d)

233. Commissioner may close or limit the use of existing private drains :-

(1) Where a drain connecting any premises with a municipal drain 1[or other place legally set apart for the discharge of drainage] is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, but is not, in the opinion of the Commissioner, adapted 2[Brihan Mumbai], 3[or of the part of 3[Brihan Mumbai] in which such drain is situated], the

Commissioner, with the approval of 5 [the Standing Committee] may -

(a) subject to the provision of sub-section (2) close, discontinue or destroy the said drain and cause any work necessary for that purpose to be done;

(b) direct that such drain shall, from such date as he prescribes in this behalf, be used for sullage and sewage, only, or for rain water only, or for unpolluted sub-soil water only, or for both rain water and unpolluted sub-soil water only, and by written notice require the owner or occupier of the premises to make an entirely distinct drain for rain water or unpolluted sub-soil water, or for both rain water and unpolluted sub-soil water, or for sullage and sewage.]

(2) No drain may be closed, discontinued or destroyed by the Commissioner under clause (a), except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain [or other place aforesaid] which the Commissioner thinks fit; and the expenses of the construction of any drain so provided by the Commissioner and of any work done under clause (a) shall be paid by the Commissioner.

(3) Any requisition made by the Commissioner under clause (b) may embrace any detail specified in clause (a) or clause (b) of section 231.

1. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 100 (w.e.f. 23-4-1999)

2. These words were inserted by Bom. 7 of 1918, s. 7(c)

3. This clause was substituted for the original clause (b) by Bom. 8 of 1918, s. 7(d)

5. These words were substituted for the original words by Bom. 5 of 1905, s. 22.

233A. Vesting And Maintenance Of Drains For Sole Use Of Properties :-

Subject to the provisions of sub-section (2) of section 221, every drain which has been constructed, 7[laid], erected or set up, whether at the expense of the Corporation or not, or which is continued, for the sole use and benefit of any premises 8[or group of premises] shall -

(a) notwithstanding anything contained in section 242, vest in the owner of such premises 1[or group of premises] on and from the thirtieth day of September, 1905; and

(b) be provided with all such further appliances and fittings as may appear to the Commissioner necessary for the more effectual working of the same, and also be maintained in good repair and efficient condition by the owner of such premises or group of premises, and be from time to time flushed, cleansed and emptied by the

Commissioner at the charge of the municipal fund].]

1. These words were inserted by Bom. 5 of 1905, s. 14(1)

2. These words were substituted for the original words by Bom. 5 of 1905, s. 23(a)

234. New building not to be erected without drains :-

(1) It shall not be lawful newly to erect any building, or to rebuild any building, or to occupy any building newly erected or rebuilt, unless and until

(a) a drain be constructed of such size, materials and description, at such level and with such fall, as shall appear to the Commissioner to be necessary for the effectual drainage of such building;

(b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the Commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain or into some place legally set apart for the discharge of drainage situated at a distance not exceeding one hundred feet from 3[the premises in which such building is situated]; but if no such drain or place is within that distance, then such drain shall empty into such cesspool as the Commissioner directs.

235. Excrementitious matter not to be passed into cesspool :-

No person shall, except with the permission of the Commissioner pass or cause or permit to be passed any excrementitious matter into any cesspool made or used under section 232 or section 234, or into any drain communicating with any such cesspool.

236. Obligation of owners of drains to allow use thereof or joint ownership therein to others :-

Every owner of a drain connected with a municipal drain 1 [or other place legally set apart for the discharge of drainage] shall be bound to allow the use of it to others, or to admit other persons as joint owners thereof, on such terms as may be prescribed under section

228.

1. These words were inserted by Bom. 5 of 1905, s. 14(1)

237. How right of use or joint ownership of a drain may be obtained by a person other than the owner :-

Any person desiring to drain his premises into a municipal drain, through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain, or may apply to the Commissioner for authority to use such drain or to be declared joint owner thereof.

238. Commissioner may authorise person other than the owner of a drain to use the same or declare him to be a joint owner thereof :-

(1) 1[Where the Commissioner is of opinion, whether on receipt of such application or otherwise, that the only, or the most convenient, means by which the owner or occupier of any premises can cause the drain of such premises to empty into a municipal drain or other place legally set apart for the discharge of drainage is through a drain communicating with such municipal drain or place aforesaid, but belonging to some person other than the said owner or occupier] the Commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may with the approval of 2[the Standing Committee], if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorize the [said owner or occupier] to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the 3 [said premises] with the [communicating drain] and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the joint drain, or otherwise, as may appear to him equitable.

(2) Every such order bearing the signature of the Commissioner shall be complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said

drain is situate, with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for -

- (a) connecting the two drains; or
- (b) renewing, repairing or altering the connection; or
- (c) discharging any responsibility attaching to the person in whose favour the Commissioners order is made for maintaining, repairing, flushing, cleaning or emptying the joint drain or any part thereof.

(3) In respect of the execution of any work under sub-section (2), the person in whose favour the Commissioners order is made shall be subject to the same restrictions and liabilities which are specified in subsection (4) of section 230.

1. These words were substituted for the words "the Member in charge" by the Mumbai Municipal Corporation (amendment) Act 27 of 1999, s. 102, (w.e.f. 23-4-1999)

2. Section 241 was substituted for the original section by Bom. 5 of 1905, s. 24.

3. These words were inserted by Bom. 5 of 1905, s. 14(1)

239. Sewage and rain water drains to be distinct :-

Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the Commissioner to require that there shall be one drain for sullage, excrementitious matter and polluted water and another and an entirely distinct drain for rain water and unpolluted sub-soil water or for both rain water and unpolluted sub-soil water each emptying into separate municipal drains 1[or other places legally set apart, for the discharge of drainage] or other suitable places.

240. Drains met to pass beneath buildings :-

Except with the written permission of the Commissioner, and in conformity with such conditions as shall be prescribed by 1 [the Standing Committee], either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

1. These words were added by Bom. 5 of 1905, s. 26(a)

241. Position of cesspools :-

No person shall construct a cesspool -

- (a) beneath any part of any building; or within twenty feet of any lake, tank, reservoir, stream, spring or well; or
- (b) upon any site or in any position which has not been approved in writing by the Commissioner.]

242. Right of Corporation to drains, etc, constructed, etc at charge of municipal fund on premises not belonging to the Corporation :-

All drains, ventilation shafts and pipes and all appliances and fittings connected with drainage works constructed, erected or set up at the charge of the municipal fund upon premises not belonging to the Corporation, whether before or after the passing of this Act, and 1[otherwise than for the sole use and benefit of the said premises], shall, unless the Corporation has otherwise determined or shall at any time otherwise determine, vest, and be deemed to have always vested, in the Corporation.

243. All drains and cesspools to be properly covered and ventilated :-

(1) Every drain and cesspool, whether belonging to the Corporation or to any other person, shall be provided with proper traps and coverings and with proper means of ventilation.

(2) The Commissioner may, by written notice, require the owner of any drain or cesspool not belonging to the Corporation to provide and apply to the said drain or cesspool such trap and covering and such means of ventilation as would be provided and applied if such drain or cesspool belonged to the Corporation.

244. Affixing of pipes for ventilation of drains, etc. :-

(1) For the purpose of ventilating any drain or cesspool, whether belonging to the Corporation or to any other person, the Commissioner may erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as shall appear to the Commissioner necessary 2[and cut through any projection from any building (including the eaves of any roof thereof) in order to carry up such shaft or pipe through any such projection; and lay in, through, or under any land, such appliances as may in the opinion of the Commissioner be necessary for connecting such ventilating shaft or pipe with the drain or cesspool intended to be ventilated]:

(2) Provided that any shaft or pipe so erected or affixed shall -
(a) be carried at least 1[fifteen] feet higher than any sky-light or window situated within a distance of 2[forty] feet therefrom;
(b) if the same be affixed to a wall supporting the eave of a roof, be carried at least five feet higher than such eave;
(c) be erected or affixed so as to create the least practicable nuisance or inconvenience to the inhabitants of the neighbourhood;
(d) be removed by the Commissioner to some other place, if at any time the owner of the premises, building or tree upon or to which the same has been erected or affixed is desirous of effecting any change in his property which either cannot be carried out, or cannot without unreasonable inconvenience be carried out, unless the shaft or pipe is removed.

(3) If the Commissioner declines to remove a shaft or pipe under clause (d), the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Chief Judge of the Small Cause Court; and the said Chief Judge may, after such inquiry as he thinks fit to make, direct the Commissioner to remove the shaft or pipe and it shall be incumbent on the Commissioner to obey such order.

3 [

(4) Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the drain or cesspool intended to be ventilated, the Commissioner shall, so far as is practicable, reinstate and make good such building, and fill in and make good such land, at the charge of the municipal fund.]

1. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996,(w.e.f.4.9.1996)

245. Appointment of places for emptying of drains and disposal of sewage :-

The Commissioner may cause all or any municipal drains to empty into the sea or other place, whether within nor without 1[Brihan Mumbai], and dispose of the sewage at any place, whether within or without 1[Brihan Mumbai], and in any manner, which he shall

deem suitable for such purpose: provided that -

(a) the Commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore emptied, or

(b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance;

(c) no municipal drain shall be made to empty into any place, and no sewage shall be disposed of at any place or in any manner which 3[the 4 [State] Government] shall think fit to disallow.

1. These words were added by Bom. 5 of 1905, s. 27.

3. The words "and with the previous approval of the Standing Committee" were deleted by Mah. 21 of 1989, s.

4. Sections 246A, 247 and 248 were substituted for section 247 and 248 by Bom. 5 of 1905,s.28

246. Provision of means for disposal of sewage :-

(1) For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, the Commissioner may, when authorised by the Corporation in this behalf -

(a) construct any work within or without 1[Brihan Mumbai];

(b) purchase or take on lease any land, building, engine, material or apparatus either within or without 1[Brihan Mumbai];

(c) enter into an arrangement with any person for any period not exceeding twenty years, for the removal or disposal of sewage [within or without] 1 [Brihan Mumbai]

(2) Provided that any power conferred by this section shall be exercised in such manner as to cause the least practicable nuisance.

1. The words "with the previous approval of the Standing Committee" were deleted by Mah. 21 of 1989, s. 33.

246A. Construction Of Water-Closets And Privies :-

(1) It shall not be lawful to construct any water-closet or privy for any premises except with the written permission of the Commissioner and in accordance with such terms not being inconsistent with any by-laws for the time being in force as he may prescribe.

(2) In prescribing any such terms the Commissioner may determine in each case -

(a) Whether the premises shall be served by the water-closet or by the privy system, or partly by one and partly by the other; and

(b) What shall be the site or position of each water-closet or privy.

(3) If any water-closet or privy is constructed on any premises in contravention of sub-section (1), the Commissioner may, after giving not less than ten days notice to the owner or occupier of such premises, close such water-closet or privy, 1 [* * *] alter or demolish the same, and the expenses incurred by the Commissioner in

so doing shall be paid by such owner or occupier or by the person offending.]
1. Section 249A was inserted by Bom. 5 of 1905, s. 29.

247. Water-closets and other accommodation in buildings newly erected or re-erected :-

(1) It shall not be lawful newly to erect or to re-erect any building for or intended for human habitation, or at or in which labourers or workmen are to be employed, without such water-closet or privy accommodation, and such urinal accommodation, and accommodation for bathing or for the washing of clothes and domestic utensils, as the Commissioner may prescribe.

(2) In prescribing any such accommodation the Commissioner may determine in each case -

(a) whether such building shall be served by the water-closet or by the privy system, or partly by one and partly by the other;

(b) What shall be the site or position of each water-closet, privy, urinal, or bathing or washing place, and their number.

248. Where there is no such accommodation or the accommodation is insufficient or objectionable :-

(1) Where any premises are without a water-closet, or privy, or urinal, or bathing or washing place, or if the Commissioner is of the opinion that the existing water closet, or privy, or urinal, or bathing or washing place accommodation available for the persons occupying or employed in any premises is insufficient, inefficient, or on any sanitary grounds objectionable, the Commissioner may, [* * * *] by written notice, require the owner of such premises -

(a) to provide such, or such additional, water-closet, privy, urinal, or bathing, or washing place accommodation as he prescribes;

(b) to make such structural or other alterations in the existing water- closet, privy, urinal, or bathing or washing place accommodation as he prescribes; or

(c) "to substitute water-closet accommodation for any privy accommodation.

(2) Provided that where the water-closet, privy, urinal, or bathing or washing place accommodation of any premises -

(a) has been and is being used in common by the persons occupying or employed in such premises and any one or more other premises, or

(b) is in the opinion of the Commissioner likely to be so used, the Commissioner may, if he is of opinion that such accommodation is

sufficient to admit of the same being used by all the persons occupying or employed in all such premises, direct in writing that separate water-closet, privy, urinal or bathing washing place accommodation need not be provided on or for each of such other premises.

(3) Provided also that the Commissioner may, if he is of opinion that there is sufficient municipal latrine accommodation available for all the persons, occupying or employed in any premises direct that separate water-closet, privy or urinal accommodation need not be provided for such premises.

(4) Any requisition under sub-section (1) may comprise any detail specified in sub-section (2) of section 247.]

249. Power to require privy accommodation to be provided for factories, etc. :-

Where it appears to the Commissioner that any premises are, or are intended to be, used as a market, railway station, dock, wharf or other place of public resort, or as a place in which persons exceeding twenty in number are employed in any manufacture, trade or business or as workmen or labourers, the Commissioner may, by written notice, require the owner or occupier of the said premises to construct a sufficient number of water-closets or latrines or privies and urinals for the separate use of each sex.

249A. Power Of Commissioner As To Unhealthy Privies :-

Where the Commissioner is of opinion that any privy is likely, by reason of its not being sufficiently detached from any buildings to cause injury to the health of any person occupying such building, the Commissioner, 2 [* * *] may, by written notice, require the owner or occupier of the premises in or on which such privy is situate either

(a) to so close up such privy as to prevent any persons using the same, and to provide in lieu thereof such water-closet or privy accommodation or such urinal accommodation as the Commissioner may prescribe, or

(b) to provide between the said privy and any portion of the said building such air-space not exceeding three feet in width, open to the sky and situate entirely within the limits of the said premises as the Commissioner may prescribe.]

1. These words "with the previous approval of the Standing Committee" were deleted by Mah. 21 of 1989, 5.34.

2. Section 251A was inserted by Bom. 5 of 1905, s. 30

250. Provisions as to privies :-

(1) The owner or occupier of any premises on which there is a privy shall

(a) have between such privy and any building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, an air space of at least three feet in width and open to the sky ;

(b) have such privy shut off by a sufficient roof and wall, or fence, from the view of persons dwelling in the neighbourhood or passing by ;

(c) unless and except for such period as he shall be permitted by the Commissioner, under the power next hereinafter conferred, to continue any existing door or trap-door, close up and not keep any door or trap door in such privy opening on to a street.

(2) Provided that the Commissioner may permit the continuance for such period as he may think fit of any existing door or trap-door in a privy opening on to a street, if a nuisance is not thereby created.

(3) Provided also that clause (a) shall not be deemed to apply to any privy in existence when this Act comes into force, unless -

(d) there is space available on the premises of the owner or occupier for the erection of a new privy conformably to the said clause; and

(e) the existing privy can be removed and a new one erected as aforesaid without destroying any portion of a permanent building other than the existing privy.

251. Provisions as to water- closets :-

The owner or occupier of any premises on which there is a water-closet shall --

(a) have such water-closet divided off from any part of a building or place used, or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, by such means as the Commissioner shall deem sufficient;

(b) have such water-closet in such a position that one of its sides at the least shall be an external wall;

(c) have the seat of such water-closet placed against an external wall;

(d) cause such water-closet to be provided with such means of constant ventilation as the Commissioner shall deem adequate, by a window or other aperture in one of the walls of such water-closet opening directly into the external air, or by an air-shaft or by some other suitable method or appliance;

(e) have such water-closet supplied by a supply cistern and flushing apparatus and fitted with a soil-pan or receiver and such other appliances of such materials, size and description as the Commissioner shall deem necessary; provided always that a cistern from which a water-closet is supplied shall not be used, or be connected with another cistern which is used, for supplying water for any other purpose.

251A. Position Of Privies And Water-Closets :-

No person shall build a privy or water-closet in such a position, or manner as -

(a) to be directly over or directly under any room or part of a building other than another privy or water-closet or a bathing place, bath room or terrace;

(b) to be within a distance of twenty feet from any well or from any spring, tank or stream the water whereof is, or is likely to be, used (whether in natural or manufactured state) for human consumption or domestic purposes, or otherwise render the water of any well, spring, tank or stream liable to pollution.]

1. These words were inserted by Bom. 5 of 1905, s. 32(1)

251B. Use Of Places For Bathing Or Washing Clothes Or Domestic Utensils :-

No person shall use or permit to be used as a bathing place, or as a place for washing clothes or domestic utensils, any part of any premises which has not been provided with all such appliances and fittings as shall, in the opinion of the Commissioner, be necessary for collecting the drainage thereof and conveying the same therefrom.]

1. These words were substituted for the words "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 103. (w.e.f. 23-4-1999)

252. Public necessities :-

The Commissioner shall provide and maintain in proper and convenient situations and on sites vesting in the Corporation, water-closets, latrines, privies and urinals and other similar conveniences for public accommodation.

253. Drains, etc., not belonging to the Corporation to be subject to inspection and examination :-

.. All drains, ventilation shafts and pipes, cesspools, house gullies, water-closets, privies, latrines and urinals 1 [and bathing and washing places] which do not belong to the Corporation, or which have been constructed, erected or set up at the charge of the municipal fund on premises not belonging to the Corporation, for the use or benefit of the owner or occupier of the said premises,

shall be open to inspection and examination by the Commissioner.

1. Section 257 was substituted for the original section by Bom. 5 of 1905, s. 33.

254. Power to open ground etc., for purposes of such inspection and examination :-

For the purpose of such inspection and examination, the Commissioner may cause the ground or any portion of any drain or other work exterior to a building or, with the approval of 1 [the Standing Committee], any portion of a building, which he shall think fit, to be opened, broken up or removed :

Provided that in the prosecution of any such inspection and examination as little damage as can be shall be done.

1. These words were added by Bom. 8 of 1918, s. 8.

255. When the expenses of inspection and examination are to be paid by the Commissioner :-

If upon any such inspection and examination as aforesaid it shall be, found that the drain, ventilation shaft or pipe, cesspool, house gully, water-closet, privy, latrine or urinal 3[or bathing or washing place] examined is in proper order and condition, and that none of the provisions of this Chapter has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or portion of any building, drain or other work, if any opened, broken up or removed for the purpose of such inspection and examination shall be filled in, reinstated and made good by the Commissioner.

256. When the expenses of inspection and examination are to be paid by the owner :-

But if it shall be found that any drain, ventilation shaft or pipe, cesspool, house gully, water-closet, privy, latrine or urinal 1 [or bathing or washing place] so examined is not in good order or condition, or has been repaired, changed, altered or encroached upon, or, except when the same has been constructed by or under the order of the Commissioner, if it has been constructed in contravention of any of the provisions of this Chapter or of any enactment at the time in force. the expenses of the inspection and examination shall be paid by the owner of the premises, and the said owner shall fill in, reinstate and make good the ground, or

portion of any building, drain or other work opened, broken up or removed for the purpose of such inspection and examination, at his own cost.

1. Section 257 was substituted for the original section by Bom. 5 of 1905, s. 33.

257. Commissioner may require repairs, etc, to be made :-

(1) When the result of such inspection and examination as aforesaid is as described in section 256, the Commissioner may -

(a) by written notice require the owner of the premises or the several owners of the respective premises in which the drain, ventilation shaft or pipe, cesspool, house gully, water-closet, privy, latrine, urinal or bathing or washing place is situate, or for the benefit of which the same has been constructed, erected or set up,

(i) to close or remove the same or any encroachment thereupon or 2[subject to the proviso to clause (c) of section 258, to remove any projection over the same, or]

(ii) to renew, repair,, cover, re-cover, trap, ventilate, pave and pitch or take such other order with the same as he shall think fit to direct and to fill in, reinstate and make good the ground, building or thing opened, broken up or removed for the purpose of such inspection and examination, and

(b) without notice, close, fill up or demolish any drain by which sullage or sewage is carried through, from, into or upon any premises in contravention of any of the provisions of this Chapter, and the expenses incurred by the Commissioner in so doing shall be paid by such owner or owners.

(2) Any requisition under clause (a) of sub-section (1) in respect of any drain which has been constructed, erected or set up, or which is continued for the sole use and benefit of a property for the exclusive use and benefit of two or more properties, may include any extension thereof beyond such property or properties, if and so far as such extension has

1. Section 257A was inserted by Bom. 5 of 1905, s. 34.

257A. Cost Of Inspection And Execution Of Works In Certain Cases :-

In the case of any drain which has been constructed, erected or fixed or which is continued, for the exclusive use and benefit of two or more premises and which is not

(a) a drain constructed under section 232A, sub-section (1), or

(b) a drain in respect of which conditions as to the respective responsibilities of the

parties have been declared under section 238, subsection (1), the expenses of any inspection and examination made by the Commissioner under section 253 and of the execution of any work required under section 257, whether executed under section 260 or not, shall be paid by the owners of such premises, in such proportions, 2 [as shall be determined by the Commissioner];

1. These words were inserted by Bom. 8 of 1918, s. 9(a)

2. This proviso was added by Bom. 8 of 1918, s. 9(d)

258. Prohibition of acts contravening the provisions of this Chapter or done without sanction :-

(1)] No person shall

(a) in contravention of any of the provisions of this Chapter or of any notice issued or direction given under this Chapter, or without the written permission of the Commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change, any drain, ventilation shaft or pipe, cesspool, water-closet, privy, latrine or urinal [or bathing or washing place] or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the Commissioner, renew, rebuild or unstop any drain, ventilation shaft or pipe, cesspool, water- closet, privy, latrine or urinal 2[or bathing or washing place], or any fitting or appliance, which has been, or has been ordered to be, discontinued demolished or stopped up under any of the provisions of this Chapter;

(c) without the written permission of the Commissioner, make any 3[projection over or] encroachment upon, or in any way injure or cause or permit to be injured, any drain, cesspool, house gully, water-closet, privy, latrine or urinal 3[or bathing or washing place];

5 [

Provided that nothing in this clause shall apply to any weather-shade in width not exceeding two feet over any window which does not front a wall or window of an adjoining house;]

(d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or in any drain, any brick, stone, earth, ashes or any substance or matter by which or by reason of the amount of which such drain is likely to be obstructed;

(e) pass, or permit or cause to be passed, into any drain provided for a particular purpose, any matter or liquid for the conveyance of which such drain has not been provided;

(f) cause or suffer to be discharged into any drain from any factory, bake-house distillery, workshop or workplace or from any building or place in which steam, water, or mechanical power is employed,

any hot water, steam fumes or any liquid which would prejudicially affect the drain or the disposal by sale or other wise of the sewage conveyed along the drain, or which would, from its temperature or otherwise, be likely to create a nuisance.

(2) Whoever contravenes the provisions of sub-section(l) shall, on conviction, be punished -

(i) for the first offence, with fine which may extend to three hundred rupees; and

(ii) for the second and every subsequent offence, with fine which may extend to one thousand rupees or with an imprisonment which may extend to six months or both.]

1. Sub-section (2) was added by Mah. 21 of 1989, s. 36.

2. These words were inserted by Bom. 8 of 1918, s. 9(a)

3. Sub-section (2) was repealed by Bom. 5 of 1905.

5. Section 259A was inserted by Bom. 5 of 1905, s. 36 This proviso was added by Bom. 32 of 1935, s. 11.

259. When materials and work may be supplied and done under this Chapter for any person by the Commissioner :-

(1) On the written request of any person who is required under any of the provisions of this Chapter to supply any materials or fittings or to do any work, the Commissioner may, in such persons behalf, supply the necessary materials or fittings, or cause the necessary work to be done; but he shall not do so in any case to which the provisions of section 493 or

(2)1[xxx]

259A. Work To Be Done By Licensed Plumber Permission To Use As Drains :-

(1) No person shall permit any work described in this Chapter to be executed except by a licensed plumber; [

Provided that if, in the opinion of the Commissioner, the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.]

(2) Every person who employs a licensed plumber to execute any such work shall, when so required, furnish to the Commissioner the name of such plumber.

(3) Every such person shall, within one month after completion of any such work and before permitting the same or any portion thereof to be filled in or covered over, deliver or send or cause to be delivered or sent to the Commissioner at his office notice in writing of the completion of such work, accompanied by a certificate in the form of Schedule signed by the licensed plumber by whom the same has been executed, who is hereby required immediately upon completion of the work and upon demand by the person employing him to sign and give such certificate to such person, and shall give to the Commissioner all necessary facilities for the inspection of such works:

Provided that

(a) such inspection shall be made within seven days from the date of receipt of the notice of completion, and

(b) the Commissioner may, within seven days after such inspection, by written intimation addressed to the person from whom the notice of completion was received and delivered at his address as stated in such notice, or, in the absence of such address, affixed to a conspicuous part of the premises in which such work has been executed

(i) give permission for the filling in or covering over of such work, or

(ii) require that before such work is filled in or covered over, it shall be amended to the satisfaction of the Commissioner in any particular in respect of which it is not in accord with a requisition previously made by the Commissioner or contravenes some provisions of this Act or of the bylaws under this Act.

(4) No person shall permit any such work to be used as a drain or part of a drain until -

(a) the permission referred to in proviso (b) to sub-section (3) has been received, or

(b) the Commissioner has failed for fourteen days after receipt of the notice of completion to intimate as aforesaid his refusal of permission for the filling in or covering over of such work.]

CHAPTER 10

Water Supply

260. Commissioner may execute certain works under this Chapter without allowing option to persons concerned of executing the same :-

(1) The Commissioner may, if he thinks fit, cause any work described in 1 [this Chapter] to be executed by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Corporation shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

1. This section was inserted by Bom. 5 of 1938, s.21.

260A. Definitions :-

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

(a) communication pipe means a pipe extending from a municipal water main up to and including the municipal stop-cock;

(b) consumer means any person who uses or is supplied with water from a municipal water work or on whose application such water is supplied and includes any person liable to the Corporation under the

(c) consumers pipe means a pipe used in connection with the supply of water from any municipal water work and which is not the property of the Corporation;

(d) distributing pipe means any pipe not subject to water pressure from a municipal water main;

(e) fitting includes a pipe, coupling, flange, branch, bend, stop, ferrule, stop tap,

bib tap, spring tap, pillar tap, globe tap, ball cock, boiler, pump, meter, hydrant and any other apparatus or article used for the purpose of conveying or storing water supplied by the Corporation;

(f) municipal stop cock means the stop cock which controls the supply of water from a municipal water main;

(g) supply pipe means the pipe extending from a municipal stop cock upto the ball cock of the storage tank, if any, and any pipe subject to pressure from a municipal water main.]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f.4.9.1996)

261. General powers for supplying the city with water :-

For the purpose of providing 1[Brihan Mumbai] with a supply of water proper and sufficient for public and private purposes, the Commissioner, when authorised by the Corporation in this behalf, may

(a) construct and maintain water works, either within or without 2[Brihan Mumbai] and do any other necessary acts; 2[

(aa) "construct and maintain tunnels and undertake other related works, as part of the municipal water works, below any land, in whomsoever such land may vest for carrying water;]

(b) purchase or take on lease any water work or any water or right to store or to take and convey water, either within or without 4 [Brihan Mumbai];

(c) enter into an arrangement with any person for a supply of water.

1. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

4. Clause (c) was inserted by Mah. 37 of 1981, s. 9.

262. Municipal water works to be managed and kept in repair by the Commissioner :-

The Commissioner shall manage all water works belonging to the Corporation - all which water works are in this Act referred to as "municipal water works" - and maintain the same in good repair and efficient condition, and shall cause all such alterations and extensions to be from time to time made in the said water works as shall be necessary or expedient for improving the said works.

263. Power of access to municipal water works :-

(1) The Commissioner, and any person appointed by 1[the 2[State] Government] under section 264 in this behalf, may, for the purpose of inspecting or repairing or executing any work in, upon of in connection with any municipal water work, at all reasonable times -
(a) enter upon and pass through any land within or without the city, adjacent to or in the vicinity of such water work, in whomsoever such land may vest;
(b) convey into and through any such land all necessary materials, tools and implements.

3[

(c) enter upon or pass through any land, whether vacant or built up, below which any tunnel for carrying water is dug, constructed or maintained, or any other land adjacent to or in the vicinity of such land or tunnel, and to inspect such tunnel with the necessary equipment and do such other acts as he deems necessary for such purposes.]

(2) In the exercise of any power conferred by this section, as little damage as can be shall be done, and compensation for any damage which may be done in the exercise of any of the said powers shall be paid by the Commissioner, or, if any person appointed under section 264 by 4[the [State] Government] has caused the damage by 1[the 2 [State] Government].

1. Section 265 was substituted for the original section by Man. 37 of 1981, s. 10.

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

3. The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

4 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1050.

264. Inspection of municipal water works by persons appointed by 2[State] Government :-

Any person appointed by 1[the 2 [State] Government] in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal water work.

1. Section 265 was substituted for the original section by Man. 37 of 1981, s. 10.

2. These words were substituted for the words "Greater Bombay"

by Mah. 25 of 1996, (w.e.f. 4.9.1996)

265. Power of carrying water mains and construction tunnels, etc. :-

The Commissioner shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing water mains, pipes and ducts, and for construction and maintenance of tunnels below any land or undertaking other related works, within or without 2[Brihan Mumbai], as he has and is subject to under the provisions hereinbefore contained in Chapter IX for carrying, constructing, maintaining, renewing and repairing drains and drainage works, including tunnels below any land and other related works, within 4 [Brihan Mumbai].

Provided that, the powers under this section in respect of digging, carrying constructing, maintaining and repairing of tunnel or any other related works, shall be exercised by the Commissioner, with the previous approval of the State Government].

1 . These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 104, (w.c.f. 23-4-1999)

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, S.105(a) and (b), (w.e.f. 23-4- 1999)

*. The words "Government of Bombay" stand unmodified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) order. 1960.

266. Fire-hydrants to be provided :-

The Commissioner shall cause fire-hydrants and all necessary works, machinery and assistance for supplying water in case of fire to be provided and maintained; and shall have painted or marked on the buildings and walls or in some other conspicuous manner, within the streets, words or marks near to such hydrants to denote the situation thereof, and shall cause a hydrant-key to be deposited at each place within 4 [Brihan Mumbai] where a municipal fire-engine is kept, and do such other things for the purpose aforesaid as he shall deem expedient.

*. The words "Government of Bombay" stand unmodified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) order. 1960.

267. Prohibition of building and other acts which would injure sources of water supply :-

(1) Except with the sanction of the Corporation and, in the case of the Vehar water works, of [the 4 [State] Government], or, for the purposes of section 262, under the authority of the Commissioner, no person shall -

(a) erect any building for any purpose whatever within the limits of the water shed of any lake or reservoir from which a supply of water is derived for any municipal water work;

(b) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the said limits;

(c) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatsoever, whereby injury may arise to any such lake or reservoir may be fouled or rendered less wholesome.

(2) The limits of the watershed of the Vehar lake shall, for the purposes of this section, be deemed to be the limits defined in a plan marked "B", authenticated by the signatures of the Governor and Members of Council, and deposited in the office of the Secretary to the Government of Bombay.

*. The words "Government of Bombay" stand unmodified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) order. 1960.

268. Buildings, etc., not to be erected over municipal water main without permission :-

(1) Without the written permission of the Commissioner no building, wall or other structure shall be newly erected, and no street or railway shall be constructed, over any municipal water main.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the Commissioner may, with the approval of 1 [the Standing Committee], cause the same to be removed or otherwise dealt with as to him shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

1. These words were substituted for the words "private use and not for sale" by Bom. 5 of 1938,8.22.

269. Vesting of public drinking fountains, etc., in the Corporation :-

(1) All existing public drinking fountains, tanks, reservoirs, cisterns, pumps, wells, ducts and works for the supply of water for the gratuitous use of the inhabitants of the city shall vest in the Corporation and be under the control of the Commissioner.

(2) The Commissioner may maintain the said works and provide them with water, and, when authorised by 1[the Corporation] in this behalf, may construct any other such works for supplying water for the gratuitous use of the inhabitants of the city.

(3) Provided that water carried away by any of the inhabitants from any such work shall be taken only for his 2[personal or domestic use and not for the purpose of business or sale], and shall not, except with the written permission of the Commissioner, be carried away in a cask, cart, pakhal or masak.

(4) The Commissioner may temporarily, and with the approval of 2[the Corporation] permanently, close any of the said works, either entirely or partially.

(5) In case any such work is permanently closed, either entirely or partially, by the Commissioner, the site thereof, or of the portion thereof which is so closed, and the materials of the same may be disposed of as the property of the Corporation: Provided that if any such work, which is permanently closed, either entirely or partially, was a gift to the public by some private person, the said site and materials or the proceeds of the sale thereof shall, unless by reason of their value being insignificant or for other sufficient reason 4[the Corporation] think fit to otherwise direct, be applied to or towards some local work or public utility bearing the name of such person, or to or towards any such local work which shall be approved by 5 [the Corporation] and by the heirs or other representatives, if any, of the said person.

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 105(c) (w.e.f.23-4-1999)

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996).

4. These words were substituted by Bom. 5 of 1938, s. 23(a)

5. This proviso was added by Mah. 51 of 1975, s. 15.

270. Public drinking fountains, etc., may be set apart for particular purposes :-

(1) The Commissioner may assign and set apart each of the said

works and the water therein for use by the public for such purpose only as he shall think fit, and shall cause to be indicated, by a notice affixed on a conspicuous spot on or near each such work, the purpose for which the same is so assigned and set apart.

(2) No person shall make use of any such work or of any water therein for any purpose other than the purpose for which the same has been so assigned or set apart.

270A. Premises Not To Be Occupied Without Commissioner S Certificate In Respect Of Adequate Water Supply :-

No person shall occupy or permit to be occupied, or use or permit to be used, any premises or part thereof constructed or reconstructed after the date of the coming into force of the Bombay Municipal Corporation (Amendment) Act, 1953, until he has obtained a certificate from the Commissioner to the effect that there is provided within, or within a reasonable distance of, the premises a supply of pure water to the persons intending to occupy or use such premises or, where the premises are situated within any portion of 2 [Brihan Mumbai] in which a public notice has been given by the Commissioner under section 141, until he has obtained a certificate from the Commissioner to the effect that a supply of pure water has been provided for the premises from a municipal water work.]

1. This proviso was added by Mah. 51 of 1975, s. 15.

2. Sections 272, 273 and 273A were substituted for sections 272 and 273 by Bom. 5 of 1905, s. 38.

271. Application for private water supply from whom to be received :-

(1) 1[Supply pipes] for conveying to any premises a private supply of water from 2[a municipal water work] shall not 2[be connected with such water work] except on the written application or with the written assent of the owner of the premises, or of the person primarily liable for the payment of property taxes on the said premises:

Provided that, in respect of any premises, where the owner or person primarily liable for the payment of property taxes, fails or refuses to make such application, or to give his assent, within a reasonable period the supply pipes for conveying to such premises such water supply may be connected with such water work on the written application of the occupier of such premises made to the Commissioner, after holding necessary inquiry and on payment of the cost of connecting the supply pipes and subject to such other conditions (including those for payment of water taxes and water charges) as the Commissioner may deem fit to impose.]

(2) But if it shall appear to the Commissioner that any premises situate within any portion of 6 [Brihan Mumbai] in which a public

notice has been given by the Commissioner under clause (b) of section 141, are without a supply of pure water, adequate to the requirements of the persons usually occupying or employed upon to the said premises, the Commissioner shall, by written notice, require the owner of the said premises or the person primarily liable for the payment of property taxes thereon, to obtain a supply adequate as aforesaid from a municipal water work and to provide supply and distributing pipes, cisterns and fittings

1. This sub-section was substituted for the original sub-section (2) by Bom. 8 of 1918, s.10

2. This word was substituted for the original by Bom. 5 of 1938, s. 24(a)

4. These words were substituted for the original by Bom. 5 of 1938, s. 24(b)

6. Sections 272, 273 and 273A were substituted for sections 272 and 273 by Bom. 5 of 1905,s.38.

272. Making and renewing connection with municipal water works :-

(1) No connection with any municipal water work shall be made or renewed -

(a) except by a municipal officer or servant empowered in that behalf by the Commissioner; and

(b) until the certificate specified, in sub-section (4) has been given.
2[

(2) In every case where a new connection with a municipal water work is made or an existing connection requires renewal, all necessary communication pipes and fittings 3[thereon], shall be supplied by the Commissioner, and the work of laying and applying such communication pipes and fittings shall be executed by municipal agency under the Commissioners orders; and the cost of all such materials and work shall be charged to the municipal fund.]

(3) 4[Every such communication pipe and fitting thereon shall vest] in the Corporation and be maintained at the charge of the municipal fund as a municipal water work.

[

(4) All supply and distributing pipes and cisterns and fittings not being the property of the Corporation shall be laid and applied under the supervision and to the satisfaction of a Municipal Officer appointed by the Commissioner in that behalf, who shall give and sign a certificate, free of charge, when such supply and distributing

pipes, cisterns and all necessary fittings have been laid, applied and executed in a satisfactory manner and when proper and sufficient arrangements have been made for draining off waste water.]

5[

(5) Where any supply or distributing pipe, cistern or such fitting is laid, applied, added to or altered, or any connection is made in contravention of this section the Commissioner may, with the previous approval of 6 [the Standing Committee], remove such supply or distributing pipe, cistern, fitting or connection, or additions or alterations thereto, and make good such pipe, cistern, fittings or connection; and the owner and occupier of the premises in which or for supply to which such supply or distributing pipe, cistern or fitting has been laid, applied, added to or altered or such connection has been made, shall be jointly and severally liable to pay the expenses incurred by the Commissioner in so doing.]

1. These sub-sections were substituted for the original by Bom. 5 of 1938, s.24 (c) and (d)

2. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 106, (w.e.f. 23-4-1999)

3. This section was substituted for the original by Bom. 5 of 1938, s. 25.

4. This section was substituted for the original by Bom. 5 of 1938, s. 26

5. This sub-section was substituted for the original by Bom. 5 of 1938, s. 27(a)

6. This sub-section was inserted by Bom. 5 of 1938 s. 27(d)

273. Commissioner may take charge of private connections

:-

.1 [. The Commissioner may, by agreement with a consumer, take charge on behalf of the Corporation of all or any of the consumers pipes and fittings :

Provided that if any such pipes or fittings are communication pipes or fittings only not vesting in the Corporation, the Commissioner may, if he thinks fit, take charge of the same without such agreement. Any consumers pipes and fittings, of which the Commissioner takes charge under this section, shall thereafter vest in, and be maintained at the expense of, the Corporation as a municipal water work.]

1. These words were substituted for the original by Bom. 5 of 1938, s. 27(c)(i)

273A. Power Of Commissioner To Alter Position Of Connections :-

The Commissioner may, if at any time he deems it expedient to alter the position of an existing connection with any municipal water work, or of any consumers pipe or fitting thereof; and after giving to the owner of such connection, pipe or fitting not less than four days previous notice of his intention so to do, cause the said connection, pipe or fitting to be moved to such other position as he thinks fit and relaid and applied, or others to be laid and applied in lieu thereof, in such position as he may direct; and in every such case all such work shall be carried out at the expense of the municipal fund and such new connection, pipe or fitting shall thereafter vest in the Corporation and be maintained at the charge of the municipal fund as a municipal water work.]

1. This word was substituted for the word "purposes" by Bom. 5 of 1938, s.27(c)(ii)

274. Provision as to cisterns and other fittings, etc., to be used for connections with water works :-

(1) The Commissioner may, whenever it shall appear to him to be necessary, by written notice require the owner of any premises furnished with a private water supply from any municipal water work to provide such premises within a reasonable period which shall be prescribed in the said notice, with cisterns and fittings of such size, material, quality and description and placed in such position and with such safe and easy means of access as he thinks fit.] 2[

(1A) The Commissioner may also in the like manner require the owner of any premises to provide such safe and easy means of access as he thinks fit to any existing cistern which on an examination under section 278 is found to be not easily accessible.]

(2) The Commissioner shall also from time to time prescribe the size, material, quality, description and position of the 3[pipes and fittings] to be employed for the 4[purpose] of any connection with, or of any communication from, any municipal water work, and no such connection or communication shall be made by any person otherwise than as so prescribed.

5[

(3) The Commissioner shall likewise prescribe the size, material, quality and description of the 6[pipes, cisterns and fittings] to be employed for the purpose of replacing any 4 [pipes, cisterns and fittings] found on an examination under section 278 to be so defective that they cannot be effectively repaired.]

1. This section was inserted by Bom. 5 of 1938, s. 28
2. Section 275 was numbered sub-section (1) of section 275 by Bom. 8 of 1918, s. 12
3. These words were substituted for the original by Bom. 5 of 1938, s. 29(a)
4. This sub-section was added by Bom. 8 of 1918, s. 12.
5. These words were substituted for the original by Bom. 5 of 1938, s. 29(b)
6. These words were substituted for the original by Bom. 5 of 1938, s. 29(b)

274A. Provisions For Keeping Cisterns Locked :-

(1) The Commissioner may, by written notice, require the owner of any premises furnished with a cistern or in respect of which the Commissioner has required a cistern to be furnished; to provide such cistern with a lock and key of such pattern, material and quality as the Commissioner shall in such notice prescribe, and may in like manner require any lock or key found to be defective on an inspection under section 278 to be replaced.

(2) Every cistern so provided with a lock shall be kept permanently locked and the key shall then be delivered to the Commissioner.]

1. This proviso was inserted by Bom. 62 of 1954, s. 6

275. Communication pipes, etc., to be kept in efficient repair by owner or occupier of premises :-

(1) It shall be incumbent on the owner or occupier of any premises to which a private water-supply is furnished from any municipal water work, 1[to keep in a thoroughly clean condition and to maintain and keep in efficient repair every supply and distributing pipe] conveying water from the said water work to such premises and every meter for measuring water, not being a municipal meter and 1 [every cistern and fitting] in or connected with any such pipe, so as effectually to prevent the water from running to waste.

[

(2) When an occupier of any premises is served with a notice under sub-section (2) of section 278, he may, after giving to the person to whom he is responsible for the payment of his rent [three] days notice in writing, himself have the repairs executed and in such event he shall be entitled to deduct from any rent due [or to become due] by him to such person the actual expenses incurred by him in complying with the notice and served under sub-section (2) of section 278; provided that nothing in this section shall effect the liabilities of parties under leases executed before the 1st day of

April 1918.]

1. This sub-section was substituted for the original by Bom. 5 of 1938, s. 30(d).

276. Provision of meters when water is supplied by measurement :-

(1) Where water is supplied by measurement, the Commissioner may either provide a meter and charge the consumer for the same such rent as shall from time to time be prescribed in this behalf by the standing committee, or may permit the consumer to provide a meter of his own of such size, material and description as the Commissioner shall approve for this purpose: 1 [

Provided that if such consumer is an occupier of any premises, he shall not be provided with a meter or permitted to provide himself with a meter of his own, unless he complies with such conditions as may be prescribed by the Commissioner.] -

(2) The Commissioner shall at all time keep all meters and other instruments for measuring water, let by him for hire to any person, in proper order for correctly registering the supply of water, and in default of his so doing such person shall not be liable to pay rent for the same during such time as such default continues.

1. The words "with the sanction of the Standing Committee" were repealed by Bom. 6 of 1913,5.2

277. Register of meter to be evidence :-

Where water is supplied by measurement, the register of the meter or other instrument for measuring water shall be prima facie evidence of the quantity consumed.

278. Commissioner etc. may inspect premises in order to examine meter communication pipes, etc. :-

(1) The Commissioner may make an inspection of any premises to which a private water supply is furnished by the Corporation in order -

(a) to remove, test, examine and replace any meter for measuring water; or

1[

(b) to examine any supply or distributing pipe, cistern, lock or fitting; or]

(c) to see if there be any waste or misuse of water.

2 [

(2) The Commissioner may, by written notice, require the owner or occupier of the premises to remedy any defect which shall be found to exist in or to clean, any such meter, not being a municipal meter let to him for hire, or any such supply or distributing pipe, cistern, lock or fitting.]

1. These words were inserted by Bom. 5 of 1938, s. 31 (I)(a)

2. These words and figures were inserted by Bom. 10 of 1928, s. 13(a)(i)

279. Power to cut off private water supply or to turn off water :-

(1) The Commissioner may 1[xxx] cut off the connection between any municipal water work and any premises to which a private water supply is furnished by the Corporation or turn off the water from such premises in any of the following cases, namely :-

(a) in default of payment of any instalment of water tax or of any sum due for water 2[or hire of meter] 3[or expenses of any work done under or by virtue of the provisions of sections 272, 276 or 287A] within fifteen days after a 4[notice of demand] for such tax or sum has been duly 4[served];

5[

(b) if the owner of the premises neglects, within the period prescribed in this behalf in any notice given under sub-section (1) or (1A) of section 274 or under section 274A, to comply with any requisition made to him by the Commissioner regarding the provision of any cistern, fitting, lock or key or any means of access to such cistern;

(c) if the owner or occupier of the premises fails, within the period prescribed in this behalf in any notice given under sub-section (2) of section 278, to comply with the terms of such notice or fails to use articles of the kind prescribed under sub-section (3) of section 274;]

(d) if after receipt of a written notice from the Commissioner requiring him to refrain from so doing, the owner or occupier of the premises continues

(i) to use the water, or to permit the same to be used, in contravention of any by-law made under this Act or of any condition prescribed under sub-section (2) of section 169;

(ii) When payment for the water is made not by measurement to permit any person not residing on premises in respect of which

water tax

6[

(e) if the owner or occupier of the premises willfully or negligently injures or damages any meter, pipe, [cistern or fitting or lock thereof in- such premises.]

7[

(f) if the owner or occupier of the premises fails to comply with any requisition made on him by the Commissioner under sub-section (2) of section 287B, to furnish the name of the licensed plumber];

8[

Provided that -- 9[

(i) in any case under 10[clause] (a) the Commissioner shall not take action unless not less than fifteen days previously a copy of the notice of demand in respect of the tax or sum has been affixed to a conspicuous part of the premises.]

[

(ii) in cases under [Clauses] (a), (b), 8[(d) and (f)] the Commissioner shall not take action without the sanction of [the Standing Committee]

(iii) in cases under 7[clauses] (c) and (e) the Commissioner shall not take action unless written notice of not less than twenty-four hours has been given to the owner or occupier of the premises.]

[

(iv) in any case falling under [clause] (b), the Commissioner shall not take action unless not less than fifteen days previously a copy of the notice under sub-section (1) or sub-section (1A) of section 274 or under

11[

Provided that where in any case falling under clause (a), (b), (d) and (f) the Commissioner has with the sanction of 12[the Standing Committee], cut off water supply or turned off water, and there is recurrence of any case under any of these clauses, the Commissioner shall take action without the sanction of 12 [the Standing Committee].]

(2) The expense of cutting off the connection or of turning off the water in any such case as aforesaid shall be paid by the owner or occupier of the premises.

1. This clause was substituted for the original by Bom. 5 of 1938, s. 3 I(I)(c)

2. This clause was inserted by Bom. 8 of 1981, s. 13(b)

3. This proviso was added by Bom. 6 of 1913, s. 2.

4. The words "clause" and "clauses" were substituted for the words

"sub-clause" and sub-clauses" respectively by Mah. 21 of 1989, s. 37(a)

5. Original clauses (i) and (ii) were renumbered as clauses (ii) and (iii) respectively by Bom 10 of 1928, s. 13(c).

6. This proviso was added by Mah. 21 of 1989, s. 37(b)

7. These words were substituted for the words "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 107, (w.e.f. 23-4-1999)

8. This section was inserted by Bom. 8 of 1918, s. 14.

9. Section 280B was inserted by Mah. 21 of 1989, s. 38.

10. Section 281 was renumbered as sub-section (I) of that section and after sub-section (1) as so renumbered, sub-section(2) was added, by Mah. 21 of 1989, s. 39

11. These words were inserted by Bom. 5 of 1905, s. 39.

12. Sub-section (2) was added by Mah. 21 of 1989, s. 39

280. Conditions as to use of water not to be contravened :-

No person to whom water is supplied by measurement or on payment of a fixed periodical sum shall contravene any condition, prescribed under sub-section (2) of section 169 for the use of such water, or permit any such condition to be contravened.

280A. Powers Of Commissioner To Carry Private Mains Through Land Belonging To Other Persons :-

The Commissioner shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing private water mains, pipes and ducts as he has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing private drains.]

1. Sub-section (3) was added by Mah. 21 of 1989, s. 40

280B. Recovery Of Expenses Of Laying Water Pipes :-

The expenses for carrying, renewing and repairing private water mains, pipes and ducts referred to in section 280A, shall be recovered from the owner or occupiers in accordance with the provisions of this Act.]

281. Water pipes, etc., not to be placed where water will be polluted :-

(1)] No water pipes 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 pipe is likely to be injured or the water therein polluted; and no well or tank, and except with the consent

of the 1[privy, water-closet or] cesspool.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to one month or with fine which shall not be less than five hundred rupees and which may extend upto five thousand rupees or with both.]

1. Section 284 was renumbered as sub-section (I) of that section by Mah.21 of 1989, s. 41

2. These words were substituted for "or engine" by Bom. 5 of 1938, s. 32(a).

282. Prohibition of fraudulent and unauthorised use of water :-

(1) No person shall fraudulently dispose of any water supplied to him by the Corporation.

(2) No person to whom a private supply of water is furnished by the Corporation shall, except when the water supplied is charged for by measurement, permit any person who does not reside on premises in respect of which water tax is paid carry away water from the premises to which it is supplied.

(3) No person, who does not reside on premises in respect of which water tax is paid, shall carry away water from any premises to which a private supply is furnished by the Corporation, unless, in any case in which such supply is charged for by measurement, he does so with the permission of the person to whom such supply is furnished.

283. Prohibition of fraud in respect of meters :-

(1) No person shall fraudulently

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

(b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

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

1 [

(3) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to one month or with a fine which shall not be less than five

hundred rupees and which may extend upto five thousand rupees or with both.]

1. These words were inserted by Bom. 8 of 1918, s. 15

284. Prohibition or wilful or neglectful acts relating to water works :-

(1)] No person shall willfully or negligently

(a) injure or suffer to be injured any meter belonging to the Corporation or any of the fittings of any such meter;

(b) break, injure or open any lock, cock, valve, pipe, work, 2[engine, cistern or fitting] appertaining to any municipal water work;

(c) flush or draw off the water from any such water work, thereby causing such water to be wasted;

(d) do any act 3[or suffer any act to be done] whereby the water in or derived from any municipal water work shall be wasted;

(e) obstruct, divert or in any way injure or alter any water main or duct;

4[(f) except with the permission of the Commissioner, open, break, injure or tamper with any lock furnished under section 274A.] 5[

(g) misuse the water duly provided by the Corporation for a specific purpose or use the same for any other purpose, whether specified or not.]

6 [

(2) whoever contravenes any of the provisions of sub-section (1) shall, on conviction, be punished, -

(a) for the first offence, with an imprisonment for a term which may extend to one month or with a fine which shall not be less than one hundred rupees and which may extend upto one thousand rupees or with both;

(b) for the second and every subsequent offence, with imprisonment for a term which may extent to six months or with fine which shall not be less than two hundred rupees and which extend upto two thousand rupees or with both.]

1. This section was substituted for the original by Bom. 5 of 1938, s. 33.

2. This section was substituted for the original by Bom.5 of i 938, s. 34

3. Section 287A was inserted by Bom. 5 of 1905, s. 4

4. These words were inserted by Bom. 5 of 1938, s. 35.

5. This section was inserted by Bom. 5 of 1938, s. 17

6. These words and brackets were inserted by Bom. 5 of 1938, s. 36(1)

285. Compensations to be payable by offenders against section 283 or 284 :-

Compensation shall be paid by the offender for any damage which the Corporation sustains by reason of any contravention of section 283 or section 284.

286. What persons to be liable for offences under certain provisions of this Chapter :-

If it shall be shown that an offence against some provision of this Chapter or against some bye-laws made under this Act at the time in force relating to water supply has occurred on any premises to which a private supply of water is furnished by the Corporation, the owner, the person primarily liable for the payment of water tax and the occupier of the said premises shall be jointly and severally liable for the same.]

1. This sub-section was substituted for the original by Bom. 5 of 1938, s. 36(2)

287. When materials and works may be supplied and done under this Chapter for any person by the Commissioner :-

On the written request if any person who is required under any of the provisions of this Chapter to supply any materials, fittings, cistern or lock and key or to do any work, the Commissioner may, on such persons behalf, supply the necessary materials, fittings, cistern or, lock and key, as the case may be, or cause the necessary work to be done; but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover the cost of the said material, fitting, cistern, lock and key or work.]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f.4.9.1996)

287A. Commissioner May Execute Works Under This Chapter Without Allowing Option To Personsconcerned Of Executing The Same :-

(1) The Commissioner may, if he thinks fit, cause any work described in this

chapter to be executed 1[or any cistern to be supplied with a lock and key] by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed 4[or supplied] the option of doing 1[or supplying] the same.

(2) The expenses of any work so done 1[or of supplying such lock and key] shall be paid by the person aforesaid, unless the Corporation shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction the execution of such work 1 [or the supply of such lock and key], at the charge of the municipal fund.]

1. This proviso was added by Bom. 7 of 1950, s. 21.

287B. Work Under Chapter X To Be Done By Licensed Plumber :-

(1) No person other than a licensed plumber shall execute any work described in this chapter, [other than the provision of a lock and key] and no person shall permit any such work to be executed except by a licensed plumber.

(2) Every person who employs a licensed plumber to execute any such work shall, when so required, furnish to the Commissioner the name of such plumber.

1 [

(3) Where, any person causes or permits any pipe, cistern or fitting or other work necessary for conveying a private supply of water from a municipal water work into any premises to be laid, applied or executed in contravention of sub-section (1), he shall, in addition to being liable to the penalty prescribed for such contravention, not be entitled to an independent or branch connection, until the defects, if any, in such pipe, cistern, fitting or work are removed to the satisfaction of the Commissioner.]

1. These words were substituted for the words "three lakhs rupees" by Mah. 10 of 1998, s. 129(a)

288. Power to supply water without 1[Brihan Mumbai] :-

The Commissioner may supply water from a municipal water work to any local authority or person without 1 [Brihan Mumbai] on such terms as to payment and as to the period and conditions of supply as shall be, either generally or specially approved by the Corporation.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 108, (w.e.f. 23-4-1999)

CHAPTER 11

Regulation of streets Construction, Maintenance and Improvement of Public Streets

289. Vesting of public streets in the Corporation :-

(1) All streets within 1[Brihan Mumbai] being or which at any time become public streets, and the pavements, stones and other materials thereof shall, vest in the Corporation and be under the control of the Commissioner:

Provided that no public street which on the day immediately preceding the date of the coming into force of the Bombay Municipal (Extension of Limits) Act 1950, 4[or the day immediately preceding the date of the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment)] Act, 1956], vested in Government shall, unless the State Government so directs, vest in the Corporation by virtue of this sub-section].

(2) The Commissioner shall from time to time cause all such streets to be leveled, metalled or paved, channeled, altered and repaired, as

Provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed 3[ten lakhs rupees] shall be undertaken by the Commissioner unless or until such undertaking has been authorised by the 4 [Corporation].

(3) With the sanction of the Corporation the Commissioner may permanently close the whole or any part of a public street: Provided that such sanction of the Corporation shall not be given unless, one month at least before the meeting at which the matter is decided, a notice signed by the Commissioner has been put up in the street or part of a street which it is proposed to close, informing the residents of the said proposal, nor until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting, have been received and considered by the Corporation.

1. These words were substituted for the words "three lakhs rupees" by Mah. 10 of 1998, s. 129(a)

2. Clause (c) was inserted by Bom. 13 of 1933 s.34

3. Section 297 was substituted for the original section by Bom. 5 of 1905, s. 42

4. This proviso was added by Bom. 7 of 1950, s. 22

290. Disposal of land forming site of closed streets :-

Whenever any public street, or part of a public street, is permanently closed under section 289, the site of such street, or of the portion thereof which has been closed, may be disposed of as land vesting in the Corporation.

291. Power to make new public streets :-

The Commissioner, when authorised by the Corporation in this behalf may at any time-

- (a) lay out and make a new public street;
- (b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the Corporation, and that such street shall become, on completion, a public street;

1 [

- (c) declare any street made under an improvement scheme duly executed in pursuance of the provisions of the City of Bombay

1. These words, brackets and figures were inserted by Bom. 58 of 1956, s. 15

292. Saving of provisions of sections 37 and 38, Bom. Act VI of 1879 :-

Nothing in sub-sections (1) and (3) section 289 or in the two last preceding sections shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

293. Section 293 :-

Permission to lay tramways or railways on public streets to need the sanction of the Corporation and confirmation by Provincial Government Repealed by Bom. XLVIII of 1948. s.39

294. Minimum width of new public streets :-

No new public street made under section 291 shall be less than forty feet in width if such street be made for carriage traffic, or twenty feet if such street be made for foot traffic only; and no steps and except, with the written permission of the Commissioner under section 310, no other projection shall extend on to any such street.

295. Power to construct or adopt public bridges, etc., over or under railways, etc. :-

The Commissioner, when authorised by the Corporation in this behalf, may agree-

- (a) with any person to adopt and maintain any existing or projected bridge, via duct or arch, and the approaches thereto, and may accordingly adopt and maintain such bridge, via duct or arch and approaches as parts of public streets, or as property vesting in the Corporation; or

(b) for the construction or alteration of any such bridge, via duct or arch or for the purchase or acquisition of any adjoining land required for the foundation and support thereof or for the approaches thereto, either entirely at the expenses of such person or partly at the expense of such person and partly at the expense of the Corporation.

296. Power to acquire premises for improvement of public streets :-

(1) The Commissioner may, subject to the provisions of sections 90, 91 and 92-

(a) acquire any land required for the purpose of opening, widening, extending, or otherwise improving any public street or of making any new public street, and the buildings, if any, standing upon such land;

(b) acquire in addition to the said land and the buildings, if any, standing thereupon, all such land with the buildings, if any, standing thereupon, as it shall seem expedient for the Corporation to acquire outside of the regular line, or of the intended regular line, of such street;

(c) lease, sell or otherwise dispose of any land or building purchased under clause (b).

(2) Any conveyance of land or of a building under clause (c) may comprise such conditions as the Commissioner thinks fit, as to the removal of the existing building, the description of new building to be erected, the period within which such new building shall be completed and other such matters.

297. Prescribing the regular line of a street :-

(1) The Commissioner may-

(a) prescribe a line on each side of any public street: [

Provided that in the case of any public street in the suburbs the regular line of a public street operative under any law in force in any part of the suburbs on the day immediately preceding the date of coming into force of the Bombay Municipal (Extension of Limits) Act, 1950 [and in the case of any public street in the extended suburbs the regular line of a public street operating under any law in force in any part of the extended suburbs on the day immediately preceding the date of the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment) Act, 1956] shall be deemed to be a line prescribed

by the Commissioner under this clause.]

(b) from time to time, but subject in each case to his receiving the authority of the Corporation in that behalf, prescribe a fresh line in substitution for any line so prescribed, or for any part thereof provided that such authority shall not be accorded-

(i) unless, at least one month before the meeting of the Corporation at which the matter is decided, public notice of the proposal has been given by the Commissioner by advertisement in local newspapers as well as in the [Official Gazette], and special notice thereof, signed by the Commissioner, has also been put up in the street or part of the street for which such fresh line is proposed to be prescribed, and

(ii) until the Corporation have considered all objections to the said proposal made in writing and delivered at the office of the municipal secretary not less than three clear days before the day of such meeting.

(2) the line for the time being prescribed, shall be called "the regular line of the street."

(3) No person shall construct any portion of any building within the regular line of the street except with the written permission of the Commissioner, who shall, in every case in which he gives such

1. This sub-section was substituted for the original by Bom. 1 of 1925, s. 19

298. Setting back building, to regular line of the street :-

(1) If any part of a building abutting on a public street is within the regular line of such street, the Commissioner may, whenever it is proposed -

(a) to rebuild such building or to take down such building to an extent exceeding one-half thereof above the ground level, such half to be measured in cubic feet; or

(b) to remove, construct or make any addition to any portion of such building which is within the regular line of the street, in any order which he issues, under section 345 or 346, concerning the rebuilding, alteration or repair of such building require such building to be set back to the regular line of the street.

(2) When any building, or any part thereof within the regular line of a public street falls down, or is burnt down, or is taken down whether under the provisions of section 351 or 354 or otherwise, the Commissioner may at once take possession on behalf of the Corporation of the portion of land within the regular line of the

street therefore before occupied by the said building, and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such, in the Corporation.

299. Acquisition of open land or of land occupied by platforms, etc., within the regular line of a street :-

(1) If any land not vesting in the Corporation, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building, or if a platform, verandah, step or some other structure external to a building abutting on a public street, or a portion of a platform, verandah, step or other such structure, is within the regular line of such street. the Commissioner may, after giving to the owner of the land or building not less than seven clear days written notice of his intention so to do, take possession on behalf of the Corporation of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step or other such structure as aforesaid, or of the portion of the said platform, verandah, step or other such structure aforesaid which is within the regular line of the street, and, if necessary, clear the same and the land so acquired shall thenceforward be deemed a part of the public street.

(2) Provided that when the land or building is vested in 1 [the [Government]] possession shall not be taken as aforesaid without the previous sanction of the Government concerned and, when the land or building is vested] in any Corporation constituted by Royal Charter or by an Act of Parliament, [of the United Kingdom] or [by an Indian law,] possession shall not be taken as aforesaid without the previous sanction of [the [State] Government].

1 . Sections 302, 302A, 302B, 303 and 304 were substituted for sections 302, 303 and 304 by Bom. 5 of 1920,5.3

300. Setting forward of buildings to regular line of the street :-

(1) If any building which abuts on a public street is in rear of the regular line of such street the Commissioner may, whenever it is proposed-

(a) to rebuild such building, or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion

thereof which abuts on the said street, to an extent exceeding one-half of such building or portion thereof above the ground level, such half to be measured in cubic feet. in any order which he issues, under section 345 or 346, concerning the rebuilding, alteration or repair of such building, permit or, with the approval of the standing committee, require such building to be set forward to the regular line of the street.

(2) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building; and it shall be deemed to be sufficient compliance with a permission or requisition to set forward a building to the regular line of a street if a wall of such materials and dimensions as are approved by the Commissioner is erected along the said line.

301. Compensation to be paid in cases under the three last sanctions :-

(1) Compensation shall be paid by the Commissioner to the owner of any building or land acquired for a public street under section 298 or 299, for any loss which such owner may sustain in consequence of his building or land or being so acquired and for any expense incurred by such owner in consequence of the order made by the Commissioner under either of the said sections; provided that any increase or decrease in the value of the remainder of the property of which the building or land so acquired formed part likely to accrue from the setback to the regular line of the street shall be taken into consideration and allowed for in determining the amount of such compensation].

(2) If, in consequence of any order to set forward a building made by the Commissioner under the last preceding section, the owner of such building sustains any loss or damage, compensation shall be paid to him by the Commissioner for such loss or damage.

(3) If the additional land which will be included in the premises of any person required or permitted under the last preceding section to set forward a building belongs to the Corporation, the order or permission of the Commissioner to set forward the building shall be a sufficient conveyance to the said owner of the said land and the 2[price to be paid to the Corporation by the said owner for such additional land and the other] terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the Commissioner requires a building to be set forward, the owner of the building is dissatisfied with 3 [the price

fixed to be paid to the Corporation or any of the other] terms or conditions of the conveyance, the Commissioner shall, upon the application of the said owner at any time at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the duty of the Chief Judge of the Small Cause Court, whose decision thereupon shall be conclusive.

1. Sections 302, 302A, 302B, 303 and 304 were substituted for sections 302, 303 and 304 by Bom. 5 of 1920, s. 3

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 110(w.e.f. 23-4-1999)

3. Section 302, 302A, 302B, 303 and 304 were substituted for sections 302, 303 and 304 ObyBom. 5 of 1920,5.3.

302. Notice to be given to Comm-issioner of intention to lay our lands for building and for private streets :-

(1) Every person who intends -

(a) to sell or let on lease any land subject to a covenant or agreement on the part of a purchaser or lessee to erect buildings thereon, or

(b) to divide land into building plots, or

(c) to use any land or permit the same to be used for building purposes, or

(d) to make or lay out a private street, whether it is intended to allow the public a right of passage or access over such street or not, shall give written notice of his intention to the Commissioner, and shall, along with such notice, submit plans section and showing the situation and boundaries of such building land and the site of the private street (if any) and also the situation and boundaries of all other land of such person of which such building land or site forms a part, and the intended development, laying out and plotting of such building land, and also the intended level, direction, and width, the means of drainage of such private street and the height and means of drainage and ventilation of the building or buildings proposed to be erected on the land, and, if the building when erected will not abut on a street then already existing or then intended to be made as aforesaid, the means of access from and to such building.

(2) Nothing in this section or in sections 302A, 302B, 303 or 304 shall be deemed to affect or to dispense with any of the requirements of Chapter XII.]

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 110(w.e.f. 23-4-1999)

302A. Commissioner May Call For Further Particulars :-

If any notice given under section 302 does not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case, he may, at any time within, thirty days after receipt of the said notice, by written notice require the person who gave the said notice to furnish the required information together with all or any of the following documents, namely:-

(a) correct plans and sections in duplicate of the proposed private street, which shall be drawn to a horizontal scale of not less than one inch to every twenty feet, and a vertical scale of not less than one and a half inches to ten feet and shall show thereon the level of the present surface of the ground above some known fixed datum near the same, the level and rate of inclination of the intended new street, the level and inclination of the streets with which it is intended to be connected, and the proportions of the width which are proposed to be laid out as carriage-way and footway respectively;

(b) a specification with detailed description of the materials to be employed in the construction of the said street and its footpaths;

(c) a plan showing the intended lines of drainage of such street and of the buildings proposed to be erected and the intended size, depth, and

(d) a scheme accompanied by plans and section for the laying out into streets, plots and open spaces of the other land of such person or of so much other land as the Commissioner shall consider necessary before applying to the 1[Standing Committee] for their approval of the determination of the Commissioner.]

1. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 112 (w.e.f. 23-4-1999)

302B. Commissioner May Require Plans To Be Prepared By Licensed Surveyor :-

The Commissioner may decline to accept any plan, section or description as sufficient for the purposes of section 302 or section 302A, which does not bear the signature of a licensed surveyor in token of its having been prepared by such surveyor or under his supervision.]

1 . The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

303. Laying out of land, private streets and buildings to be determined by Commissioner :-

(1) The laying out of land for building, the level, direction, width and means of drainage of every private street, and the height and means of drainage and ventilation of and access to all buildings to be erected on such land or in either side of such street shall be fixed and determined by the Commissioner with the approval of the 2 [the Standing Committee] with the general object of securing sanitary conditions, amenity, and convenience in connection with

the laying out and use of the land and of any neighbouring lands.

(2) But if, within thirty days after the receipt by the Commissioner of any notice under section 302 or of the plans, sections, description, scheme or further information, if any, called for under section 302A, the disapproval by the Commissioner with regard to any of the matters aforesaid specified in such notice shall not be communicated to the person who gave the same, the proposals of the said person shall be deemed to have been approved by the Commissioner.]

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

2. These words and figures were inserted by Bom. 4 of 1888, s. 6

304. Land not to be appropriated for building and private streets not to be laid out until expiration of notice nor otherwise than in accordance with Commissioner's directions :-

(1) No person shall sell, let or use or permit the use of, any land for building, or divide any land into building plots, or make or lay out

(2) If any act be done or permitted in contravention of this section, the Commissioner may by written notice require any person doing or permitting such act on or before such day as shall be specified in such notice by a statement in writing subscribed by him in that behalf and addressed to the Commissioner, to show cause why the laying out, plotting, street or building contravening this section should not be altered to the satisfaction of the Commissioner, or, if that be in his opinion impracticable, why such street or building should not be demolished or removed or why the land should not be restored to the condition, in which it was prior to the execution of the unauthorized work, or shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally or by an agent duly authorised by him in that behalf, and show cause as aforesaid.

(3) If such person shall fail to show cause to the satisfaction of the Commissioner why such street or building should not be so altered, demolished or removed or why such land should not be so restored, the Commissioner may cause the work of alteration, demolition, removal or restoration to be carried out and the expenses thereof shall be paid by the said person.

1. These words were inserted by Bom. 19 of 1930, s. 12.

305. Levelling and draining of private streets :-

If any private street be not levelled metalled or paved, sewered, drained, channelled and lighted to the satisfaction of the Commissioner, he may, with the sanction of the 1[the Standing Committee], by written notice require the owners of the several premises fronting or adjoining the said street or abutting thereon to level, metal or pave, drain and light the same in such manner as he shall direct.

306. Power to declare private streets when sewered, etc., public streets :-

(1) When any private street has been leveled, metalled or paved, sewered, drained, channeled and made good to the satisfaction of the Commissioner, he may and, upon the request of the owner or of any of the owners of such street, shall, if lamps, lamp posts and other apparatus necessary for lighting such street have been provided to his satisfaction 1 [and if all land revenue payable to [the [State] Government] in respect of the land comprised in such street has been paid] by notice in writing put up in any part of such street, declare the same to be public street, and there upon the same shall become a public street:

(2) Provided that no such street shall become a public street if, within one month after such notice has been put up, the owner of such street or of the greater part thereof shall, by notice in writing to the Commissioner, object thereto.

(3) Nothing in this section shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879.

1. These words were substituted for the words "as may be sanctioned by the Member-in- Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 113, (w.e.f. 23-4-1999)

307. Applicability of sections 305 and 306 when a street is in part public and in part private :-

If a portion only of any street is a public street, within the meaning of that term as defined in clause (x) of section 3, the other portion of such street may for all purposes of sections 305 and 306 be deemed to be a private street.

308. Prohibition of projections upon streets :-

(1) No person shall erect, set up or place against or in front of any premises any structure or fixture, which, will

(a) overhang, jut or project into, or in any way encroach upon, or obstruct the safe or convenient passage of the public along, any street, or

(b) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the Inspection of cleaning thereof.

(2) The Commissioner may, by written notice, require the owner or occupier of any premises to remove any structure or fixture which has been erected, set up or placed against, or in front of, the said premises in contravention of this section 4[or of section 196 of the 5[Bombay Municipal Act, 1872, 6[or, of any provision of law in force on the day immediately preceding the date of the coming into force of the Bombay 1 [or any provision any law in force on the day immediately preceding the date of the coming into force of the Bombay Municipal (Further Extension of limits and Schedule BBA (Amendment) Act. 1956] or to alter the same in such manner as the Commissioner thinks fit to direct.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

1. These words were inserted by Bom. 19 of 1930, s. 13.

309. Power to require removal or alteration of structures, etc. :-

(1) If any such structure or fixture as is described in section 308 has been erected, set up or placed against, or in front or, any premises at any time -

(a) before the first day of April 1901, in the case of premises situated in an area in the suburbs which immediately before the date of the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950, [or in the case of premises situated in an area in the extended suburbs which immediately before the date of the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment)] Act, 1956] constituted a municipal district or municipal borough;

(b) before the date of the coming into operation of the [said Acts] in the case of premises situated in any area of the suburbs [or, as the case may be, the extended suburbs] other than the area referred to in clause (a); and

(c) before the Bombay Municipal Act, 1872, came into force, in the case of premises situated in the city; the Commissioner may give notice as aforesaid to the owner or occupier of the said premises.]

(2) But, if in any such case the structure or fixture shall have been lawfully erected, set up or placed, compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

310. Projections over streets may be permitted in certain cases :-

(1) The Commissioner may give a written permission, on such terms 1[as he shall in each case think fit], to the owner or occupier of any building abutting on any street

(a) to erect an arcade over such street or any portion thereof, or

(b) to put up a verandah, balcony, sunshade, weather-frame or other such structure or thing projecting from any upper storey over any street or portion thereof:

(2) Provided that no permission shall be given by the Commissioner for the erection of an arcade any public street in which the construction of arcades has not been previously sanctioned by the Corporation.

(3) The provisions of section 308 shall not be deemed to apply to any arcade, verandah, balcony sunshade, weather-frame or other structure or thing erected or put under and in accordance with the terms of a permission granted under this section.

311. Ground floor doors, etc. not to open outwards on streets :-

The Commissioner may at any time, by written notice, require the owner of any premises on the ground floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street, in such manner as, in the opinion of the Commissioner, to obstruct the safe or convenient passage of the public along such street to have the said door, gate, bar or window altered so as not to open outwards.

312. Prohibition of structures or fixtures which cause

obstruction in streets :-

- (1) No person shall, except with the permission of the Commissioner under section 310 or 317, erect or set up any wall, fence, rail, post, step, booth or other structure or fixture in or upon any street or upon or over any open channel, drain, well or tank in any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain well or tank.
- (2) Nothing in this section shall be deemed to apply to any erection or thing to which clause (c) of section 322 applies.

313. Prohibition of deposit, etc., of things in streets :-

- (1) No person shall, except with the written permission of the Commissioner -
- (a) place or deposit upon any street or upon any open channel, drain or well in any streets 1[or in any public place] any stall, chair, bench, box, ladder, bale or other thing so as to form an obstruction thereto or encroachment thereon;
- (b) project, at a height of less than twelve feet from the surface of the street, any board, or shelf, beyond the line of the plinth of any building, over any street, or over any open channel, drain, well or tank in any street;
- (c) attach to, or suspend from, any wall or portion of a building abutting on a street, at a less height than aforesaid, anything whatever.
- (2) Nothing in clause (a) applies to building materials.

313A. Licence For Sale In Public Places :-

Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall hawk or expose for sale in any public place or in any public street any article whatsoever, whether it be for human consumption or not.]

1. These words, brackets and figures were inserted by Bom. 7 of 1950, s. 26.

313B. Licences For Use Of Skill In Handicraft Or Rendering Services For Purposes Of Gain In Public Place Or Street :-

Except under and in conformity with the terms and provisions of a licence granted by the Commissioner in this behalf, no person shall, for purposes of gain, use his skill in any handicraft or in rendering services to and for the convenience of the public in any public place or public street.]

1. These words, brackets and figures were inserted by Bom. 58 of 1956, s. 19.

314. Power to remove without notice anything erected, deposited or hawked in contravention of section 312, 313 or 313A :-

The Commissioner may, without notice, cause to be removed -

(a) any wall, fence, rail, post, step, booth or other structure or fixture which shall be erected or set up in or upon any street, or upon or over any open channel, drain, well or tank contrary to the provisions of sub-section (1) of section 312, after the same comes into force 1 [in the city or in the suburbs, after the date of the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950 [or in the extended suburbs after the date of the coming into force of the Bombay Municipal (Further Extension of Limits and Schedule BBA (Amendment)) Act, 1956];]

(b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached, or suspended in, upon, from or to any place in contravention of sub-section (1) of section 313;

[

(c) any article whatsoever hawked or exposed for sale in any public place or in any public street in contravention of the provisions of section 313A and any vehicle, package, box, board, shelf or any other thing in or on which such article is placed or kept for the purpose of sale.]

1. Sub-section (3) was inserted by Bom. 6 of 1913, s. 3.

315. Power to require removal of any structure of fixture erected or set up before section 312 came into force :-

(1) The Commissioner may, by written notice, require the owner or occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, both or other structure or fixture, which it would be unlawful to erect or set up after section 312 comes into force, has been erected or set up before the said section comes into force 1[in the city or, in the suburbs, before the date of the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950 1 [or, as the case may be, in the extended suburb before the date of the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment)] Act, 1956,] to remove the said wall, fence, rail, post, step, stall or other structure or thing.

(2) But, if in any such case the structure or fixture shall have been

lawfully erected or set up, compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

1 . These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 114(a), (w.e.f. 23-4-1999)

316. Prohibition of the tethering of animals in the public streets :-

(1) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household, in any public street.

(2) Any animal tethered as aforesaid may be removed by the Commissioner, or by any municipal officer or servant, and made over to a police officer, or may be removed by a police officer, who shall deal therewith as with an animal found straying.

317. Commissioner may permit booths, etc., to be erected on streets on festivals :-

With the concurrence of the Police Commissioner, the Commissioner may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals.

318. Streets when broken up for any municipal purpose to be restored without delay :-

Whenever the soil or pavement of any street is opened or broken up by or under the order of the Commissioner, or of any municipal officer or servant, for the execution of any work on behalf of the Corporation, the work on account of which the same shall have been opened or broken up shall be completed and the soil or pavement filled in, reinstated and made good with all convenient speed; and on completion of the work, the surplus of earth and materials, if any, excavated and all rubbish occasioned thereby shall be removed without delay.

319. Commissioner may close street in which work is in progress :-

(1) The Commissioner may, whilst any such work as aforesaid or

any work which may lawfully be executed in any street is in progress, direct that the said street shall be wholly or partially closed for traffic or for traffic of such description as he shall think fit; and shall set up in a conspicuous position an order prohibiting traffic to the extent so directed, and fix such bars, chains or posts across or in the street as he shall think proper for preventing or restricting traffic therein.

(2) No person shall, without the permission of the Commissioner or without the lawful authority, remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up.

320. Commissioner to provide for traffic, etc., pending execution of municipal work in any street :-

Whilst the execution of any work on behalf of the Corporation is in progress in any street, the Commissioner shall, so far as may be reasonably practicable, make adequate provisions for the passage or diversion of traffic, for securing access to all premises approached from such street, and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the said work and shall pay compensation to any person who sustains special damage by reason of the execution thereof.

321. Precautions to be taken for the public safety whilst municipal works are in progress in any street :-

(1) Whilst the execution of any work on behalf of the Corporation is in progress in any street, the Commissioner shall -

(a) take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings;

(b) have any place where the soil or pavement has been opened or broken up, fenced and guarded;

(c) have a light sufficient for the warning of passengers set up and kept every night against any such place and against any bars, chains or posts set up under section 319, for so long as such place shall be continued open or broken up, or such bars, chains or posts shall remain set up.

(2) No person shall, without the written permission of the Commissioner or without other lawful authority, remove any shoring - timber or fence, or extinguish any light, employed or set up for any of the purpose of this section.

322. Streets not to be opened or broken up and building materials not to be deposited thereon without permission :-

(1) No person other than the Commissioner or a municipal officer or servant shall, without the written permission of the Commissioner or without other lawful authority

(a) open, break up, displace, take up or make any alteration in, or cause any injury to, the soil or pavement, or any wall, fence, post, chain or other material or thing forming part of any street; or

(b) deposit any building materials in any street;

(c) set up in any street any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other things by way of enclosure for the purpose of making mortar or depositing bricks, lime, rubbish or other materials;

(2) Any permission granted under clause (b) or clause (c) shall be terminable at the discretion of the Commissioner, on his giving not less than twenty-four hours written notice of the termination thereof to the person to whom such permission was granted.

1 [

(3) Except in cases in which permission has been applied for under clause (d) of sub-section (1) for the deposit of building materials in any street and no reply has been sent to the applicant within seven days from the date of the application the Commissioner may without notice, cause to be removed any building materials, or any scaffold, or any temporary erection, or any posts, bars, rails, boards or other things by way of enclosure, which have been deposited or set up in any street without the permission or authority specified in sub-section (1), or which, having been deposited or set up with such permission or authority, have not been removed within the period specified in the notice issued under sub-section (2).]

1. This clause was substituted for the original by Bom. 22 of 1956, s. 2(l)(a)(ii)

323. Precautions for public safety to be taken by persons to whom permission is granted under section 322. :-

Every person to whom any permission is granted under section 322 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building materials or set up any scaffold, erection or other thing, to be properly fenced and guarded, and in all cases in which the same is necessary to prevent accidents, shall cause such

place to be well lighted during the night.

324. Persons to whom permission is granted under section 322 must reinstate streets, etc :-

(1) Every person to whom permission is granted under section 322 to open or break up the soil or pavement of any street, or who, under other lawful authority, opens or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the

(2) If the said person shall fail to reinstate and make good the street or pavement as aforesaid, the Commissioner may restore such street or pavement, and the expenses incurred by the Commissioner in so doing shall be paid by the said person.

325. Provisions to be made by persons to whom permission is granted under section 322 for traffic etc., when their works interrupt streets :-

The Commissioner may, by written notice, require any person to whom permission is granted under section 322 to open or break up the soil or pavement of any street, or who, under any other lawful authority, opens or breaks up the soil or pavement of any street, for the purpose of executing any work, to make provision to his satisfaction for the passage or diversion of traffic, for securing access to the premises approached from such street and for any drainage, water supply or means of lighting which may be interrupted by reason of the execution of the said work.

326. Hoards to be set up during work on any building adjacent to a streets :-

(1) No person who proposes to build, take down or rebuild any building or wall, or to alter or repair any part of any building or wall, shall, in any case in which the footway in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so, without first having caused to be put up a proper and sufficient hoard or fence, with a convenient platform and handrail, if there be room enough for the same and the Commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the Commissioner, and every such hoard or

fence put up with such permission, with such platform and handrail as aforesaid, shall be continued standing and maintained in good condition to the satisfaction of the Commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience and in all cases in which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The Commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

326A. Provisions For Parking Or Halting Places Or Lots And Fees Or Charges Therefor :-

(1) The Commissioner may, in consultation with the Commissioner of Police, Bombay, from time to time, earmark such places as he thinks fit to be the parking or halting places or lots for vehicles on any part of the public street or public place.

(2) The Commissioner may charge such fees or charges from any person for use of such place or lot by him for parking or halting a vehicle for each day or part thereof subject to such terms and conditions as he may think fit, with the approval of the Corporation:

Provided that, the parking places and the rates of fees or charges for parking vehicles under the Pay and Park scheme, as fixed by the Commissioner during the period commencing on the 15th day of October, 1988 and ending on the day immediately preceding the date of commencement of the Bombay Municipal Corporation (Amendment) Act, 1990 and approved by the Corporation shall be deemed to be the parking places and the rates of fees or charges fixed under this section, and they shall continue to remain in force until altered or modified under this section.]

1. These words were substituted for the words "no such written permission" by Mah. 42 of 1976, s. 9

327. Naming streets, and numbering of [premises] :-

. .

(1) 1[The Commissioner] may, from time to time -

(a) with the sanction of the Corporation, determine the name by which any street shall be known;

(b) cause to be put up or painted on a conspicuous part of any house at or near each end corner or entrance to every street the name of such street as so determined;

2[

(c) with the sanction of the Corporation 3[determine the number or sub-number by which any premises or part thereof] shall be known;]

4[

(d) by written notice require an owner of any premises or part thereof either to put up by means of a metal plate a number or

sub-number on such premises or part thereof in such position and manner as may be specified in such notice or to signify in writing 5[* * *] that such work shall be executed under the order of the Commissioner.]

(2) No person shall without the written permission of the Commissioner or without other lawful authority destroy, remove, deface or 6[in any way injure or alter any such name, number or sub-number or allow or cause any metal plate bearing such number or sub-number to fall into disrepair or otherwise become illegible or put up or paint any name or put up any number or sub-number different from that put up or painted by order of the Commissioner].

7[(3) 8 [Where a number or sub-number is put up on any premises or part thereof under the orders of the Commissioner in accordance with clause (d) of sub-section (1), the expenses of such work shall be payable by the owner of the premises or part thereof, as the case may be.]

Provided that the maximum rate of charge for such work shall be fixed by the Commissioner with the previous sanction of [the Corporation].

[Explanation In this section premise does not include land which is not built upon].

1. This proviso was deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 115(a), (w.e.f. 23-4-1999)
2. These words were substituted for the words "provided further that" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 115(b), (w.e.f. 23-4-1999).
3. The words "city engineer" were substituted for the words "executive engineer" by Bom. 19 of 1930, s. 6.
4. The heading and new sections 328 and 328A were substituted for the original heading and section 328 by Bom. 7 of 1921, s. 10
5. These words were substituted by Mah. 42 of 1976, s. 10(a)
6. This proviso was inserted by Mah. 10 of 1998, s. 137
7. These words were substituted for the words "such permission" by Mah. 42 of 1976, s. 10(a).
8. These words were inserted by Bom. 19 of 1930. s. 15(a)

328. Regulations as to sky signs :-

..

(1) No person shall, without the written permission of the Commissioner erect, fix or retain any sky-sign, whether now

existing or 1[Where a sky-sign is a poster depicting any scene from a cinematographic film, stage play or other stage performance, such permission shall not be granted, unless prior scrutiny of such poster is made by the Commissioner and he is satisfied that the erection or fixing of such poster is not likely to offend against decency or morality. No permission under this section] shall be granted, or renewed, for any period exceeding two years from the date of each such permission or renewal : 2[* *****] 3[Provided that] in any of the following cases a written permission or renewal by the Commissioner under this section shall become void, namely :

- (a) if any addition to the sky-sign be made except for the purpose of making it secure under the direction of the municipal [city engineer];
- (b) if any change be made in the sky-sign, or any part thereof;
- (c) if the sky-sign or any part thereof fall either through accident, decay or any other cause;
- (d) if any addition or alteration be made to, or in, the building or structure upon or over which the sky-sign is erected, fixed or retained, if such addition or alteration involves the disturbance of the sky-sign or any part thereof;
- (e) if the building or structure upon or over which the sky-sign is erected, fixed or retained become unoccupied or be demolished or destroyed.

(2) Where any sky-sign shall be erected, fixed or retained after the [coming into force of this section in the city or in the suburbs after the coming into force of the Bombay Municipal (Extension of limits) Act, 4 [or in the extended suburbs after the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment)] Act, 1956], upon or over any land, building or structure, save and except as permitted as hereinbefore provided, the owner or person in occupation of such land, building or structure shall be deemed to be the person who has erected, fixed or retained, such sky-sign in contravention of the provisions of the section, unless he proves that such contravention was committed by a person not in his employment or under his control, or was committed without his connivance.

(3) If any sky-sign be erected, fixed or retained contrary to the provisions of this section, or after permission for the erection, fixing or retention thereof for any period shall have expired or become void, the Commissioner may, by written notice, require the owner or occupier of the land, building or structure, upon or over which

the sky-sign is erected, fixed or retained, to take down and remove such sky-sign. The expression "sky-sign" shall in this section mean any word, letter, model, sign, device or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard framework or other support wholly or in part upon or over any land, building or structure which, or any part of which sky-sign, shall be visible against the sky from some point in any street and includes all and every part of any such post, pole, standard framework or other support. The expression "sky-sign" shall also include any balloon, parachute, or other similar device employed wholly or in part for the purposes of any advertisement, announcement or direction upon or over any land, building or structure or upon or over any street, but shall not include

(a) any flagstaff, pole, vane or weathercock, unless adapted or used wholly or in part for the purpose of any advertisement, announcement or direction;

(b) any sign, or 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: Provided that such board, frame or other contrivance be of one continuous face and not open work, and do not extend in height more than 1These words, brackets and figures were inserted by Bom. 58 of 1956, s. 20. three feet above any part of the wall, or parapet or ridge to, against, or on which it is fixed or supported;

(c) any word, letter, model, sign, device or representation as aforesaid, relating exclusively to the business of a railway company, and placed wholly upon or over any railway, railway station, yard, platform or station approach belonging to a railway company, and so placed that it cannot fall into any street or public place;

(d) any notice of land or buildings to be sold, or let, placed upon such land or buildings.]

1. This proviso was substituted by Bom. 58 of 1956, s. 21(1)

2. These words, brackets and figures were inserted by Bom. 7 of 1950. s. 28(d)

3. These words, brackets and figures were inserted by Bom. 58 of 1956, s. 21(9).

4. The brackets and letter "(a)" were inserted by Bom. 12 of 1935, s. 2(l)

328A. Regulation And Control Of Advertisements :-

(1) No person shall, without the written permission of the Commissioner, erect, exhibition, fix or retain any advertisement whether now existing or not, upon any land, building, wall, hoarding or structure 2[Where an advertisement depicts any scene from a cinematographic film, stage play or other stage performance, such permission shall not be granted, unless prior scrutiny of such advertisement is made by the Commissioner and he is satisfied that the erection or exhibition of such advertisement is not likely to offend against decency or morality :] 3[Provided that, the power of the Commissioner under this subsection shall be subject to the regulations framed in this behalf.]

Provided always that [any permission under this section] shall not be necessary in respect of any advertisement which is not an illuminated advertisement nor a sky-sign and which

(a) is exhibited within the window of any building;

(b) relates to the trade or business carried on within the land or building upon 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 upon or in the same; [or to the trade or business carried on by the owner of any tram-car, omnibus or other vehicle upon which such advertisement is exhibited;]

(c) relates to the business of any railway company;

(d) is exhibited within any railway station or upon any wall or other property of a railway company, except any portion of the surface of such wall or property fronting any street: 4[Provided also that such permission shall not be necessary for a period of three years --

(i) after the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950, in respect of advertisements upon a site in the suburbs which was occupied by advertisements on the first day of January 1950.

(ii) after the coming into force of the Bombay Municipal (Further Extension of Limits and Schedule BBA(Amendment)) Act, 1956, in respect of advertisements upon a site in the extended suburbs which was occupied by advertisement on the first day of January 1956.]

(2) Where any advertisement shall be erected, exhibited, fixed or retained after three months from the enactment of this section 5[or, as the case may be, the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950] 6[or the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment)] Act, 1956] upon any land, building, wall, hoarding or structure save and except as permitted or exempted from permission as hereinbefore provided, the owner or person in occupation of such land, building, wall, hoarding or structure shall be deemed to be the person who has erected, exhibited, fixed or retained such advertisement in contravention of the provisions of this section, unless he proves that such contravention was committed by a person not in his employment or under his control or was committed without his connivance.

(3) If any advertisement be erected, exhibited, fixed or retained contrary to the provisions of this section after the written permission for the erection, exhibition, fixing or retention thereof for any period shall have expired or become void, the Commissioner may, by notice in writing, require the owner or occupier of the land, building, wall, hoarding or structure upon which the same is erected, exhibited, fixed or retained, to take down or remove such advertisement.

(4) 7[

(a)] The word "structure" in this section shall include 8[a tram- car, omnibus and any other vehicle and any movable board] used primarily as an advertisement or an advertising medium; 9 [and

(b) the expression "illuminated advertisement" in this section shall not include an illuminated display of goods, if such display:

(i) is of goods merely bearing labels showing the name of the article or of its manufacturer or of both, and

(ii) is made by lighting which is not, in the opinion of the Commissioner, more than is necessary to make the goods and labels visible at night.]

1. The brackets and letter "(a)" were inserted by Bom. 12 of 1935, s. 2(I)

2. These words were substituted for the words "any movable board on wheels" by Bom. 19 of 1930, s. 15(b)
3. These words, brackets, figures and letter were added by Bom. 12 of 1935, s. 2(2)
4. The word "and" repealed by Bom. 6 of 1905, s. 44
5. These words were added by Bom. 6 of 1905, s. 44
6. This sub-section was substituted for the original sub-section (2) by Bom. 1 of 1916, s.4
7. Clause (a) was substituted for the original clause (a) by Bom. 5 of 1905, s. 45(2)
8. These words were inserted by Bom. 1 of 1916, s. 5(1)
9. Clause (b) was substituted for the original clause (b) by Bom. 5 of 1905, s. 45(2)

329. Commissioner to take proceedings for repairing or enclosing dangerous places :-

(1) If any place is, in the opinion of the Commissioner from want of sufficient repair, protection or enclosure, or owing to some work being carried on thereupon, dangerous to passengers along a street, or to persons, other than the owner or occupier of the said place, who have legal access thereto or to the neighbourhood thereof, he may, by notice in writing, require the owner or occupier thereof to repair, protect or enclose the said place or take such other step as shall appear to the Commissioner necessary, in order to prevent danger therefrom.

(2) The Commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place. Any expense incurred by the Commissioner in taking such temporary measures shall be paid by the owner or occupier of the place to which the said notice refers.

330. Public streets to be lighted :-

The Commissioner shall -

- (a) take measures for lighting in a suitable manner the public streets and municipal markets and all buildings vesting in the Corporation; and
- (b) procure, erect and maintain such a number of lamps, lamp-posts and other appurtenance as may be necessary for the said purpose; and
- (c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the Corporation shall from time to time determine; and may
- (d) place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles,

standards, stays, struts, brackets. And other contrivances for carrying, suspending or supporting lamps or electric wires in or upon, any immovable property without being liable to any claim for compensation thereto:

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

331. Prohibition of removal, etc., of lamps :-

No person shall, without lawful authority, take away or willfully break, throw down or damage -

(a) any lamp, lamp-post or lamp-iron set up in any public street or any municipal market or building vesting in the Corporation;

(b) any electric wire for lighting any such lamp:

(c) any post, pole, standard, stag, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp; and no person shall wilfully extinguish the light or damage any appurtenance of any such lamp.

332. Persons accidentally breaking lamp to repair the damage :-

If any person shall, through negligence or accident, break any lamp-set up in any public street or municipal market or building vesting in the Corporation, he shall pay the expenses of repairing the damage so done by him.

333. Manner of laying gaspipes :-

(1) No gas-pipe shall be laid in a drain or on the surface of an open channel or house-gully.

(2) Gas-pipes shall be laid at the greatest practicable distance from water-pipes, having regard to the width of the street. Where the width of the street will allow of it, the said distance shall not be less than four feet.

(3) When it is necessary for a gas-pipe to cross a water-pipe, a gaspipe shall, if practicable, be laid above the water-pipe. A gas-pipe so laid shall be at least nine feet in length and as nearly as the situation will admit of, shall be placed as to form with the water-pipe a right angle and so that no joint in the gas-pipe will be nearer to any water-pipe than four feet. The greatest practicable distances shall be kept between a water-pipe and a gas-pipe which

crosses it, and the gas-pipe shall, throughout its entire length, be sufficiently bedded in with good sound clay or other fit material of a property consistence, which shall be well worked and remained into a trench all round the gas-pipe.

(4) If any gas-pipe be laid in any way contrary to the provisions of this section the Commissioner may make such alteration with respect to such pipe as he shall think necessary and the expenses thereof shall be paid by the person under whose order or management the pipe has been laid.

334. Situation of gaspipes etc.. may be altered by Commissioner :-

(1) The Commissioner may, whenever for any of the purposes of this Act it shall appear to him necessary, by written notice, require the owner of any gas-pipe or of any other gas-work laid in any street to raise, sink or otherwise, alter the situation of such pipe or work.

(2) Every alteration required to be made under sub-section (1) shall be made at the charge of the municipal fund, and compensation shall be paid to the owner by the Commissioner for the damage, if any, which he sustains by reason of such alteration :

(3) Provided that no such alteration shall be made which will prevent gas passing through any pipe or work as freely and conveniently as, having regard to all the requirements of this Act, is practicable.

335. Buildings, etc., not to be erected without permission over municipal gaspipes :-

(1) Without the written permission of the Commissioner, no building, wall or other structure shall be newly erected, and street or railway shall be constructed over any gas-pipe belonging to the Corporation.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the Commissioner may, with the approval of the Standing Committee, cause the same to be removed or otherwise dealt with as to the Commissioner shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

336. Measure for watering :-

The Commissioner may

- (a) take measures for having the public streets watered at such time and seasons and in such manner as he shall think fit:
- (b) procure and maintain such water-carts, animals and apparatus as he shall think fit for the said purpose.

CHAPTER 12

Building Regulations

337. Notice to be given to Commissioner of intention to erect a building :-

(1) Every person who shall intend to erect a building shall give to the Commissioner notice of his said intention in a form, obtained for this purpose under section 344, specifying the position of the building intended to be erected, the description of building, the purpose for which it is intended, 1[* its dimensions 2 [and the name of the person whom he intends to employ to supervise its erection.]

[(2) In this Chapter "to erect a building" means -

(a) newly to erect a building, or

[(b) to re-erect --

(i) any building by demolishing the existing building entirely; or

(ii) any building by removing the roof of the existing ground floor structure and adding one or more upper floors; or]

(c)[xxx]

(d) to convert into more than one dwelling-house a building originally constructed as one dwelling-house only; and a dwelling so erected, re-erected or converted is called in this Chapter "a new building].

1. Sub-section (2) was inserted by Bom. 5 of 1905, s, 45(4)

2. These words were added by Mah. 10 of 1998. s. 139(a)

338. Commissioner may require plans and other documents to be furnished :-

[(1)] At any time within thirty days after receipt of any notice under section 337, the Commissioner may, by written notice, require the person who has given the notice first therein before in this section mentioned, to furnish to the Commissioner all or any of the following documents, namely : 1[(a) correct plans and sections of every floor of the building intended to be erected, which shall be drawn to a scale of not less than one inch to every eight feet and shall show the position, form, dimensions and means of ventilation

of and of access to the several parts of such building and its appurtenances 2[and the particular part of parts thereof which are, and those which are not, intended to be used for human habitation] and in the case of a building intended to be used as a dwelling house for two or more families or for carrying on any trade or business in which a number of people exceeding twenty may be employed are as a place of public resort, the means of ingress and egress. Such plans and sections shall also show the depth and nature of the foundations and the proposed dimensions of all the walls, posts, columns, beams, joints and all girders and scantlings to be used in the walls, staircases, floors, and roofs of such building;]

3[(b) a specification of each description of work proposed to be executed and of the materials to be employed. Such specification shall include a description of the proposed method of drainage of the building intended to be erected and of the sanitary fittings to be used and also of the means of water supply and shall, if required by the Commissioner, be supplemented by detailed calculations showing the sufficiency of the strength of any part of such building;]

(c) a block plan of such building which shall be drawn to [the scale of the largest revenue survey map at the time being in existence for the locality in which the building is, or is to be situated] and shall show the position and appurtenances of the properties, if any, immediately adjoining, the width and level of the street, if any, in front and of the street, if any, at the rear of such building, the levels of the foundations and lowest floor of such building and of any yard or ground belonging thereto [and the means of access to such building;]

(d) a plan showing the intended line of drainage of such building, and the intended size, depth and inclination of each drain, and the details of the arrangement proposed for the ventilation of the drains.

4 [(2) At any time within the said period the Commissioner may also by written notice require the said person to open for inspection any portion or portions of the intended foundations or any portion or portions of the foundations or walls of the existing building.]

1. Clause (b) was substituted by Mah. 10 of 1998, s. 139(b).

2. Clause (c) was deleted by Mah. 10 of 1998, s. 139(c)

3. This clause was inserted by Bom. 6 of 1916. s. 5

4. The word "and" repealed by Bom. 5 of 1905, s. 46, is omitted.

339. Commissioner may require plans etc., submitted under last preceding section to be prepared by a licensed surveyor :-

The Commissioner may decline to accept any plan, section or description as sufficient for the purposes of the last preceding section, which does not bear the signature of a licensed surveyor in token of its having been prepared by such surveyor or under his supervision

340. Additional information and the attendance of the person who gave the notice may be required :-

If the notice given under section 337 and the documents, if any, furnished under section 338 do not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case, the Commissioner, may, at any time within thirty days after receipt of the said documents, by written notice, require the production of such further particulars and details as he deems necessary.

341. Effect of non compliance with requisition under section 338 or 340 :-

If any requisition made under section 338 or 340 is not complied with, the notice given under section 337 shall be deemed not to have been given.

342. Notice to be given to the Commissioner of intention to make additions, etc., [to or change of user of, a building :-

Every person who shall intend -

(a) to make any addition to a building, 1[or change of existing user] or

2[(b) to make any alteration or repairs to a building involving the removal, alteration or re-erection of any part of the building except tenantable repairs:

Provided that no lowering of plinth, foundation or floor in a building shall be permitted.

Explanation "Tenantable repairs" in this section shall mean, only, -

(i) providing gunting to the structural members or walls;

(ii) Plastering, painting, pointing;

(iii) changing floor tiles;

- (iv) repairing W.C., bath or washing places;
 - (v) repairing or replacing drainage pipes, taps, manholes and other fittings;
 - (vi) repairing or replacing sanitary, water, plumbing, or electrical fittings; and
 - (vii) replacement of roof with the same material, but shall not include
 - (a) change in horizontal and vertical existing dimensions of the structure;
 - (b) replacement or removal of any structural members of load bearing walls;
 - (c) lowering of plinth, foundations or floors;
 - (d) addition or extension of mezzanine floor or loft; and
 - (e) flattening of roof or repairing roof with different material];
- (c)3r [xxx] 4[(cc) to make any alteration in a building involving -
- (i) the sub-division of any room in such building so as to convert the same into two or more separate rooms.
 - (ii) the conversion of any passage or space in such building into a room or rooms, or]
- (d) to remove or reconstruct any portion of a building abutting on a street which stands within the regular line of such street, shall give to the Commissioner, in a form obtained for this purpose under section 344, notice of his said intention, specifying the position of the building in which such work is to be executed, 5[*] the nature and extent of the intended work, 6[the particular part or parts, if any, of such work which is or are intended to be used for human habitation] 7 [and the name of the person whom he intends to employ to supervise its execution.]
1. These words were inserted by Bom. I of 1916, s 6(3)
 2. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 116 (w.e.f. 23-4-1999)
 3. These figures and letters were inserted by Bom. 5 of 1905, s. 48(a)
 4. These figures and letters were substituted for the original word and figures by Bom. 5 of 1905,s. 48(b)
 5. Clause (aa) was inserted by Bom. 5 of 1905, s. 50
 6. The words "city engineer" were substituted for the words "executive engineer" by Bom. 19 of 1930, s. 6.
 7. Section 347A was inserted by Bom. 1 of 1916, s. 7

343. Plans and additional information may be called for :-

(1) If any notice given under the last preceding section does not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case, he may, at any time within thirty days after receipt of the said notice, by written notice, require the person who gave the notice first hereinbefore in this section mentioned, to furnish plans and section [of the building and] of the intended new work or of any specified portion of the intended new work, [and the provisions of sections 338, 339, 340 and 341 shall apply to the intended new work so far as the Commissioner may consider them to be applicable.]

[(2) The Commissioner may also, at any time within the said period by written notice require the said person to open for inspection any portion or portions of the foundations or walls of the existing building.]

344. Printed forms of notices to be supplied to the public :-

(1) The Commissioner shall cause printed forms of notices for the purposes of section 337 or 342 be delivered to any person requiring the same, on payment of such fee [xxx] for each form as shall from 1[Standing Committee]

(2) There shall be printed on the reverse of every such notice, or on a separate paper supplied without extra charge therewith, a copy of sections 337, 338, 339, 340, 341, 342, 343, 2[344A], 345, 346, 347, 348, 3[349, 349A, 349B], 4 [349C and 349D] and of all by-laws made under clauses (c), (d) and (e) of section 461 at the time in force.

1. Section 347B and 347C were inserted by. Bom. 76 of 1948, s. 25
2. Words, repealed by Act 5 of 1905, are omitted.
3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, w.e.f. 4.9.1996.
4. These words were substituted for the words "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 117, (w.e.f. 23-4-1999)

344A. Supervision Of Buildings And Works :-

(1) Every person who intends to erect a building, or execute any such work as is described in section 342, shall employ a person who shall be competent to the satisfaction of the Commissioner, to supervise the erection of such building or the execution of such work.

(2) The Commissioner may in each case require that the person to be so employed

shall be a licensed surveyor; and the Commissioner shall, within seven days from the receipt of the notice of intention under section 337 or 342, as the case may be -

- (a) approve the person named therein to supervise the building or work, or
- (b) return the said notice for amendment if the person so named-
 - (i) is not a licensed surveyor, and
 - (ii) is not in the opinion of the Commissioner, a fit and proper person to supervise such building or work.

(3) A notice of intention returned for amendment under sub-section (2) shall be deemed not to have been given until it has been re-submitted duly amended.

(4) Where the person so employed dies or ceases to be so employed before such building or work is completed, the further erection of such building, or the further execution of such work, shall forthwith be suspended until -

- (a) a licensed surveyor whose name shall be forthwith reported to the Commissioner, or
- (b) another person approved by the Commissioner has been employed.]

345. When building or work may be proceeded with :-

If within thirty days after receipt of any notice under section 337 or 342, or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, the Commissioner fails to intimate in writing, to the person who has given the said notice, his disapproval of the building which the said person proposes to erect, or of the work which he proposes to execute; or if, within the said period, the Commissioner signifies in writing to the said person his approval of the said building or work; the said person may, at any time within one year from the date of the delivery of the notice to the Commissioner, proceed with the said building or work in accordance with his intention as described in the notice or in any of the documents aforesaid, but not so as to contravene any of the provisions of this Act or any by-law made under this Act at the time in force.

346. Building or work which is disapproved by the Commissioner may be proceeded with, subject to terms :-

(1) If the Commissioner disapproves of any building or work of which notice has been given as aforesaid or of any portion or detail thereof, by reason that the same will contravene some provision of this Act or some by-law made hereunder at the time in force or will be unsafe, he may, at any time within thirty days of the receipt of the notice or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, by a written notice intimate to the person who gave the notice first hereinbefore in this section mentioned his said disapproval and the reason for the same, and prescribed terms subject to which the

building or work may be deemed to be approved by him.

(2) The person who gave the notice concerning any such building or work may proceed with the same, subject to the terms prescribed as aforesaid but not otherwise, at any time within one year from the date of receipt by him under sub-section (1) of the written notice in this behalf, but not so as to contravene any of the provisions of this Act or any by-law made hereunder at the time in force.

347. When work may be commenced :-

(1) No person shall commence to erect any building or to execute any such work as is described in section 342 -

(a) until he has given notice of his intention as hereinbefore required to erect such building or execute such work and the Commissioner has either intimated his approval of such building or work or failed to intimate his disapproval thereof within the period prescribed in this behalf in section 345 or 346;

1[(aa) until he has given notice to the municipal 2 [city engineer] of the proposed date of commencement. Where the commencement does not take place within seven days of the date so notified, the notice shall be deemed not to have been given;]

(b) after the expiry of the period of one year prescribed in sections 345 and 346, respectively, for proceeding with the same.

(2) If a person, who is entitled under section 345 or 346 to proceed with any building or work, fails so to do within the period of one year prescribed in the said sections, respectively, for proceeding with the same, he may at any subsequent time give a fresh notice of his intention to erect such building or execute such work, and thereupon the provisions hereinbefore contained shall apply as if such fresh notice were a first notice of such persons intention.

1. The original clause (e) was deleted by Bom. 5 of 1905, s. 51(b) and the subsequent clauses were renumbered accordingly.

2. The word "ten" was substituted for the word "eight" by Bom. 5 of 1905, s. 51(c)

347A. Section 347A :-

Building not to be converted to other purposes without the permission of the Commissioner. No person shall, without the written permission of the Commissioner, -

(a) use or permit to be used for human habitation any part of a building not originally constructed or authorised to be used for that purpose, or

(b) convert into, or use, or permit to be used, as a chawl or building intended to

form a range for separate rooms or lodgers, a building not originally designed or authorised to be so used.

347B. Building For Human Habitation Not To Be Used As Go Down, Etc :-

1 [No person shall without the written permission of the Commissioner or otherwise than in conformity with the terms of such permission use or permit to be used any building or any part of a building originally constructed or authorised to be used for human habitation as go- down, warehouse, workshop, work place, factory, stable or a motor garage.]

1. The word "eight" was substituted for the word "seven" by Bom. 5 of 1905, s. 51 (d) (i)

347C. No Alterations To Be Made In Buildings For Human Habitation Without Written Permission Of Commissioner :-

1 [No person shall without the written permission of the Commissioner or otherwise than in conformity with the terms of such permission make any alteration or cause any alteration to be made in an existing building originally constructed or authorised to be used for human habitation for the purpose of using it or causing it to be used as a godown, warehouse, workshop, work place, factory, stable or motor garage.]

1. The word "eight" was substituted for the word "seven" by Bom. 5 of 1905, s. 51 (d) (i)

348. Provisions as to buildings which are to be newly erected :-

.

(1) With respect to buildings which are to be newly erected 1[* * *] the following provisions shall have effect, namely :-

(a) The erection of any such building on either side of a new street may be disapproved by the Commissioner, unless and until such new street has been leveled, metalled or paved, sewered and drained to the satisfaction of the Commissioner

(b) The erection of any such building in any part of 2[Brihan Mumbai] in which the position and direction of the streets likely to be required in the future have not yet been laid down or determined shall, with the assent of 3[the Standing Committee] be disapproved by the Commissioner, unless the site proposed for such building is, in the opinion of the Commissioner, such as, with reference to the positions occupied by the buildings, if any, already existing in the neighbourhood, will admit of the construction in the future of one or more new streets convenient for the occupiers of all the buildings in the neighbourhood and for the purposes of drainage, water supply and ventilation :

Provided that any person whose building is so disapproved may, by written notice to the Commissioner, require that the position and direction of the future streets in the vicinity of his intended building be forthwith laid down and determined, and if such requisition be not complied within six months from the date thereof may, subject to all other provisions of this Act applicable thereto, proceed with the erection of his building.

(c) The foundation of any such building shall not be constructed on any site which has been filled up with, or has been used as a place for depositing, excrementitious matter or the carcasses of dead animals or other filthy or offensive matter, until such matter shall have been properly removed to the satisfaction of the Commissioner.

(d) Every such building intended to be used as a dwelling shall be built with a plinth at least two feet above the center of the nearest street and not below such standard level as may be fixed by the Commissioner in this behalf.

4* *

(e) In addition to any means of ventilation required by any bye-law made under this Act at the time in force, every such building intended to be used as a dwelling shall be so constructed that the whole of at least one side of every room thereof shall either be an external wall or abut on an interior open space. Such external wall, except where it faces a street of not less than fifteen feet in width, shall have between it and the boundary line of the owners premises an open space, extending throughout the entire length of such wall, at least two feet wide or, in the case of a chawl or building intended to form a range of separate rooms for lodgers, at least five feet wide. Such interior open space shall have an area equal to not less than five feet wide. Such interior open space shall have an area equal to not less than one-tenth of the aggregate floor area of all the rooms abutting thereon and shall not be in any direction less than six feet across. And every open space, whether exterior or interior, required by this clause, shall be and be kept free from any erection thereon and open to the sky, and shall be and be kept open to access from each end thereof.

(f) Every room intended to be inhabited in any such building, except a room in the roof thereof, shall be in every part at least 5[tan] feet in height from the floor to the ceiling.

(g) Every such room in the roof of any such building shall have an average height of at least 6[eight] feet from the floor to the ceiling 7 [and a minimum height of not less than four feet.]

(h) Every such room shall have a clear superficial area of not less than [one hundred] square feet.

(j) In addition to any means of ventilation required by any by-law made under this Act at the time in force, every such room shall be ventilated by means of doors or windows which open directly into the external air and have an aggregate opening equal to not less than one-fourth of the superficial area of the side of the room which faces an open space.

(k) Huts or sheds, or ranges or blocks of huts or sheds, whether the same are to be used as dwellings or stables or for any other purpose shall be built, if the Commissioner thinks fit so to require,-

(i) so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the Commissioner thinks proper for ventilation and for facilitating scavenging, and

(ii) with such and so many privies, latrines or urinals and such means of drainage as the Commissioner seems necessary; and

(iii) at such a level as will suffice for the means of drainage required by the Commissioner.

(2) Nothing in clause (a) shall be deemed to affect the power of [the Central Government] to determine, under section 38 of the Bombay Port Trust Act, 1879, any dispute which arises between the Trustees of the Port of Bombay and the Commissioner as to whether any road within the limits of the property of the said trustees has been duly leveled, metalled or paved, sewered and drained.

1. These words were inserted by Bom. 5 of 1905, s. 51(d)(ii)

2. The words "one hundred" were substituted for the word "eighty" by Bom. 5 of 1905, s.51(e)

3. The words "the Central Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

4. Bom. 3 of 1872 was repealed by s. 2 of this Act.

5. Sub-section (3) and proviso was added by Bom. 7 of 1950, s. 29

6. Section 349A and 349B were inserted by Bom. 5 of 1905, s. 52

7. Section 349C was inserted by Bom. 5 of 1905, s. 52

349. Roofs and external walls of buildings not to be of inflammable materials :-

(1) No external wall and no converting of a roof built or renewed since the Bombay Municipal Act, 1872, came into force shall,

except with the written permission of the Commissioner, consist of wood, cloth, canvas, grass, leaves, mats or any other inflammable material.

(2) If any external wall or covering of a roof is or has been, since the said Act came into force, constructed of any such material, the Commissioner may, by written notice, require the owner or occupier of the building to which such wall or roof appertains to remove such wall or covering.

2[(3) In relation to buildings in the suburbs 3[or, as the case may be, the extended suburbs] the provisions of this section shall apply as if for the reference in sub-sections (1) and (2) to the Bombay Municipal Act, 1872, reference had been made to the Bombay Municipal (Extension of Limits, Act, 1950 4[or, as the case may be, the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment) Act, 1956];

Provided that nothing in sub-section (2) shall prevent the Commissioner from requiring the removal of any external wall or covering if it was built or renewed or retained in contravention of any law in force in the suburbs immediately, before the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950 5[or, as the case may be, in force in the extended suburbs immediately before the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment) Act, 1956].⁶

1. Section 349D was inserted by Bom. 2 of 1911, s. 12

2. These words were substituted for the words "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 118 (w.e.f. 23-4-1999)

3. Section 349E was inserted by Bom. 7 of 1950, s. 30

4. These words were added by Bom. 58 of 1956, s. 23(3)

5. These words, brackets and figures were inserted by Bom. 58 of 1956, s. 23(2)(i)

6. See now the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966)

349A. Maximum Height Of Buildings :-

(1) Except with the written permission of the Commissioner, no building shall be erected or raised to a greater height than seventy feet as measured from the level of the center of the street in front-

(a) in the case of a pitched roof, up to the tie-beam of the roof, and

(b) in the case of a flat roof up to the surface of the roof.

(2) In the case of a pitched roof, the roof above that height shall rise at an angle of not more than forty-five degrees.

(3) In the case of a flat roof, a parapet of not more than three feet in height may be constructed above the maximum height specified in subsection (1).]

349B. Height Of Buildings With Reference To Width Of Streets :-

[.. Subject to the maximum prescribed by section 349A, the height to which a building may be erected or raised shall be regulated by the width of the street on which it abuts, in accordance with the following rules, namely:-

(1) if the width of the street does not exceed twenty-six feet, the building shall not be erected or raised to a height greater than one and one-half times the width of the street;

(2) if the width of the street exceeds twenty-six feet but does not exceed forty feet, the building shall not be erected or raised to a height greater than forty feet, and

(3) if the width of the street exceeds forty feet, the building shall not be erected or raised to a height greater than the width of such street;

(4) where the building abuts upon more than one street, its height shall be regulated by the wider of such streets so far as it abuts upon such wider street and also, to a distance of eighty feet from such wider street, and also, so far as it abuts upon the narrower of such streets:

Provided that, if the face of the building is set-back from the street at any height not exceeding the heights specified in sub-section (1), subsection (2), or sub-section (3) as the case may be, such building may be erected or raised to a height greater than that so specified but not so that any portion of the building shall intersect any of a series of imaginary straight lines drawn from the line of set-back, in the direction of the portion set-back, at an angle of forty-five degrees with the horizontal.]

349C. Frame Buildings :-

After the commencement of this Act no building the external walls of which are of timber-framed construction shall be erected or re-erected so as to consist of more than one ground floor and one upper storey:

Provided that the Commissioner may by special order grant permission for the erection of such a building of more than two storeys or

349D. Provision Of Sufficient Means Of Egress :-

Where the Commissioner is of opinion that the means of egress from any building are insufficient to allow of safe exit in the event of fire, he may, with the approval of 1 [the Standing Committee], by written notice require the owner or occupier of the building to alter or reconstruct any existing staircase in such manner or to provide such additional or emergency staircases, as he may prescribe.]

1. The words "with the approval of the Standing Committee" were deleted by Mah. 37 of 1971, 5.2

349E. Special Conditions With Respect To Erection Or Re-Erection Of Buildings, Maximum Heights Of Buildings, Etc. :-

(1) Notwithstanding anything contained in sections 348 to 349D (both inclusive) the Corporation may by bye-laws prescribe special conditions with respect to erection or re-erection of buildings, the maximum heights of buildings, roofs and external walls of buildings, setbacks of buildings, and other matters relating to buildings in the suburbs [or in the extended suburbs] or in any part thereof

(2) Until such bye-laws are made or until the expiration of two years from the date

of the coming into force of the Bombay Municipal (Extension of Limits) Act, 1950, [or, as the case may be, from the date of the coming into force of the Bombay Municipal [Further Extension of Limits and Schedule BBA(Amendment) Act, 1956, whichever respectively is earlier] the conditions provided by or under the Bombay Land Revenue Code, 1879, or rules made thereunder or by bye-laws or rules made by any local authority abolished by the provisions of the Bombay Municipal (Extension of Limits) Act, 1950, [or by the provisions of the Bombay Municipal [Further Extension of Limits and Schedule BBA (Amendment) Act, 1956] shall continue to be applicable to the erection or re-erection of buildings, the maximum heights of buildings, roofs and external walls of buildings, set-back of buildings and other matters 1 [or in the extended suburbs] or in any part thereof, as the case may be;

Provided that, in the case of any land in the suburbs 1 [or in the extended suburbs] there are no provisions in force of the Bombay Land Revenue Code, 1879, or rules made thereunder or of the bye-laws or rules of any local authority, the Commissioner or any officer authorised by him in this behalf may impose such conditions as he thinks fit until the bye-laws aforesaid are made.]

1. These words were substituted for the words "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 119 and 120(w.e.f. 23-4- 1999)

350. Inspection of buildings in course of erection, alteration, etc :-

The Commissioner may at any time during the erection of a building or the execution of any such work as is described in section 342 make an inspection thereof, without giving previous notice of his intention so to do.

351. Section 351 :-

(1) If the erection of any building or the execution of any such work as is described in section 342, is commenced contrary to the provisions of [section 342 or 347], the Commissioner, unless he deems it necessary to take proceedings in respect of such building or work under section 354, shall-

(a) by written notice, require the person who is erecting such building or executing such work, or has erected such building or executed such work, [or who is the owner for the time being of such building or work], [within seven days from the date of service of] such notice, by a statement in writing subscribed by him or by an agent duly authorized by him in that behalf and addressed to the Commissioner, to show sufficient cause why such building or work shall not be removed, altered or pulled down; or

(b) shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent [Explanation:- "To show sufficient cause" in this sub-section shall mean to prove that the work mentioned in the said notice is

carried out in accordance with the-provision of section 337 or 342 and section 347 of the Act.]

(2) If such person shall fail to show sufficient cause, to the satisfaction of the Commissioner, why such building or work shall not be removed, altered or pulled down, the Commissioner * * * may remove, alter or pull down the building or work and the expenses thereof shall be paid by the said person.

1. Section 352A was inserted by Mah. 23 of 1979, s. 2 which shall remain in force for a period of six years with effect from 5th May, 1979 and shall then expire. The original period of two years was extended to six years by Mah. 18 of 1981, s. 2

2. These words were substituted for the words "the Member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 119 and 120 (23-4-1999)

352. Buildings or works commenced contrary to section 347 may be cut into and laid open for purposes of inspection. :-

(1) If there shall be reasonable ground for suspecting that in the erection of any such building or in the execution of any such work as is referred to in the last preceding section anything has been done contrary to any provisions of this Act or of any bye-law made under this Act at the time in force, or that anything required by any such provision or bye-law to be done has been omitted to be done; and if, on inspection such building or work, it is found that the same has been completed or is too far advanced to permit of any such fact being ascertained, the Commissioner may, with the approval of 1[the Standing Committee], by written notice, require the person who has erected such building or executed such work or is erecting such building or executing such work to cause so much of the building or work as prevents any such fact being ascertained to be cut into, laid open or pulled down to a sufficient extent to permit of the same being ascertained.

(2) If it shall thereupon be found that in the erection of such building or the erection of such work nothing has been done contrary to any provision of this Act or any bye-law made under this Act at the time in force, and that nothing required by any such provision or bye-law to be done has been omitted to be done, compensation shall be paid by the Commissioner to the person aforesaid for the damage and loss incurred by cutting into, laying open or pulling down the building or work.

352A. Conferment Temporarily Of Summary Powers For

Demolition On The Commissioner :-

(1) If the erection of any building, or the execution of any such work as is described in section 342, is commenced contrary to the provisions of section 347, and the Commissioner is of the opinion that immediate action should be taken, then the provisions of section 351 and section 352 shall apply with the modification that in sub-section (1) of section 352, the words "with the approval of [the Standing Committee] shall be deleted.

(2) Notwithstanding anything contained in this Act, any notice to be given by the Commissioner under section 351 or section 352 shall not be of less duration than 24 hours, and shall be deemed to be duly served if it is affixed in some conspicuous part of the building to which the notice relates and published by proclamation on or near such building accompanied with beat of drum and upon such affixation and publication all persons concerned shall be deemed to have been duly informed of the matters stated therein.

(3) Where the Commissioner has resorted to the provisions hereinbefore mentioned, the State Government, or a Secretary to Government authorised by the State Government in this behalf, may, suo moto. or on application made, within a period of fifteen days, call for and examine the record of any case in which the Commissioner has taken such action, for the purpose of satisfying itself or himself as to the legality or propriety of such action and may, after giving to the persons concerned a reasonable opportunity of being heard, pass such orders thereon as it or he, as the case may be, deems just, including any order for compensation, which shall be paid by the Corporation to any person for any wrongful damage or loss incurred by such action.

(4) In this section, "Commissioner" includes [the Director,] a Deputy Commissioner and also an Assistant Commissioner or a Ward Officer authorised in this behalf in writing, by the Commissioner.]

353. Enforcement of provisions concerning buildings and works :-

The Commissioner may, at any time during the erection of a building or the execution of any such work as aforesaid, or at any time within three months after the completion thereof, by written notice. specify any matter in respect of which the erection of such building or the execution of such work may be in contravention of any provisions of this Act or of any bye-law made under this Act at the time in force, and require the person erecting or executing or who has erected or executed such building or work, or, if the person who has erected or executed such building or work is not at the time of the notice the owner thereof, then the owner of such building or work, to cause anything done contrary to any such provision or bye-law to be amended or to do anything which by any such provision or bye-law to be amended or to do anything which by any such provision or bye-law may be required to be done but which has been omitted to be done.

353A. Completion Certificates Permission To Occupy Or Use

:-

(1) Every person who employs a licensed surveyor or person approved by the Commissioner to erect a building or execute any such work as is described in section 342 shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Commissioner at his office, notice in writing of such completion, accompanied by a certificate in the form of Schedule T signed by the person employed under section 344A, who is hereby required immediately upon completion of the work and upon demand by the person employing him to sign and give such certificate of such person, and shall give to the Commissioner all necessary facilities for the inspection of such building or of such work.

Provided that-

(a) such inspection shall be commenced within seven days from the date of receipt of the notice of completion, and

(b) the Commissioner may, within seven days from the date of commencement of such inspection, by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice, or, in the absence of such address, affixed to a conspicuous part of the building to which such notice relates -

(i) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or

(ii) refuse such permission in case such building has been erected or such work executed so as to contravene any provision of this Act or of the bye-laws.

(2) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any such work, until-

(a) the permission referred to in proviso(b) to sub-section (1) has been received, or

(b) the Commissioner has failed for twenty-one days after receipt of the notice of completion to intimate as aforesaid his refusal of the said permission.]

CHAPTER 12A City Improvement

354. Removal of structures etc., which are in ruins or likely to fall :-

(1) If it shall at any time appear to the Commissioner that any structure (including under this expression any building, wall or other structure and anything affixed to or projecting from, any building, wall or other structure) is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such structure or any other structure or place in the neighbourhood thereof, the Commissioner may, by written notice, require the owner or occupier of such structure to pull down, secure or repair such structure, 1 [subject to the provisions of section 342] and to prevent all cause of danger therefrom.

(2) The Commissioner may also if he thinks fit, require the said owner or occupier, by the said notice, either forthwith or before proceeding to pull down, secure or repair the said structure, to set up a proper and sufficient hoard or fence for the protection of passers by and other persons, with a convenient platform and

handrail, if there be room enough for the same and the Commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

1. This heading and section 354AA were inserted by Bom.48 of 1950, s. 70

354A. Power Of Commissioner To Stop Erection Of Building Or Work Commenced Or Carried On Unlawfully :-

1 (1)If the Commissioner is satisfied that the erection of any building or the execution of any such work as is described in section 342 has been unlawfully commenced or is being unlawfully carried on upon any premises, the Commissioner may, by written notice, require the person erecting such building or executing such work to stop such erection or work [forthwith].

[(2) If the erection of the building or execution of the work is not stopped as required by the Commissioner, or permission approved by the competent authority in favour of the erection of the building or execution of the work is not produced within twenty-four hours from the service of notice referred to in sub-section (1), the Commissioner may, without further notice, remove or pull down the building or work and the expenses thereof shall be paid by the said person or owner of the building or work. The Commissioner may also direct that any person directing or carrying out such erection or work shall be removed by any police officer from the place where the building, is being erected or the work is being executed.]

[(3) In addition to the action that the Commissioner may take under sub-section (2), he may, without further notice, cause to be removed any materials, machinery, equipment, devices or articles used in the process of erection of the building or execution of such work.

(4) If the expenses incurred by the Commissioner under sub-section (2) and (3) are not paid within one month from the date of demand, such

1. These words were substituted for the words "The Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 121(b)(w.e.f. 23-4-1999)

354AA. Power To Regulate Future Construction Of Certain Classes Of Buildings In Particular Streets Or Localities :-

(1)The Commissioner may give public notice of his intention to declare, subject to any valid objection that may be preferred within a period of three months-

(a) that in any streets or portions of streets specified in such notice the elevation and construction of the frontage of all buildings or any classes of buildings thereafter erected or re-erected shall in respect of their architectural features be such as the Corporation may consider suitable to the locality;

(b) that in any localities specified in the notice there shall be allowed the construction of only detached or semi-detached buildings or both and that the land appurtenant to each such building shall be of such an area not less than that specified in such notice;

(c) that the minimum of building plots in particular localities shall be of a specified area;

(d) that in any localities 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 streets, portions of streets or localities specified in such notice the construction of shops, warehouses, factories, huts or buildings designed for particular uses shall not be allowed without the special permission of the Commissioner granted in accordance with general regulation framed by 1[the

Standing Committee] in this behalf and subject to the terms of such permission only.

(2) [The Standing Committee] shall consider all objections received within a period of three months from the publication of such notice, and shall then submit the notice with a statement of objections received and of its opinion thereon to the Corporation.

(3) No objection received after the said period of three months shall be considered.

(4) Within a period of two months after the receipt of the same the Corporation shall submit all the documents referred to in sub-section (2) with a statement of its opinion thereon to the State Government.

(5) The State Government may pass such orders with respect to such declaration as it may think fit:

Provided that such declaration shall not thereby be made applicable to any street, portion or a street or locality not specified in the notice issued under sub-section (1).

(6) The declaration as confirmed or modified by the State Government shall be published in the Official Gazette and shall take effect from the date of such publication.

(7) No person shall erect or re-erect any building in contravention of any such declaration.

(8) Notwithstanding anything contained in this Act, after a public notice has been given under sub-section (1), in regard to any street or a part of a street or a locality, no person shall erect or re-erect a building abutting on such street or such part of the street or within the limits of such locality without the previous permission of the Commissioner.]

1. The words "and working" were deleted by Bom. 34 of 1954, s. 10

2. These words, brackets and letter were inserted by Bom. 12 of 1936, s. 6(2)

354B. Transfer Of Right, Etc. Of The Board To The Corporation :-

1 (1) From the date on which the City of Bombay Municipal (Amendment) Act, 1933, comes into operation, all the property, interests, rights and liabilities of the Board of Trustees for the Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925, in respect of any improvement scheme, street scheme, deferred street scheme, poorer classes accommodation scheme, reclamation scheme, or police accommodation scheme, duly sanctioned or executed before the said date in accordance with the provisions of the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, shall, save in so far as they are restricted or modified by the provisions of this Chapter and of sections 91 A, 91B and 91C vest in Corporation.

(2) It shall be the duty of the Corporation to execute, with due diligence, any improvement scheme, street scheme, deferred street scheme, poorer classes accommodation scheme, reclamation scheme, or police accommodation scheme, duly sanctioned in accordance with the provisions of the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, before the date on which the City of Bombay Municipal (Amendment) Act, 1933, comes into operation, which remains unexecuted on that date, until the completion of the scheme.

1. This section was inserted by Bom. 69 of 1948, s. 75, Schedule

354C. Commissioner To Make A Default Improvement Scheme :-

(1) [If it shall appear to the Commissioner-

(A) that within certain limits in any part of 2[Brihan Mumbai]]-
 (a) and buildings used, or intended or likely to be used, for human habitation, are unfit for human habitation, or
 (b) the narrowness, closeness and bad arrangement or the bad condition of the streets and buildings, or groups of buildings, within such
 (c) it is necessary to provide for the construction of buildings for the accommodation of the poorer 3[* *] classes, 4[or,
 (D) that for the purpose of providing building sites for the expansion of 5[Brihan Mumbai], or of remedying the defective ventilation of any part of 5[Brihan Mumbai], or of creating new or increasing the existing means of communication and facilities for traffic between various part of 5[Brihan Mumbai] it is expedient to form new or to alter existing streets in any part of 5[Brihan Mumbai,]] the Commissioner may-
 (i) with the previous approval of the Corporation, which shall not be given unless the Corporation are satisfied of the sufficiency of their resources, draw up a notification stating that the Commissioner proposes to make an improvement scheme, the area to which the resolution relates and naming a place where a map of the area may be seen at all reasonable hours:
 (ii) during three consecutive weeks publish simultaneously in the [Official Gazette] and in some one or more English and in some two or more vernacular newspapers circulating within 5 [Brihan Mumbai] a copy of the said notification;
 (iii) proceed to make a draft improvement scheme and submit the scheme to [the Improvement Committee] for approval.
 (2) In making an improvement scheme more than one area may be included in one improvement scheme.
 (3)With the previous approval of the Corporation the Commissioner may, for the purpose of making an improvement scheme, cause surveys to be made in areas either inside or outside the limits of the area comprised in the scheme to be made.
 1. These words were substituted for the words "the Bombay Housing Board Act, 1948" byMah. 10 of 1998, s. 150
 2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 123 (w.e.f. 23-4-1999)
 3. The words "and working" were deleted by Bom. 34 of 1954, s. 11(1)
 4. Sub-section (3) was inserted by Bom. 34 o 1954, s. 11 (2)
 5. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

354CC. No Improvement Schemes For Areas For Which Housingschemes Sanctioned Under Bom. Lxixof 1948 :-

1Notwithstanding anything contained in this Chapter, no improvement scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of 2 [the Maharashtra Housing and Area Development Act, 1976.]

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)
2. These words were substituted for the words "Mayor-in-Council" by the Mumbai municipal Corporation (Amendment) Act 27 of 1999, s. 124 (w.e.f. 23-4-1999)

354D. Improvement Committee To Consider And Approve Draft Scheme Submitted By Commissioner :-

On the submission by the Commissioner of a draft improvement scheme the 1 [Improvement Committee] shall take such scheme into their consideration and may approve the same with or without such alteration as it thinks fit.

1. These words were substituted for the words "land proposed to be acquired" by Bom. 34 of 1954,s. 12(1).

354E. Particulars To Be Provided For In An Improvement Scheme :-

(1) The improvement scheme, which may exclude any part of the area included in the notification referred to in section 354C, or include any neighbouring land, if the Commissioner is of opinion that such exclusion or inclusion is expedient-

(i) shall, within the limits of the area comprised in the scheme, provide for-

(a) the acquisition of any land which will, in the opinion of the Commissioner, be necessary for or affected by the execution of the scheme;

(b) relaying out all or any land including the construction and reconstruction of buildings and the formation and alteration of streets;

(c) the laying of such storm-water drains and sewers as may be required for the efficient draining and sewerage of streets so formed or altered;

(d) the lighting of streets so formed or altered;

(ii) may, within the limits aforesaid, provide for-

(a) raising any land which the Commissioner may deem expedient to raise for the better drainage of the locality;

(b) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area;

(c) the whole or any part of the sanitary arrangements required; and

(iii) may, within and without the limits aforesaid, provide for the construction of buildings for the accommodation of the poorer 1[* *] classes including the whole or part of such classes to be displaced in the execution of the scheme. Such accommodation shall be deemed to include shops.

(2) The improvement scheme may exclude any part of the area included in the notification referred to in section 354C or include any neighbouring land, provided that the Commissioner is of opinion that such exclusion or inclusion is necessary for the proper carrying out of the scheme and provide further that such previous notice of such inclusion shall have been given in the manner prescribed in section 354C(I) (ii).

2 [(3) If in the opinion of the Commissioner any land, within the limits of the area comprised in the improvement scheme, which is not required for the execution of the scheme, will, as a result of such execution, be increased in value, the scheme may, in lieu of providing for the acquisition of such land, provide for the levy of a betterment charge in respect of the increase in value thereof, which shall be of such amount and shall be levied at such time and in such manner as is hereinafter provided.]

1. These words were substituted for the words "to the Mayor-in-Council, who " by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 125(w.e.f. 23-4-1999)

2. Sub-section (5) was added by Bom. 34 of 1954, s. 13

354F. Considerations Which Shall Prevail In Making The Scheme :-

In making an improvement scheme for any area, regard shall be had to the conditions and nature of neighbouring parts of 3[Brihan Mumbai] and of[Brihan Mumbai] as a whole and to the likelihood of improvement schemes being required for the neighbouring and other parts of 1 [Brihan Mumbai].

1. This portion was substituted by the Mumbai municipal Corporation (Amendment) Act 27 of 1999, s. 126 (w.c.f. 23-4-1999)

354G. Procedure On Completion Of The Scheme :-

(1) Upon the approval of an improvement scheme by the 1 [Improvement

Committee] the Commissioner shall forthwith draw up a notification stating the fact of a scheme having been made, the limits of the area comprised therein, and naming a place where particulars of the scheme, a map of the same and statement of the [and which it is proposed to acquire or in respect of which it is proposed to levy a betterment charge] may be seen at all reasonable hours, and shall-

(a) communicate a copy of such notification, particulars, map and statement to the Corporation;

(b) publish the notification in the manner prescribed for the publication of a notification under section 354C.

[(2) During the thirty days next following the first day on which such notification is published the Commissioner shall serve a notice upon every person whose name appears in the Commissioners assessment book as primarily liable for the payment of the property taxes leviable under this Act on any land or building or part of a building which it is proposed to acquire or in respect of which it is proposed to levy a betterment charge.

(3) Such notice shall-

(a) state that the Commissioner on behalf of the Corporation proposes to acquire such land or building or part of a building or to levy a betterment charge in respect thereof for the purpose of or in connection with an improvement scheme, and

(b) require the person so served if he objects to such acquisition or levy of a betterment charge, as the case may be, to state his reasons in writing within thirty days from the date of service of the notice.]

1. Sub-section (5) was added by Bom. 34 of 1954, s. 14

354H. Right Of Owner To Demand Acquisition On Issue Of Notification When Building Operations Are In Progress :-

(1) If any land is included in any statement specifying the land proposed to be acquired made in accordance with the notification drawn up under section 354G, and if the owner of such land shall prove to

(2) On receipt of such notice the Commissioner shall forthwith report the matter 1[to the Improvement Committee and the said Committee] shall then resolve whether in their opinion it is desirable to acquire the land set out in the notice or to withdraw from the proposal to acquire and shall communicate their resolution within two months to the Corporation who shall within one month after receipt thereof communicate to the Commissioner the decision of the Corporation in the matter, and thereupon the Commissioner shall forthwith in accordance with such decision either proceed to acquire such land or shall give written notice to the owner that the proposal to acquire has been withdrawn. SR

(3) If the Corporation decide to acquire the land the Commissioner shall give notice of such decision to the Collector and to the owner, and the Collector shall proceed as if a declaration had been made in respect of the land in question under section 6 of the Land Acquisition Act, 1894.

(4) If the Corporation withdraw from the proposal to acquire any land under sub-section (2) such land shall not be included in any statement of land proposed to be acquired, made in accordance with any notification drawn up under section 354G until the expiry of two years from the date of the issue of written notice of withdrawal to the owner.

1 [(5) Notwithstanding anything contained in this section if the Corporation withdraw from the proposal to acquire any land under subsection (2) such land shall be deemed to have been included in any statement of land in respect of which it is proposed to levy a betterment charge made in accordance with any notification drawn up under section 354-G:

Provided that the provisions of sub-sections (2) and (3) of section 354-G, shall apply in respect of such land with the modification that the period of thirty days referred to in the said sub-section (2) will be counted from the date on which notice was given to the owner that the proposal to acquire has been withdrawn.]

1. These words were substituted for the words " representation or answer" by

354I. Right Of Owner To Demand Acquisition Or Withdrawal By The Operation After The Lapse Of Two Years From The Date Of Notification :-

(1) The owner of any land included in any statement of the land proposed to be acquired made in accordance with any notification drawn up under section 354G may at any time before the publication of declaration under section 354M and after the expiry of one year from the date of such notification by written notice to the Commissioner setting out the particulars of such land call upon the Commissioner to acquire such land on behalf of the Corporation.

(2) On receipt of such notice the Commissioner shall forthwith report the matter to 1[the Improvement Committee and the said Committee shall resolve whether in their opinion it is desirable to acquire the land set out in the notice and shall communicate their resolution within two months to the Corporation which shall within two months after the receipt thereof communicate to the Committee and Commissioner the decision of the Corporation in the matter] and thereupon the Commissioner shall in accordance with such decision either decide to acquire such land or shall give notice to the owner that he has withdrawn the proposal to acquire.

(3) If the Corporation decide to acquire the land they shall instruct the Commissioner to give notice of such decision to the Collector and to the owner, and the Collector shall proceed as if a declaration had been made in respect of the land in question under section 6 of the Land Acquisition Act, 1894.

(4) If the Corporation withdraw from the proposal to acquire any land under subsection (2) such land shall not be included in any statement of land proposed to be acquired, made in accordance with any notification drawn up under section 354G until the expiry of two years from the date of the issue of written notice of withdrawal to the owner.

1 [(5) Notwithstanding anything contained in this section if the Corporation withdraw from the proposal to acquire any land under subsection (2) such land shall be deemed to have been included in any statement of land in respect of which it is proposed to levy a betterment charge made in accordance with any notification drawn up under section 354G:

Provided that the provisions of sub-sections (2) and (3) of section 354-G, shall apply in respect of such land with the modification that the

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

354J. [Improvement Committee] After Publication And Service Of Notices To Forward The Cheme To The Corporation For Approval :-

(1) Upon compliance with the foregoing provisions with respect to the publication of notices of the scheme the Commissioner shall submit to the 1[Improvement Committee] any 1[objection on representation] received under section 354G together with any suggestion he may wish to make in respect of the modification of the scheme.

(2) The 2[Improvement Committee] shall after consideration of any such 3 [objection or representation] or suggestion and after inserting in the scheme such modifications as they think fit, submit the scheme together with any representation, answer or suggestion to the Corporation for their approval.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

2. The words "Provincial Government" were substituted for the words "Governor-in-Council" by the Adaptation of Indian Laws Order in Council.
3. The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

354K. Corporation To Consider The Improvement Scheme And To Approve Or Disapprove :-

The Corporation shall on receipt of a scheme from 1 [the Improvement Committee] proceed to take such scheme into consideration together with any [objection, representation] or suggestion received, or made, under section 354G to 354J and shall, after having approved the scheme with or without modification or declined to approve the scheme, pass a resolution to that effect.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 130 (w.e.f. 23-4-1999)

354L. Commissioner To Apply To 6[State] Government For Sanction To The Scheme :-

(1) As soon as the Corporation have approved the scheme the Commissioner shall apply to [[State] Government] on behalf of the Corporation for sanction to the scheme.

(2) If the Corporation do not approve the scheme they shall pass a resolution to that effect. The Commissioner shall thereupon forthwith draw up a notification stating the fact that the Corporation have resolved

(3) the application to 1[the 2[State] Government] for sanction under sub-section (1) shall be accompanied by- 3 [(a) a copy of the resolution passed by the Improvements Committee under section 354D];

(b) a copy of a resolution passed by the Corporation under section 354C;

(c) a description with full particulars of the scheme including the reasons for any modifications inserted therein;

(d) complete plans and estimates of the cost of executing the scheme;

(e) a statement specifying the land [which it is proposed to acquire or in respect of which it is proposed to levy a betterment charge;]

(f) a list of the names of the persons, if any, who in answer to the notices mentioned in sub-section (2) of section 354-G [objected, with the reasons (if any) stated by such persons for objection, in respect of the acquisition of their land or of the levy of a betterment charge;]

(g) a schedule showing the rateable value, as entered in the Commissioners assessment book, at the date of the publication of a notification relating to the land under section 354G, of all land specified in the statement under clause (e) and of any other land wholly or partially situated within 80 feet from either side of any street to be formed or altered in executing the scheme.

1. The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

354M. On Receipt Of Sanction Declaration To Be Published Giving :-

particulars of land to be acquired and on publication of such declaration the commissioner to be authorised to execute the scheme

- (1) (a) On receipt of the sanction of the 1[2[State] Government], the

Commissioner shall forward to 1[2[State] Government] a declaration for notification under the signature of a Secretary to 1[2[State] Government] stating the fact of such sanction and that the land proposed to be acquired by the Corporation for the purposes of the scheme is required for public purpose.

(b) the declaration shall be published in the 7[Official Gazette] and shall state the limits within which the land proposed to be acquired is situate, the purpose for which it is needed, its approximate area, and the place where a plan of the land may be inspected.

(c) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Commissioner shall upon the publication of the said declaration proceed to execute the scheme.

(2)(a) If at any time, it appears to the Commissioner, the 8[Improvement Committee] or the Corporation, as the case may be, that an improvement can be made in any part of the scheme, the Corporation may after the scheme for the purpose of making such improvement, and thereupon the Commissioner shall, subject to the provisions contained in the next two clauses of this sub-section, forthwith proceed to execute the scheme as altered.

(b) If the estimated net cost of executing the scheme as altered exceeds by ten per cent the estimated net cost of executing the scheme as sanctioned, the Commissioner shall not, without the previous sanction of the Corporation and of 1[2 [State] Government], proceed to execute the scheme as altered.

(c) If the scheme as altered involves the acquisition, otherwise than by agreement of any land other than that specified in the schedule accompanying the scheme under sub-section (3) of section 354L the provisions of section 354G and 354L and of sub-section (1) shall apply to a part of the scheme so altered, in the same manner as if such altered part were the scheme.

1. The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

2. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

7. The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

8. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

354N. If the Corporation Fail To Acquire The Land Owner May Call Upon Corporation To Acquire It Or To Withdraw From The Proposal :-

If, within three years from the declaration aforesaid, the Corporation fail to acquire the land or any part of the land proposed to be acquired for the purposes of any scheme notified after the City of Bombay Municipal (Amendment) Act, 1933, comes into operation, the owner of any land included in the declaration may, by written notice setting out the particulars of such land, call upon the Corporation to acquire such land or to withdraw from the proposal to acquire it. Thereafter the procedure prescribed in sub-sections (2) to (4) of section 354] shall be followed.

354O. Section 354O :-

(1) When a representation is made by the 1[the 2[State] Government] to the Corporation that within any part of 3 [Brihan Mumbai], accommodation is required for housing any part of the Police of 3[Brihan Mumbai], the Corporation shall take such representation into their consideration, and, if satisfied of the sufficiency of their resources and that it is otherwise expedient, shall pass a resolution to the effect that a scheme for providing such accommodation ought to be made, and shall direct the Commissioner to forthwith proceed to make a police

accommodation scheme.

(2) The police accommodation scheme may provide for constructing dwellings, police stations and accessory buildings for any or all classes of such Police, and for acquiring, raising and leveling any land required for the execution of the scheme.

1. This word was substituted for the word "His majesty" by the Adaptation of Laws Order, 1950.

2 . The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

354P. Procedure On Completion Of A Scheme :-

Upon completion of a police accommodation scheme, the provisions of sections 354G to 354M shall, with all necessary modifications, be applicable to the scheme in the same manner as if the scheme were an improvement scheme.

354Q. Vesting Of Land In Corporation :-

(1) When such scheme is sanctioned by 1[the[State] Government], in the case of land specified in Schedule W 1[the2[State] Government] shall resume the land, and the said land shall thereupon vest in the Corporation.

(2) The Commissioner shall then proceed to execute the police accommodation scheme.

(3) Any building constructed under this section shall with the site be held by [the[State] Government] for police purposes for a term of sixty years from the date of the completion of the building, and 1[the 2[State] Government] shall, during this said period, pay yearly to the Corporation by way of rent a sum equal to the total of-

(a) the annual interest payable by the Corporation on all moneys, which they have spent on the scheme, and

(b) sinking fund charges so calculated that at the end of the said period the aggregate in the sinking fund shall amount to the total sum spent on the scheme, such total sum shall include-

(i) all moneys spent on interest and sinking fund charges up to the date of the commencement of the said period;

(ii) if and so far as the land included in the scheme is not part of the land specified in Schedule W the cost of such land;

(iii) preliminary expenses and an allowance for management and supervision up to the date of the commencement of the said period.

(4) the cost of such land for the purposes of this section shall be deemed to be -

(a) if and so far as the land has been acquired for the scheme, the actual cost of its acquisition, and

(b) in all other cases the market value of the land at the date of the declaration of the scheme.

(5) 2[The [State] Government] shall maintain the building held by them under sub-section (3) in a state of proper repairs.

(6) On the expiration of the period of sixty years the building and the land forming the site thereof shall vest absolutely in 2 [Government]-

(7) This section shall apply to all police accommodation schemes sanctioned heretofore by [the [State] Government] in accordance with the provisions of the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, as if such schemes had been sanctioned under the provisions of this Act.

1. The words "after obtaining the approval of the Mayor-in-Council" were deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999 , s.132,(w.e.f. 23-4 1999)

2. The words "the Mayor-in-Council" were deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 133(a), (w.e.f. 23-4-1999)

354R. Power To Declare An Area To Be A Clearance Area :-

(1) (1) If it shall appear to the Commissioner in respect of any area in any part of [Brihan Mumbai]-

(a) that the residential buildings in that area are, by reason of disrepair or sanitary defects unfit for human habitation or are, by reason of their bad arrangement or the narrowness or bad arrangement of the streets dangerous or injurious to the health of the inhabitants of the area and that the other buildings, if any in the area are for a like reason dangerous or injurious to the health of the said inhabitants; and

(b) that the conditions in the area can be effectually remedied by the demolition of all the buildings in the area without making an improvement scheme; the Commissioner may cause that area to be defined on a plan in such manner as to exclude from the area any building which is not unfit 1 [* * *] for the approval of the Corporation. On the submission by the Commissioner of draft clearance scheme, the Corporation shall take such scheme into consideration and approve the same with or without such alteration as they think fit. The Corporation shall then pass a resolution declaring the area so defined and approved by them to be a clearance area, that is to say, an area to be cleared of all buildings in accordance with the subsequent provisions of this Act. The area shall hereinafter be referred to as the clearance area and the scheme as the clearance scheme.

(2) Before any area is declared to be a clearance area, it shall be the duty of Corporation to satisfy themselves as to the sufficiency of their resources and to ascertain the number of persons who are likely to be dishoused in such area and thereafter to take such measures as are practicable whether by the arrangement of their programme or otherwise so as to ensure that as little hardship as possible is inflicted on those dishoused.

(3) The Commissioner on behalf of the Corporation shall forthwith transmit to the State Government a copy of the resolution passed by them under this section.

(4) As soon as may be after the Corporation have declared any area to be a clearance area, the Commissioner shall, in accordance with the appropriate provisions hereafter contained in this Act, proceed to secure the clearance of the area in one or other of the following ways, or partly in one of those ways, and partly in the other of them, that is to say

(a) by ordering the demolition of the buildings in the area; or

(b) by acquiring on behalf of the Corporation land comprised in the area and undertaking or otherwise securing, the demolition of the buildings thereon.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

354RA. Clearance Orders :-

(1) Where in respect of any clearance area the Commissioner determines to order any buildings in the clearance area to be demolished, he shall, with the approval of 1[* * *] the Corporation make and submit to the State Government for confirmation by them an order (in this Act referred to as "clearance order") ordering the demolition of each of those buildings.

(2) A clearance order shall describe by reference to a plan the area to which it applies, and shall fix by reference to the date on which it becomes operative the period, not being less than twenty-eight days from that date, within which the Commissioner requires the buildings in the area to be vacated for the purposes of demolition, and for that purpose may fix different periods as respects different buildings.

(3) There shall be excluded from the clearance order any houses or other buildings

properly included in the clearance are only on the ground that by reason of their bad arrangement in relation to other buildings, or the narrowness or bad arrangement on the streets, they are dangerous or injurious to the health of the inhabitants of the area: Provided that this sub-section shall not apply to a building constructed or adapted as. or for the purposes of a dwelling or partly for those purposes and partly for other purposes, if any part (not being a part used for other purposes) is by reason of disrepair or sanitary defects unfit for human habitation.

(4) Before submitting the order to the State Government, the Commissioner shall -
(a) publish simultaneously in the Official Gazette and in three or more newspapers circulating within [Brihan Mumbai], a notice stating the fact of such a clearance order having been made and describing the area comprised therein and naming a place where a copy of the order and of the plan referred to therein may be seen at all reasonable hours ; and

(b) serve on every [person whose name appears in the Commissioners assessment book as primarily liable for payment of property tax leviable under this Act, on any building included in the area to which the clearance order related and, so far as it is reasonably practicable to ascertain such persons, on every mortgagee thereof, a notice stating the effect of the clearance order and that it is about to be submitted to the State Government for confirmation, and specifying the time within and the manner in which objections thereto can be made to the Commissioner.

(5) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the clearance order, the Commissioner shall submit to the 2[Improvements Committee] any objections received under sub-section (4) and any suggestions he may wish to make in that respect.

(6) The Improvements Committee] may, after consideration of any such objections and suggestions, make such modifications in respect of the order as they think fit, and the Commissioner shall thereafter submit the order as approved,2 [* *] by the 2[Improvements Committee] first to the Corporation and then to the State Government for confirmation.

(7) The provisions of Schedule GG to this Act shall have effect with respect to the validity and date of operation of a clearance order.

(8) When a clearance order has become operative, the owner or owners of any building to which the order applies shall demolish that building before the expiration of six weeks from the date on which the building is required by the order to be vacated or, if it is not vacated until after that date, before the expiration of six weeks from the date on which it is vacated or, in either case, before the expiration of such longer period as in the circumstances the Commissioner may deem reasonable; and if the building is not demolished before the expiration of that period the Commissioner shall take measures to demolish the building and sell materials thereof.

(9) Any expenses incurred by the Commissioner under the foregoing sub-section, after giving credit for the amount realized by sale of the materials, shall be payable by the owner or owners of the building, and any surplus in the hands of the Commissioner, after payment of such expenses, shall be paid by the Commissioner to the owner of the building, or if there is more than one owner, shall be paid as those owners may agree. In default of agreement between such owners, the Commissioner shall deposit the surplus amount in the Small Causes Court and the Chief Judge of the said Court shall decide in what proportion such amount should be paid to such owners. The decision of the chief Judge shall be final.

(10) When a clearance order has become operative, no land to which the order applies shall be used for building purposes, or otherwise developed, except subject to such restrictions and conditions, as may be imposed by [* * *] the Corporation generally or specially.

(11) In the provisions of this Act relating to buildings included in an area to which a clearance order applies references to a building shall include references to a hut, tent or other temporary or movable form of shelter which is used for human habitation and has been in the same enclosure for a period of two "years next before action is taken under those provisions, and the reference to development in sub-section (10) shall include a reference to the erection or placing on land of a

hut, tent or other temporary or movable form of shelter.

1. The words "either with or without modifications" were deleted by Mah. 10 of 1998, s. 6(c)(ii).

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 135, (w.e.f.23-4-1999).

354RB. Acquisition Of Land Surrounded By Or Adjoining A Clearance Area :-

Where, as respects any area declared by the Corporation to be a clearance area, the Commissioner determines to acquire any land comprised in the area, he may acquire also any land which is surrounded by the clearance area and the acquisition of which is reasonably necessary for the purpose of securing a cleared area of convenient shape and dimensions, and any adjoining land the acquisition of which is reasonably necessary for the satisfactory development or use of the cleared area.

354RC. Provisions With Respect To Property Belonging To The Corporation Within Surrounded By Or Adjoining A Clearance Area :-

Subject to the provisions of this section, the Commissioner may include in a clearance area any land belonging to the Corporation which he might have included in such area if it had not belonged to them, and where any land of the Corporation is included in a clearance area or, being land surrounded by or adjoining a clearance area, might have been acquired by the Commissioner under the last foregoing section had it not previously belonged to the Corporation, the provisions of this Act, shall apply in relation to that land as if it has been acquired by the Commissioner as being land comprised in the clearance area or, as the case may be, as being land surrounded by or adjoining a clearance area.

354RD. Acquisition Of Land In A Clearance Area :-

(1) Where the Commissioner has determined to acquire land comprised in or surrounded by, or adjoining a clearance area, he may acquire that land by agreement upon obtaining the requisite sanction under section 90 or he may, with the sanction of the 1[Improvements Committee], be authorised to acquire that land by a compulsory acquisition order made and submitted to the State Government and confirmed by them in accordance with the provisions of Schedule HH to this act.

(2)An order authorizing the compulsory acquisition of land comprised in a clearance area shall be submitted by the Commissioner, with the approval 2[* * *] of the Corporation, to the State Government within six months, and an order authorizing the compulsory acquisition of land surrounded by or adjoining a clearance area shall be submitted by the Commissioner with the approval 2 [* * *] of the Corporation to the State Government within twelve months after the date of the resolution of the Corporation declaring the area to be a clearance area or within such longer period as the State Government may, in the circumstances of the particular case, allow.

(3) The provisions of Schedule GG to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(4) Nothing in this section shall authorise the compulsory acquisition of any land or building vested in the Central Government or in the Trustees of the Port of Bombay without the previous sanction of the Central Government, or any land or building

vested in the State Government or belonging to any Corporation authorised by law to construct, work and carry on any tramway, gas, electricity, water or other public undertaking without the previous sanction of the State Government

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 135 (w.e.f. 23-4-1999)

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 136(b) (w.e.f. 23-4-1999)

354RE. Treatment Of A Clearance Area :-

The Commissioner having acquired any land, comprised in, or surrounded by or adjoining a clearance area shall, as soon as may be, cause every building thereon to be vacated if necessary in the manner provided by section 48 8A, and shall deal with that land in one or other of the following ways, or partly in one of these ways and partly in the other of them, that is to say

(a) he shall demolish every building thereon before the expiration of six weeks from the date on which it is vacated, or before the expiration of

(b) he shall, as soon as may be. with the sanction of the requisite authority under section 92, sell or lease the land subject to a condition that the buildings thereon shall be demolished forthwith and subject to such restrictions and other conditions, if any, as he thinks fit.

Provided that, in lieu of selling any land other than land abutting on a public street, the Commissioner may, where the owner of other land (being land which the Corporation has power to acquire) is willing to take such land in exchange for that other land, with the sanction of the 1 [Improvement Committee], exchange it for that other land either with or without paying or receiving money for equality of exchange, and in relation to any such exchange the like provisions shall have effect as respects the land to be given in exchange by the Corporation as have effect by virtue of the foregoing provisions of this section as respects land sold thereunder. Any land acquired by the Commissioner by such exchange if it is situated in the clearance area shall be subject to the same restrictions as are applicable to other lands in such area.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

354RF. Arrangements Where Acquisition Of Land In A Clearance Area Found To Be Unnecessary :-

Where the Commissioner has submitted to the State Government an order for the compulsory acquisition of land in a clearance area, and the State Government, on an application for an authorization under this section being made to them by the owner or owners of the land and the Commissioner is satisfied that the owner or owners of the land, with the concurrence of any mortgagee thereof, agree to the demolition of the buildings thereon and that the Commissioner can secure the proper clearance of the area without acquiring the land, the State Government may-

(a) in a case where the order has not been confirmed authorise the Commissioner to submit forthwith and without any previous publication or service, a clearance order with respect to the buildings, and upon his so doing, may modify the compulsory acquisition order by excluding the land therefrom and confirm the clearance order; or

(b) in a case where the compulsory acquisition order has been confirmed but the land has not become vested in the Corporation, authorise the Commissioner to discontinue proceedings for the acquisition of the land on their being satisfied that such agreements have been or will be entered into by all necessary parties as may be requisite for securing that the buildings shall be demolished in like manner, and the land become subject to the like restrictions and conditions, as if the

Commissioner had dealt with the land in accordance with the provisions of the last foregoing section.

354RG. Power To Acquire Cleared Land Which Owners Have Failed To Redevelop :-

(1) Where land has been cleared of buildings in accordance with a clearance order, the Corporation may, at any time after the expiration of eighteen months from the date on which the order became operative, by resolution determine to acquire any part of that land which at the date of the passing of the resolution has not been, or is not in process of being, used for building purposes or otherwise developed by the owner thereof in accordance with plans approved by the Commissioner and any restrictions or conditions imposed under subsection (10) of section 354RA.

(2) Where the Corporation have determined to acquire land under this section the Commissioner may acquire that land by agreement upon obtaining the requisite sanction under section 90, or he may, with the sanction of the 1[Improvements Committee], be authorised to acquire that land by a compulsory acquisition order made and submitted to the State Government and confirmed by them in accordance with the provisions of schedule HH to this Act.

(3) An order authorizing the compulsory acquisition of land for the purposes of this section shall be submitted by the Commissioner to the State Government within three months after the date of the passing of the resolution to acquire the land

(4) The provisions of Schedule GG to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(5) The Commissioner shall, with the approval of the 2 [Improvements Committee], deal with any land acquired under this

1. These words were substituted for the words "re-development scheme to the Mayor-in- Council for the approval of by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 137 (w.e.f. 23-4-1999)

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

354RH. Power Of Court To Determine Lease Where Premises Demolished :-

(1) Where any premises in respect of which a clearance order has become operative form the subject matter of a lease, either the lessor or the lessee may apply to the Chief Judge of the Small Causes Court for an order under this section.

(2) Upon any such application as aforesaid, the Chief Judge, after giving to any sub-lessee an opportunity of being heard, may, if he thinks fit, make an order for the determination of the lease, or for the variation thereof, and in either case, either unconditionally or subject to such terms and conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of compensation, damages, or otherwise) as he may think just and equitable to impose, regard being had to the respective rights, obligations, and liabilities of the parties under the lease and all the circumstances of the case.

(3) In this section, the expression Mease includes an under-lease and any tenancy or agreement for a lease, under-lease, or tenancy, and the expression lessor, lessee and sub-lessee shall be construed accordingly, and as including also a person deriving title under a lessor, lessee or sub-lessee.

354RI. Power To Declare An Area To Be A Redevelopment Area :-

- (1) If it shall appear to the Commissioner in respect of any area in any part of 1[Brihan Mumbai], that the following conditions exist, that is to say-
- (a) that the area contains fifty or more dwellings for the poorer classes;
 - (b) that at least one-third of the poorer class dwellings in the area are overcrowded, or unfit for human habitation and not capable at a reasonable expense of being rendered so it, or so arranged as to be congested;
 - (c) that it is expedient in connection with the provision of housing accommodation for the poorer classes that the area should be re-developed as a whole; 2[re-development scheme for the approval of] the Corporation. On the submission of such a draft re-development scheme, the Corporation shall take into consideration such scheme and approve the same with or without alteration as they think fit. The Corporation shall then pass a resolution declaring the area so defined and approved by them to be a re-development area.
- (2) As soon as may be after the Corporation have passed a resolution under the foregoing sub-section, the Commissioner on behalf of the Corporation shall transmit to the State Government a copy of the resolution and of the plan, and shall publish simultaneously in the Official Gazette and in three or more newspapers circulating within 3 [Brihan Mumbai] a notice stating that the resolution has been passed and naming a place where a copy of a resolution and of the plan may be inspected at all reasonable hours.
- (3) Before any area is declared to be a re-development area, it shall be the duty of the Corporation to satisfy themselves as to the sufficiency of their resources and to ascertain the number of persons who are likely to be dishoused in such area and thereafter to take such measures as are practicable whether in the arrangement of their programme or otherwise so as to ensure that as little hardship as possible is inflicted on those dishoused.
1. These words were substituted for the words and figures "the Bombay Town Planning Act, 1915" by Mah. 10 of 1998, s. 166(b)
 2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 139 (w.e.f. 23-4-1999)
 3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

354RJ. Redevelopment Plan :-

- (1) Within six months after the Corporation have passed a resolution under the last foregoing section or within such extended period as the State Government may allow, the Commissioner shall, [with the approval of the Corporation], prepare and submit to the State Government a re-development plan indicating the manner in which it is intended that the defined area should be laid out and the land therein used, whether for existing purposes or for purposes requiring the carrying out of redevelopment thereon, and in particular the land intended to be used for the
- (2) In the preparation of the plan regard shall be had to the provisions of any improvement scheme or proposed improvement scheme under this Act or any scheme under 1[the Maharashtra Regional and Town Planning Act, 1966] relating to the defined area or land in the neighbourhood thereof.
- (3) Before submitting the plan to the State Government, the Commissioner shall-
- (a) publish simultaneously in the Official Gazette, and in three or more newspapers circulating within [Brihan Mumbai] a notice stating that the plan has been prepared and is about to be submitted to the State Government, naming a place where the plan may be inspected at all reasonable hours, and specifying the time within which, and the manner in which, objections can be made; and
 - (b) serve a notice to the like effect on every owner, lessee and occupier (except tenants for a month or any period less than a month) of land in the defined area, and on every railway administration operating a railway within the defined area and on any Corporation authorised by law to construct, work and carry on any tramway, gas, electricity, water or other public undertaking within the defined

area.

(4) Upon compliance with the foregoing provisions with respect to the publication and service of notices regarding the proposed redevelopment plan, the Commissioner shall submit to the [Improvements Committee] any objections received under sub-section (3) and any suggestions he may wish to make in that respect.

(5) The [Improvements Committee] may after consideration of any such objections and suggestions make such modification in respect of the 2 [Improvements Committee] first to the Corporation and then to the State Government for approval.

(6) On receipt of notice of the State Governments approval, the Commissioner shall publish simultaneously in the Official Gazette and in three of more newspapers circulating within [Brihan Mumbai] a notice stating that the re-development plan has been approved and naming a place where a copy thereof may be inspected at all reasonable hours, and shall serve; a like notice on every person on whom a notice was served by him of his intention to submit the re-development plan to the State Government for their approval.

(7) Where, after a re-development plan has been approved, the Corporation are satisfied that any land in the re-development area (that is to say the defined area or so much thereof as is comprised in the plan as approved) ought to be re-developed or used otherwise than as indicated in the plan, the Commissioner shall prepare and submit to the State Government on behalf of the Corporation a new plan in respect of that land and the provisions of this section in respect to publication, service of notices and approval by the State Government shall have effect in relation to the new plan, with the substitution of references to the new plan and to the land comprised therein, for references to the re-development plan and to the defined area.

(8) The provisions of Schedule GG to this Act shall have effect with respect to the validity and date of operation of the State Governments approval of a re-development plan or of a new plan.

(9) In the subsequent provisions of this Act references to redevelopment or use in accordance with a re-development plan shall be construed as references to redevelopment or use in accordance with a redevelopment plan approved under this section or, in the case of land comprised in a new plan approved under this section, in accordance with the new plan.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 139 (w.e.f. 23-4-1999)

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

354RK. Acquisition Of Land For Purposes Of Redevelopment

:-

(1) When the State Governments approval of a redevelopment plan has become operative, the Commissioner may acquire by agreement, upon obtaining the requisite sanction under section 90, or 1 [Improvements Committee], be authorised by means of an order made and submitted to the State Government and confirmed by them in accordance with Schedule HH to this Act, to acquire compulsorily-

(a) land in the re-development area; and

(b) any land outside that area which may be required for the purpose of providing accommodation for persons occupying premises within that area which have been or are intended to be acquired by agreement, or in respect of which compulsory acquisition orders have been submitted.

(2) Where the Commissioner submits to the State Government an order for the compulsory acquisition under this section of land which comprises or consists of a building which in his opinion is unfit for human habitation and not capable at reasonable expense of being rendered so fit, the order as submitted shall be in a

form prescribed for the purpose of indicating that the building is in that condition, and, if in the opinion of the State Government the building is properly so indicated, the order as confirmed may authorise the Commissioner to acquire the building as being in that condition.

(3) The provisions of Schedule GG to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(4) Nothing in this section shall authorise the compulsory acquisition of any land or building vested in the Central Government or in the Trustees of the Port of Bombay without the previous sanction of the Central Government, or any land or building vested in the State Government or belonging to any Corporation authorised by law to construct, work and carry on any tramway, gas, electricity, water or other public undertaking without the previous sanction of the State Government.

(5) Land acquired by the Commissioner under this section for the provisions of houses for the poorer classes shall be deemed to have been acquired by him under section 354RN.

(6) Land acquired by the Commissioner under this section otherwise than for the provision of houses for the poorer classes may, with the sanction of the requisite authority under section 92, be sold or leased to any person or if such land is not abutting on any public street may with the

(7) when the State Government's approval of a re-development plan has become operative and the plan comprises any land of the Corporation, the provisions of this Act shall apply in relation to that land as if it had been land in the re-development area acquired by the Commissioner under this section.

(8) When the State Government's approval of a re-development plan has become operative, no person shall construct or reconstruct any building or any portion of a building within the re-development area to which the plan relates except with the written permission of the Commissioner, who in granting such permission may impose such conditions approved by the Corporation generally or specially, as will, in his opinion, ensure that the construction or reconstruction shall only proceed in accordance with the re-development plan.

1. These words were substituted for the word "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 140, (w.e.f. 23-4-1999)

354RL. Extinguishments Of Ways, Easements, Etc., Over Acquired Under Sections 354RD, 354RG And 354RK :-

(1) The Commissioner may, with the approval of the State Government, by order extinguish any public right of way over land acquired by agreement under section 354RD, 354RG or 354RK, provided that an order intended to be made by the Commissioner under this subsection shall be published along with a notice inviting objections simultaneously in the Official Gazette and in three or more newspapers circulating within 1 [Brihan Mumbai] and, if any objection thereto is made to the State Government before the expiration of six weeks from the publication thereof, the State Government shall not approve the order until they have considered all such objections.

(2) Where the Commissioner proposes to acquire under the sections referred to in sub-section (1) land over which a public right of way exists, it shall be lawful under this section for the Commissioner to make and the State Government to approve, in advance of the acquisition an order

(3) Upon the completion of the purchase of the land which the Commissioner on behalf of the Corporation has acquired by agreement under the sections referred to in sub-section (1), all private rights of way in, and all private rights under or over that land and all other rights or easements in or relating to that land shall be extinguished, and any person who suffers loss by the extinguishments of any such rights or easement shall be entitled to be paid by the Corporation compensation of such amount as might have been awarded to a person interested in such rights or

easements as if the land to which the same relate has been acquired under a compulsory acquisition order, for which the notice required under clause 2(a) of Schedule HH to this Act had been published on the date of completion of the purchase :

Provided that this sub-section shall not apply to any rights vested in Government or in the Trustees of the Port of Bombay or to any rights belonging to any Corporation authorised by law to construct, work and carry on any tramway, gas, electricity, water or other public undertaking, and shall have effect as respects other matters subject to any agreement which may be made between the Commissioner and the person in or to whom the right in question is vested or belongs.

1. These words were substituted for the words "The Commissioner may alter" by Mah. 10 of 1998, s. 168(b)

354RM. Mode Of Provision Of Accommodation :-

(1) If the Corporation, upon consideration of a representation from the 1[Commissioner] or other information in their possession, are satisfied that within any area in any part of [Brihan Mumbai] it is expedient to provide housing accommodation for the poorer classes and that such accommodation can be conveniently provided without making an improvement scheme, they shall cause that area to be defined on a plan and pass a resolution authorizing the Commissioner and the Commissioner shall thereupon be empowered to provide such accommodation-

(a) by the erection of buildings or in any other manner, on any land belonging to the Corporation or any land acquired by the Corporation for the purpose;

(b) by the conversion of any buildings belonging to the Corporation into dwellings for the poorer classes;

(c) by altering, enlarging, repairing or improving any buildings which have, or an estate or interest in which has, been acquired by the Corporation.

(2) 1 [The Commissioner may, subject to the approval of the Corporation, alter], enlarge, repair or improve any house so erected, converted or acquired.

1. These words were substituted for the words "the Corporation" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 142, (w.e.f. 23-4-1999)

354RO. Power Of Commissioner To Acquire Land For Housing Accommodation :-

The Commissioner may for the purposes of the foregoing section on behalf of the Corporation -

(a) acquire any land including any buildings thereon as a site for the erection of buildings for the poorer classes;

(b) acquire land for the purpose of -

(i) the lease or sale of land with a view to the erection thereon of buildings for the poorer classes by persons other than the Corporation;

(ii) lease or sale of any part of the land acquired with a view to the use thereof for purposes which in the opinion of the Commissioner are necessary or desirable for, or incidental to, the development of the land as a building estate, including the provision, maintenance and improvement of buildings, gardens, factories, workshops, places of worship, places of recreation and other works or buildings for, or for the convenience of, persons belonging to the poorer classes.

354RP. Mode Of Acquisition Of Land For Housing Accommodation :-

(1) Land for the purposes of the foregoing section may be acquired by the Commissioner by agreement upon obtaining the requisite sanction under section 90, or he may, with the sanction of the 1 [Improvements Committee], be authorised to acquire land for those purposes by means of a compulsory acquisition order made and submitted

(2) The Commissioner may, with the consent of and subject to any conditions imposed by, the State Government acquire land for the purposes of the foregoing section, notwithstanding that the land is not immediately required for those purposes :

Provided that the Commissioner shall not be authorised to acquire any land compulsorily for those purposes unless it appears to the State Government that it is likely to be required for those purposes within ten years from the date on which they confirm the compulsory acquisition order.

(3) The provisions of schedule GG to this Act shall have effect with respect to the validity and date of operation of a compulsory acquisition order made under this section.

(4) Nothing in this Act shall authorise the compulsory acquisition for the purposes of section 354RM of any land which is the property of Government or of the Trustees of the Port of Bombay or any local authority, or which is the property of any Corporation authorised by law to construct, work and carry on any tramway, gas, electricity, water or other public undertaking and was acquired for the purposes of such Corporation, or which, at the date of the compulsory acquisition order forms part of any garden or recreation ground;

1. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 143, (w.e.f. 23-4-1999)

354RQ. Power Of Dealing With Land Acquired Or Appropriated For Provision Of Housing Accommodation :-

(1) Where the Commissioner has acquired or appropriated any land for the purposes of section 354RN then, without prejudice to any of his other powers under this Act, he may

(a) lay out and construct public streets or roads and open spaces on the land;

(b) with the approval of 1[the Improvements Committee], sell or lease the land or part thereof to any person for the purpose and under the condition that, that person will erect and maintain thereon such number of buildings suitable for the poorer classes as may be fixed by the Commissioner in accordance with plans approved by him and, when necessary, will lay out and construct public streets or roads and open spaces on the land, or will use the land for purposes which in the opinion of the Commissioner are necessary or desirable, for, or incidental to, the

(c) with the approval of the 1[the Improvements Committee], sell the land or part thereof or if such land is not abutting on any public street, exchange the land or part thereof for land better adapted for those purposes, either with or without paying or receiving any money for equality of exchange;

(d) with the approval of 1[the Improvements Committee], sell or lease any buildings on the land or erected by him on the land, subject to such covenants and conditions as he may think fit to impose either in regard to the maintenance of the buildings as dwellings for the poorer classes or otherwise in regard to the use of the buildings, and upon any such sale he may, if he thinks fit, agree to the price being paid by instalments together with interest on the outstanding balance at such rate as may from time to time be prescribed by 2 [the Improvements Committee] in this behalf, or to a payment of part thereof being secured by a mortgage of the premises.

(2) Where the Commissioner acquires any building which can be made suitable as a building for the poorer classes or an estate or interest in such a building, he shall forthwith proceed to secure the alterations, enlargement, repair or improvement of the building, either by himself executing any necessary works, or by leasing or selling it to some person subject to conditions for securing that he will alter,

enlarge, repair or improve it.

1. Clauses (7), (8) and (9) were inserted by Bom. 34 of 1954, s. 19.

2. This heading and sections 354UA, 354UB and 354UC were inserted by Bom. 34 of 1954, s. 20

354S. Supplementary Powers In Connection With Provision Of Accommodation :-

.1 [The powers of the Commissioner] to provide housing accommodation for the poorer classes, shall include a power to provide and maintain and if desired, jointly with any other person, in connection with any such housing accommodation, any building adapted for use as a shop, any recreation grounds, or other buildings or land which in the opinion of the Commissioner will serve a beneficial purpose in connection with the requirements of the persons for whom the housing accommodation is provided.

1. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 144(a), (w.e.f. 23-4-1999)

354SA. Extent To Which Land Acquisition Act Shall Apply To Acquisition Of Land Otherwise Than By Agreement :-

. The Land Acquisition Act, 1894 (in this and the next succeeding sections referred to as the Land Acquisition Act) shall to the extent set forth in Schedule CC, regulate and apply to the acquisition of land under this Chapter, otherwise than by agreement, and shall for that purpose be deemed to form part of this Chapter in the same manner as if enacted in the body hereof, subject to the provisions of this Chapter and to the provisions following namely :-

(1) A reference to any section of the Land Acquisition Act shall be deemed to be a reference to such section, as modified by the provisions of this Chapter, and the expression land, as used in the Land Acquisition Act, shall be deemed to have the meaning assigned to it by clause (r) of section 3 of this Act, and clause (b) of section 3 of the Land Acquisition Act shall, for the purposes of this Chapter, be read as if the words and parenthesis (including Government) were inserted after the words includes all person" and the words "or if he is the owner of any right created by legislative enactment over any street forming part of the land" were added after the words "affecting the land";

(2) in the construction of sub-section (2) of section 4 of the Land Acquisition Act and the provisions of this Chapter, the provisions of the said sub-section shall, for the purposes of this Act, be applicable immediately upon the passing of a resolution under sub-section (1) of section 354-C, 354-O, 354-R, 354-RI, or 354-RM, as the case may be, and the expression State Government shall be deemed to include the Commissioner, and the words such locality shall be deemed to mean the locally referred to in any such resolution;

(3) in the construction of the sections of the Land Acquisition Act deemed to form part of this Chapter and of the provisions of this chapter, the publication of a notification under sub-section (1) of section 354-G or 354-P, or the publication of notice of a compulsory acquisition order having been made under clause (2)(a) of schedule HH to his Act shall be deemed to be the publication of a notification under sub-section (1) of section 4 of the Land Acquisition Act and the date of publication of the declaration under section 354-M or 354-P or of publication of notice of a compulsory acquisition order having been confirmed under clause (1) of Schedule GG shall be deemed to be the date of the publication of the declaration under section 6 of the Land Acquisition Act: Provided that where land is acquired under section 354-H or subsection (3) of section 354-1 the date of publication of the notification under sub-section (1) of section 354-G shall be deemed to be the date of publication of a declaration under section 6 of the Land Acquisition Act: Provided

that where land is acquired under section 354-H or subsection (3) of section 354-1 the date of publication of the notification under sub-section (1) of section 354-G shall be deemed to be the date of publication of a declaration under section 6 of the Land Acquisition Act: Provided further that the provisions of sub-section (2) of section 23 of the Land Acquisition Act shall apply when land, other than land forming part of any improvement scheme approved under section 354-D, is acquired specifically under this Act for the purpose of a police accommodation scheme; and that in all other cases, in which land is notified for acquisition after the 1st October 1933 [being the date on which the City of Bombay Municipal (Amendment) Act, 1933, came into operation] additional compensation in consideration of the compulsory nature of the acquisition shall be awarded on the scale set out in schedule DD;

(4) the provisions of sub-section (1) of section 17 of the Land Acquisition Act to take possession of land shall apply to any land which the Commissioner is authorised under this Chapter as if it were waste or arable land needed urgently for a public purpose subject to the condition that the Corporation shall pay additional compensation in the form of interest not exceeding 6 per cent on the compensation awarded from the date on which possession of land is taken by the Collector;

(5) in the construction of sub-section (2) of section 50 of the Land Acquisition Act and the provisions of this Chapter, the Commissioner shall be deemed to be the local authority or Company concerned";

(6) notwithstanding anything contained in sub-section (1) of section 49 of the Land Acquisition Act, it shall not be competent for the owner of any building, of which it is proposed to acquire only a part, to insist on the acquisition of his entire holding where the part proposed to be acquired can, in the opinion of the Collector, be severed from the remainder without material detriment thereto:

Provided that the Collector shall, if required by the owner of such building, refer the question whether such part can be severed from the remainder without material detriment for the determination of the Court and the Court shall decide upon such a reference, as if it were a reference to the Court under the said sub-section:

Provided also that, if, in the opinion of the Collector, or in the event of a reference of the Court, the part proposed to be acquired cannot be severed from the remainder without material detriment thereto, the State Government may, at the instance of the Commissioner, order the acquisition of the remainder, and in such case no fresh declaration shall be necessary, but the Collector shall without delay furnish a copy of the order of the State Government to the person or persons interested and shall thereafter take order for the acquisition of the remainder in like manner and with like powers in all respects as if the acquisition had originally been provided for in the improvement scheme or under a compulsory acquisition order, as the case may be;

(7) section 54 of the Land Acquisition Act shall not apply to any case of acquisition of land to which section 354SA applies.

354T. Determination By Special Tribunal In Certain Cases :-

(1) For the purposes of the acquisition of land under a compulsory acquisition order made and confirmed under the provisions of this Chapter, the functions of the Court under the Land Acquisition Act shall be performed by a Tribunal having the constitution and powers set forth in Schedule II and in the construction of the said Act and the provisions of this Chapter the Tribunal shall be deemed to be the Court, and the President of the Tribunal shall be deemed to be the Judge.

(2) The award of the Tribunal shall be deemed to be the award of the Court under the Land Acquisition Act, and shall be final.

Provided that in any case in which the President may grant a certificate that the case is a fit one for appeal, there shall be an appeal to the High Court from the award of any part of the award of the Tribunal.

(3) Every award of the Tribunal, and every order made by the Tribunal for the payment of money, shall be enforced by the Bombay City Civil Court as if it were a decree of that Court.

354U. Special Provisions As To Compensation :-

In determining the amount of compensation to be awarded for any land or building acquired under this Act, following further provisions shall apply :-

(1) The Court shall take into consideration any increase to the value of any other land or building belonging to the person interested likely to accrue from the acquisition of the land or from the acquisition, alteration, or demolition of building;

(2) When any addition to or improvement of, the land or building has been made after the date of the publication under sub-section (1) of section 354G or section 354P of a notification relating to the land or building, such addition, or improvement shall not (unless it was necessary for the maintenance of the building in a proper state of repair) be included, nor in the case of any interest acquired after the said date shall any separate estimate of the value thereof be made, so as to increase the amount of compensation to be paid for the land or building;

(3) in estimating the market value of the land or building at the date of the publication of a notification relating thereto under sub-section (1) of section 354G or section 354P the Court shall have due regard to the nature and the condition of the property and the probable duration of the building if any in its existing state and to the state of repair thereof and to the provisions of clauses (4), (5) and (6) of this section;

(4) if in the opinion of the Court the rental of the land or building has been enhanced by reason of its being used for an illegal purpose, or being so overcrowded as to be dangerous or injurious to the health of the inmates, the rental shall not be deemed to be greater than the rental which would be obtainable if the land or building were used for legal purposes only, or were occupied by such a number of persons only as it was suitable to accommodate without risk of such overcrowding;

Explanation:- For the purposes of this sub-section overcrowding shall be interpreted as in sub-sections (4) and (5) of section 379A;

(5) If in the opinion of the Court the building is in a state of defective sanitation, or is not in reasonably good repair the amount of compensation shall not exceed the estimated value of the property after the building has been put into a sanitary condition, or into reasonably good repair, less the estimated expense of putting it into such condition, or repair;

(6) if in the opinion of the Court the building being used or intended or likely to be used for human habitation is not reasonably capable of being made fit for human habitation, the amount of compensation for the building shall not exceed the value of the materials, less the cost of demolition.

1 [(7) the Court may award compensation in respect of the severance of any part of a building proposed to be acquired in addition to the value of that part;

(8) the compensation to be paid for land, including any buildings thereon, acquired as being land comprised in a clearance area shall be the value at the time valuation is made of the land as a site cleared of buildings and available for development in accordance with the requirements of the building bye-laws for the time being in force :

Provided that this sub-section shall not have effect in the case of the site of a building properly included in a clearance area only on the ground that by reason of its bad arrangement in relation to other buildings or the narrowness or bad arrangement of the streets, it is dangerous or injurious to the health of the inhabitants of the area, unless it is a building constructed or adapted as, or for the purposes of a dwelling, or partly for those purposes and partly for other purposes and part thereof (not being a part used for other purposes) is by reason of disrepair or sanitary defects unfit for human habitation;

(9) the compensation to be paid for a building which the Commissioner is

authorised to acquire under sub-section (2) of section 354RK as being unfit for human habitation and not capable at reasonable expenses of being rendered so fit shall be assessed in like manner as if it had been land acquired as being comprised in a clearance area].

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 145 (i)(w.e.f. 23-4-1999)

354UA. Collector To Take Possession After Making An Award Arid Transfer Land To Corporation :-

When the Collector has made an award under section 11 of the Land Acquisition Act, as applied by this Act, he may take possession of the land which shall thereupon vest absolutely in 2[Government] free from all encumbrances, and the Collector shall, upon payment of the cost of the acquisition, make over charge of the land to the Commissioner and the land shall thereupon vest in the Corporation subject to the liability of the Commissioner to pay on behalf of the Corporation any further costs which may be incurred on account of the acquisition of the land.

354UB. Condition For Levying Betterment Charge In Clearance And Re Development Areas :-

(1) When by the clearance or re-development of an area as provided for under sections 354RE or 354RJ and 354RK respectively any land will, 1[in the opinion of the Commissioner be increased in value, the Commissioner may declare] that a betterment charge shall be leviable in respect of the increase in value of the land resulting from such clearance or re-development.

(2) Before declaring that a betterment charge shall be leviable under sub-section (1), the Commissioner, shall serve on every person whose name appears in the Commissioners assessment book as primarily liable for the payment of property taxes leviable under this Act on any land or building or part of a building affected by the proposed levy of betterment charge a notice of his intention to declare a betterment charge in respect of the land, and specifying the time within which, and the manner in which objections thereto, can be made to the Commissioner.

(3) The Commissioner shall submit to the [Improvements Committee] any objections received under sub-section (2) and any suggestions he may wish to make in that respect.

(4) The Improvements Committee] shall, after consideration of any of such objections and suggestions, make such modifications in respect of the proposed betterment charge [as they think fit] and the Commissioner shall thereafter declare that the betterment charge as approved, shall be leviable.

1. These words were substituted for the words "the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 146 (w.e.f. 23-4-1999)

354UC. Method Of Calculating Charge :-

Where an improvement scheme has provided for the levy of betterment charge pursuant to sub-section (3) of section 354E, or where the Commissioner has declared a betterment charge to be leviable under sub-section (4), of section 354UA, such betterment charge shall be an amount equal to one-half of the increase in value of the land and shall be calculated, in the case of an improvement scheme upon the amount by which the value of the land on completion of the execution of the scheme exceeds the value of the land at the time of the publication of the notification made under section 354G and in the case of a

clearance or redevelopment area, upon the amount by which the value of the land on completion of the clearance or re-development of the area exceeds the value of the land at the date of the resolution of the Corporation under section 354R or section 354RI declaring that area to be a clearance area or a re-development area, as the case may be.

354V. Procedure Of Determining Charge :-

(1) When it appears to the Commissioner that an improvement or a clearance scheme or a re-development scheme is sufficiently advanced to enable the amount of the betterment charge to be determined, the Commissioner shall make a report to 1[the Improvement Committee]after considering the report may by resolution declare the date on which for the purpose of determining the amount of the betterment charge the execution of the scheme shall be deemed to have been completed.

(2) The betterment charge leviable in each case shall be determined in accordance with section 354UB after following the procedure prescribed in sub-section (3) by such officer as the State Government may, by notification in the Official Gazette, appoint in this behalf at the request of the Corporation.

(3) On a date being fixed under sub-section (1) and an officer being appointed under sub-section (2), the Commissioner shall, in consultation with such officer, serve upon every person on whom a notice in respect of the property affected has been served under sub-section (2) of section 354G or under sub-section (2) of section 354UA, a notice, which shall state-

(a) the date declared by 2 [the Improvements Committee] under sub-section (1) as aforesaid;

(b) the time (being some time not less than twenty-one days after the service of the notice) and place at which the assessment of the betterment charge will be considered by such officer;

(4) When -such officer has determined the amount of betterment charge leviable in respect of any property, the Commissioner shall serve upon the person concerned a notice stating the amount so determined.

(5) With effect from the date of service of the notice under subsection (4) and subject to the decision upon any reference made to the Tribunal as hereinafter provided in sub-section (6), the amount of the betterment charges determined as aforesaid and interest thereon, if any, shall be a charge upon the property in respect of which it is levied and shall be recoverable in the same manner as expenses declared to be improvement expenses under section 494.

(6) If any person or the Commissioner is dissatisfied with the betterment charge determined by the said officer, he may, at any time within two months from the date of service of notice under sub-section (4) refer the case for the determination of the Tribunal constituted under section 354SA, whose decision shall be final.

(7) If no reference is made to the Tribunal for the determination of the betterment charge within the period specified in sub-section (6), the determination of a betterment charge by the officer appointed by the State Government in this behalf shall be final.]

1. Sections 354WA, 354WB and 354WC were inserted by Bom. 34 of 1954, s. 23

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 52 (w.c.f. 23-4-1999)

354W. Power To Grant Loans For Building Purposes :-

(1) Subject to the provisions of this Act and of the bye- laws made thereunder the Commissioner may, with the previous sanction of the Improvements Committee], advance loans to persons desiring to erect buildings on land vested in the Corporation in consequence of the transfer to them of the property of the Board of Trustees for the Improvement of the City of Bombay constituted under the City of

Bombay Improvement Trust Transfer Act, 1925.

(2) Any person desiring to erect a building on any such land may make an application to the Commissioner in the form prescribed by the bye-laws for a loan to be advanced by way of a mortgage on the security of the building to be so erected; and the Commissioner may, after making such enquiry as he thinks necessary, and subject to the conditions mentioned in sub-sections (1) and (3), and the bye-laws made under section 461, advance such loans.

(3) Every such loan shall be subject to the following, among other conditions:-

(1) that the building in respect of which the loan is advanced shall be used wholly or mainly for residential purposes;

(2) that the aggregate amount of the loan shall not exceed twenty thousand rupees in any individual case;

(3) that the period within which the loan shall be repayable shall not exceed twenty years from the date of the first occupation of the building;

(4) that the amount of the loan shall not exceed 60 per cent of the cost of the building (including outhouses and other works, if any, connected, therewith) irrespective of the period of repayment;

(5) that the person to whom the loan is advanced shall execute a mortgage of the building (including outhouses and other works, if any, connected therewith) together with the site on which they are erected in favour of the Corporation containing such covenants and conditions as may be prescribed in the bye-laws.

354WA. Power Of Commissioner To Make Advances For The Purposes Of increasing Housing Accommodation :-

1(1) Subject to the provisions of this Act and of the bye- laws made thereunder, the Commissioner may with the previous sanction of the 2 [Improvements Committee], advance loans to persons-

(a) constructing or altering or undertaking to construct or alter buildings intended for poorer classes;

(b) carrying out or undertaking to carry out repairs to such buildings:

Provided that the Commissioner considers that having regard to the cost of those repairs, or the financial position of the applicant, it is reasonable to give such assistance.

(2) Persons referred to in sub-section (1) desiring assistance by way of loan may make an application to the Commissioner in the form prescribed by the bye-laws for a loan to be advanced by way of a mortgage on the security of the building to be so constructed, altered or repaired, and the Commissioner may, after making such inquiry as he thinks necessary and subject to the conditions mentioned in sub-section (3) and the bye-laws made under section 461, advance such loans.

(3) Every such loan shall be subject to the following among other conditions:-

(a) that the building in respect of which the loan is to be advanced will, when the construction, alteration or repair has been completed be in all respects fit for human habitation and shall be used wholly or mainly for residential purposes;

(b) that the amount of the loan with interest thereon shall be secured by a mortgage of the building (including outhouses and other works, if any, connected therewith) together with the site on which they are erected in favour of the Corporation containing such covenants and conditions as may be prescribed in the bye-laws;

(c) that the period within which the loan shall be repayable shall not exceed thirty years from the date on which the construction, alteration or repair has been completed;

(d) that the amount of the loan shall not exceed sixty per cent of the cost of building irrespective of the period of repayment, and in no case shall exceed Us. 30,000-

(e) that, where the property intended to be mortgaged consists of a leasehold interest, no loan shall be made unless the unexpired period of the lease is not less than forty years from the date of the granting of the lease.

1. Section 354WBB was inserted by Mah. 50 of 1981, s. 3
2. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.149 (w.e.f. 23-4-1999)

354WB. Power Of Commissioner To Promote And Assist Housing Associations :-

(1) The Commissioner, for the purpose of section 354RM may, with the previous approval of 1 [Improvements Committee], promote the formation or extension of or, subject to the provisions of this Act assist a housing association, as hereafter defined.

(2) Where a housing association is desirous of erecting dwellings for the poorer classes, the Commissioner may, for this purpose with the previous approval of the Improvements Committee acquire land with a view to selling or leasing it to the association and the provisions of section

(3) the Commissioner may, for the assistance of a housing association, with the previous approval of the Improvements Committee, make grants or loans to the association on such terms and subject to such conditions as to rate of interest and repayment or otherwise and on such security as the Improvements Committee may think fit.

(4) For the purposes of this section, "housing association" means a society, including a Co-operative Housing Society, body of trustees or company established for the purpose of, or amongst whose objects or powers are included those of, constructing, improving or managing or facilitating or encouraging the construction or improvement of, houses for the poorer classes, being a society, body of trustees or company who do not trade for profit.

1 . The words "The Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

354WBB. Power Of Commissioner To Grant Loans To Municipal Officers And Servants For Houses :-

Subject to conditions as may be laid down in the bye- laws made under section 461, the Commissioner may, with the previous approval of the 2 [Improvements Committee], grant a loan to an officer or servant of the Corporation (who is eligible for such loan under the bye- laws) for constructing or purchasing a house in 3[Brihan Mumbai] or for purchasing, on ownership basis, a flat in a Co-operative Housing Society, or an apartment under the Maharashtra Apartment Ownership Act, 1970, in [Brihan Mumbai] or in such adjoining areas as may be specified in the by-laws.]

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 151 (w.c.f. 23-4-1999)

2. Section 361 was renumbered as sub-section (I) of that section and sub-section (2) was added to that section by Bombay of 1945, s.2, read with Bombay 8 of 1948, s.2.

354WC. Compensation To Corporation On Resumption Of Certain Land :-

Whenever any land specified in Schedule W is resumed by the State Government or any land specified in Schedule Y and vested in the Corporation is taken possession of by the State Government under the provisions of this Act, the market value of the land at the date of resumption as determined by the Collector, or in appeal by the High Court, shall be paid to the Corporation by the State Government.

354X. Payment To Be Made By State Government :-

1[The 2 [State] Government] shall pay to the Corporation from the date on which the City of Bombay Municipal (Amendment) Act, 1933, comes into operation and until the ninth day of November 1997, all rents and profits derived by the [the [State] Government] from the lands specified or referred to in Schedule Z.

1. Section 361 was renumbered as sub-section (I) of that section and sub-section (2) was added to that section by Bom. 9 of 1945, s. 2 read with Bom. 8 of 1948, s. 2

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 152 (w.e.f. 23-4-1999)

CHAPTER 13

Licensing of Surveyors and Plumbers.

355. Grant of licences to surveyors and plumbers :-

(1) The Commissioner may[Subject to the regulations made in this behalf] grant to any person he thinks fit a licence to act as a surveyor or as a plumber for the purposes of this Act. Each such licence shall be for a renewable period of one year.

(2) If any applicant for a licence to act as a surveyor is a licentiate of civil engineering or a person who has passed some test of professional qualification equivalent to that for a licentiate of civil engineering, his application shall not be refused by the Commissioner, except with the approval of the [Standing Committee] and upon the ground that the applicant is unfit, through incompetence, misconduct or other grave reason, to hold such licence.

(3) If the Commissioner refuses any application for a licence under this section he shall, at the request of the applicant, furnish such applicant with his reasons, for such refusal in writing under his signature, without charge.

356. Regulation may be prescribed for guidance to licensed Surveyors and plumbers. :-

[The Corporation may] from time to time prescribe regulations for the guidance of licensed surveyors and plumbers, respectively and a copy of all regulations so prescribed at the time in force shall be written on the back of every licence granted to a surveyor or plumber respectively.

357. Fees and charges of licensed plumbers to be prescribed by the Standing Committee :-

The 1 [Standing Committee] may from time to time prescribe the fees or charges to be paid to licensed plumbers for any work done by them under or for any purpose of this Act; and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

358. Licensed plumber to be bound to execute work properly. :-

No licensed plumber shall execute any work under this Act carelessly or negligently or make use of any bad material, appliance or fitting for the purpose of such work.

CHAPTER 14

Municipal Fire Brigade

359. Maintenance of firemen and of necessary fire engines, etc. :-

(1) With a view to the discharge by the Corporation of the duty of extinguishing fire and protecting life and property in case of fire, the Commissioner shall provide, in the schedule of municipal officers and servants from time to time prepared by him under section 79, for a force of firemen, with a proper number of officers over them to be called the "municipal fire brigade", and shall furnish the said brigade with all such fire engines, fire escape, horses, accountrements, tools, implements and means of intercommunication as may be necessary for the efficient discharge of their duties.

(2) A person may be appointed to be a member of the fire brigade in addition to any other office or employment of such person.

360. Power to make regulations for fire brigade. :-

The Commissioner shall from time to time make regulations for-

(a) the training discipline and good conduct of the men belonging to the fire brigade.

(b) their speedy attendance with engines, fire escapes and all necessary implements on the occasion of any alarm of fire.

(c) the maintenance of the said brigade generally in a due state of efficiency.

361. Power of chief officer of fire brigade at a fire. :-

1[(1)] On the occasion of a fire the chief or other officer in charge of the fire brigade may, subject to such orders as the Commissioner may from time to time issue in this behalf, take the command of all

- (a) remove, or order any fireman or other officer or person under his command to remove any persons who interfere by their presence with the operations of the fire brigade;
- (b) take generally any measures that appear expedient for the protection of life and property, with power, by himself or by the persons under his command, to break into or through or take possession of, or pull down any premises for the purpose of putting an end to such fire, doing as little damage as possible;
- (c) cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred and utilize the water of any well or tank available for the purpose of extinguishing such fire.

2 [(2) The power conferred by clause (b) of sub-section (1) shall include a power to enter on any vessel within the dock area of the port of Bombay.]

1. These words and figures were inserted by Mah. 14 of 1961, s. 5.
2. The figures (1) and (2) were omitted by Bom. 1 of 1925, s. 20(1)

362. Police and municipal offices and servants to aid the fire brigade. :-

It shall be the duty of all police officers and of all municipal officers and servants to aid the fire brigade in the execution of their duties. They may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire brigade.

363. Damages done by fire brigade to be deemed damage by fire. :-

Any damage occasioned by the fire brigade in the due execution of their duties, or by any police or municipal officer or servant who aid the fire brigade, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

364. Reports offices to be submitted. :-

A report of every fire which occurs in the city shall be submitted by the chief or other officer in charge of the fire brigade, not later than the day, following the fire, to the Commissioner, who shall make such further inquiry, if any, as he may deem necessary and shall furnish a weekly return of all fires which occur in the city to the 1 [Standing Committee.]

1. This new clause (b) was inserted by Bom. 1 of 1925, s. 20(2)

CHAPTER 15

Sanitary Provisions

365. Commissioner to provide for cleaning of streets and removal of refuse. :-

For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the Commissioner shall take measures for securing-

(a) the daily surface cleansing of all streets in [Brihan Mumbai] and the removal of the sweeping therefrom;

(b) the removal of the contents of all receptacles and depots and of the accumulations at all places provided or appointed by him under section 367 or 368 for the temporary deposit of any of the matters specified in the said sections.

366. Refuse, etc. to be the property of the Corporation. :-

All matters collected by municipal servants or contractors in pursuance of the last preceding section and of section 369 [and carcasses of dead animals deposited in any public receptacle, deposit or place under section 367] shall be the property of the Corporation.

367. Provision and appointment of receptacles, deposits and places for refuse, etc. :-

The Commissioner shall provide or appoint in proper and convenient situations public receptacles, depots and places for the temporary deposit or final disposal of-

(a) dust, ashes, refuse and rubbish;

[(b) trade refuse;]

[(c) carcasses of dead animals and excrementitious and polluted matter: [* * Provided that -

[(i) the said matters shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of,

without the sanction of the Corporation or in any place or manner which [the [State] Government] think fit to disallow;

(ii) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

368. Duty of owners and occupiers to collect and deposit dust, etc. :-

(1) It shall be incumbent on the owners and occupiers of all premises to cause all dust, ashes, refuse, rubbish and trade refuse to be collected from their respective premises and to be deposited at such times as the Commissioner, by public notice, from time to time prescribes in the public receptacle, depot or place provided or appointed under the last preceding section or the temporary deposit or final disposal thereof. S. 368

(2) 1 [The Commissioner] may, if he thinks fit, by written notice require the occupier and owner or either of them of any premises, to cause all dust, ashes, refuse and rubbish, but not trade refuse to be collected daily, or otherwise periodically, from the said premises and deposited temporarily upon any place forming the part of the said premises which the Commissioner appoints in this behalf, and it shall be incumbent on the said occupier and owner or either of them to cause the said matters to be collected and deposited accordingly.

(3) It shall be incumbent on the owners of all premises to provide receptacles of a size to be prescribed by the Commissioner for the collection therein of all dust, ashes, refuse, rubbish and trade refuse to be collected from such premises. Such receptacles shall at all times be kept in good repair and condition and shall be provided in such number and place and retained in such positions as the Commissioner may, from time to time, by written notice direct.

(4) It shall also be incumbent on the owners and occupiers or either of them of all premises when required by the Commissioner by written notice so to do, to employ servants for the purpose of carrying out and complying with the requirements of sub-sections(1) and (2) of this section.]

[(5) Notwithstanding anything contained in this section, it shall be incumbent on the owner or occupier of every trade premises to seek the Commissioners permission to deposit trade refuse collected daily or periodically from the premises, temporarily upon any place appointed by the Commissioner in this behalf. When such permission is granted by the Commissioner, the applicant shall be

allowed to deposit the trade refuse accordingly on payment of such charges as the Commissioner may, from time to time, fix for temporarily depositing trade refuse upon the place appointed under sub-section (2) and also such charges as the

1. These words were substituted for the words "and rubbish" by Bom, 1 of 1925, s. 22.

369. Provision may be made by Commissioner for collection, etc., of excrementitious and polluted matter. :-

When the Commissioner has given public notice, under clause (a) of section 142, of his intention to provide, in a certain portion of 1 [Brihan Mumbai], for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools, it shall be lawful for the Commissioner to take measures for the daily collection, removal and disposal of such matter from all premises situated in the said portion of 1[Brihan Mumbai].

1. These words were substituted for the words "and rubbish" by Bom. 1 of 1925, s. 22.

370. Collection and removal of excrementitious and polluted matter when to be provided for by occupiers :-

It shall be incumbent on the occupier of any premises situate in any portion of the city for which the Commissioner has not given a public notice under clause (a) of section 142 and in which there is not a water- closet or privy connected with a municipal drain, to cause all excrementitious and polluted matter accumulating upon his premise to be collected and to be conveyed to the nearest receptacle or depot provided for this purpose under clause (b) of section 367, at such times, in such vehicle or vessel, by such route and with such precautions, as the Commissioner by public notice from time to time prescribes.

371. Halalkhors duties in certain cases may not be discharged by private individuals without the commissioners permission. :-

In any portion of 1{Brihan Mumbai] in which the Commissioner has given a public notice under clause (a) of section 142, and in any premises, wherever situate in which there is a water-closet or privy connected with a municipal drain, it shall not be lawful, except with

the written permission of the Commissioner, for any person who is not employed by or on behalf of the Commissioner , to discharge any of the duties of halalkhors.

372. Prohibition of failure to remove refuse, etc., when bound to do so. :-

No person -

(a) Who is bound, under section 368 or section 370, to cause the removal of dust, ashes, refuse, 2[rubbish and trade refuse] or of excrementitious or polluted matter, shall allow the same to accumulate on his premises for more than twenty-four hours or neglect to cause the same to be removed to the depot, receptacle or place provided or appointed for the purpose;

(b) shall remove any dust, ashes, refuse 2[rubbish or trade refuse] or any excrementitious or polluted matter, otherwise than in conformity with the requirements of any public or written notice at the time being in force under section 368, or use for the removal of any excrementitious or polluted matters any vehicles or vessel not having a covering proper for preventing the escape of any portion of the contents thereof or of the stench therefrom;

(c) shall, whilst engaged, in the removal of any dust, ashes, refuse 2(rubbish or trade refuse] or of any excrementitious or polluted matter, fail forthwith thoroughly to sweep and cleanse the spot in any street upon which during removal, any portion thereof may fall and entirely to remove these sweepings;

(d) shall place or set down in any street any vehicle or vessel for the removal of excrementitious or polluted matter, or suffer the same to remain in any street for any greater length of time than is reasonably necessary;

(e) shall throw or place any dust, ashes, refuse, 1[rubbish or trade refuse] or any excrementitious or polluted matter, on any street, or in any place not provided or appointed for this purpose under section 367 or 368;

(f) Who is the owner or occupier of any building of land, shall allow any filthy matter to flow, soak or to be thrown therefrom or keep or suffer to be kept therein or thereupon, anything so as to be a nuisance to any person, or negligently suffer any privy receptacle or other receptacle or place for the deposit of filthy matter or rubbish on his premises to be in such a state as to be offensive or injurious to health;

2 (g) shall deposit the skin or otherwise dispose of the carcass of

any dead animal at a place not provided or appointed for this purpose under section 367.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996. (w.e.f.4.9.1996)
2. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 153 (w.e.f. 23-4-1999)

373. Presumption as to offender under clause (e) of section 372. :-

If it shall in any case be shown that dust, ashes, refuse, 1 [rubbish or trade refuse] or any excrementitious or polluted matter, has or have been thrown or placed on any street or place, in contravention of clause (e) of the last preceding section, from some building or land, it shall be presumed, until the contrary proved, that the said offence has been committed by the occupier of the said building or land.

1. These words were inserted by Bom. 1 of 1916, s. 9(b)

374. Power to inspect premises for sanitary purposes. :-

The Commissioner may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

375. Cleansing and lime washing of any building may be required. :-

If it shall appear to the Commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected, to cause the same or some portion thereof to be lime-washed or otherwise cleansed, either externally or internally, or both externally and internally.

375A. Removal Of Building Materials From Any Premises Maybe Required :-

If it shall appear to the Commissioner that any tiles, stones, rafters, building materials or debris of building materials are stored or collected in or upon any premise without the written permission of the Commissioner in such quantity or bulk or in such way as to constitute a harbourage or breeding place for rats or other vermin or otherwise a source of danger or nuisance to the occupiers of the said premises or to persons residing in the neighbourhood thereof, the Commissioner may by written notice require the owner of such premises, or the owner of the materials or debris so stored or collected therein, to remove or dispose of the same or to take such order with the same as shall in the opinion of

the Commissioner be necessary or expedient to -abate the nuisance or prevent a recurrence thereof.

1. This new section 377A was added by Bom. 1 of 1925, s. 24.

376. Abandoned or unoccupied premises. :-

If any premises, by reason of their being abandoned or unoccupied become a resort of disorderly persons or, in the opinion of the Commissioner, a nuisance, the Commissioner, after such inquiry as he deems necessary, may give written notice to the owner of such premises, if he be known and resident within 1[Brihan Mumbai] or to any person who is known or believed to claim to be the owner, if such person is resident within 1 [Brihan Mumbai] and shall also affix a copy of the said notice on some conspicuous part of the said premises, requiring all persons having any right of property or interest therein to take such order with the said premises as shall in the opinion of the Commissioner be necessary to prevent the same from being resorted to as aforesaid or from continuing to be a nuisance.

1. Section 378 was substituted by Bom. 6 of 1916, s. 6.

377. Neglected premises. :-

(1) If it shall appear to the Commissioner that any premises are overgrown with rank and noisome vegetation or are otherwise in an unwholesome or filthy condition or, by reason of their not being properly enclosed, are resorted to by the public for purposes of nature, or are otherwise a nuisance to the neighbouring inhabitants, the Commissioner may, by written notice, require the owner or occupier of such premises to cleanse, clear or enclose the same, or with the approval of [the Standing Committee], may require him to take such other order with the same as the Commissioner thinks necessary.

[(1A) If it shall appear to the Commissioner that any private street is over-grown with rank and noisome vegetation or is otherwise in an unwholesome or filthy condition, the Commissioner may by written notice require the owners of the several premises fronting or adjoining the said street or abutting thereon to cleanse or clear the same, or with the approval of the [Standing Committee] require them to take such other order with

(2) Provided that in so far as the unwholesome or filthy condition of such premises 1 [or such street] or such nuisance as above mentioned is caused by the discharge from or by any defect in the

municipal drains or appliances connected therewith, it shall be incumbent on the Commissioner to cleanse such premises 2[or such street].

1. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 154 (w.c.f. 23-4-1999)

377A. Nuisance Arising From Defective Roof :-

1(1) If it shall appear to the Commissioner that any building or any part of a building is in such a state as to constitute a nuisance or to be likely to give rise to one, by reason of rain water leaking from its roof or any part of its roof the Commissioner may give a notice in writing to the owner of such building requiring him to abate the nuisance or to prevent its recurrence within the time and by taking the measures and doing the act to be specified in the notice.

(2) If at any time thereafter the Commissioner is of opinion that such a nuisance may recur he may, notwithstanding that the original nuisance may have been abated by the owner of the building under sub-section (1) give a further notice in writing to the said owner requiring him to abate the probable recurrence of the nuisance within the time and in the manner specified in the notice.

(3) If the owner of the building by whose act, default or sufferance such nuisance has arisen or continues is unknown or cannot be found, the Commissioner may take such measures or cause such work to be executed or such things to be done as shall in his opinion be necessary to abate such nuisance and to prevent its recurrence.]

2 (4) Where the owner of a building fails to comply with any notice requiring him to abate the nuisance or prevent its recurrence or probable recurrence under sub-section (1) or sub-section (2), the occupier or occupiers interested may instead of resorting to section 499, seek the approval of the Commissioner under this section, to execute the required work. For this purpose, the occupiers shall submit an application to the Commissioner together with the plans and estimates of the work and pay to the Corporation a sum equal to five per cent of the estimated cost, as fees for scrutiny and supervision of the work, which shall not be refundable, unless the approval is not granted. On receipt of such application and payment of such fees, the Commissioner may after making

Provided that, where such work is jointly executed by the occupiers the amount to be recovered or deducted by each occupier shall bear the same proportion as the rent payable by him in respect of his premises bears to the amount so certified.

(5) Where the amount specified in any certificate issued by the Commissioner under sub-section (4) does not exceed the amount of the rent payable by all the occupiers in the building for a period of three months, the amount so certified and the apportionment of the same shall for all purposes be final and binding on the owner and the occupiers. In any other case, in case of dispute, the amount or the apportionment of the same, shall be determined in accordance with the provisions of section 504.]

1. Sub-section (3) was inserted by Bombay. 34 of 1954, s. 25

2. Section 378A to 4781 were inserted by Bombay.34 of 1954, s.25

378. Building or rooms in buildings unfit for human habitation. :-

1(1) If for any reason it shall appear to the Commissioner that any building or any room in a building intended for or used as a

dwelling is unfit for human habitation, he shall give to the owner or occupier of such building notice in writing stating such reason and signifying his intention to prohibit the further use of the building or room, as the case may be, as a dwelling and shall by such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice, and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the Commissioner invalid or insufficient, he may, with the previous 2 [Standing Committee], by an order in writing, prohibit the further use of such building or room as a dwelling :

Provided that, before such approval is given the owner or occupier aforesaid shall have the right of appearing before the 1[Standing Committee] in person or by agent and of showing cause why such approval should not be given.

(2) When any such prohibition as aforesaid has been made, the Commissioner shall cause notice of such prohibition to be affixed to, and the letters "U.H.H." to be painted on the door or some conspicuous part of such building or room, as the case may be, and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the Commissioner certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.]

(3) Where the Commissioner has prohibited the further use of a building or room as a dwelling, the owner or owners of such building or room shall, so far as may be necessary to prevent nuisance, keep the building or the room or rooms clean and wholesome.

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 155 (w.e.f. 23-4-1999)

2 . These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 156 (w.e.f. 23-4-1999)

378A. Power To Require Repair Of Insanitary Buildings :-

(1) If it shall appear to the Commissioner that any building intended for, or used as, a dwelling is in any respect unfit for human habitation and does not conform with the regulations framed under section 378D the Commissioner may, by written notice, require the owner of the building within such reasonable time (not being less than twenty-one days) as may be specified in the notice, to execute such works or carry out such alterations as would render the building fit for human

habitation.

(2) In addition to serving a notice under this section on the owner of the building the Commissioner may serve a copy of the notice on any other person having an interest in the building, whether as owner of the land, mortgagee, lessee, or otherwise.

378B. Power To Order Demolition Of Insanitary Building :-

(1) If it shall appear to the Commissioner that any building intended for, or used as, a dwelling is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, he shall serve upon the occupier of the building and the owner or owners thereof, and, so far as it is reasonably practicable to ascertain such persons, upon every mortgage thereof, notice of the time (being some time not less than twenty- one days after the service of the notice) and place at which the condition of

(2) A person upon whom notice is served under the foregoing subsection shall, if he intends to submit an offer with respect to the carrying out of works, within twenty-one days from the date of service of the notice upon him, serve upon the Commissioner notice in writing of his intention to make such an offer and shall within such reasonable period as the Commissioner may allow, submit to him a list of the works which he offers to carry out.

(3) The Commissioner may, with the previous approval of 1[the Standing Committee], accept from any owner or mortgagee, an undertaking in writing either that he will within a specified period carry out such works as will in the opinion of the Commissioner render the building fit for human habitation, or that it shall not be used for human habitation until the Commissioner, on being satisfied that it has been rendered fit for the purpose and with the previous approval of 1[the Standing Committee], cancels the undertaking.

(4) If no such undertaking as is mentioned in the last foregoing subsection is accepted by the Commissioner, or if, in a case where the Commissioner, has accepted such an undertaking any work to which the undertaking relates is not carried out within the specified period, or the building, is at any time used in contravention of the terms of the undertaking, the Commissioner shall, with the previous approval of 1 [the Standing Committee], forthwith make a demolition order requiring that the building shall be vacant within a period to be specified in the order, not being less than twenty-eight days from the date on which the order becomes operative and, that it shall be demolished within six weeks after the expiration of that period, or if the building is not located before the expiration of that preiod within six weeks after the date on which it is vacated or, in either case within such longer period as in the circumstances the Commissioner deems it reasonable to specify, and shall serve a copy of the order upon every person upon whom the Commissioner would be required by sub-section (1) of this section to serve a notice issued by him under that sub-section.

(5) In determining for the purpose of this section whether a building can be rendered fit for human habitation at a reasonable expense, regard shall be had to the estimated cost of the work necessary to render it so fit and the value which it is estimated that the building will have when the works are completed.

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 157 (w.e.f. 23-4-1999)

378C. Procedure Where Demolition Order Made :-

(1) When a demolition order under section 378B has become operative, the owner or owners of the building to which it applies shall demolish the building within the time limited in that behalf by the order; and, if the building is not demolished within that time, the Commissioner shall cause the building to be vacated if

necessary in the manner provided in section 488A, and shall take measures to demolish the building and sell the materials thereof.

(2) Any expenses incurred by the Commissioner under the foregoing sub-section, after giving credit for the amount realized by sale of the materials, shall be payable by the owner or owners of the building, and any surplus in the hands of the Commissioner after payment of such expenses shall be paid by the Commissioner to the owner of the building, or if there is more than one owner, shall be paid in accordance with the agreement between them. In default of agreement between such owners the Commissioner shall deposit the surplus amount in the Small Causes Court and the Chief Judge of the said Court shall decide in what proportion such amount should be paid to such owners. The decision of the Chief Judge shall be final.

378D. Regulations To Determine The Fitness Of A Building

:-

For the purposes of this Act, the Commissioner may, from time to time, frame regulations not inconsistent with this Act for determining the standards of fitness of buildings for human habitation; provided that, where in pursuance of a notice under sub-section (1) of section 378-A any building has been rendered fit for human habitation by the execution of works and alterations to the satisfaction of the Commissioner, such building during a period of ten years from the date of completion of such works and alterations shall not be deemed to be unfit for human habitation by reason only of not conforming with any regulations made subsequently to such date affecting the structure of such building.

378E. Power To Order Demolition Of Obstructive Building :-

(1) The Commissioner may serve upon the owner or owners of a building which appears to him to be an obstructive building notice of the time (being sometime not less than twenty-one days after the service of the notice) and place at which the question of ordering the building to be demolished will be considered by 1[the Standing Committee], and the owner or owners shall be entitled to be heard either in person or by agent when the matter is so taken into consideration.

(2) If, after so taking the matter into consideration, 1 [the Standing Committee] resolve that the building is an obstructive building and that the building or any part thereof ought to be demolished, the Commissioner may make a demolition order requiring that the building or that part thereof shall be demolished, and that the building or such part thereof as is required to be vacated for the purposes of the demolition, shall be vacated within two months from the date on which the order becomes operative, and if he does so, shall serve a copy of the order upon the owner or owners of the building.

(3) In this section the expression "obstructive building" means a building which, although not in itself unfit for human habitation is so situated that by reason of its proximity to or contact with any other building it-

(a) Stops or impedes ventilation or otherwise makes or conduces to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health, or

(b) prevents proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings.

1. These words were substituted for the words "the Indian Limitation Act, 1908" by Mah. 10 of 1998, s. 188.

378F. Effect Of Order For Demolition Of Obstructive Building

:-

(1) If, before the expiration of the period within which a building in respect of which an order is made under section 378E is thereby required to be vacated, any owner or owners or other person or persons, whose estate or interest, or whose combined estates or interests in the building and the site thereof is or are such that the acquisition thereof by the Corporation would enable the Commissioner to carry out the demolition provided for by the order, made to the Commissioner an offer for the sale of that interest, or of those interests, to the Corporation at a price equal to the compensation to be assessed as provided in sub-section (6) the Commissioner shall, upon obtaining the requisite sanction under section 90, accept the offer and shall, as soon as possible after obtaining possession, carry out the demolition.

(2) Upon payment of the price mentioned in sub-section (1) the said building and the site thereof to the extent of the interests acquired shall vest in the Corporation.

(3) If no such offer as is mentioned in sub-section (1) is made before the expiration of the said period, the owner or owners of the building shall carry out the demolition provided for by the order before the expiration of six weeks from the last day of that period, or, if the building or such part thereof as is required to be vacated is not vacated until after that day, before the expiration of six weeks from the day on which it is vacated or, in either case, before the expiration of such longer period as in the circumstances the Commissioner deems reasonable, and if the demolition is not so carried out the Commissioner shall cause the building or part thereof to be vacated, if necessary, in the manner provide in section 488-A and take measures to carry out the demolition and sell the materials rendered available thereby.

(4) When any obstructive building or any part thereof is demolished either by the owner or owners or by the Commissioner as provided for in sub-section (3), the Commissioner may at once take possession on behalf of the Corporation of the land occupied by, and appurtenant to, the said buildings or part thereof, and shall pay compensation as provided for in sub-section (6).

(5) The provisions of sub-section (2) of section 378-C shall apply in relation to any expenses incurred by the Commissioner under sub-section (3) and to any surplus remaining in the hands of the Commissioner as they apply in relation to any expenses or surplus in a case where a building is demolished in pursuance of a demolition order made under section 378-B.

(6) The compensation payable by the Commissioner for the building and the site thereof upon any sale effected under sub-section (1) and the compensation payable by the Commissioner under sub-section (4) shall be the market value of the land and building demolished, at the date of the demolition order under sub-section (2) of section 378-E.

378G. Compensation For Acquiring Obstructive Building Recoverable In Certain Cases As Improvement Expenses :-

(1) When a demolition order in respect of an obstructive building or any part thereof has been made under section 378-E, the Commissioner may specify and declare to 1[the Standing Committee] the properties of which the building or part of a building intended to be demolished is in his opinion obstructive, and shall serve a notice to that effect upon the owner or owners of each of such specified properties.

(2) For the purpose of enquiry under this section the Commissioner shall have the like powers as are conferred in him by section 155, and every person required to make or deliver a statement under this sub-section

(3) The Commissioner may declare the sum apportioned to each property under this section, in respect of its increase in value to the improvement expenses incurred for the benefit of such property and the same shall thereupon be a charge upon such property and shall be recoverable in the same manner as expenses declared to be improvement expenses under section 494.

378H. Appeal Against Demolition Orders :-

(1) Any person aggrieved by a demolition order made under section 378-B or section 378-E may, within twenty-one days after the date of the service of the order, appeal to the Chief Judge of the Small Causes Court (hereinafter in this section referred to as the Chief Judge), and no proceedings shall be taken by the Commissioner to enforce any order in relation to which an appeal is brought before the appeal is finally determined.

Provided that no appeal shall lie at the instance of a person who is in occupation of the premises to which the order relates under a lease or agreement of which the expired term does not exceed three years.

(2) On such an appeal under this section the Chief Judge may make such order either confirming or quashing or varying the demolition order as he thinks fit, and he may, if thinks fit, accept from an appellant any such undertaking as might have been accepted by the Commissioner, and any undertaking so accepted by the Chief Judge shall have the like effect as if it had been given to and accepted by the Commissioner under section 378-B:

Provided that the Chief Judge shall not accept from an appellant upon whom such a notice as is mentioned in sub-section (1) of section 378-B was served an undertaking to carry out any works unless the appellant complied with the requirements of sub-section (2) of that section.

(3) An appeal shall lie to the High Court from a decision of the Chief Judge under this section when the rateable value, entered in the Commissioners assessment book in accordance with the provisions of this Act, of the premises to which the demolition order appealed against wholly or partially relates, exceeds Rs. 3,000.

(4) The provisions of the Code of Civil Procedure, 1908, with respect to original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (3), and orders passed therein by the High Court may, on application to the Chief Judge, be executed as if they were decrees passed by himself.

(5) A decision passed by the Chief Judge under this section shall, if an appeal does not lie therefrom under sub-section (3), be final.

(6) An appeal to the High Court under sub-section (3), shall for the purposes of the second division of the first schedule to 1 [the Limitation Act, 1963], be deemed to be an appeal under the Code of Civil Procedure, 1908, to the Court of a District Judge.

(7) Any order against which an appeal might be brought under this section shall, if no such appeal is brought, become operative on the expiration of the period of twenty-one days mentioned in sub-section (1) and shall be final and conclusive as to any matters which could have been raised on such an appeal, and any such order against which an appeal is brought shall, if and so far as it is confirmed by the Chief Judge, or the High Court, become operative as from the date of the final determination of the appeal.

(8) For the purposes of this section, the withdrawal of an appeal shall be deemed to be final determination thereof, having the like effect as a decision confirming the order appealed against and, subject as aforesaid, an appeal shall be deemed to be finally determined on the date when the decision of the High Court is given, or in a case where no appeal is brought to the high Court, upon the expiration of the period within which such an appeal might have been brought, or in a case where no appeal lies to the High Court, on the date when the decision of the Chief Judge is given.

1. This section was substituted for the original section by Bom. 6 of 1913, s. 4.

378I. Prohibition Of Back To Back Buildings :-

Notwithstanding anything contained in this Act, it shall not be lawful to erect any back-to-back buildings intended to be used as dwellings for the poorer classes, and any such building shall, for the purposes of this Act, be deemed to be unfit for

human habitation :

Provided that nothing in this section shall prevent the erection or use of a building containing several tenements in which tenements are placed back-to-back if in the opinion of the Commissioner the several tenements are so constructed and arranged as to secure effective ventilation of all habitable rooms in every tenement.

379. Power of Commissioner to call for statement of accommodation. :-

1 (1) The owner of a building shall, within a period of seven days after receipt of a written notice from the Commissioner, sign and give a certificate, the following particulars with respect to such building or any part thereof:-

- (a) the total number of rooms in the building,
- (b) the length, breadth and height of each room, and
- (c) the name of the person to whom he has let the building or each part of the building occupied as a separate tenement.

(2) The occupier of a building or of any part of a building occupied as a separate tenement shall, on like notice, and within the like period, sign and give a certificate of the following particulars with respect to such building or part of such building as aforesaid which is in his occupation :-

- (a) the total number of persons dwelling in the building or any part of it,
- (b) the manner of use of each room by day and by night, and
- (c) the number, sex and age of the occupants of each room used for sleeping.]

1. New sub-section (I) was substituted for the original sub-section (1) by Bom. 10 of 1928, s. 14(a)

379A. Overcrowded Dwellings :-

1 (1) Where it appears to the Commissioner, whether from any certificate furnished under section 379 or otherwise, that any building or any room or rooms therein used for human habitation is overcrowded, he may apply to a 2[3[Metropolitan Magistrate] specially empowered by the State Government] to prevent such overcrowding ; and the said Magistrate, after such inquiry as he thinks fit to make, may prescribe the maximum number of persons to be accommodated in each room and may, by written order, require the owner of the building, within a reasonable time not exceeding ten days to be prescribed in the said order, to abate the overcrowding thereof, by reducing the number of lodgers, tenants, or other inmates of the said building or room or rooms, in accordance with the maximum so prescribed and to the satisfaction of the Commissioner, or may pass such other order as he may deem just and proper.

(2) Where the owner of the said building has sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be owner of the said building.

(3) Every tenant, lodger, or other inmates of the said building shall vacate on being required by the owner so to do in pursuance of any order under sub-section (1)

(4) A room used exclusively as a dwelling shall be deemed to be overcrowded within the meaning of this section where the number of adult inmates is such that the amount of floor space available for each adult inmate is less than twenty-five superficial feet and for each person, under the age of ten years less than twelve and one-half superficial feet, or when the air space for each adult inmate is less than two hundred and fifty cubic feet, two children under ten years of age counting as one adult.

(5) A room not exclusively used as a dwelling shall be deemed to be overcrowded within the meaning of this section when the number of adult inmates is such that the amount of floor space available for each adult inmate is less than thirty superficial feet, and for each person under the age of ten years less than fifteen, superficial feet, or when the air space for each adult inmate is less than three hundred cubic feet two children under ten years of age counting as one adult.]

1. These words, figure and brackets were substituted for the original words by Bom. 10 of 1928, s. I4(b)(i)

380. Insanitary huts and shed. :-

If the Commissioner is of opinion that any hut or shed, used either as a dwelling or as a stable or for any other purpose, is likely, by reason of its being built without a plinth or upon a plinth of insufficient height or without proper means of drainage, or on account of the impracticability of scavenging or owing to the manner in which it and other huts or sheds are crowded together, to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety :-- He may, by written notice, which shall be affixed to some conspicuous part of such hut or shed, require the owner or occupier thereof, or the owner of the land on which such hut or shed stands, to remove or alter such hut or shed or to take such order for the improvement thereof as the Commissioner shall deem necessary.

381. Filling in of pools, etc., which are a nuisance :-

12(1) (i) For the purposes of this section a nuisance shall include -

(a) any pool, ditch, tank, well, pond, quarry-hole, drain, water course or any collection of water; or

(b) any cistern or other receptacle for water or any article or thing capable of collecting rain water during the monsoon season whether within or outside a building; or

(c) any land on which water accumulates or is likely to accumulate; or

(d) any premises or any part of any premises occupied, or unoccupied, or under construction, reconstruction or demolition;

which in the opinion of the Commissioner is, or is likely to become a breeding place of mosquitoes or which is, in any other respect, a nuisance as defined in clause (z) of section 3.

(ii) The Commissioner may, by notice in writing, require the person by whose act, default or sufferance, a nuisance arises, exists or continues, or is likely to arise, and the owner, lessee and occupier of the land, building or premises on which the nuisance arises, exists or continues or is likely to arise or any one or more of such person, owner, lessee and occupier, to remove, discontinue or abate the nuisance by taking such measures and by executing such work in such manner and within such period of time as the Commissioner shall prescribe in such notice.

(iii) The Commissioner may also by any notice under clause (ii) or by another notice, served on such person, owner, lessee and occupier, or on any one or more of them, require them or any one or more of them, to take all steps requisite or necessary to prevent a recurrence of the nuisance and may, if he thinks it desirable, specify any work to be executed or measures to be carried out for that purpose, and may serve any such further notice notwithstanding that the nuisance may have been abated or removed if he considers that it is likely to recur:

Provided that if at any time within four months from the date of the service of any such notice, the nuisance recurs through the failure of the person or persons upon whom such notice has been served to comply with the requirements contained in such notice, such person or persons shall be liable without any further notice to the penalties provided in this Act for offences under this section.

(iv) Where the nuisance arises or exists or is likely to arise or recur in connection with the construction, reconstruction or demolition of any premises, or any part of any premises, the Commissioner may in addition to serving any notice on any one or more of the persons mentioned in clause (ii) serve any such notice on any architect, contractor or other person employed to carry out such work of construction, reconstruction, or demolition and also on any sub-contractor employed by such contractor or other person, or any one or more of such contractor, person and subcontractor.]

(2) If 3 [any person who. by a requisition made under sub-section (1), is required] to fill up, cover over or drain of a well, delivers to the Commissioner, within the time prescribed for compliance therewith written objections to such requisition, the Commissioner shall report such objections to the [Standing Committee] and shall make further inquiry into the case, and he shall not institute any

prosecution under section 517 for failure to comply with such requisition except with the approval of the [the Standing Committee], but the Commissioner may nevertheless, if he deems the execution of the work called for by such requisition to be of urgent importance, proceed in accordance with section 489 and, pending [[the Standing Committee] disposal] of the question whether the said well shall be permanently filled up, covered over or otherwise dealt with, may cause such well to be securely covered over, so as to prevent the ingress of mosquitoes, and in every such case the Commissioner shall determine, with the approval of the 1[the Standing Committee], whether the expenses of any work already done as aforesaid shall be paid by such [person], or by the Commissioner out of the municipal fund or shall be shared, and, if so, in what proportions.

1. Section 381A was inserted by Bom. 6 of 1913, s. 5
2. Section 381B was inserted by Mah. 51 of 1975, s. 16
3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

381A. Permission For New Well :-

1 (1) No new well, tank, pond, cistern or fountain shall be dug constructed without the previous permission in writing of the Commissioner.

(2) If any such work is begun or completed without such permission the Commissioner may either -

(a) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Commissioner shall prescribe, or

(b) grant written permission to retain such work, but such permission shall not exempt such owner from proceedings for contravening the provisions of sub-section (1).

1. Section 384A was inserted by Bom. 1 of 1916, s. 10

381B. Prohibition Of Mosquito Breeding In Collection Of Water On Any Land :-

1 No person shall, on any land owned by him or in his possession

(a) have, keep or maintain any collection of standing or flowing water in which mosquitoes breed or are likely to breed, or

(b) cause, permit or suffer water on such land to form a collection in which mosquitoes breed or are likely to breed, unless such collection has been so treated as effectively to prevent such breeding.

Explanation I - Through used for cattle and in frequent use shall not, until the contrary is proved, be deemed to be collection of water in which mosquitoes breed or are likely to breed.

Explanation II- The natural presence of mosquito have larvae in any standing or flowing water shall be evidence that mosquitoes are breeding in such water.]

1. This section was substituted for the original section by Bom. 5 of 1920, s. 4

382. Dangerous quarrying may be stopped. :-

If, in the opinion of the Commissioner, the working of any quarry, or the removal of stone, earth or other material from any place, is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, the Commissioner may [* * * *] by written notice, require the owner of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place, or to take such order with such quarry or place, as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

383. Removal and trimming of trees, shrubs and hedges. :-

(1) If, in the opinion of the Commissioner,-

- (a) any hedge is at any time insufficiently cut or trimmed, or overgrown, with prickly-pear or other rank vegetation; or
- (b) any tree or shrub has fallen or is likely to fall, to the danger of public safety or over-hangs or obstructs any street to the inconvenience or danger of passenger therein the Commissioner may, by written notice, require the owner or occupier of the land on which such hedge, tree or shrub is or has been growing-
- (c) to cut down such hedge to a height not exceeding four feet and to a width not exceeding three feet, and to remove any such prickly-pear or other rank vegetation therefrom; or
- (d) to remove, cut, lop or trim such tree or shrub, as the case may be.

(2) In any case falling under clause (b), the Commissioner may, if for the public safety it shall appear to him necessary so to do, cause any tree or shrub to be removed, cut, lopped or trimmed, without previously giving the said owner or occupier notice as aforesaid, and the expenses thereof shall, nevertheless, be paid by the owner or occupier.

384. Prohibition as to keeping animals. :-

(1) No person shall-

- (a) without the written permission of the Commissioner, or otherwise than in conformity with the terms of such permission, keep any swine in any part of 1[Brihan Mumbai];
- (b) keep any animal on his premises so as to be a nuisance or dangerous to any person;

(c) feed any animal, or suffer or permit any animal, to be fed or to feed with or upon excrementitious matter, dung, stable refuse or other filthy matter.

(2) Any swine found straying may be forthwith destroyed and the carcass thereof disposed of as the Commissioner shall direct. No claim shall lie for compensation for any swine so destroyed.

384A. Stabling Animals Or Storing Grain In Dwelling Houses May Be Prohibited :-

1 Where a building or any portion thereof is used or intended to be used for human habitation and any portion of such building is used for any of the following purposes, namely,-

(a) for keeping any horse, cow, buffalo, bullock, goat or donkey, or

(b) as a godown or place for the storage, in connection with wholesale trade of grain, seed or groceries, the Commissioner may, if it shall appear to him necessary for sanitary reasons to do so, by written notice require the owner or occupier of such building to discontinue the use of such building for any such purpose; provided that the Commissioner may permit such use subject to such conditions as he may think fit to prescribe.

1. The word "bakehouse" was repealed by Bom. 2 of 1911, s. 14

385. Removal of carcasses of dead animals. :-

(1) It shall be the duty of the Commissioner to provide for the removal of the carcasses of all animals dying within [Brihan Mumbai];

(2) The occupier of any premises in or upon which any animals shall die or in or upon which the carcass of any animal shall be found, and the person having the charge of any animal which dies in the street 1 or in any open place, shall within three hours after the death of such animal or if the death occurs at night, within three hours after sunrise report the death of such anima at the municipal health department office of the division of the [Brihan Mumbai] in which the death occurred or in which the carcass is found [and shall not unless authorised by the Commissioner in this behalf, remove or permit to be removed the carcass of any animal dying in or upon any place within 1[Brihan Mumbai]

(3) For every carcass so removed by municipal agency, a fee for the removal of such amount as shall be fixed by the Commissioner, shall be paid by the owner of the animal or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the said animal dies.

386. Place for public bathing, etc., to be fixed by the

Commissioner. :-

The Commissioner may from time to time set apart portions of the seashore or other suitable places vesting in the Corporation for use by the public for bathing, for the washing of animals or for drying clothes, and may from time to time, by public notice, prohibit the use by the public of any portion of the seashore or place not vesting in the Corporation for any of the said purposes.

387. Regulation of use of public bathing places etc. :-

(1) The Commissioner may, by public notice, regulate the use by the public-

(a) of any portion of the seashore or other place vesting in the Corporation set apart by him for any purpose under the last preceding section;

(b) of any portion of the seashore or other place not vesting in the Corporation used, with his acquiescence, for any purpose mentioned in the last preceding section;

(c) of any work and of the water in any work assigned and set apart under section 270 for any particular purpose.

(2) In the case of any portion of the seashore or of any place or work set apart, assigned or used as aforesaid for bathing the Commissioner may, in such notice, prescribe the times and places of bathing for persons of each sex.

388. Prohibition of bathing, etc, contrary to order or regulation. :-

Except as permitted by any order or regulation made under section 270, 386 or 187, no person shall-

(a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore or other place vesting in the Corporation;

(b) wash or cause to be washed in or near any such place or work, any animal, clothes, or other article;

(c) throw, put or cause or enter into the water in any such place or work, any animal or other thing;

(d) cause or suffer to drain into or upon any such place or work or to be brought thereinto or thereupon, anything, or do anything, whereby the water shall be in any degree fouled or corrupted;

(e) dry clothes in or upon any such place. And no person shall-

(f) in contravention of any prohibition made by the Commissioner

under section 386, use any portion of the seashore or any place not vesting in the Corporation for any purpose mentioned in the said section;

(g) contravene any regulation made by the Commissioner under section 387 for the use of any such portion of the seashore or place for any such purpose.

389. Prohibition of corruption of water by steeping therein animal or other matter, etc. :-

No person shall -

(a) steep in any tank, reservoir, stream, well or ditch any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;

(b) whilst suffering from any contagious or loathsome disease, bathe in or near any lake, tank reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore.

390. Factory of not to be newly established without permission of the Commissioner. :-

(1) No person shall newly establish in any premises any factory, workshop or workplace in which it is intended that steam, water 1[electrical] or other mechanical power shall be employed, without the previous written permission of the Commissioner, 2[nor shall any person work, or allow to be worked, any such factory, workshop or workplace without such permission.]

(2) The Commissioner may refuse to give such permission if he shall be of opinion that the establishment of such factory, workshop or workplace in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof, or will be a nuisance to the inhabitants of the neighbourhood.

3 [(3) If any written permission for the establishment of a factory, workshop or work place granted under sub-section (1) be revoked by the Commissioner in the exercise of his powers under sub-section (3) of section 479, no person shall continue or resume the working or use of such factory, workshop or workplace until such written permission is renewed or a fresh written permission is granted by the Commissioner.

1. Bom. 3 of 1887 was repealed by Bom. 2 of 1891, which was repealed by Bom. 5 of 1917, which was again repealed by Act 5 of 1923, Central Acts.

2. Act 15 of 1881 is repealed by Act 12 of 1911 (the Indian

Factories Act, 1911) which is again repealed by Act 25 of 1934, Central Acts.

3. Sections 394 and 394A were substituted for the original section 394 by Mah. 32 of 1962,s.2

391. Furnaces used in trade or manufacture to consume their own smoke. :-

(1) No person shall-

(a) use or permit to be used any furnace employed for the purpose of any trade or manufacture, which does not, so far as practicable, consume its own smoke; or

(b) so negligently use or permit to be used any such furnace as that it shall not as far as practicable, consume its own smoke.

(2) Nothing in this section shall be deemed to apply to a locomotive engine used for the purpose of traffic upon any railway or for the repair of streets.

392. Sanitary regulation of factories, etc :-

(1) Whenever it shall appear to the Commissioner that any factory, 1[* *]workshop or work place, or any building or place in which steam, water or other mechanical power is employed, is not kept in a cleanly state or is not ventilated in such a manner as to render harmless, as far as practicable, any gas, vapour, dust or other impurity generated in the course of the work carried on therein, which is a nuisance, 2[* *]workshop, work place or other building or place to take such order for putting and maintaining the same, in a cleanly state, or for ventilating the same, or for preventing the same from being overcrowded or for preventing danger to life or limb from any engine, mill gearing, hoist or other machinery therein, as he shall think fit.

(2) Nothing in this section shall be deemed to affect any provision of the 2Bombay Boiler Inspection Act, 1887, and nothing in this section which relates to the fixing or fencing of any engine, mill gearing, hoist or other machinery shall apply on any factory to which the provisions of the 4 Indian Factories Act, 1881, are applicable.

1. These words were inserted by Mah. 42 of 1976, s. 11 (a)

2. These words were inserted by Mah.42 of 1976, s. 1 l(b)

4. These words were inserted by Mah. 42 of 1976, s. 1 l(c)

393. Prohibition to use of steam- whistle or steam-trumpet

without permission of the Commissioner :-

(1) No person shall, without the written permission of the Commissioner, use or employ in any factory or any other place, any steam- whistle or steam-trumpet for the purpose of summoning or dismissing workmen or persons employed.

(2) The Commissioner may at any time revoke permission which he has given for the use of any such instrument as aforesaid, on giving one months notice to the person using the same.

(3) Provided that nothing in sub-section (2) shall be deemed to require one months notice to be given by the Commissioner, if he suspends or revokes any such permission for any reason specified by subsection (3) of section 479.

394. Certain articles [or animals] not to be kept, and certain trades, processes and operations not o be carried on without a licence: and things liable to be seized, destroyed, etc. to prevent danger or nuisance. :-

(1) Except under and in accordance with the terms and conditions of the licence granted by the Commissioner, no person shall- (1) Except under and in accordance with the terms and conditions of the licence granted by the Commissioner, no person shall-

(a) keep, or suffer or allow to be kept, in or upon any premises,

(i) any article specified in Part 1 of Schedule M; or,

(ii) any article specified in Part II of Schedule M, in excess of the quantity therein specified as the maximum quantity (or where such article is kept along with any other article or articles specified in that Schedule, such other maximum quantity as may be notified by the Commissioner) of such article which may at any one time be kept in or upon the same premises without a licence;

(b) keep, or suffer or allow to be kept, in or upon any premises, for sale or for other than domestic use, any article specified in Part III of Schedule M;

(c) keep, or suffer or allow to be kept, in or upon any premises, horses, cattle or other four-footed animals for sale, for letting out on hire or for any purpose for which any charge is made or any remuneration is received, or for the sale of any produce thereof;

(d) keep or use, or suffer or allow to be kept or used, in or upon any premises, any article 1[or animal] which, in the opinion of the Commissioner, is dangerous to life, health or property, or likely to create a nuisance either from its nature or by reason of the manner

in which, or the conditions under which, the same is, or is proposed to be, kept or used or suffered or allowed to be kept or used;

(e) carry on, or allow or suffer to be carried on, in or upon any premises,

(i) any of the trades specified in Part IV of schedule M, or any process or operation connected with any such trade;

(ii) any trade, process or operation, which, in the opinion of the Commissioner, is dangerous to life, health of property, or likely to create a nuisance either from its nature or by reason of the manner in which, or the conditions under which, the same is, or is proposed to be, carried on;

(f) carry on within 2[Brihan Mumbai] or use or allow to be used any premises for. the trade or operation of a carrier.

(2) The State Government may, by notification in the Official Gazette, add to, amend or delete any item in schedule M and thereupon, the said schedule shall be deemed to be amended accordingly but without prejudice to anything done or omitted to be done before such amendment.

(3) A person shall be deemed

(a) to have known that keeping any article 3[or animal] or carrying on a trade, process or operation is, in the opinion of the Commissioner, a dangerous or likely to create a nuisance within the meaning of clause (d) or, as the case may be, paragraph (ii) of clause (e), of sub-section (1), after written notice to that effect, signed by the Commissioner, has been served on such person or affixed to the premises to which it relates;

(b) to keep or to suffer or allow the keeping of an article [or animal] or to carry on or to allow to be carried on a trade, process or operation within the meaning of clause (d) or, as the case may be, paragraph (ii) of clause (e) of sub-section (1), if he does any act in furtherance of keeping of such article 2[or animal] or carrying on of such trade, process or operation or is in any way engaged or concerned therein whether as principal, agent, clerk, master, servant, workman, handicraftsman, watchman or otherwise.

(4) If it appears to the Commissioner that the keeping of any article [or animal] or the carrying on of any trade, process or operation, in or upon any premises is dangerous or likely to create a nuisance within the meaning of clause (d), or paragraph (ii) of clause (e), of sub-section (1), the Commissioner may, by written notice, require the person keeping the article [or animal] or suffering or allowing it to be kept or the person carrying on the trade, process or operation or allowing it to be carried on, as the

case may be, to take such measures (including discontinuance of the use of the premises for any such purpose) as may be specified by him in such notice in order to prevent such danger or nuisance; and if such measures are not taken within the specified time, the Commissioner may seize and carry away or seal such article 2[or animal] or any machinery or device used in connection with such trade, process or operations. Any article [or animal] or machinery or device so seized and carried away or sealed may be redeemed, within a period of one month from the date of seizure, on payment of such sum and subject to such conditions as to future use or disposition of such article 2[or animal], ,achinery or device as may be fixed by the Commissioner in that behalf:

Provided that, if any article 2[or animal] so seized and carried away or sealed is of an explosive or dangerous nature, the Commissioner may by order in writing cause the same to be forthwise destroyed or otherwise disposed of, as he thinks fit:

Provided further that, if any article [or animal] or machinery or device so seized and carried away or sealed is not claimed and redeemed

4[or animal] or machinery or device sold or disposed of.

(5) It shall be in the discretion of the Commissioner -

(a) to grant any licence referred to in sub-section (1), subject to such restrictions or conditions (if any), as he shall think fit to specify, or

(b) for the purposes of ensuring public safety, to withhold any such licence:

Provided that, the Commissioner when withholding any such licence shall record his reasons in writing for such withholding and furnish the person concerned a copy of his order containing the reasons for such withholding:

Provided further that, any person aggrieved by an order of the Commissioner under this sub-section may, within sixty-days of the date of such order, appeal to the Chief Judge of the Small Cause Court, whose decision shall be final.

(6) Every person to whom a licence is granted by the Commissioner under sub-section (5) shall -

(a) keep such licence in or upon the premises, if any, to which it relates;

(b) put up a board outside such premises on a conspicuous part, indicating thereon the nature of the article 4[or animal] kept or the trade, process or operation carried on, in or upon the premises, the municipal licence number, if any, in respect thereof and the name

and local address of the owner or occupier or person in charge of the premises;

(c) put proper label on the packing or container of every licensable article, to indicate its name, contents and hazardous nature.

(7) The Commissioner may from time to time with the approval of 6 [the Standing Committee] specially exempt from the operation of this

1. These words were inserted by Mah. 42 of 1976, s. 1 I(d)

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 159 (w.e.f. 23-4-1999)

3. Section 396 was substituted for the original by Mah. 32 of 1962, s. 3.

4. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.160, (w.e.f. 23-4-1999)

6. Section 398 was renumbered as sub-section (1) of that section by Bom. 54 of 1955, s. 9.

394A. Power To Prohibit The Keeping Of Certain Article Of Dangerous Character In Certain Premises Or Areas :-

Notwithstanding anything contained in the last foregoing section, the State Government may from time to time by notification in the Official Gazette prohibit absolutely or subject to conditions, the keeping or suffering or allowing the keeping (either permanently or during a specified period) in any premises or class of premises or in any area or areas, which may be specified in the notification, of any article mentioned in Part I of schedule M, being an article which in the opinion of the State Government is of so dangerous a character that it is expedient in the interest of public safety, having regard to the density of population and other relevant factors, to issue such notification.

395. Prohibition of corruption of water by chemicals etc :-

(1) No person engaged in any trade or manufacture specified in schedule M shall -

(a) willfully cause or suffer to be brought or to flow into any lake, tank, reservoir, cistern, well, duct, or other place for water belonging to the Corporation or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid;

(b) willfully do any act connected with any such trade or manufacture as aforesaid, whereby the water in any such lake,

tank, reservoir, cistern, well, duct or other place for water is fouled or corrupted.

(2) The Commissioner may, after giving not less than twenty-four hours previous notice in writing to the owner or to the person who has the management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits; and if, upon such examinations, it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination and of any measure which the Commissioner shall, in his discretion, require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits, or by the person who has the management or control thereof, or through whose neglect or fault the said sub-section has been contravened; but if it appears that there has been no contravention of the said sub-section, that said expenses and compensation for any damage occasioned by the said laying open and examination shall be paid by the Commissioner.

396. Powers of Inspection etc. of premises where licensable articles are kept or trade, process or operation carried on or where prohibited articles are kept :-

(1) The Commissioner may at any time, by day or by night, without notice, enter into or upon, and inspect or examine, any premises used or likely to be used for the purposes mentioned in section 394 or 394- A, and upon any premises in which a furnace is employed for the purpose of any trade, process or operation, and into any bakehouse, and take samples if need be by breaking open the container or call upon any person who may be keeping or suffering or allowing the keeping of any article or carrying on or allowing to carry on any trade, process or operation, to give the samples of the article kept or products of the trade process or operation in order to satisfy himself as to whether any provision of this Act or any regulation or by-law or notification made or issued thereunder or any condition of a licence granted under this Act has been or is being contravened, and as to whether any nuisance is created, or is likely to be created upon such premises.

(2) Every person in charge, whether as principal, agent, clerk, master, servant, workman, handicraftsman, watchman or otherwise

of any premises where any article requiring a licence under section 394 or any article prohibited under section 394-A is kept or likely to be kept, or where any trade, process or operation requiring a licence under section 394 is carried on or likely to be carried on, shall, whenever required by the Commissioner, either verbally or in writing, keep the premises open for his inspection and exercise of the other powers conferred on him by subsection (1).

(3) No claim shall lie against any person for compensation for any damage in good faith and necessarily caused by the exercise of any of the powers conferred by sub-section (1) or by the use of any force reasonably necessary for the effective exercise of such powers:

Provided that, force shall not be used for the purpose aforesaid unless when there is reason to believe that an offence is being committed against some provision of this Act or some regulation or by-law or notification made or issued thereunder.]

397. Regulation of washing of clothes by washermen. :-

(1) The Commissioner may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as he shall appoint for this purpose;

(2) The Commissioner shall provide suitable places for the exercise by washermen of their calling, and may require payment of such fees for the use of any such place as shall from time to time be determined by the Commissioner, with the approval of 1 [the Standing Committee]

1. These words were inserted by Bom. 5 of 1938, s. 40

398. What to be deemed municipal markets and slaughter houses. :-

.1(1) All markets and slaughter houses which belong to or are maintained by the Corporation shall be called "municipal markets" or "municipal slaughter houses". All other markets and slaughter houses shall be deemed to be private.

2 (2) The Corporation may also establish markets for the purchase and sale of or trading in agricultural produce specified in schedule JJ. The Corporation may, with the previous sanction of the State Government, add to, amend or cancel, by notification in the Official Gazette, any of the items of agricultural produce specified in schedule JJ.

1. These words were substituted for the words "Greater Bombay"

by Mah. 25 of 1996, (w.c.f. 4.9.1996)

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 161 (w.e.f. 23-4-1999)

399. Provisions of new municipal markets and slaughter houses. :-

(1) The Commissioner, when authorised by the Corporation in this behalf, may construct, purchase or take on lease any building or land for the purpose of establishing a new municipal market or a new municipal slaughter house or of extending or improving any existing municipal market or slaughter house, and may from time to time build and maintain such municipal markets and slaughter houses and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the persons carrying on trade or business in, or frequenting, such municipal markets or slaughter houses, and provide and maintain in such municipal markets such buildings, places, machines, weights, scales and measures for weighing and measuring goods sold therein as he shall think fit.

(2) Municipal slaughter houses may be situate within or, with the sanction of 1[the" [State] Government] without 2 [Brihan Mumbai].

1. Clause (dd) was inserted by Bom. 32 of 1935, s. 12

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.c.f. 4.9.1996)

400. Municipal markets and slaughter houses may be closed. :-

The Commissioner may, with the sanction of the Corporation and of 1 [the [State] Government], at any time, close any municipal market or slaughter house; and the premises occupied for any market or slaughter house so closed may be disposed of as the property of the Corporation.

1. This portion was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 162 (w.e.f. 23-4-1999)

401. Prohibition of sale in a municipal market without Licence of Commissioner. :-

(1) No person shall, without a licence from the Commissioner, sell or expose for sale any animal or article in any municipal market.

(2) Any person contravening this section may be summarily

removed by the Commissioner or by any municipal officer or servant.

402. Opening of new private markets. :-

(1) The Corporation shall from time to time determine whether the establishment of new private markets shall be permitted in [Brihan Mumbai] or in any specified portion of the 1 [Brihan Mumbai].

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food, or any other article of human food, except, with the sanction of the Commissioner, who shall be guided in giving such sanction by the decisions of the Corporation at the time in force under sub-section (1). [The owner or occupier of a place in which a private market is established shall, for the purposes of this sub-section, be deemed to have established such market.

(3) When the establishment of a new private market has been so sanctioned, the Commissioner shall cause a notice of such sanction to be affixed in the English, Marathi, Gujarati, [Hindi] and Urdu languages on 1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order. 1950 2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

1. This portion was inserted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 162 (w.e.f. 23-4-1999)

403. Private markets not to be kept or permitted to be kept open and no place to be used or permitted to be used as slaughter house, 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-

(a) keep open 1[or permit to be kept open] a private market;

(b) use 1[or permit to be used] any place in 3[Brihan Mumbai] as a slaughter house or for the slaughtering of any animal intended for human food:

(c) use 1[or permit to be used] any place in 2[Brihan Mumbai] whether as a slaughter house or otherwise, for the slaughtering of any animal intended for human food to be consumed in 2[Brihan Mumbai].

(2) Provided that-

(d) the Commissioner shall not refuse, cancel or suspend any licence for keeping open a private market for any cause other than

the failure of the owner thereof to comply with some provision of this Act, or with some regulation framed under section 406 or with some by-law made under this Act. at the time in force and shall not cancel or suspend any such licence without the approval of 7[the Standing Committee];

(dd) the Commissioner may with the previous approval of the 3[the Standing Committee] cancel or suspend, any licence for failure of the owner of a private market to give in accordance with the conditions of his licence a written receipt for any stallage, rent, fee or other payment received by him or his agent from any person for the occupation or use of any stall, shop, standing, shed, pen or other place therein];

(e) nothing in this section shall be deemed to prevent the Commissioner from granting written permission for the slaughter of any animal in any place that he thinks fit, on the occasion of any festival or ceremony or under special circumstances.

(f) the Commissioner may suspend the licence of a trader, an owner of a private market or of an abattoir for a period not exceeding sixty days, if it is found that the trader or the owner of the private market or, as

8(2A) Any animal or flesh intended for human food found in the possession of any person contravening the provisions of clause (b) or (c) of sub-section (1) may be seized by the Commissioner or any municipal officer or servant or by any police officer and any such animal or flesh may be sold or otherwise disposed of as the Commissioner shall direct. The proceeds, if any, arising from such sale shall belong to the Corporation.

(2B) For the purposes of this section, the owner or occupier of any place which is habitually used for the slaughter of animals intended for human food shall be deemed to have been used or permitted to be used such place for the slaughter of animals unless he proves that the place was so used without his knowledge;]

(3) When the Commissioner has refused, cancelled or suspended any licence to keep open a private market, he shall cause a notice of his having so done to be affixed in the English, Marathi, Gujarati, 9 [Hindi] and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

1. This clause was added by Bom. 54 of 1955, s. 10

3 . These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 163 (w.e.f. 23-4-1999)

7. These words were substituted for the words "the Mayor-in-

Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 163 (w.e.f. 23-4-1999)

8. New section 407A was inserted by Bom. 12 of 1936, s. 7 "Notwithstanding anything contained in the City of Bombay Municipal (Amendment) Act, 1936 (Bom. 12 of 1936), it shall be deemed always to have been lawful for the Commissioner prior to the commencement of the said Act, to require any municipal market or premises used or intended to be used for in connection with such slaughter house and to fix and charge fees for the grant of such permission (vide Bom. 12 of 1946. s.10)"

9. These words were substituted for the words "prescribed by him" by Mah. 10 of 1998, s. 195 (a) (i)

404. Prohibition of sale in unauthorized private markets. :-

No person who knows that any private market has been established without the sanction of the Commissioner, or is kept open after a licence for keeping the same open has been refused, cancelled or suspended by the Commissioner, shall sell or expose for sale therein any animal or articles of food.

405. Provision for requiring private market building and slaughter houses to be properly paved and drained. :-

The Commissioner may, by written notice, require the owner, farmer or occupier of any private market or slaughter house, to cause-

(a) the whole or any portion of the floor of the market building, place or slaughter house to be paved with dressed stone or other suitable materials;

(b) such drains to be made in or from the market building, market place or slaughter house, of such material, size and description, at such level and with such outfall, as to the Commissioner may appear necessary.

406. Regulations to be framed for markets and slaughter houses. :-

1[The Commissioner may with the approval of the Standing Committee] from time to time make regulations, inconsistent not with any provision of this Act, or of any by-law made under this Act at the time in force-

(a) for preventing nuisances or obstruction in any market building,

market place or slaughter house or in the approaches thereto;
(b) fixing the days and the hours on and during which any market or slaughter house may be held or kept open for use;
(c) for keeping every market building market place and slaughter house in a cleanly and proper state, and for removing filth and refuse therefrom;
(d) requiring that any market building, market place and slaughter house be properly ventilated and be provided with a sufficient supply of water;
(e) requiring that in market buildings and market places, passages be provided between the stalls of sufficient width for the convenient use of the public.

2 (f) for regulating the purchase and sale of and conditions of trading in agricultural produce specified in Schedule JJ in any market building or market place.]

1. This word was substituted for the word "Commissioner" by Mah. 10 of 1998, s. 195

2. These words were inserted by Bom. 64 of 1953, s. 17(2)

407. Levy of stallages, rents and fees in municipal markets and slaughter houses. The Commissioner may :-

(a) charge for the occupation or use of any stall, shop, standing shed or pen in a municipal market or slaughter house, and for the right to expose goods for sale in a municipal market, and for weighing and measuring goods sold in any such market and for the right to slaughter animals in any municipal slaughter house such stallages, rents and fees as shall from time to time be fixed by him, with the approval of 1[the Standing Committee], in this behalf, or

(b) with the approval of 2 [the Standing Committee, farm the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time; or

(c) put up to public auction, or, with the approval of 1[the Standing Committee], dispose of, by private sale, the privilege of occupying or using any stall, shop, standing shed or pen, in a municipal market or slaughter house for

1. These words were substituted for the words "sell or expose for sale" by Bom. 64 of 1953, s. 17(1)

2. These words were substituted for the words "four footed animal or any meat or fish" by Mah. 10 of 1998,s. 196.

407A. Removal Of Live Cattle, Sheep, Goats Or Swine From Any Municipal Slaughter House, Market, Or Premises :-

.1(1) No person shall, without the written permission of the Commissioner and without the payment of such fees as may be 2[prescribed by the Corporation], remove any live cattle, sheep, goats or swine from any municipal slaughter house or from any municipal market or premises used or intended to be used for or in connection with such slaughter house.

Provided that such permission shall not be required for the removal of any animal which has not been sold within such slaughter house, market or premises and which has not been within such slaughter house, market or premises for a period longer than that prescribed under regulations made by the 3[Corporation] in this behalf, or which has in accordance with any by-law made under this Act, been rejected as unfit for slaughter at such slaughter house market or premises.

(2) Any fee paid for permission under sub-section (1) in respect of any animal removed to a Panjrapole shall, subject to the regulation made by the 4 [Corporation] in this behalf, be refunded on the production of a certificate from the Panjrapole authorities that such animal has been received in their charge.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

2. Section 412A was inserted by Bom. 6 of 1923, s. 7

3. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

4. These words were inserted by Bom. 6 of 1916. s. 8

408. Section 408 :-

(1) a printed copy of the regulations and of the table of stallages, rents and fees, if any in force in any market or slaughter house under the 1[sections 406, 407 and 407A], in the English, Marathi, Gujarati, 2 [Hindi] and Urdu languages, shall be affixed in some conspicuous spot in the market building, market place or slaughter house.

(2) No person shall, without authority, destroy, pull down, injure or deface any copy of any regulation or table so affixed.

1. These words were inserted by Bom. 6 of 1916. s. 8

2. The word "ghee" was inserted by Bom. 32 of 1935, s. 13

409. Power to expel persons contravening by-laws or regulations. :-

The Commissioner may expel from any municipal market or slaughter house any person, who or whose servants has been convicted of contravening any by-law made under this Act, or any regulation made under section 406, at the time in force in such market or slaughter house and may prevent such person by himself or his servants, further carrying on any trade or business in such market or slaughter house or occupying any stall shop, standing shed, pen or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop,

standing shed, pen or place.

410. Prohibition of sale or supply of animals, etc., except in a market. :-

(1) Except as hereinafter provided, no person shall, without a licence from the Commissioner 1 [sell or supply or expose for sale, or supply] any [animal or bird or any meat or fish] intended for human food, in any place other than a municipal or private market;
(2) Provided that nothing in sub-section (1) shall apply to fresh fish sold from, or exposed for sale in a vessel in which it has been brought direct to the seashore after being caught at sea.

1. The explanation added to s. 415 by Bom. 2 of 1899, s. 5(1)(a) was repealed by Bom. 10 of 1928, s. 15

411. Butchers and persons who sell or supply the flesh of animals to be licensed. :-

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 [Brihan Mumbai], or at any municipal slaughter house the trade of a butcher;

(b) use any place in 1[Brihan Mumbai] [for the sale or supply] of the flesh of any animal [or bird] intended for human food or any place without 1[Brihan Mumbai] 3 [for the sale or supply] of such flesh for consumption in 1[Brihan Mumbai].

1. These words were inserted by Bom. 6 of 1913, s. 8

3. The explanation added to s. 415 by Bom. 2 of 1899, s. 5(1)(a) was repealed by Bom. 10 of 1928, s. 15

412. Prohibition of impose of cattle, etc., into Brihan Mumbai without permission :-

(1) No person shall without the written permission of the Commissioner bring into 1[Brihan Mumbai] any cattle, sheep, goats or

(1A) Any Police Officer may arrest without warrant any person bringing into 1[Brihan Mumbai] any animal or flesh in contravention of sub-section (1).

(2) Any animal brought into 1[Brihan Mumbai] in contravention of this section may be seized by the Commissioner or by any municipal officer or servant and any flesh brought into 1 [Brihan Mumbai] in contravention of this section may be seized by the

Commissioner or by municipal officer or servant or by any Police Officer or in or upon Railway premises by any Railway servant and any animal or flesh so seized may be sold or otherwise disposed of as the Commissioner shall direct. The proceeds, if any, shall belong to the Corporation. (2) Nothing in this section shall be deemed to apply to cured or preserved meat.

1. The figures, letter and word "417A or" were repealed by Bom. 5 of 1925. s. 20. Schedule B

412A. Section 412A :-

No person shall without or otherwise in conformity with the terms of licence granted by the Commissioner in this behalf-

(a) carry on within 2[Brihan Mumbai] the trade or business of a dealer in or importer or seller or hawker of milk, 3[butter 4[ghee] or other milk products];

(b) use any place in 5[Brihan Mumbai] for the sale of 2[butter 2 [ghee] or other milk products];

1. Section 417B and 417C were inserted by Bom. 2 of 1899, s. 6(1)(b)

2. This word was substituted for the word "One" by Bom. 76 of 1948, s. 26

3. Section 417B and 417C were inserted by Bom. 2 of 1899, s. 6(l)(b)

4. The figures, letter and word "417A or" were repealed by Bom. 5 of 1925. s. 20. Schedule B

5. These words were substituted for the original words by Bom. 2 of 1899. s. 6(1) (a)

413. Commissioner may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act is suspected. :-

(1) If the Commissioner shall have reason to believe that any animal intended for human food is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorised under the provisions of this Act, the Commissioner may, at any time by day or by night, without notice, enter such place for the purposes of satisfying himself as to whether any provisions of this Act

(2) No claim shall lie against any person for compensation for any damage, necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

414. Commissioner to provide for inspection of articles exposed for sale for human food. :-

It shall be the duty of the Commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk,

ghee, butter and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

415. Unwholesome articles etc., to be seized. :-

(1) The Commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

(2) If any such animal or article appears to the Commissioner to be diseased or unsound or unwholesome or unfit for human food or for medicine, as the case may be, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be, he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided 1[and he may arrest and take to the nearest Police Station any person in charge of any such animal or article]. 1 [xxx]

1. These words were inserted by Bom. 20 of 1952, s. 17(1)

416. Section 416 :-

If any meat, fish, vegetable or other article of a perishable nature be seized under the last preceding section and the same is, in the opinion of the Commissioner, diseased, unsound, unwholesome or unfit for human food or for medicine, as the case may be, the Commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human food or for medicine, and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

417. Section 417 :-

(1) Any animal and any article not of a perishable nature and any utensil or vessel seized under section 415 shall be forthwith taken before a Presidency Magistrate.

(2) If it shall appear to such Magistrate that any such animal or article is diseased, unsound, unwholesome or unfit for human food or for medicine, as the case may be, or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as aforesaid. 1 [he may, and if it is diseased, unsound, unwholesome or unfit for human food and unfit for medicine he shall cause] the same to be destroyed, at the charge of the person in whose possession it was at the time of seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human food, or for medicine, or for the preparation or manufacture of food containing any such article as aforesaid.

1. This section was inserted by Bom. 76 of 1948, s. 27

417A. Section 417A :-

[Penalty for representing any article to what it is not] Repealed by Bom. 10 of 1929. s. 15

417B. Penalty For Possessing Food Which Appears To Be Diseased, Unsound Or Unwholesome Or Unfit For Human Food :-

1 In every case in which food, on being dealt with under section 417, appears to the Magistrate to be diseased, unsound, unwholesome or unfit for human food, the owner thereof or the person, in whose possession it was found not being merely bailee or carrier thereof, shall, if any such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to [Five] hundred rupees

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

417C. Application For Summons To Be Refused If Not Applied For Within Reasonable Time :-

In all prosecutions under section [* *] 417-B the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against such section, unless the summons is applied for within a reasonable time for the alleged date of the offence of such person is accused.

418. Section 418 :-

[Provision of local standards of weights and measures.]¹ Repealed by Bom. 15 of 1932.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996. (w.e.f. 4.9.1996)

419. Section 419 :-

[Verification and stamping of weights and measures.] Repealed by Bom. ISofl 932.

420. Section 420 :-

[Weights and measures of which standards are provided are to be adopted: penalties.] Repealed by Bom. 15 of 1932,

421. Information to be given of existence of dangerous disease [or continuous pyrexia of unknown origin :-

Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease [or any case of continuous pyrexia or unknown origin of more than four days duration in any private or public dwelling, other than a public hospital, shall give information of the same with the least possible delay to the executive health officer. The said information shall be communicated in such form and with such details as the executive health officer, with the consent of the Commissioner, may from time to time require.

422. Any place may at any time be inspected for purpose of preventing spread of dangerous disease. :-

The Commissioner may at any time, by day or by night, without notice, or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to prevent the spread of the said disease beyond such place.

423. Prohibition of use for drinking of water likely to cause dangerous disease. :-

(1) If it shall appear to the Commissioner that the water in any well, tank or other place is likely, if used for drinking to endanger or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking.

(2) No person shall remove or use for the purpose of drinking any water in respect of which any such public notice has been issued.

424. Commissioner may order removal of patients to

hospital :-

(1) The Commissioner or any police officer empowered by him in this behalf, may on a certificate signed by the executive health officer or by any duly qualified medical practitioner, direct or caused the removal of any person who is, in the opinion of the executive health officer or other medical practitioner, without proper lodging or accommodation or

(2) The person, if any, who has charge of a person in respect of whom an order is made under sub-section (1) and obey such order.

425. Disinfection of buildings etc :-

(1) If the Commissioner is of opinion that the cleansing or disinfecting of a building or of a part of a building, or of any article therein likely to retain infection, would tend to prevent or check the spread of any dangerous disease he may, by written notice, require the owner or occupier of such building to cleanse or disinfect such building or part thereof or article therein, and, if it shall appear to the Commissioner necessary to, vacate the said building for such time as shall be prescribed in the said notice.

426. Destruction of huts and sheds, when necessary. :-

(1) If the Commissioner is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstances of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation may be paid by the Commissioner, in any case which he thinks fit, to any person who sustains substantial loss by the destruction of any such hut or shed; but, except as so allowed by the Commissioner, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by this section.

426A. Second Hand Clothing And Bedding Not To Be Brought Into Brihan Mumbai Without Informing Commissioner And Getting Them Inspected :-

1 (1) Every person who brings or causes to be brought by sea into [Brihan Mumbai] any article of used or second-hand clothing or bedding which does not form part of passengers baggage shall, within twenty-four hours of the bringing of such article

into 2[Brihan Mumbai] give to the Commissioner notice in writing, containing full particulars to the nature and conditions of the said article and the place from which it is brought, and take it for inspection to the place prescribed under sub-section (5) for the inspection of such articles. If no such place has been prescribed, the notice shall also state the place where the said article may be inspected.

(2) The Commissioner shall examine the said article and, if he is of opinion that it is not free from infection, he may direct that it shall be adequately disinfected within such period, in such manner and by such agency, as he may determine.

(3) If the Commissioner is satisfied that the said article is free from infection or that it has been adequately disinfected, he shall give a certificate to that effect.

(4) No person shall deal with or remove or dispose of the said article otherwise than in accordance with a direction of the Commissioner or an officer of the Customs until a certificate under sub-section (3) has been given in respect thereof.

(5) The Commissioner may, in consultation with the Collector of Customs and the Trustees of the Port of Bombay, prescribe or appoint from time to time place or places at which any article of the nature described in sub-section (1) may be inspected.

(6) The Commissioner may, from time to time, with the approval of the Standing Committee, prescribe a fee to be paid for the inspection of any article of the nature described in sub-section (1) and for the giving of a certificate under sub-section (3) and, where any article is disinfected by municipal agency, for the disinfection thereof.

(7) Where a person contravening any provision of this section is a company or other body corporate or an association of persons (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable to the punishment provided for the offence.

(8) Nothing contained in this section shall apply to any articles of used or second-hand clothing or bedding contained in a bale which is taken direct from the docks to a railway station in 1 [Brihan Mumbai] for export to and disposal at a place outside and beyond the limits of 1[Brihan Mumbai].

Explanation:- For the purpose of this section, a passenger's baggage shall mean such goods as are determined to be his baggage in actual use under section 24 of the Sea Customs Act, 1878.

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 71(a)(w.e.f. 23-4-1999)

427. Place for disinfection may be provided also for washing infected articles. :-

(1) The Commissioner may provide a place, with all necessary apparatus and attendance, for the disinfection of clothing, bedding or other articles which have become infected and in his discretion may have articles brought to such place for disinfection, disinfected on payment of such fees as he shall from time to time fix, with the approval of the 1 [the Standing Committee], in this behalf, or, in any case, in which he thinks fit, free of charge.

(2) The Commissioner may, from time to time, by public notice, appoint a place at which clothing, bedding or other articles which have been exposed to infection from a dangerous disease may be

washed; and no person shall wash any such article at any place not so appointed without having previously disinfected the same.

(3) The Commissioner may direct the disinfection or destruction of bedding, clothing or other articles likely to cause infection.

(4) The Commissioner may, in his discretion, give compensation for any article destroyed under sub-section (3).

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

428. Persons suffering from dangerous disease not to enter a public conveyance without notifying the same. :-

(1) No person who is suffering from a dangerous disease shall enter a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering.

(2) Notwithstanding anything contained in any Act relating to public conveyances for the time being in force, no owner or driver or person in charge of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

429. Provision of carriage for conveyance of patients. :-

The Commissioner with the sanction of the Corporation, may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease, and when such conveyances have been provided, it shall not be lawful to convey any person by any other public conveyance.

430. Provisions as to carriage of persons suffering from dangerous disease to public conveyances. :-

(1) No person who is suffering from a dangerous disease shall-

(a) without proper precautions against spreading such disease, cause or suffer himself to be carried in a public conveyance;

(b) cause or suffer himself to be carried in a public conveyance contrary to the provisions of the last preceding section.

(2) No person shall go in company with, or take charge of, any person suffering as aforesaid, who causes or permits himself to be carried in a public conveyance in contravention of sub-section (1).

(3) No owner or driver or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid, in contravention of the said sub-section.

431. Public conveyance which has carried a person suffering from dangerous disease to be disinfected. :-

The owner, driver or person in charge of a public conveyance in which any person suffering as aforesaid has been carried shall immediately provide for the disinfection of the same.

432. Infected articles not to be transmitted, etc. without previous disinfection. :-

(1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

(2) Nothing in this section shall be deemed to apply to a person who transmits with proper precautions, any such article for the purpose of having the same disinfected.

433. Infected building not to be let without being first disinfected. :-

(1) No person shall let a building or part of a building, in which he knows or has reason to know that a person has been suffering from a dangerous disease, without first having such building or part thereof and every article therein likely to retain infection disinfected, to the satisfaction of the executive health officer or some other duly qualified medical practitioner as testified by such officers or medical practitioners certificate.

(2) For the purpose of this section the keeper of a hotel or inn shall be deemed to let part of his building to any person accommodated in such hotel or inn.

434. Commissioner may take special measures on outbreak of an dangerous disease. :-

(1) In the event of 1[Brihan Mumbai] being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into 1[Brihan Mumbai] amongst cattle- including under

this expression sheet and goats, - the Commissioner, if he thinks that ordinary provisions of this Act or of any other law for the time being in force are insufficient for the purpose, may, with the sanction of 3[the 4 [State] Government],-

(a) take such special measures, and

(b) by public notice prescribe such temporary regulations to be observed by the public or by any person or class of persons. as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) The Commissioner shall forthwith report to the Corporation any measure taken and any regulations prescribed by him under sub-section (1)

1. This word was inserted by Mah. 21 of 1989, s.49

3. The word "the Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws in Council.

4 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

435. Places for disposal of the dead to be registered. :-

Every owner or person having the control of a place used for burying, burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by such municipal officer charged by the Commissioner with this duty, and shall deposit in the municipal office at the time of registration of a plan of the said place and showing the extent and boundaries thereof, bearing the signature of a licensed surveyor in token of its having prepared by or under the supervision of such surveyor.

436. Provision of new places for disposal of the dead :-

If the existing places for the disposal of the dead shall at any time appear to be insufficient, or if any such place is closed under the provisions of section 438, the Commissioner shall, with the sanction of the Corporation, provide other fit and convenient places for the said purpose, either within or without 1[Brihan Mumbai], and shall cause the same to be registered in the register kept under section 435, and shall deposit in the municipal office, at the time of registration of each place so provided, a plan thereof showing the extent and boundaries of the same and bearing the signature of the municipal 2 [city engineer].

1. These words and figures were substituted for the words and figures "Code of Criminal Procedure 1882" by Man. 21 of 1989, s.

50(a).

2. The word "Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws in Council.

437. New places for disposal of the dead not to be opened without permission of Commissioner. :-

No place, which has never previous been lawfully used for the disposal of the dead and registered as such, shall be opened by any person for the said purpose without the written permission of the Commissioner, who, with the approval of the Corporation, may grant or withhold such permission.

438. State Government may direct the closing of any place for the disposal of the dead :-

.1(1), if, from information furnished by competent persons and other personal inspection, the Commissioner shall at any time be of opinion-

(a) that any place of public worship is or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial ground adjacent thereto, to

(b) that any other place used for the disposal of the dead as in such a state as to be or to be likely to become injurious to health, he may submit his said opinion, with the reasons therefor, to the Corporation, who shall forward the same, with their opinion, for the consideration of the 2[3[State] Government].

(2) Upon receipt of such opinions, the 4[1[State] Government], after such further inquiry, if any, as [it] shall deem fit to cause to be made, may, by notification-in the [Official Gazette] and in the local newspapers, direct that such place of public worship or other place for the disposal of

(3) On the expiration of two months from the date of any such order of the 6[7[State] Government,] the place to which the same relates shall be closed for the disposal of the dead.

(4) A copy of the said notification, with a translation thereof, in the Marathi, Gujarathi 5 [,Hindi] and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the same relates, unless such place be a place of public worship.

1. The word "Provincial Government" was substituted for the word "Government" by the Adaptation of Indian Laws in Council.

2. This word was substituted for the word "Provincial" by the

Adaptation of Laws Order, 1950.

3. These words and figures were substituted for the words and figures "Code of Criminal Procedure 1882" by Mah. 21 of 1989, s. 50(b)

4. These words and figures were substituted for the words and figures "Code of Criminal Procedure 1882" by Man. 21 of 1989, s. 50(a).

6. Chapter XV-A was inserted by Mah. 18 of 1974. s. 3

7. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

439. State Government may not sanction the reopening of places which have been closed for the disposal of the dead :-

1(1) If, after personal inspection, the Commissioner shall at any time be of opinion that any place formerly used for the disposal of the dead, which has been closed under the provisions of the last preceding section or under any other law or authority, has by lapse of time become no longer injurious to health, and may without risk of danger be again used for the said purpose, he may submit his said opinion, with the reasons therefore, to the Corporation, he shall forward the same, with their opinion, for the consideration of the 1[[State] Government].

(2) Upon receipt of such opinion, the 3[1 [State] Government], after such further inquiry, if any, as [it] shall deem fit to cause to be made, may, by notification published as aforesaid that such place be reopened for the disposal of the dead. Every orders so made shall be noted in the register kept under section 435.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

3. Chapter XV-A was inserted by Mah. 18 of 1974. s. 3

440. Burials within places of worship and exhumations not be made without the permission of the Commissioner. :-

(1) No person shall, without the written permission of the Commissioner under sub-section (2)-

(a) make any vault or grave or internment within any wall, or underneath any passage, porch, portico, plinth or verandah or any place of worship.

(b) make any internment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section

438;

(c) build, dig, or cause to be built or dug, any grave, or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under section 435:

(d) exhume any body except under the provisions of section 176 of 1 [the Code "of Criminal Procedure, 1973] or of any other law for the time being in force, from any place for the disposal of the dead.

(2) The Commissioner may in special cases grant permission for any of the purposes aforesaid, subject to such general or special order as the [[State] Government] may from time to time make in this behalf.

(3) An offence against this section shall be deemed to be cognizable offence within the meaning of sections 149, 150 and 151 of [the Code of Criminal Procedure, 1973.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

CHAPTER 15A Pounds and prevention of Cattle Trespass

441. Acts prohibited in connection with the disposal of the dead. :-

No person shall -

(a) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered or without take such precautions to prevent risk of infection or injury to public health as the Commissioner may, by public notice, from time to time, think fit to require;

(c) except, when no other route is available, carry a corpse or part of a corpse along any street along which the carrying of corpses is prohibited by a public notice issued by the Commissioner in this behalf;

(d) remove a corpse or part of a corpse, which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle.

(e) whilst conveying a corpse or part of a corpse, place or leave the same on or near any street without urgent necessity;

(f) bury or cause to be buried any corpse or part of a corpse in a grave or vault or otherwise in such manner as that the surface of

the coffin.

(g) build, or dig, or cause to be built or dug, any grave or vault in any burial ground in any line not marked out for this purpose by or under the order of the Commissioner;

(h) without the written permission of the Commissioner, reopen, for the internment of a corpse or any part of a corpse, a grave or vault already occupied;

(i) after bringing or causing to be brought to a burning ground any corpse or part of a corpse, fail to burn or cause the same to be burnt within six hours from the time of arrival thereof at such ground;

(j) when burning or causing to be burnt any corpse, or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes, or permit any cloth or other article used for the conveyance or burning of such corpse or part of a corpse to be removed or to remain on or near the place of burning without its being completely reduced to ashes.

441A. Sections 90 To 94 Of Bombay Police Act To Cease To Apply To 2[Brihan Mumbai] :-

On the date of the commencement of the Bombay Municipal Corporation and Bombay Police (Amendment) Act, 1974, the provisions of sections 90 to 94 (both inclusive) of the Bombay Police Act, 1951 (hereinafter in this section referred to as "the said Act"), shall cease to apply to 1 [Brihan Mumbai]:

Provided that-

(a) nothing in this section shall affect the liability of any person to any penalty or punishment, or the liability of any person for the payment of pound fees or expenses, incurred under the said Act;

(b) any appointment, notification or order made or issued in respect of any cattle pound or the pound fees and expenses to be charged shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under this Act, and continue in force until duly altered, repealed or amended under this Act;

(c) any cattle pound established under the said Act shall vest in the Corporation, subject to such conditions as the State Government may think fit to impose, and shall be maintained and managed by the Corporation in accordance with the provisions of this Act.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

441B. Power To Establish Cattle Pounds And Appoint Pound Keepers :-

(1) The Commissioner may, from time to time, appoint such places as he thinks fit to be public pounds, and may appoint suitable persons to be keepers of such pounds.

(2) Every pound keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the Commissioner.

441C. Impounding Of Cattle :-

It shall be the duty of every Police Officer, and of any municipal officer authorised by the Commissioner in this behalf, and it shall be lawful for any other person, to seize and take to any public pound for the confinement therein any cattle found straying in any street or trespassing upon any private or public property.

441D. Delivery Of Cattle Claimed :-

Subject to the provisions of section 441-G, if the owner of the cattle impounded under the last preceding section or his agent appears and claims the cattle, the pound keeper shall deliver them to him on payment of the pound fees and expenses chargeable in respect of such cattle under section 441-F.

CHAPTER 16

Vital Statistics. Registration of Births and Deaths

442. Appointment of registrars. :-

For the purpose of registering births and deaths, the Commissioner shall divide 1 [Brihan Mumbai] into such and so many districts and sub-districts as he shall from time to time think fit; and a municipal officer shall be registrar of births and deaths of each such district.

1. The words "the Central Government" were substituted for the words "Government " by the Adaptation of Indian Laws Order in Council.

443. Section 443 :-

(1) Every Registrar shall reside within the district of which he is a Registrar and shall cause his name, together with the words "Registrar of Births and Deaths for the district of to be affixed in some conspicuous place at or near the outer door of his place of abode.

(2) A list showing the name and place of abode of every registrar in [Brihan Mumbai] shall be kept at the municipal office and shall be open at all reasonable times to public inspection free of charge.

444. Section 444 :-

The Commissioner shall provide and supply to the registrars a sufficient number of register books of births and of register books of deaths for the registration of the particulars specified in Schedules N and O, respectively; and the pages of each of the said books shall be numbered progressively from the beginning to the

end thereof.

445. Registrars to inform themselves of all births and deaths. :-

(1) Each registrar shall inform himself carefully of every birth and death which shall happen in his district and of the particulars concerning the same require to be registered according to the forms in the said schedules, and shall, as soon after each such birth or death as conveniently may be, register the same in the book supplied for this purpose by the Commissioner, without making any charge or demanding or receiving any fee or reward for so doing other than his remuneration as a municipal officer.

(2) Other municipal officers, besides the registrars, may be appointed, with the duty of informing themselves of every birth or of every death or of every birth and every death in the district to which they are respectively appointed and of the particulars concerning the same required to be registered, and of submitting such information to the registrar to the said district or to such other person as the Commissioner directs.

446. Information of birth to be given within seven days. :-

(1) It shall be the duty of the father and mother of every child born in 1 [Brihan Mumbai] and, in default of the father and mother, of the occupier of the premises in which to his knowledge the child is born, and of each person present at the birth and of the person having charge of the child, to give, to the best of his-knowledge and belief to the registrar or other municipal officer appointed under section 445, within seven days after such birth information of the particulars required to be registered concerning such birth.

(2) Provided that, in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name of any person, as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register together with the mother.

1. The words "the Central Government" were substituted for the words "Government " by the Adaptation of Indian Laws Order in Council.

447. Information respecting finding of newborn child to be given. :-

In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the registrar or other municipal officer aforesaid, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

448. Officers to be appointed to receive information of deaths at places for disposal of the dead. :-

(1) For every place for the disposal of the dead registered in the register kept under section 435 a municipal officer shall be appointed whose duty it shall be to receive information of the particulars required to be registered concerning the death of every person whose corpse is disposed of at such place.

(2) If the Commissioner shall not think fit to require the municipal officer so appointed to be in constant attendance at any place for the disposal of the dead for which he is so appointed, there shall be affixed to a conspicuous part of the entrance to such place a notice specifying the name of the officer so appointed for the said place and the place where he may be found.

449. Information of death to be given at the time when the corpse of the deceased to be disposed of :-

(1) It shall be the duty of the nearest relatives of any person dying in the city present at the death, or in attendance during the last illness of the deceased and, in default of such relatives, of each person present at the death, and of the occupier of the premises in which, to his knowledge, the death took place, and, in default of the persons hereinabove

(2) The said information shall be given at or about the time that the corpse of the deceased person is disposed of, and it shall be given in writing if the informant can write, and otherwise orally, and the informant shall make known to the officer aforesaid his name, designation and place of abode, and shall attest the correctness of the information which he gives, to the best of his knowledge and belief, by his signature or mark.

450. Medical practitioner who attended a deceased person to certify the cause of his death. :-

(1) In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, the practitioner shall sign and forward to the Commissioner a certificate of the cause of such persons death, in the form of Schedule P, or in such other form as shall from time to time be prescribed by the Commissioner in this behalf, 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.

(2) The Commissioner shall provide printed forms of the said certificates, and any duly qualified medical practitioner resident in 1 [Brihan Mumbai] shall be supplied, on application, with such forms, free of charge.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

451. Preparation of register books of deaths and of mortality returns, etc. :-

(1) The information concerning deaths received by every officer appointed under section 448 shall be entered by him in a register sheet, which shall contain the particulars specified in Schedule O, and shall be forwarded, at such intervals as shall be prescribed by the Commissioner, through the registrar of the district to the municipal office.

(2) From the said register sheets and from the certificates furnished to him under section 450, the Commissioner shall cause the register books of deaths to be prepared and shall have prepared and published such tabular returns and statements as shall appear to him to be useful for sanitary or other purposes.

452. Correction of errors in registers of births or deaths. :-

(1) Any clerical error which may at any time be discovered in the register of births or in a register of deaths may be corrected by any person authorized in that behalf by the Commissioner.

(2) An error of fact of substance in any such register may be corrected by any person authorised as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the Commissioner, by the person requiring such error to be corrected of a declaration on oath setting forth the nature of

the error and the true facts of the case, made before a Magistrate by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made or, in default of such persons, by two credible persons having knowledge of the case, and certified by such Magistrate to have been made in his presence.

(3) Except as aforesaid no alteration shall be made in any such register.

453. Registration of name of child or of alteration of name :-

(1) When the birth of any child has been registered and the name, if any by which it was registered, is altered or, if it was registered without a name, when a name is given to it, the parent or guardian of such child or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the registrar, such certificate as hereinafter mentioned and the registrar upon the receipt of that certificate shall without any erasure of the original entry, forthwith enter in the register book the name mentioned in the certificate as having been given to the child.

(2) The certificate shall be in the form of Schedule Q, or as near thereto as circumstances admit, and, in the case of a Christian, shall be signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or, if the child is not baptised or is not a Christian, shall be signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered.

(3) Every minister or person who performs the rite of baptism shall deliver the certificate required by this section on demand, on payment of a fee not exceeding one rupee.

454. Enumeration of inhabitants. :-

At such time and in such manner as shall be directed from time to time by the Commissioner, with the sanction of the Corporation and of 1[the Central Government], an enumeration shall be made of the persons who at the time of making such enumeration shall be within 2[Brihan Mumbai] :

Provided always that, one clear month previous to such enumeration being commenced, notice of the intention to make the same, with the date or dates upon or within which it is intended to

be made, and all other necessary particulars, shall be given by advertisement in the 3 [Official Gazette] and in the local newspapers.

1. The words "the Central Government" were substituted for the words "Government " by the Adaptation of Indian Laws Order in Council.

2. These words were substituted for the words "Member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 165(b)(i) (w.e.f. 23-4- 1999)

3. These words were substituted for the words "and the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 165(a) (w.e.f. 23-4-1999).

455. Commissioner to superintend the enumeration. :-

The Commissioner shall superintend the taking of such enumeration, and shall appoint such enumerators or such subordinate officers and make such arrangements generally as may seem to him necessary for the purpose of such enumeration.

456. Delivery of blank schedules and returns. :-

Each enumerator or other subordinate officer appointed under the last preceding section shall, agreeably to his instructions leave at such building or place or residence, within his district, four days at least before the time appointed for the collection of the completed returns of census, a blank schedule or return, of such form and containing such particulars as 1 [the Central Government] may approve, to be fully filled up and signed by the owner, tenant or principal occupant of the said building or place of residence.

1. These words were substituted for the words "Member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 165(b)(i) (w.e.f. 23-4- 1999)

457. Obligation to fill up blank schedules and returns. :-

(1) Every person at whose building or place of residence any such blank schedule or return is left shall correctly fill up the same, and affix his signature thereto, and return it, when called upon so to do, to the enumerator or other subordinate officer aforesaid; or, if such person is unable to write, he shall furnish to an enumerator when called upon so to do, the information required for correctly filling up such schedule or return.

(2) Any person who fails to comply with any provision of subsection (1) may be detained in custody until he complies therewith or the requisite information is otherwise obtained.

(3) It shall be the duty of an enumerator, if so required by any person who is unable to write, to fill up any such schedule or return as aforesaid from information supplied by such person.

458. Occupier to amend returns, if found, defective :-

If any, enumerator or other subordinate officer employed in the collection of such schedules or returns shall find any of the same defective or in any respect improperly filled in, he may return the same to the occupant of the building or residence to which the same relates. together with a written notice requiring that the same be duly filled in or amended within a period of forty-eight hours.

459. Military, naval and police officers and certain others, if required, to act as enumerators. :-

(1) Any military or naval officer, or any officer of the Bombay City Police, or any master or person in charge of a merchant vessel, or nacoda or tindalof a vessel or boat, or any person in charge of a lunatic asylum, hospital or prison or of any public or private charitable or a scholastic institution, or any keeper of a hotel or lodging house, shall, if required, act as an enumerator for the purpose of taking account of persons under his command or charge or abiding in any building in his possession, charge or control, on the night immediately preceding the day to be appointed for the making of such enumeration.

(2) Every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the Commissioner in that behalf.

CHAPTER 16A Brihan Mumbai Electric Supply and Transport Undertaking

460. Returns houseless persons. :-

The Commissioner shall obtain, by such means as shall appear to him best adapted for the purpose and as shall be sanctioned by 1 [the Central Government], returns of the particulars required for the purpose of the census with respect to all houseless persons, and all persons who during the said night preceding the day to be

appointed for the making of such enumeration were on outdoor night duty, or for any other reasons were not abiding in any building of which account is to be taken by the enumerators.

1. See now the Motor Vehicles Act, 1988 (59 of 1988).

460A. Management Of Undertaking By General Manager :-

(1) Subject to the superintendence of the [Brihan Mumbai Electric Supply and Transport Committee] and of the Corporation, the General Manager shall manage the [Brihan Mumbai Electric Supply and Transport Undertaking] and perform all acts necessary for the economical

(2) Without prejudice to the generality of the foregoing provision, the General Manager may, with the sanction of the 1[Brihan Mumbai Electric Supply and Transport Committee] and subject to the restrictions and conditions imposed by this Act, 2[* * *] either within or without the city-

(a) construct or acquire, transport undertakings, including tramways, trackless trams and mechanically propelled transport facilities for the conveyance of the public subject to the provision of the Motor Vehicles Act, 1939, 3 or of any other enactment for the time being in force and the conditions of any licence, permit or sanction in favour of the Corporation granted thereunder;

(b) construct or acquire subject to the provisions of the Indian Electricity Act, 1910, or of any other enactment for the time being in force and the conditions of any licence or sanction in favour of the Corporation granted thereunder, undertakings for the generation or supply of electrical energy and for electric traction, and enter into any agreement with any person for the supply of electrical energy to or by the Corporation;

(c) no contract, which will involve an expenditure exceeding rupees ten lakhs but less than rupees two crores shall be made by the General Manager unless the same is approved by the [Brihan Mumbai Electric Supply and Transport Undertaking]. For any contract, which involves an expenditure in excess of rupees two crores the previous approval of the 6[Standing Committee] shall be necessary];

(d) purchase or take on lease or hire or otherwise acquire any moveable or immovable property or rights;

(e) purchase or take on lease or hire or otherwise acquire any moveable or immovable property or rights;

(f) exercise any of the powers of a licensee under the Indian Electricity Act, 1910, or any other enactment for the time being in force relating to the generation or supply of electrical energy which the Corporation is for the time being authorised to exercise and any other powers exercisable by the Corporation under such enactment or under any licence thereunder granted in favour of the Corporation; and (f) exercise any of the powers of a licensee holding a stage carriage permit under Motor Vehicles Act, 1939 4 which the Corporation is for the time being authorised to exercise and any other powers exercisable by the Corporation under said Act in relation to the provision of mechanically propelled transport facilities for the conveyance of the public.

1. Section 460 D and 460 E were deleted by Mah. 10 of 1998, s. 200

2. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

3. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

4. These words were substituted for the words "Member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 166 (w.e.f. 23-4-1999)

460B. Power Of Access To Works :-

(1) Without prejudice to any other powers exercisable by him, the General Manager may for the purpose of inspecting or repairing or executing any work

upon or in connection with the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] -

(a) enter upon and pass through any land within or without the city in whomsoever such land vests;

(b) convey into and through any such land all necessary materials, tools and implements.

(2) In the exercise of the powers conferred by sub-section (1) as little damage as the circumstances permit shall be done and compensation for any damage so done shall be paid by the General Manager.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

460C. Power Of Carrying, Renewing And Repairing Works :-

(1) For the purpose of carrying out, renewing and repairing works in connection with the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] (other than works to which the provision of the Indian Electricity Act, 1910 apply) the General Manager may, either within or without the City, exercise the same powers as under the provision of this Act the Commissioner may exercise for carrying, renewing and repairing drains within the city, subject to the same restrictions as are by this Act imposed on the exercise of such powers:

Provided that in the construction of tramways the General Manager shall not, without the consent of the owner, lay rails over or upon land which is not vested in the Corporation, other than land forming part of a street.

(2) When a work undertaken by the General Manager involves the opening or breaking up of any street, such work shall be commenced and carried out in consultation with the Commissioner or with such officer as the Commissioner may designate in this behalf.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 167(a) (w.e.f. 23-4-1999)

460D. Section 460D :-

1 [* *]

1. These words were added by Mah. 42 of 1976, s. 12(b)

460E. Section 460E :-

1 [* *]

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

460F. Reservation Of Power Over Streets Of Bombay Gas Co. Ltd :-

Nothing in this Chapter shall affect the powers of the Bombay Gas Company Ltd., under the provision of the Gas Companies Act, 1863, to take up any of the streets traversed by the tramway of the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] for the purposes for which they may lawfully take up the same:

Provided that-

(i) as little detriment or inconvenience to the undertaking shall be caused as the circumstances permit;

(ii) before any work whereby traffic on the tramway will be interrupted is commenced, previous notice of not less than eighteen hours shall be given to the General Manager, except in cases of urgency, specifying the time at which the work will be commenced; and

(iii) the Bombay Gas Company Ltd., shall not be liable to pay any compensation for

injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers vested in them as aforesaid.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

460G. Restriction On Building And Other Acts Interfering With Works Of The Undertaking :-

(1) No building, wall or other structure shall be newly erected, and no street or minor railway shall be constructed over, or in such a manner as to interfere with, any work constructed or maintained for the purposes of the 1[Brihan Mumbai Electric Supply and Transport Undertaking] except with the written permission of the General Manager.

(2) The General Manager may, with the approval of the 2 [Brihan Mumbai Electric Supply and Transport Committee], cause any building, wall or other structure erected, or any street or railway constructed, in contravention of sub-section (1) to be removed or otherwise dealt with as he deems fit, and the expenses incurred therefor shall be paid by the person responsible.

1. These words were substituted for the words "Member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 167(b) (w.e.f. 23-4-1999)

2. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9. 1996)

460H. Levy Of Fares And Charges For Transport Services And Penalty For Failure To Pay Proper Fares And Excess Charges :-

(1) Fares and charges shall be leviable for the conveyance of passengers or for the carriage of goods by any means of transport provided by the [Brihan Mumbai Electric Supply and Transport Undertaking] at such rates as may from time to time be fixed subject to the provisions of any enactment for the time being in force and any licence granted to the Corporation thereunder by the [Brihan Mumbai Electric Supply and Transport Committee] with the approval of the Corporation.

Provided that, no fare or charge shall be leviable from the freedom fighters holding identity cards issued by the Central or State Government, or from the freedom fighters holding identity-cum-pass issued by the [Brihan Mumbai Electric Supply and Transport Undertaking]].

(2) A printed list in English, Marathi, Hindustani and Gujarati of all the fares and charges levied for the time being under this section shall be exhibited in a conspicuous place inside each vehicle used by the [Brihan Mumbai Electric Supply and Transport Undertaking] for the conveyance of the public.

(3) The fares and charges levied under this section shall be paid to such persons, or such places upon or near the prescribed route of the transport service, and in such manner and under such regulations, as the [General Manager] shall, by notice to be annexed to the list of fares, appoint.

1(4)

(a) If a passenger travelling or having travelled in any vehicle of the 2[Brihan Mumbai Electric Supply and Transport Undertaking] avoids or attempts to avoid payment of the fare for his journey, at the rates fixed by the Undertaking, or

(b) if a passenger having paid the fare for a certain distance proceeds in such vehicle beyond that distance and does not pay the additional fare for the additional distance or avoids or attempts to avoid such payment, he shall be liable to pay, on demand, by any officer or servant of the Undertaking authorised by the General Manager, an excess charge of ten rupees or such lower sum as the General Manager, with the approval of the 3 [Brihan Mumbai Electric Supply and Transport Committee], may determine in this behalf. The liability to pay this excess charge shall be in addition to his liability to pay the ordinary single fare for the distance he

has travelled. Where there is any doubt as to the stop from which he started, such fare shall be calculated from the stop from which the vehicle originally started. Where any passenger has travelled additional distance, the liability to pay the excess charge shall be in addition to the liability to pay the difference between any fare paid and the fare payable for the additional distance travelled.

(5) If a passenger liable to pay the excess charge with the fare or the additional fare, as the case may be, as provided in sub-section (4) is willing to pay the amount due but unable to pay the same on the spot, he may give his true name and address to the officer or servant of the Undertaking authorised under sub-section (4) and an undertaking in the form settled by the Undertaking to pay the amount due within fifteen days by money order or in cash to the officer of the Undertaking specified in such form. If the passenger fails to pay the amount or any portion thereof accordingly within fifteen days from the date on which he was called upon to pay the amount, he shall, on conviction, be punished with imprisonment for a term which may extend, to one month, or with fine which may extend to two hundred rupees, or with both.

(6) If a passenger liable to pay the excess charge with the fare or the additional fare, as the case may be, as provided in sub-section (4) refuses to pay the amount due or any portion thereof on demand being made therefor by any officer or servant of the Undertaking authorised under subsection (4), he shall, on conviction, be punished with imprisonment for a

(7) It shall be lawful for any authorised officer or servant of the Undertaking and all persons called in by any of them for his assistance, to arrest and hand over to the Officer-in-Charge of the nearest police station any passenger, who commits or attempts to commit contravention of sub-section (4), and who on demand refuses to give his true name and address or where there is reason to believe that the name or address given by him is not correct. Such police officer shall adopt such legal measures as may be necessary to cause that person to be taken before the Metropolitan Magistrate with the least possible delay.

1. These words were substituted for the words "Member-in-charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 168 (w.e.f. 23-4-1999)

2. Section 460J were deleted by Mah. 10 of 1998, s. 204

3. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

460I. Levy Of Charges For Electricity :-

Charges shall be leviable for the supply of electrical energy by the 1[Brihan Mumbai Electric Supply and Transport Undertaking] at such rates as may from time to time be fixed, subject to the provisions of any enactment for the time being in force and of any licence granted to the Corporation thereunder, by the 2 [Brihan Mumbai Electric Supply and Transport Committee] with the approval of the Corporation.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

2. These words were substituted for the words "Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 171) (w.e.f. 23-4-1999)

460J. Section 460J :-

1 [* *].

1. These words were substituted for the words "with the approval of the Member-in-Charge" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 172 (w.e.f. 23-4-1999)

460K. Making Of Contracts :-

With respect to the making of contracts for the purposes of the 1[Brihan Mumbai

Electric Supply and Transport Undertaking] (including contracts relating to the acquisition and disposal of immovable property or any interest therein, or any right thereto) the following provisions shall have effect, namely:-

(a) every such contract shall be made on behalf of the Corporation by the General Manager;

(b) no such contract for any purpose which, in accordance with any provision of this Chapter, the General Manager may not carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first been duly given;

(c) no contract which will involve an expenditure exceeding ten lakhs rupees shall be made by the General Manager unless the same is previously approved by the Brihan Mumbai Electric Supply and Transport Committee:

Provided that, where the previous approval of the Committee is sought for any such contract by the General Manager, the Committee shall consider and dispose of such proposal within thirty days from the date of which the item is first included in the agenda of any meeting of the Committee, failing which, the previous approval shall be deemed to have been given by the Committee for such contract on the last day of the period of thirty days aforesaid. A report to that effect shall be made by the General Manager to the Committee;

(d) every contract made by the General Manager involving an expenditure exceeding one lakh rupees shall be reported by him within fifteen days after the same has been made to the Brihan Mumbai Electric Supply and Transport Committee];

(e) the foregoing provisions of this section shall, as far as may be, apply to every contract which the General Manager shall have occasion to make in the execution of this Act; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation of such contract.

1. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 173(a) (w.e.f. 23-4-1999)

460L. Mode Of Executing Contracts :-

(1) Every contract entered into by the General Manager on behalf of the Corporation for the purposes of the 1[Brihan Mumbai Electric Supply and Transport Undertaking] shall be entered into in such manner and form as would bind the General Manager if such contract were on his own behalf, and may in the like manner and form be varied or discharged:

Provided that every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding 2[ten lakh rupees] or for the disposal of property of the Corporation exceeding 3[twenty- five thousand rupees] in value shall be in writing and shall be signed by the General Manager and countersigned by 4 [two members of the Brihan Mumbai Electric Supply and Transport Committee].

(2) No contract which is not executed in accordance with the provisions of subsection (1) shall be binding upon the Corporation.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 174 (w.e.f. 23-4-1999)

2. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

3. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

4. The words "with the approval of the Member-in-Charge" " were substituted for the words by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 175(a) (w.e.f. 23-4-1999)

460M. Tenders To Be Invited For Contracts Involving Expenditure Exceeding [Rupees Fifty Thousand :-

(1) Except as is hereinafter otherwise provided, the General Manager shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding 1[fifty thousand rupees], give notice by advertisement in local newspapers inviting tenders for such contract.

(2) the General Manager shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provisions of clause (c) of section 460K, any of the tenders so made

Provided that the 2 [Brihan Mumbai Electric Supply and Transport Committee] may authorise the General Manager for reasons which shall be recorded in their proceedings to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

1. Proviso substituted by Mah. 10 of 1998, s. 21 I(b)

2. These words were substituted for the words "ten thousand rupees" by Mah. 10 of 1998, s.211(c)(b)

460N. Security To Be Taken For Performance Of Contracts :-

The General Manager shall require sufficient security for the due performance of every contract into which he enters under section 460M and may, 1 [in his discretion], require security for the due performance of any other contract into which he enters under this Act.

1. These words were substituted for the words "fifty thousand rupees" by Mah. 10 of 1998,s.211 (c)(c).

460O. Acquisition Of Immovable Property By Agreement :-

(1) Whenever it is necessary or expedient for the purposes of the 1[Brihan Mumbai Electric Supply and Transport Undertaking] that the General Manager shall acquire any immovable property, such property may be acquired by the General Manager on behalf of the Corporation by agreement on such terms and at such rates or prices not exceeding such maximum as shall be approved by the 4[Brihan Mumbai Electric Supply and Transport Committee] either general for any class of cases or specially in any particular case.

(2) No contract for the acquisition of immovable property shall be valid, if the price to be paid for such property exceeds five thousand rupees unless and until such contract has been approved by the 2 [Brihan Mumbai Electric Supply and Transport Committee].

1. These words were substituted for the words "three thousand rupees" by Mah. 10 of 1998,s.211 (c)(d)

2. These words were substituted by Mah. 25 of 1996, (w.e.f. 4,9.1996)

460P. Procedure When Immovable Property Cannot Be Acquired By Agreement :-

(1) Whenever the General Manager is unable to acquire any immovable property under section 460O by agreement, the [State] Government may, in its discretion, upon the application of the General 1[the Brihan Mumbai Electric Supply and Transport Committee] and, subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the Corporation as if such property were land needed for the public purpose within the meaning of the Land Acquisition Act, 1894.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to the other provisions of this Act, be forthwith paid by the General Manager and thereupon the said property shall vest in the Corporation for the purposes of the 2 [Brihan Mumbai Electric Supply and

Transport Undertaking].

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 176 (w.e.f. 23-4-1999)
2. These words were substituted by Man. 25 of 1996, (w.e.f. 4.9.1996)

460Q. Provisions Governing Disposal Of Municipal Property

:-

With respect to the disposal of property vesting in the Corporation for the purposes of the 3[Brihan Mumbai Electric Supply and Transport Undertaking] the following provision shall have effect, namely:-

(a) the General Manager may 1[* * *] dispose of by sale, hire, hire-purchase or otherwise, any movable property belonging to the Corporation not exceeding in value, in each instance, two thousand rupees;

(b) the General Manager may grant a lease of any immovable property belonging to the Corporation for any period not exceeding twelve months at a time: 2[Provided that, every lease granted by the General Manager (other than a contract for a monthly tenancy) the annual rent of which exceeds fifteen thousand rupees shall be reported by him, within fifteen days after the same has been granted, to the 3[Brihan Mumbai Electric Supply and Transport Committee];

(c) with the sanction of the [Brihan Mumbai Electric Supply and Transport Committee], the General Manager may dispose of, by sale or otherwise, any movable property belonging to the Corporation of which 4[one lakh rupees], and may grant a lease of any immovable property belonging to the Corporation for any period exceeding one year, or sell or grant a lease in perpetuity of any immovable property belonging to the Corporation the value whereof does not exceed 5[one lakh rupees] or the annual rental whereof does not exceed 6 [ten thousand rupees];

(d) with the sanction of the Corporation, the General Manager may lease, sell or otherwise convey any property, movable or immovable, belonging to the Corporation.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 177(b) (w.e.f. 23-4-1999)
2. These figures and letter were inserted by Mah. 11 of 1964, s.9
3. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)
4. This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999. s. 178 (w.e.f. 23-4-1999)
5. These words were substituted for the words "and in the Brihan Mumbai Electric Supply and Transport Committee" by Mah. 12 of 1990, s. 5(b)
6. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 179(a)(i) (w.e.f. 23-4-1999)

460R. Schedule Of Permanent Officers And Servants To Be Prepared By General Manager And Sanctioned By Brihan Mumbai Electric Supply And Transport Committee :-

(1) The General Manager shall, from time to time, prepare and bring before the [Brihan Mumbai Electric Supply and Transport Committee] a schedule setting forth the designations and grades of the officers and servants, who should, in his opinion, be permanently maintained for the purposes of the [Brihan Mumbai Electric Supply and Transport Undertaking], and the amount and nature of the salaries, fees and allowances which he proposes should be paid to each.

(2) the [Brihan Mumbai Electric Supply and Transport Committee] shall sanction such schedule as it stands or subject to such modifications as they deem expedient: Provided that-

(a) no new permanent post of which the aggregate emoluments exceed four

hundred rupees per mensem shall be created without the sanction of the Corporation; and

(b) the Corporation may by resolution direct that the scales of pay of any specified classes or grades of officers or servants shall not be varied without the approval of the Corporation and, so long as such resolution is in force, the 1 [Brihan Mumbai Electric Supply and Transport Committee] shall not authorise any variation in such scales without such approval.

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 179(a)(ii) (w.e.f. 23-4-1999)

460S. Restriction On Appointment Of Permanent Officers And Servants :-

No permanent officer or servant shall be entertained in any department of the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] unless his office and emoluments are included in the Schedule at the time being in force prepared and sanctioned under section 460R.

1. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 179(b) and (c) (w.e.f. 23-4-1999)

460T. Creation Of Temporary Posts :-

(1) The General Manager may create temporary posts carrying a monthly salary exclusive of allowances not exceeding four hundred rupees per mensem for a period of not more than six months and no such posts shall be continued beyond such period without the previous sanction of the 1 [Brihan Mumbai Electric Supply and Transport Committee].

(2) The 2 [Committee] may create temporary posts carrying a monthly salary exclusive of allowances exceeding four hundred rupees per mensem for a period of not more than six months. The 4 [Committee] shall forthwith report to the Corporation the creation of every such post and no such post shall be continued beyond a period of six months without the previous sanction of the Corporation.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

2. These words were substituted for the words "Brihan Mumbai Electric Supply and Transport Committee" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 215(c) (w.e.f. 23-4-1999)

460U. Power Of Appointment In Whom To Vest :-

Subject to the provisions [80B,] 460R and 460T, the power of appointing municipal officers and servants for the purposes of the [Brihan Mumbai Electric Supply and Transport Undertaking] shall vest in the General Manager 1 [Brihan Mumbai Electric Supply and Transport Committee, if the posts is equivalent to or higher than the post of Secretary set forth in the Schedule sanctioned by the Brihan Mumbai Electric Supply and Transport Committee] and the Corporation under section 460R 2 [and in the General-Manager] in all other cases.

1. Sub-section (2) was substituted by the by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 180 (w.e.f. 23-4-1999)

2. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

460V. Brihan Mumbai Electric Supply And Transport Committee To Frame Service Regulations :-

(1) 1[The Brihan Mumbai Electric Supply and Transport Committee] shall, from time to time, frame regulations applicable to municipal officers and servants appointed under this Chapter in regard to the following matters:-

(a) fixing the amount and the nature of the security to be furnished by any municipal officer or servants from whom it may be deemed expedient to require security;

(b) regulating the grant of leave to municipal officers and servants;

(c) authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

(d) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave;

(e) authorizing the payment of travelling or conveyance allowances to the said officers and servants;

(f) regulating the period of service of all the said officers and servants;

(g) determining the conditions under which the said officers and servants or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances, and under which the widows, or such other relations as may be prescribed, dependent on any of the said officers and servants shall, after their death, receive compassionate allowances and the amount of such pensions, gratuities or compassionate allowances;

(h) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of 1[the Committee], be established by the said officers and servants or to such provident fund, if any, as may be established by [the Committee] for the benefit of the said officers and servants;

(i) in general, prescribing any other conditions of service of the said officers and servants.

(2) No regulation made by the 2[the Brihan Mumbai Electric Supply and Transport Committee] under this section shall have any force or validity unless and until it has been confirmed by the Corporation.

(3) For the purposes of clause (h) of sub-section (I) any fund established prior to the acquisition of any undertaking by the Corporation shall upon the undertaking becoming part of the 3[Brihan Mumbai Electric Supply and Transport Undertaking] be deemed to be established in the manner mentioned in the said clause, if upon the acquisition of such undertaking arrangements are made by the 4 [Brihan Mumbai Electric Supply and Transport Committee] for the continuance of the fund.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 182(a) (w.e.f. 23-4-1999)

3. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 182(a) (w.e.f. 23-4-1999)

4. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 182 (a) (w.e.f. 23-4-1999)

460W. Power Of Suspending, Punishing And Dismissing In Whom To Vest :-

Every municipal officer and servant appointed under the provisions of this Chapter may be fined, reduced, suspended or dismissed for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer or servant is appointed.

460X. Leave Of Absence :-

(1) Subject to the provisions of any regulations made under section 460V, the

General Manager may grant leave of absence to any officer or servant the power to appoint whom vests in him and for a period not exceeding three months to any other officer or servant appointed under the provisions of this Chapter.

1 (2) The Brihan Mumbai Electric Supply and Transport Committee may grant leave of absence for a period exceeding three months to any officer or servant appointed by the Committee

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 183 (w.e.f. 23-4-1999)

460Y. Acting Appointment :-

The appointment of a person to act in the place of an officer or servant appointed under the provisions of this Chapter when absent on leave may be made when necessary, and subject to the regulations aforesaid, by the same authority who grants leave of absence.

460Z. Constitution Of T "Brihan Mumbai Electric Supply And Transport Fund :-

Except as provided in section 460HH all moneys received by or on behalf of the Corporation in respect of the operations of the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] shall be credited to a fund, which shall be called the City of 2[Brihan Mumbai Electric Supply and Transport Fund], and which shall, subject to the provisions herein contained, be held by the Corporation in trust for the purpose of the said undertaking.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 184(a) (w.e.f. 23-4-1999)

460A1. General Manager To Receive Payments On Account Of [Brihan Mumbai Electric Supply And Transport Fund] And To Lodge Them In Bank :-

All moneys payable to credit of the 1[Brihan Mumbai Electric Supply and Transport Fund] shall be received by the General Manager and shall be forthwith paid into 2[the State Bank of India] or such other banks in the city as may be approved by the Corporation from time to time in this behalf to the credit of an account which shall be styled the account of the 1[Brihan Mumbai Electric Supply and Transport Fund]

Provided that the General Manager may, subject to any general or special directions issued by the [Brihan Mumbai Electric Supply and Transport Committee], retain such balances in cash as may be necessary for the operations of the 1 [Brihan Mumbai Electric Supply and Transport Undertaking]

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

2. This proviso was added by Mah. 32 of 1966, s. 6

460B1. How Brihan Mumbai Electric Supply And Transport Fund Shall Be Drawn Against :-

1(1) Subject as hereinafter provided, no payment shall be made by the Bank aforesaid out of the 2[Brihan Mumbai Electric Supply

(a) by the Commissioner, or by the General Manager, or by the Deputy General Manager or in their absence by a municipal officer whose name appears in a list of officers (approved by the 3[Brihan Mumbai Electric Supply and Transport Committee]) authorised to sign cheques; and

(b) by a municipal officer whose name appears in the said list;
Provided that, any cheque for an amount not exceeding two thousand rupees if signed by the Commissioner or by the General Manager or by the Deputy General Manager or by any two officers whose names appear in the said list shall be sufficient authority for the payment of the amount thereof out of the fund by the said Bank.

(2) Payment of any sum due by the Corporation out of the 2[Brihan Mumbai Electric Supply and Transport Fund] in excess of one hundred rupees (or such higher amount as the 4[Brihan Mumbai Electric Supply and Transport Committee] from time to time may fix generally or for any specified class of payments) shall be made by means of a cheque signed as aforesaid, and not in any other way.

(3) Payments not covered by sub-section (2) may be made by the General Manager in cash or cheques for a sum not exceeding five thousand rupees each (or such higher amount as the 5 [the Brihan Mumbai Electric Supply and Transport Committee] may from time to time fix) signed as aforesaid, being drawn from time to time to cover such payments.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 184(a) (w.e.f. 23-4-1999)

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 183 (w.e.f. 23-4-1999)

3. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

4. These words were substituted for the words "members of the Brihan Mumbai Electric Supply and Transport Committee" by Mah. 10 of 1998, s.221

5. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 185 (w.e.f. 23-4-1999)

460C1. Deposit Of Portion Of Brihan Mumbai Electric Supply And Transport Fund May Be Made With Bank Or Agency Out Of Bombay When Convenient :-

Notwithstanding anything contained in Sections 460AA and 460BB, the General Manager may, with the previous approval of the 1 [Brihan Mumbai Electric Supply and Transport Committee], from time to time, remit to and deposit with a bank or other agency at any place beyond the city any portion the 6[Brihan Mumbai Electric Supply and Transport Fund], and any moneys payable to the credit of the Brihan Mumbai Electric Supply and Transport Fund or chargeable there-against, which can, in the opinion of the General Manager, be most conveniently paid into or out of the account of the fund at any such bank or agency may be so paid.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

460D1. Only Sums Covered By Budget To Be Expended From 3 [Brihan Mumbai Electric Supply And Transport Fund :-

(1) Except as hereinafter provided, no payment of any sum shall be made by the General Manager out of the 1[Brihan Mumbai Electric Supply and Transport Fund], unless the expenditure of the same is covered by a current budget grant, and sufficient balance of such budget grant is still available, notwithstanding any reduction or transfer thereof which may have been made under section 133 or 134: Provided that the following items shall be exempted from this prohibition, namely:-

(a) sums of which the expenditure has been sanctioned by the 2[Brihan Mumbai Electric Supply and Transport Committee] under section 132;

(b) repayments of moneys belonging to contractors, consumers or other persons, held in deposit and of moneys collected or credited to the Brihan Mumbai Electric Supply and Transport Fund by mistake;

(c) sums which the General Manager is under the provisions of this Act or any other enactment required or empowered to pay by way of compensation;

- (d) sums payable in any of the circumstances mentioned in clause (f) of section 460GG;
- (e) costs incurred by the General Manager under section 64;
- (f) any sum required to make good to the municipal fund any payment made by the Commissioner out of the municipal fund under the provisions of section 115 for the purpose of the 3[Brihan Mumbai Electric Supply and Transport Undertakings]:
- 4[Provided further that, in the case of an emergent necessity for funds, and upon a representation by 1[the Brihan Mumbai Electric Supply 6 [Brihan Mumbai-Electric Supply and Transport Fund] into the municipal fund such sum as may be specified, as a temporary advance for meeting such emergency.]
- (2) In sub-section (1) budget grant means a budget grant within the meaning of that term as defined in section 130 and includes any sum by which such budget grant may at any time be increased by a transfer under sub-section (1) of section 133.
1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)
 2. Clause (c) was substituted by Mah. 10 of 1998, s. 223
 3. These words "Member-in-Charge" were deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 186 (w.e.f. 23-4-1999)
 4. These words were substituted by Mah. 25 of 1996 (w.e.f. 4.9.1996)
 6. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 187 and 188 (w.e.f. 23-4-1999)

460E1. Drafts On Brihan Munlbai Electric Supply And Transport Fund To Be Checked By Officers Of The Brihan Mumbai Electac Supply And Transport Undertaking :-

The 1 [officers of the Brihan Mumbai Electric Supply and Transport Undertaking] shall not sign any cheque under section 460BB without first satisfying themselves that the sum for which such cheque is drawn is either covered by a budget grant as aforesaid or is an item of one of the excepted descriptions specified in the proviso in sub-section (1) of section 460DD.

1. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 187 and 188 (w.e.f. 23-4-1999)

460F1. Procedure When Money Not Covered By Budget Grant Is Expended Under Clause (C) Or (D) Of The Provisio To Sub-Section (1) Of 460 Dd :-

Whenever any sum is expended by the General Manager under clause (c) or (d) of the proviso to sub-section (1) of section 460DD, he shall forthwith communicate the circumstances to the 1 [Brihan Mumbai Electric Supply and Transport Committee] who shall take such action under sub-section (2) of section 133 or recommend to the Corporation to take such action as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

460G1. Purposes For Which The 2[Brihan Mumbai Electric Supply And Transport Fund] Is To Be Applied :-

The moneys from time to time credited to the 1[Brihan Mumbai Electric Supply and Transport Fund] shall be applied in payment of all sums, charges and costs necessary for the purposes of acquiring, maintaining, operating and improving the 2[Brihan Mumbai Electric Supply and Transport Undertaking] and of carrying into

effect the provisions of this Chapter, or of which the payment shall be duly directed or sanctioned by or under any of the provisions of this Act, inclusive of-

(a) the repayment of the municipal fund of any amount disbursed therefrom for the purposes of the 3[Brihan Mumbai Electric Supply and Transport Undertaking], including the cost of, or reasonable charges for, all supplies provided and services rendered for any such purpose by the Commissioner at the charge of the municipal fund;

(b) the payment to the municipal fund of a sum of money equivalent to the sum which would have been payable under this Act on account of rates, taxes, fees or other imposts in respect of lands and buildings and other properties movable and immovable of the 3[Brihan Mumbai Electric Supply and Transport Undertaking] if the same lands, buildings and other properties had not been vested in the Corporation;

5[(c) the payment of the salary and other allowances of the 3[* * *] General Manager];

(d) the payment of salaries and other allowances of all municipal officers and servants appointed under the provisions of this Chapter and all contributions to provident funds, pensions, gratuities and compassionate allowances payable under the provisions of this Chapter or of any schedule or regulations framed under this Chapter and at the time in force;

(e) the payment of all expenses and costs incurred by the General Manager in the exercise of any power or the discharge of any duty conferred or imposed upon him for the purposes of, or in connection with, the 7[Brihan Mumbai Electric Supply and Transport Undertaking] under provisions of this Act or of any other enactment including moneys which he is required or empowered to pay by way of compensation;

(f) the payment for the purchase of goods and equipment intended for resale or for letting out on hire or hire purchase under the provisions of this Chapter;

(g) the payment of every sum payable under a decree or order of a civil or criminal Court passed against the Corporation or against the Commissioner or the General Manager ex-officio in any proceeding arising out of the acquisition, maintenance or operation of the 8 [Brihan Mumbai Electric Supply and Transport Undertaking], or under a compromise effected under section 517 of any suit and other legal proceeding or claim arising out of such acquisition, maintenance or operation;

(h) every sum required by the provisions of section 460KK or 460LL to be transferred to the municipal fund.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

2. These words were substituted for the words "the Imperial Bank of India" by Mah. 10 of 1998, s. 226(a)

3. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996).

5. These words were substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 189 (w.e.f. 23-4-1999)

7. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996).

8. Clauses (b) to (e) were substituted for clauses (b) and (c) by Bom. 48 of 1950, s. 71

460H1. Institution Of 2[Brihan Mumbai Electric Supply And Transport Staff Benefit Fund :-

Fines collected under section 460W, donations from passengers, and the proceeds of sale of unclaimed lost property recovered from vehicles of the 1[Brihan Mumbai Electric Supply and Transport Undertaking] shall be credited to a separate fund to be called "the 2[Brihan Mumbai Electric Supply and Transport Staff Benefit Fund]" the proceeds of which shall be expended in promoting the well-being of municipal officers and servants appointed under this Chapter and for the payment of compassionate allowances to the widows of such officers and servants who die while in municipal service and to such other relations of the officers and servants as

2 [the Brihan Mumbai Electric Supply and Transport Committee] may from time to time determine.

1. Clauses (b) to (e) were substituted for clauses (b) and (c) by Bom. 48 of 1950, s. 71

2. These words were substituted for the words "the Imperial Bank of India" by Mah. 10 of 1998, s. 227

460I1. Other Special Funds :-

. With the previous approval of the Corporation the 1 [Brihan Mumbai Electric Supply and Transport Committee] may direct that any portion of the [Brihan Mumbai Electric Supply and Transport Fund] may from time to time be credited to a separate heading in the accounts maintained under section 460MM, provided that there shall be credited and debited to such special heading such sums only as shall expressly relate to the object for which a special fund is so created.

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996).

460J1. Investment Of Surplus Moneys :-

(1) Surplus moneys at the credit of the [Brihan Mumbai Electric Supply and Transport Fund] which cannot immediately or at an early date be applied to the purposes of this Act or of any loan raised for 1[Brihan Mumbai Electric Supply and Transport Undertaking] may, from time to time, deposited at interest in 2[the State Bank of India] or such other bank as may have been approved by the Corporation under section 460AA or be invested in public securities.

(2) All surplus moneys which is necessary to keep readily available for application to such purposes, and all surplus moneys which cannot in the opinion of the General Manager, concurred in by the 3[the Brihan Mumbai Electric Supply and Transport Committee], be favourably deposited or invested as aforesaid, may be deposited at interest at any banks or banks in the city which the [the Brihan Mumbai Electric Supply and Transport Committee] may, subject to the control of the Corporation, from time to time select for the purpose.

(3) All such deposits and investments shall be made by the General Manager on behalf of the Corporation, with the sanction of [the Brihan Mumbai Electric Supply and Transport Committee] and, with the like sanction, the General Manager may at any time withdraw any deposit so made or dispose of any securities and re-deposit or reinvest the money so withdrawn, or the proceeds of the disposal of such securities; but no order for making any deposit or investment, withdrawal or disposal under this section shall have any validity unless the same be in writing, signed by three persons in the manner specified in sub-section (1) of section 460BB for signing of cheques.

(4) The loss, if any, arising from any such deposit or investment shall be debited to the 1 [Brihan Mumbai Electric Supply and Transport Fund]

1. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996).

2. These words were substituted by Mah. 25 of (996, (w.e.f. 4.9.1996)

3. These words were substituted for the words "the Imperial Bank of India" by Mah. 10 of 1998, s. 228

460K1. Fixed Annual Payment To Municipal Fund :-

(1) Out of the balance of income over expenditure remaining at credit of the Revenue Account of the [Brihan Mumbai Electric Supply and Transport Fund] at the close of each official year, after defraying or making allowance for all changes, costs and expenses payable out of the revenue of the said fund and allowing for the retention of a cash balance of one lakh of rupees at the least to the credit of the said fund, there shall be transferred to the credit of the municipal fund the amount

provided i sub-section (2):

Provided that if the balance at credit of the said Revenue Account, after allowing for the matter aforesaid, is less than the amount provided in sub-section (2), the whole of such balance shall be transferred to the municipal fund and any deficit shall be made good to the municipal fund out of the Revenue Reserve Fund maintained under section 430LL and if the deficit still remains it shall be made good to the municipal fund out of the balance .available at credit of the Revenue Account of the next or any subsequent year after allowing for all the matters aforesaid and for the amount provided in sub-section (2) in respect of that year.

(2) The amount to be transferred to the municipal fund under subsection (1) shall be:-

(a) in the case of the official year ended on the 31st March 1948 the sum of five lakhs of rupees;

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(b) in the case of the official years ended on the 31st March, 1949 and the 31st March, 1950, in respect of each year, the sum of ten lakhs of rupees;

(c) in the case of the official year ending on the 31st March, 1951, the sum of twenty-five lakh of rupees;

(d) in the case of each subsequent year until the year ending on the 31st March, 1955, at progressively increasing scale, the sum of three lakhs of rupees in addition to the sum paid, in respect of the previous official year;

(e) in the case of the official year ending on the 31st March, 1956 and each subsequent official year, the sum of forty lakhs of rupees].

(3) The sum to be transferred under sub-section (1) shall be paid into 2[the State Bank of India] to the credit of the municipal fund by means of a cheque drawn upon the 3 [Brihan Mumbai Electric Supply and Transport Fund] not later than the thirtieth day of June immediately following the close of the year in which the balance out of which the transfer is due to be made accrues.

1. These words were substituted for the words "Mayor-in-Council" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 190 (w.e.f. 23-4-1999)

2. These words were substituted for the words "the Member-in-Charge" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 191 (a)(i) (w.e.f. 23-4-1999)

3. These words were substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 191 (a)(ii) (w.e.f. 23-4-1999)

460L1. Disposal Of Surplus Balance Of Revenue :-

(1) If after making allowance for the matters mentioned in section 460KK, there remains any further surplus balance of income over expenditure at credit of the Revenue Account of the 1[Brihan Mumbai

(a) 30 per cent of the surplus shall be credited under a separate heading in the accounts maintained under section 460Mamlatdar to a special fund to be calkd Revenue Reserve Fund unless the balance in the said Revenue Reserve Fund, with such credit, would exceed fifty lakh of rupees, in which case only such sum, if any, as is required to bring the balance to fifty lakhs of rupees shall be so credited and the remainder of the surplus, up to 30 per cent thereof, shall be added in equal shares to the amounts credited or transferred under clauses (b), (c) and (d);

(b) 30 per cent of the surplus and such additional amount as may be available under clause (a) shall be credited under a separate heading in the accounts maintained under section 460MM to a special fund called the 2[Brihan Mumbai Electric Supply and Transport Betterment Fund]

(c) 25 per cent of the surplus and such additional amount as may be available under clause (a) shall be transferred to the municipal fund for credit to the Welfare Fund mentioned in section 120A; and

(d) 15 per cent of the surplus and such additional amount as may be available under clause (a) shall be transferred to the municipal fund.

(2) The Revenue Reserve Fund shall be applied to the following purposes:-

(i) in making good or in reduction of any deficit in the amount to be transferred in

any year to the municipal fund under section 460KK; and

(ii) in meeting any charges to be defrayed out of the 3[Brihan Mumbai Electric Supply and Transport Fund] to the extent which the balance available in the fund is insufficient for the purpose.

(3) The 3[Brihan Mumbai Electric Supply and Transport Betterment Fund] shall be applied to improvements in the services, amenities and facilities provided for the public by the 1[Brihan Mumbai Electric Supply and Transport Undertaking].

(4) The amounts to be transferred to the municipal fund under clauses (c) and (d) of sub-section (1) shall be paid into 2 [the State Bank of India] to the credit of the municipal fund by means of cheques drawn upon the [Brihan Mumbai Electric Supply and Transport Fund] not later than

1. These words were substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 191 (a)(ii) (w.e.f. 23-4-1999)

2. These words were substituted by Mah. 25 of 1996, (w.c.f. 4.9.1996)

3. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 191 (b)(ii) (w.e.f. 23-4-1999)

460M1. Accounts Of The 1Brihan Mumbai Electric Supply And Transport Undertaking :-

(1) Accounts of the receipts and expenditure of the corporation on account of the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] and of the properties vested or vesting in the corporation for the purposes of the said undertaking shall be kept in such manner and in such forms as the 1[Brihan Mumbai Electric Supply and Transport Committee] shall from time to time prescribe.

(2) The General Manager shall publish such accounts in the Official Gazette every year.

1. These words were substituted for the original by Bom. 76 of 1948, s. 28

460N1. Preparation Of Annual Administration Report And Statement Of Accounts :-

(1) 1[The General Manager] shall, as soon as may be after each first day of April, have prepared a detailed report of the administration of the 2[Brihan Mumbai Electric Supply and Transport Undertaking] during the previous official year, together with a statement showing the amount of the receipts and disbursements respectively credited and debited to the 1[Brihan Mumbai Electric Supply and Transport Fund] during the said year and the balance at the credit of the fund at the close of the said year as also an account of the balance due on 3[loans and shall submit the same to the Brihan Mumbai Electric Supply and Transport Committee].

(2) After an examination and review of the report and statement by the 4[the Brihan Mumbai Electric Supply and Transport Committee], a copy of the report together with a copy of 5 [the Committee] shall be forwarded to the usual or last known address of each councillor at least eight days previous to the ordinary meeting of the corporation in the next following month of October and copies thereof shall be delivered to any person requiring the same on payment of such reasonable fee for each

1. These words were inserted by Bom. 5 of 1905, s. 56(1)(b)

2. These words were substituted for the original by Bom. 76 of 1948, s. 28

3. The word "new" was repealed by Bom. 5 of 1905, s. 56(1)(a)

4. These words were inserted by Bom. 2 of 1911, s. 17(1)(b)

5. Clause (cc) was inserted by Bom. 5 of 1905, s. 56(3)

460O1. Power Of Police To Regulate Traffic On Streets :-

Nothing in this Chapter shall limit the powers of any police officer to regulate the passage of any traffic along or across any street along or across which any tramways are laid down and the police officer may exercise his authority as well on as off the tramway, and with respect as well to the traffic of the :[Brihan Mumbai Electric Supply and Transport Undertaking] as to the traffic of other persons.

460P1. Right Of Public To Use Streets On Which Tranway Is Laid :-

No carriages with flange-wheels or wheels suitable only to run on a grooved rail, except those belonging to the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] shall be entitled to pass along a tramway, but, subject to this provision, nothing in this Act shall take away or abridge the right of the public to pass along or across every or any part of any street along or across which any tramway is laid whether on or off the tramway, with carriages not having flange-wheels or wheels suitable only to run on a grooved rail.

1. This clause was inserted by Bom. 76 of 1948, s. 28.

CHAPTER 17

By Laws

461. By laws for purposes other than the 1 Brihan Mumbai Electric Supply and Transport Undertaking :-

The corporation may from time to time make by-laws, not inconsistent with this Act, with respect to the following matters, namely:-

(a) regulating in any particular not specifically provided for in this Act, the construction, maintenance and control of drains, ventilation shafts or pipes, cesspools, water closets, privies, latrines, urinals, drainage works of every description, whether belonging to the Corporation or to other persons, municipal water works, private communication pipes and other public streets.

(b) regulating all matters and things connected with the supply and use of water.

(c) the structure of walls, foundations, roofs and chimneys, 1[the number, width and position of staircases, corridors and passages,] 2[the materials, dimensions and strength of floors and staircase and of all scantilings, girders, posts and columns] of 3[* * *] buildings, for securing stability and the prevention of fires 4[and the safety of the inmates in the event of fire] and for purposes of health; 5[(cc) the construction of scaffolding for building operations to secure the safety of the operatives and of the general public;]

(d) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air, and of other means for the adequate ventilation of buildings; 5[

(dd) the provision and maintenance of suitable means of access to building];

(e) the provision and maintenance of house-gullies; 7[(ei) collection, removal and disposal of the solid waste];

(f) the control and supervision of all premises, used for any of the purposes mentioned to section 394, and of all trades and manufactures carried on therein 8[and the prescribing and regulating of the construction, dimensions, ventilation lighting, cleansing, drainage and water supply of any such premises;]

(g) the inspection of milch cattle, and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy men or milk sellers;

(h) securing the cleanliness of milk stores, milk shops and milk vessels used by such persons for containing milk;

(j) requiring notice to be given whenever any milch animal is affected with any contagious disease and prescribing precautions to be These words were substituted for the words "the Mayor-in-Council" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 191 (b)(ii) (w.e.f. 23-4-1999)

(k) securing the efficient inspection of markets and slaughter houses and of shops in which articles intended for human food are kept or sold;

(1) the control and supervision of butchers carrying on business within the city or at a municipal slaughter house outside the city;

(m) regulating the use of any municipal market building, market place or slaughter house or any part thereof;

[(ma) regulating the purchase and sale of, and conditions of trading in, agricultural produce specified in Schedule JJ in municipal and private markets and establishment of markets for such produce;]

(n) controlling and regulating the sanitary condition of market and slaughter house and preventing the exercise of cruelty therein;

9[(nn) controlling and regulating the carriage or removal of fish through public streets by fish vendors;]

10[(o)11(ii) publishing a price current;] 12[(oo) the licensing of handcarts, other than those exempted, from taxation under section 181 or those plying for hire in respect of which licences have been issued under Bombay Act VI of 1863 6[and the seizure and detention of any handcarts that have not been duly licensed;]

(p) regulating the disposal of the dead and the maintenance of all

places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the several classes of the community;

(q) facilitating and securing complete and accurate registration of births and deaths;

(r) the registration of marriages;

(s) facilitating when requisite, the taking of a census and securing accurate returns;

13[(t) regulating delegation of powers and duties of the Standing Committee, the Improvements Committee and the Education Committee to sub-committee];

14[(u) the constitution of Primary Education Consultative Committee appointed under section 39;

(v) determining the constitution, powers and duties of any committee which the Corporation may appoint under section 40 or 41];

[(vv) securing the protection of public parks, gardens and open spaces vested in or under the control of the corporation from injury or misuse, regulating their management and the manner in which they may be used by the public and providing for the proper behaviour of persons in them;]

[(w) the administration and management of the municipal primary schools and the recognising and aiding of schools for primary education;]

[(ww) the conditions subject to which a lease of immovable property may be granted at a concessional rent to a Co-operative Housing Society of municipal officers and servants or a public trust for charitable purposes under clause (dd) of section 92;]

[(x) the management, use and regulation of dwellings constructed for the poorer or working classes under any scheme duly sanctioned under the [City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925;]

(y) the conditions on which loan shall be advanced and the form of application [for loans under section 354W or 354WA]; 12[* * * *];

16[(yy) the officers and servants of the Corporation who shall be eligible for housing loans and the form of application to be made for such loans under section 354 WBB, the adjoining areas for the purpose of that section and the conditions on which such loans may be granted;]

17[(z) carrying out generally the provisions and intentions of this Act; 18 [Provided that in the suburbs [or extended suburbs] or in any part thereof, the corporation shall have the power to impose

under bye-laws such special conditions as it may deem fit to impose in respect of matters falling under clauses (a), (b), (c) and (e) of this section and under section 349E]

- 1 . Clause (t) was substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 192(a) (w.c.f. 23-4-1999)
2. These clauses (u) and (v) were substituted by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 192(b) (w.e.f. 23-4-1999)
3. This clause was inserted by Bom.6 of 1922, s.32
4. Clause (w) was substituted for the original by Bom. 48 of 1950, s.72(3)
5. Clause (ww) was inserted by Mah. 50 of 1981, s. 4(a)
7. These clauses were inserted by Bom. 13 of 1933, s. 36(b)
8. The City of Bombay Improvement Act, 1898, was repealed by the City of Bombay Improvement Trust Transfer Act, 1925, which has been repealed by Bom. 13 of 1933.
9. Clause (yy) was inserted by Mah. 50 of 1981,s. 4(b)
10. Clause (w) was rc-lcttcrd (z) by Bom. 13 of 1933, s.36(c)
11. This proviso was added by Bom. 7 of 1950, s. 6(1)
12. These words were inserted by Bom. 58 of 1956, s. 24
13. This section was inserted by Bom. 48 of 1948, s.42
14. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)
16. These words, figures and letter were substituted for the original words by Bom. 48 of 1948,s.43
17. These words were substituted for the words "five hundred rupees" Mah. 10 of 1998, s. 232(a)
18. These words were substituted for the words "twenty rupees" Mah. 10 of 1998, s.232(b)

461A. By Laws For Purposes Of "[Brihan Mumbai Electric Supply And Transport Undertaking :-

1(1) The corporation may from time to time make bye-laws for regulating matters affecting the conduct of the 2[Brihan Mumbai Electric Supply and Transport Undertaking] not inconsistent with the provisions of this Act or of any other enactment applicable to the undertaking or with the provisions of any rules, bye-laws, regulations, permit or licence issued thereunder.

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

- (a) the rate of speed to be observed in travelling upon the tramways of the 2[Brihan Mumbai Electric Supply and Transport Undertaking];
- (b) the distances at which carriages using the said tramways shall be allowed to follow one after the other;
- (c) the stopping of carriages using the said tramways;
- (d) the hours at which such carriages carrying goods shall run on the tramways;

- (e) the prevention of the commission of any nuisance in or upon any vehicle of the 2[Brihan Mumbai Electric Supply and Transport Undertaking] used for the conveyance of the public or in or against any premises of the undertaking;
- (f) generally for regulating the travelling in or upon vehicle so the 2[Brihan Mumbai Electric Supply and Transport Undertaking] used for the conveyance of passengers; and
- (g) the observance by municipal officers and servants appointed in connection with the 6 [Brihan Mumbai Electric Supply and Transport Undertaking] of sobriety, courtesy and special vigilance to prevent danger to persons or vehicles using the street.
- (3) In respect of any transport undertaking acquired by the corporation, all bye-laws and regulations relating to such undertaking in force immediately before such acquisition shall be deemed to have been made under sub-section (1) and shall continue in force until altered, repealed or amended by the corporation.]
1. The words "made under either of the two last preceding sections" were omitted by the Adaptation of Indian Laws Order in Council.
 2. This words, figures, letter and brackets "in the case of a by-law made under clause (s) of section 461, by the Central Government, and in the case of any other bye-law, by the Provincial Government" by the Adaptation of Indian Laws Order in Council.
 6. These words were substituted for the words " not exceeding one rupee for each copy, as shall be prescribed by the Commissioner" by Mah. 10 of 1998, s. 234.

462. Punishment may be imposed for breach of bye laws. :-

In making a by-law under 1[section 461 or 461A], the corporation may provide that a breach of it shall be punishable with fine which may extend to 2[two thousand rupees] and, in the case of a continuing breach with fine which may extend to 3 [one hundred rupees] for every day, after conviction for the first breach or after receipt of written notice from the Commissioner to discontinue the breach, during which the breach continues.

1. These words were substituted for the words "prescribed by the Mayor-in-Council" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 194) (w.c.f. 23-4-1999)
2. The words "by the Central or the Provincial Government, as the case may be" were substituted for the words "by Government" by the Adaptation of Indian Laws Order in Council.
3. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

463. Bye law to be confirmed by Central or State Government, as the case may be :-

No bye-law 1* * * * shall have any validity unless and until it is confirmed 2[in the case of a bye-law made under clause (s) of section 461, by the Central Government, and in the case of any other bye- law, by the 3 [State] Government]

1. This section was inserted by Bom. 48 of 1948, s.44
2. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)
3. The word "Provincial Government" was substituted for the word "Governor-in- Council" by the Adaptation of Indian Laws in Council

464. Commissioner to draft bye laws before the corporation for their consideration. :-

It shall be the duty of the Commissioner from time to time to lay before the corporation for their consideration a draft of any bye-law 1 [which he shall think] necessary or desirable for the furtherance of any purpose of this Act.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

465. Hearing by corporation of objections to proposed bye laws. :-

(1) No-by-law shall be finally approved by the corporation, unless notice of the intention of the corporation to take the same into their consideration has been given by advertisement in the 1 [Official Gazette] and in the local newspapers six weeks at least before the day of the meeting at which the corporation finally consider such bye-law.

(2) The corporation shall, before approving the bye-law, receive and consider any objection or suggestion which may be made in writing by any person with respect thereto before the day of the said meeting; and any person desiring to object to a bye-law, on giving written notice to the president of the corporation, not less than ten days before the day of the said meeting of the nature of his said objection may, by himself or his counsel, attorney or agent, be heard by the thereon at the said meeting, but not so as that more than one person be heard on the same matter of objection.

1. These words were inserted by Bom. 5 of 1905, s.75(a).

466. Proposed bye laws to be open to public inspection. :-

(1) For one month at least before the day of the meeting at which the corporation finally consider a bye-law, a printed copy of such bye-law shall be kept at the chief municipal office for public inspection

(2) Printed copies of the proposed bye-law shall also be delivered

to any person requiring the same on payment of such fee, 1[not exceeding twenty-five rupees for each copy, as shall be 2 [determined by the Commissioner]].

1. This proviso was substituted for the original proviso by Bom. 5 of 1905.

2. These words were inserted by Bom. 5 of 1905, s. 75(b).

467. Bye laws confirmed by Central or 5[State] Government to be published in the Official Gazette. :-

When any bye-law has been confirmed 1 [by the Central or the [State] Government, as the case may be], it shall be published in the [Official Gazette} and thereupon shall have the force of law.

1. This sub-section was inserted by the Adaptation of Indian Laws in Council.

468. Printed copies of bye laws to be kept on sale. :-

(1) The [Commissioner] shall cause all bye-laws from time to time in force to be printed, and shall cause printed copies thereof to be delivered in any person requiring the same, on payment of [such fee per copy as the Commissioner may, from time to time, fix.]

(2) Notice of the fact of copies of the bye-laws being obtainable at the said price, and of the place where and the person from whom the same are obtainable, shall be given by the Commissioner from time to time by advertisement in the local newspapers.

(3) Boards, with the bye-laws printed thereon or with printed copies of the bye-laws affixed thereto, shall be hung or affixed in some conspicuous part of the municipal office and in such places of public resort, markets, slaughter houses and other works or places affected

469. Boards for exhibiting bye laws to be open to inspection and not to be injured. :-

(1) No, municipal officer or servant shall at any reasonable time prevent the inspection of any board provided by the Commissioner, under the last preceding section by any person desiring to inspect the same.

(2) No person shall, without lawful authority, destroy, pull down, injure or deface any such boards.

469A. Section 469A :-

In regard to bye-laws made or required or proposed to be made under section 461 A, the provisions of sections 466, 468 and 469 shall apply as if for the word "Commissioner" the words "General Manager" has been substituted, and as section 468 had provided for the display of the relevant bye-laws in every vehicle of the 1 [Brihan Mumbai Electric Supply and Transport Undertaking] used for the conveyance of the public.]

1. These words were inserted by Mah. 21 of 1989, s. 54(a)

470. Central or State Government, as the case may be, may repeal bye laws :-

(1) If it shall at any time appear to the [[State] Government] that any bye-laws should be [modified or] repealed either wholly or in part, [it] shall cause [its] reasons for such opinion to be communicated to the corporation and prescribe a reasonable period within which the corporation may make any presentation with regard thereto which they shall think fit.

(2) After receipt and consideration of any such representation or, if in the meantime no representation is received, after the expiry of the prescribed period, the [[State] Government] may at any time, by notification in the [Official Gazette] [modify or] repeal such bye-law either wholly or in part: 2[Provided that no bye-law shall be modified or repealed in part only by the 2[4[State] Government] if, within the period aforesaid the Corporation have objected to a modification or partial repeal thereof.]

(3) The 3[modification or] repeal of a bye-law under sub-section (2) shall take effect from such date as the 2[3[State] Government] shall in the said notification direct or, if no such date is specified from the date of the publication of the said notification in the 5[Official Gazette], except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the local newspapers.

[(5) The powers conferred by this section on the 3 [State] Government, shall, in relation to any bye-law made under clause (s) of section 461, be powers of the Central Government.]

1. These words were inserted by Mah. 21 of 1989, s. 54(a)

2. Section 472 was substituted for the original section by Bom. 5 of 1905,s.58

4. These words were inserted by Mah. 21 of 1989,s.54(a)

CHAPTER 18

Penalties

471. Certain offences punishable with fine. :-

1 Whoever-

(a) contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of the following table, or of any regulation made thereunder; or

(b) fails to comply with requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be punished, for each such offence, with fine which may extend to the amount mentioned in that behalf in the third column of the said table [Subject, however, to a minimum fine which shall not be less than fine mentioned in the fourth column of the said table.]

Explanation:-The entries in the second column of the said table headed "Subject" are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to, the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

1. Section 472 was substituted for the original section by Bom. 5 of 1905,s.58

472. Continuing offences :-

Whoever, after having been convicted, of-Continuing

(a) contravening any provision of any of the sub-sections or clauses mentioned in the first column of the following table, or of

(b) failing to comply with requisition lawfully made upon him under any of the said sections, sub-sections or clauses, continues to contravene the said provision or to neglect to comply with the said requisition or fails to remove or rectify any work or thing done in contravention of the said provision, as the case may be, shall be punished, for each day that he continues so to offence, with fine which may extend to the amount mentioned in that behalf in the third column of the said table [subject, however, to a minimum daily fine which shall not be less than the amount mentioned in the fourth column of the said table.)

Explanation .-The entries in the second column of the said table headed "Subject" are not intended as definitions of the offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to, the

subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

473. Offences punishable under the Penal code :-

Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act herein below in this section mentioned or of any regulation made thereunder, and whoever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be deemed to have committed an offence punishable under the sections of the Indian Penal Code herein below in this section respectively specified as the section of the said Code under which such person shall be punishable, namely:

473A. Punishment For Offences Of Preparing False Election Rolls Or Making False Entries In Ward Lists :-

Any officer or servant of the Corporation who knowingly prepares or makes an entry in the list of persons qualified to be enrolled which is incorrect or false shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine which may extend to Rs. 500.]

1. This word, brackets, letter and figures substituted for the word, brackets, letter and figures "clause (a)(ii)" by Mah. 10 of 1998, s. 238

474. Punishment for acquiring share or interest in contract etc. with the corporation. :-

Any councilor who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under section 16, it is permissible for a councilor to have, without being thereby disqualified for being a councilor, and any commissioner, 1 [Director,] Deputy Commissioner, municipal officer or servant who knowingly acquires directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under clauses (h) and (k) of section 16, it is permissible for a councilor to have, without being thereby disqualified for being a councilor, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code.

1. Section 476AB was inserted by Mah. 32 of 1962, s. 6

474A. Penalty For Obstructing Lawful Exercise Of Powers

Under Chapter V A :-

Any person who obstructs the lawful exercise of any power conferred by or under Chapter V-A, shall, on conviction, be punished with fine which may extend to 1 [two thousand rupees, subject however, to a minimum fine which shall not be less than one thousand rupees.]

1. These words were substituted for the words "One thousand rupees" by Mah. 21 of 1989, s. 60(a)

475. Punishment of offences against section 267. :-

(1) Whoever, contravenes any provision of sub-section (1) of section 267 shall be punished with imprisonment which may extend to 1 [six months, or with fine which may extend to five hundred rupees,] or with both.

(2) When any person is convicted under sub-section (1), the Magistrate who convicts him may order the immediate removal of any building or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

1. These words were substituted for the words "six months and with fine which may extend to one thousand rupees" by Mah. 21 of 1989, s. 60(b)

475A. Punishment For Commencing Work Contrary To Section 347 :-

1 (1) A person to whom notice under section 351 is served shall, on his failure to comply with the said notice,-

(a) for restoration of the foundation, plinth or floor, or structural members or load bearing walls, thereby endangering the life and property of any person occupying, resorting to or passing by such building or any other building or place in neighbourhood thereof, shall be punished with

(b) for removing, pulling down the unauthorized work, shall be punished with imprisonment for a term which shall not be less than one month but which may extend to one year and with a fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees and in the case of continuing offence with a further daily fine which may extend to five hundred rupees.]

1. These words were substituted for the words "one month and such fine shall not be less than two hundred rupees" by Mah. 21 of 1989, s. 60(c)

476. Punishment of offences against section 391. :-

Whoever contravenes the provisions of section 391, whether the person so offending be the owner or occupier of the premises in which a furnace is situated or the agent or some person employed by the owner or occupier for managing the same, shall be punished with fine which may extend, on a first conviction, to 1 [five hundred rupees, subject, however, to a minimum fine which shall not be less than two hundred rupees] and, on a second and subsequent conviction, to a sum equal to double the amount to which it might have extended on the last preceding conviction.

1. Sections 478, 478-1A and 478-1B were substituted for section 478 by Mah. 32 of 1964, s. 18

476A. Punishment For Keeping Certain Dangerous Articles Without Licence To Prohibited Areas :-

1 Whoever contravenes [clause (a)(i) of sub-section (1) of section 394 or section 394A shall, on conviction, be punished with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees; Provided that in the absence of special and adequate reasons to the contrary mentioned in the judgment of Court, such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

476B. Punishment For Forfeiture Of Articles For Contravention Of Section 394(1)(A) Or 394A :-

When a person is convicted of an offence of contravention of any provisions of clause (a) of sub-section (1) of section 394 or of section 394A the Court may, in addition to any punishment it may impose, direct that the articles in respect of which the offence has been committed shall, with the receptacles containing the same, be forfeited.

476C. Punishment For Using Or Permitting To Be Used Without Licence Any Place In Or Without Brihan Mumbai As Slaughter House :-

1. Whoever contravenes any provisions of clause (b) or (c) of sub-section (1) of section 403 shall, on conviction, be punished,

(a) for a first offence, with fine which may extend to 2[two thousand rupees;]

(b) for a second and subsequent offence, with imprisonment for a term which may extend to 3[one year and with fine which may extend to two thousand rupees;]

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than 4 [two months and such fine shall not be less than four hundred rupees].

1. These words were inserted by Mah. 12 of 1993, s. 7

2. Sections 478A and 478B were deleted by Mah. 12 of 1993, s. 8

3. These words were substituted for the words "Mayor-in-Council" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 196 (w.e.f. 23-4-1999)

4. The words, letters and brackets "clauses (d) and (dd)" were substituted for the

word, letter and brackets "clause (d)" by Bom. 32 of 1935, s. 15.

476D. Punishment Importing Cattle, Etc. In Brihan Mumbai

:-

Whoever contravenes any provisions of sub-section (1) of section 412 shall, on conviction, be punished,

(a) for a first offence, with fine which may extend to [rupees one hundred;

(b) for a second and subsequent offence, with imprisonment for a term which may extend to [one year and with fine which may extend to two thousand rupees;]

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than [two months and such fine shall not be less than four hundred rupees].

477. Extent of pena responsibility of agents and trustees of owners. :-

No person, who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to any penalty under this Act for omitting to do and act as the owner of such premises if he shall prove that his default was caused by his not having funds of, or due to the owner sufficient to defray the cost of doing the act required.

478. Punishment for offence relating to octroi :-

1Whoever brings within the limits of 2 [Brihan Mumbai] any articles liable to octroi without the payment of such tax shall, on conviction 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; and the Court trying an offence under this section may, on such conviction, also confiscate the articles in respect of which the offence has been committed.

1. These words were inserted by Bom. 48 of 1948, s. 46(1).

2. These figures, word and letter were substituted for the figures "68" by Bom. 48 of 1948, s. 46(ii).

478A. Penalty For Evasion Of Octroi :-

Where any articles imported into 1[Brihan Mumbai] are liable to the payment of octroi any person who, with the intention of evading payment of the tax introduces or attempts to introduce or causes or abets the introduction of any such articles within the limits of 2[Brihan Mumbai] upon which payment of octroi due on such introduction has neither been made nor tendered, shall, on conviction, be punished with fine 2 [which shall not be less than five times but] which may extend to ten times the amount of the tax payable.

1. These words were inserted by Mah. 53 of 1981. s. 19(b)

2. These words were inserted by Mart. 53 of 1981, s. 19(a)

478B. Penalty For Breach Of Octroi Rules :-

Whoever contravenes any provisions of the rules made under section 195-1B or fails to comply with any requisition lawfully made under any such provision shall, on conviction, be punished, for each such offence, with fine which may extend to two hundred and fifty rupees.]

478C. Section 478C :-

Deleted.

478D. Section 478D :-

Deleted.

CHAPTER 19

Procedure

479. Licences and written permission to specify condition etc. on which they are granted. :-

(1) Whoever it is provided in this Act that a licence or a written permission may be given for any purpose, such licence or written permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted, and shall be given under the signature of the Commissioner or of a municipal officer empowered under section 68 to grant the same.

(2) For every such licence or written permission a fee may be charged on such rate as shall from time to time be fixed by the 1[Commissioner], with the sanction of the corporation.

(3) Subject to the provisions of 2 [clauses (d) and (dangerous disease)] of section 403, any licence or written permission granted under this Act may at any time be suspended or revoked by the Commissioner, if any of its restrictions or conditions is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement or any of the provisions of this Act or of any regulation or

(4) When any such licence or written permission is suspended or revoked or when the period for which the same was granted as expired the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a licence or written permission until the Commissioner's order for suspending or revoking the licence or written permission is canceled by him or until the licence or written permission is renewed, as the case may be.

(5) Every person to whom any such licence or written permission has been granted shall at all reasonable times while such written permission or licence remains in force, if so required by the Commissioner produce such licence or written permission.

1. These words were substituted for the original by Bom. 48 of 1948. s.47

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

480. Public notices how to be made known. :-

Whenever it is provided by this Act that by public notice shall or may be given of anything, such by public notice shall be in writing under the signature of the Commissioner 1[or the General Manager] or a municipal officer empowered under 2 [68 or 68B] to give the same and shall be widely made known in the locality to be affected thereby affixing copies thereof in conspicuous public places within the said locality, or by publishing more of these means and by any other means that he shall think fit.

1. These words were substituted for the words "adult male member" by Mah. 21 of 1989, s. 62

2. Section 485A was inserted by Bom. 34 of 1954, s. 29

481. Advertisements how to be made. :-

Whenever it is provided by this Act that notice shall be given by advertisement in the local newspapers or that a notification or any information shall be published in the local newspapers such notice, notification or information shall be inserted if practicable, in at least two English newspapers, one Marathi newspaper and one Gujarati newspaper published in 1 [Brihan Mumbai].

1. This word was substituted for the word "three" by Bom. 34 of 1954, s. 30

482. Consent etc., of 4[Commissioner, General Manager etc.] may be proved by writtendocument under his signature. :-

Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of [the Commissioner or the General Manager] 1[or the Director] or a Deputy Commissioner or any municipal officer, a written document signed by 2[the

Commissioner or the General Manager] 3 [or the Director] or by such Deputy Commissioner or municipal officer, purporting to convey or set forth his consent, approval, declaration, opinion or satisfaction shall be sufficient evidence of such consent, approval, declaration, opinion or satisfaction.

1. Section 486A was inserted by Bom. 20 of 1952, s. 20

2. This clause was inserted by Bom. 64 of 1953.

3. These brackets and letter were inserted by Bom. 64 of 1953, s. 22

483. Notice, etc. by whom to be served or presented. :-

Notices, bills, schedules, summonses and other such document required by this Act or by any regulation or by law made under this Act to be served upon or issued, or presented or given to any person, shall be served, issued or presented or given by municipal officers or servants or by other person authorised by 1 [the Commissioner or the General Manager] in this behalf.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

484. Service how to be effected on owners of premises and other persons. :-

When any notice, bill, schedule, summons or other such document is, required by this Act, or by any regulation or bye-law made under this Act, to be served upon or issued or presented to any person such service, issue or presentation shall except in the cases otherwise expressly provided for in section 485, be effected-

(a) by giving or tendering to such person the said notice, bill, schedule, summons or other document; or

(b) if such person is not found, by leaving the said notice, bill schedule, summons or other document at his last known place of above in the 1[Brihan Mumbai] or by giving or tendering the same to some 5[adult member] or servant of the family, or

(c) if such person does not reside in 2[Brihan Mumbai] and his address elsewhere is known to 3 [the Commissioner or the General Manager], by forwarding the said notice, bill, schedule, summons or other document to him by post under cover bearing the said address; or

(d) if none of the means aforesaid be available by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land, if any, to which the

same relates.

1. This clause was inserted by Bom. 64 of 1953.
2. Section 486A was inserted by Bom. 20 of 1952, s. 20
3. This portion was added by Bom. 48 of 1948, s. 48(ii)

485. Service on "owner or occupier" or premises how to be effected. :-

When any notice, bill, schedule, summons or other such document is required by this Act, or by any regulation or bye-law under this Act, to be served upon or issued or presented to the owner or occupier of any building or land, shall not be necessary to name the owner or occupier therein, and the service, issue or presentation thereof shall be effected not in accordance with the provisions of the last preceding section but as follows, namely:

- (a) by giving or tendering the said notice, bill, schedule, summons or other documents to the owner or occupier, or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land; or
- (b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some 1 [adult member] or servant of the family of the owner or occupier or any of the owners or occupiers; or
- (c) if none of the means aforesaid be available by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

1. This heading and section 488A was inserted by Bom. 34 of 1954, s.31

485A. Power Of Commissioner To Call For Information As To Ownership Of Premises :-

- (1) To enable him to serve any notice (including any copy of any notice) which he is authorised or required to serve, the Commissioner may require the owner or occupier of any premises, or of any portion thereof to state in writing, within such reasonable period as the Commissioner may prescribe in this behalf, the nature of his interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise.
- (2) Any person required by the Commissioner in pursuance of subsection (1) to give the Commissioner any information shall be bound to comply with the same, and to give true information to the best of his knowledge and belief.]

486. Four last sections inapplicable to Magistrates

summons. :-

Nothing in the [four] last preceding sections applies to any summons issued under this Act by a Magistrate.

486A. Service Of Bills For Taxes By Post :-

1Notwithstanding anything contained in sections 483, 484 and 485, 2(a) a bill for any municipal tax may be served upon the person liable therefor by sending it by ordinary post with a pre-paid letter under a certificate of posting addressed to such person at his last known abode or place of business in 3[Brihan Mumbai], and every bill so sent shall be deemed to have been served on the day following the day upon which such letter was posted and, in proving such service, it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting

4 (b) a notice of demand may be served by registered post

1. This entry was inserted by Bom. 2 of 1911, s.20

2. This entry was substituted for the original by Bom. 1 of 1925, s.28(l)

3. These entries were inserted by Bom.l of 1925, s.28(2)

4. These entries were inserted by Bom.l of 1925, s.28(2)

487. Signature on notices, etc. may be stamped. :-

(1) Every licence, written permission, notice, bill, schedule, summons or other document required by this Act or by any regulation or bye-law framed under this Act to bear the signature of the Commissioner 1[or the General Manager] or of any municipal officer shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner 2[or the General Manager] or of such municipal officer, as the case may be, stamped thereon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the municipal fund under section 113 3[or upon the 4 [Brihan Mumbai Electric Supply and Transport Fund] under section 460BB, or sub-section (3) of section 460KK, or sub-section (4) of section 460LL.

1. This entry was inserted by Bom. 6 of 1913

2. This entry was inserted by Bom. 2 of 1911, s.20

3. These figures, brackets and words were inserted by Bom. 6 of 1913, s. 12

4. These words, brackets and letters were inserted by Mah. 10 of 1998, s.240(a)

488. Commissioner, etc. may enter any premises for purposes of inspection, survey or execution of necessary work. :-

The Commissioner or [or General Manager] may enter into or upon any building or land with or without assistants or workmen, in order to make any inspection or survey or to execute any work which is authorised by this Act or by any regulation or bye-law framed under this Act to be made or executed, or which it is necessary for any of the purposes, or in pursuance of any of the provisions of this Act or of any regulation or bye-law, to make or execute:

Provided that-

(a) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise;

(b) except when it is in this Act otherwise expressly provided, no building which is used as a human dwelling shall be so entered unless with the consent of the occupier thereof, without giving the said occupier not less than twenty-four hours previous written notice of the intention to make such entry, and unless for any sufficient reason it shall be deemed inexpedient to furnish such information, of the purpose thereof;

(c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

(d) 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 premises entered.

488A. Commissioner May Evict Persons Summarily In Certain Cases :-

(1) Where the Commissioner is required by section 354RE, 378C or 378F to cause any building or part thereof to be vacated, he may take or cause to be taken such steps and use or cause to be used such force as may in the opinion of the Commissioner be reasonably necessary therefor.

(2) The Commissioner may, after giving 15 clear days notice to the persons evicted under sub-section (1), remove or cause to be removed or dispose of by public auction any property remaining in such building.

(3) Where property is sold under sub-section (2), the sale proceeds shall, after deducting the expenses of sale, be paid to such person or persons as may appear to the Commissioner to be entitled to the same.]

489. Works, etc. which any person is required to execute may in certain cases be executed by the Commissioner at such persons cost. :-

(1) When any requisition or order is made, by written notice to the Commissioner or by any municipal officer empowered under section 68 in this behalf, under any section, sub-section or clauses of this Act mentioned in sub-section (2), a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect, and if, within

490. Recovery of expenses of removals by the Commissioner under sections 314,315,354 and 380 :-

(1) The expenses incurred by the Commissioner in effecting any removal under section 314 1[or sub-section (3) of section 322] [or sub-section (2) or (3) of section 354A] or, in the event of a written notice issued under sub-section (1) of section 315 of section 354 or 380 not being complied with, under section 489, shall be recoverable by sale of the materials, removed, and if the proceeds of each sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) But, if the expenses of removal are in any case paid before the materials are sold, the Commissioner shall restore the materials to the owner thereof, on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any,

(3) If the materials are not claimed by the owner thereof, they shall be sold by auction or otherwise disposed of as the Commissioner thinks fit 2[if perishable forthwith and if other than perishable,] as soon as conveniently may be after one month from the date of their removal, whether the expenses of the removal have in the meantime been paid or not and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal, be paid to be credit of the municipal fund, and shall be the property of the corporation.

3(4) Notwithstanding anything contained in this Act, when the removal of anything is effected under section 314, the Commissioner may direct that the owner thereof shall, in addition to the expenses incurred in effecting the removal of the thing, pay by way of penalty such sum not exceeding 4 [ten thousand rupees] as the Commissioner may specify, and such sum if not paid, shall be recoverable in the same manner in which the expenses incurred in effecting the removal of the thing are recoverable.

1. These words were substituted for the original by Bom. 48 of

1948

2. These words were substituted for the words "Member-in-charge" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 197(b) (w.c.f. 23-4-1999)

3. These words were substituted for the original by Bom. 76 of 1948, s. 32

4. These words were substituted for the words "Mayor-in-Council" by the Mumbai Corporation (Amendment) Act 27 of 1999, s. 197(b) (w.e.f. 23-4-1999)

491. Expenses recoverable under this Act to be payable on demand; and if not paid on demand may be recovered as an arrear of property tax. :-

(1) Whenever under this Act, or any regulation or bye-law made under this Act, the expenses of any work executed or of any measure taken or thing done by or under the order of the Commissioner 1[or the General Manager] or of any municipal officer empowered under section 2[68 3 [* * *]] in this behalf are payable by any person, the same shall be payable on demand.

(2) If not paid on demand the said expenses shall be recoverable by the Commissioner [or the General Manager] subject to the provisions of sub-section (2) of section 503, by distress and sale of the goods and chatties of the defaulter, as if the amount thereof were a property tax due by the said defaulter.

1. The words were deleted by Bom. 76 of 1948. s. 34

2. These words were substituted for the original by Bom. 76 of 1948, s. 34

3. These words were inserted by Bom. 76 of 1948, s. 35

492. If the defaulter is the owner of premises in respect of which expenses are payable, the occupier to be also liable for payment thereof. :-

(1) If the said expenses are due in respect of some work executed or thing done to, upon or in connection with, some building or land or of some measure taken with respect to some building or land 1[or in respect of some work executed or thing done or measure taken for giving effect to any requisition or order made under sub-section (1-A) of section 377] and the defaulter is the owner of such building or land 2[or of the premises referred to in sub-section (1-A) of section 377, as the case may be,] the amount thereof may be demanded from any person who at any time, before the said

expenses have been paid occupies the said 3[building, land or premises] under the said owner, and in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the goods and chatties of the said person, as if the amount thereof were a property tax due by him:

(2) Provided as follows, namely:

(a) unless the said person neglects or refuses, at the request of the Commissioner 4[or the General Manager], truly to disclose the amount of the rent payable by him in respect of the said 3[building, land or premises] and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any large sum then, up to the time of demand, is payable by him to the owner on account of rent of the said 3[building, land or premises]; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner.

(b) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;

(c) nothing in this section shall affect any agreement made between the said person and the owner of the 7 [building, land or premises] in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

1. These words were substituted for the original by Bom. 76 of 1948, s. 34

2. These words were inserted by Bom. 76 of 1948, s. 36

3. These words were substituted for the original by Bom. 76 of 1948

4. These words were inserted by Bom. 48 of 1948, s. 53

7. Section 499 was substituted for the original by Mah. 21 of 1989, s. 64

493. Commissioner or General Manager may agree to receive payment of expenses in instalments. :-

Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the Commissioner [or the General Manager may, if he thinks fit and with 1[the Standing Committee or the Brihan Mumbai Electric Supply and Transport Committee] take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such

intervals as will secure the payment of the whole amount due, with interest thereon 2 [at such rate not exceeding nine per centum per annum as the [Standing Committee] may fix from time to time] within a period of not more than five years.

1. These words were substituted for the original by Bom. 48 of 1948.

2. These words were substituted for the words "Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 198, (w.e.f. 23-4-1999)

494. What expenses may be declared to be improvement expenses. :-

If the expenses to be recovered have been incurred in respect of any work mentioned in any of the sections 227, clause (c) 230, 231, 233, clause (b), 248, sub-section (1), 257, 272, 274 sub-section (1), 305, 352, sub-section (1), 376, 381 and 405, the Commissioner may, if he thinks fit and with the approval of the Corporation, declare such expenses to be improvement expenses [and on such declaration being made, such expenses, together with interest thereon payable under section 495, shall be a charge on the premises in respect of which or for the benefit of which the expenses have been incurred.]

495. Improvement expenses by whom payable. :-

(1) Improvement expenses [xxx] shall be recoverable in instalment of such amount not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses together with interest thereon at the rate of six per centum per annum within such period not exceeding thirty years as the Commissioner, with the approval of the corporation, may in each case determine.

(2) The said instalments shall be payable by the occupier of the premises [on which the expenses and interest thereon] are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the same, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

496. Proportion of improvement expenses may be deducted from rent. :-

(1) Where the occupier by whom any improvement expenses [together with interest thereon] are paid holds the premises on which the 1[together with interest thereon] are charged, at a rent not less than the rack-rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses [and interest thereon as aforesaid] from the rent payable by him to his landlord, and, if he holds at a rent less than the rack-rent, he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses 2 [and interest thereon as aforesaid] as his rent bears to the rack-rent.

(2) And if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof;

(3) Provided that nothing in this section shall be construed to entitle any person, to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

1. Sub-sections (3) and (4) were added by Mah. 21 of 1989, s. 65

2. These words were inserted by Bom. 48 of 1948. As to appeal to High Court from decision under s. 503 or s. 504, see Act 12 of 1888, s.

497. Redemption of charge on improvement expenses. :-

At any time before the expiration of the period for the payment of the improvement expenses 1[together with interest thereon] the owner or occupier of the premises on which they are charged may redeem such charge by paying to the Commissioner such part of the said expenses 2 [and such interest due, if any, as may not have been already paid or recovered.]

1. As to period of limitation for such appeals, see by Bom. 48 of 1948, s. 5

2. These words were inserted by Bom. 48 of 1948, s. 55.

498. Recovery of instalments due under sections 493 and 495. :-

Any instalment payable under section 493 or section 495, which is not paid when the same becomes due, may be recovered by the Commissioner 1 [or the General Manager] by distress and sale of the goods and chattels of the person by whom it is due as if it were a property tax due by the tax due by the said person.

1. Sub-sections (3) and (4) were added by Mah. 21 of 1989, s. 65

499. In default of owner, the occupier of any premises may execute required work and recover expenses from the owner :-

(1) Whenever, the owner of any building or land fails to execute any work which he is required to execute under this Act or under any regulation or bye-law made under this Act, the occupier, if any, of such building or land shall be entitled to execute such work in the manner set out in sub-section (2).

(2) The occupier or occupiers interested in such work may seek the approval of the Commissioner for executing such work. The Commissioner shall grant the approval unless other measures are taken by him to execute the said work. While granting the approval of the Commissioner shall specify the nature of the work. Upon such approval being granted, the occupiers shall be entitled to execute the said work and the expenses incurred for such work shall for all purposes be binding on the owner. The occupiers shall also be entitled to deduct amount of expenses incurred for such work from the rent which from time to time becomes due by them to the owner or otherwise recover such amount from them:

Provided that, where such work is jointly executed by the occupiers the amount to be deducted or recovered by each occupier shall bear the same proportion as the rent payable by him in respect of his premises bears to the total amount of the expenses incurred for such work:

Provided further that, the total amount so deducted or recoverable shall not exceed the amount of expenses incurred for such work.

Explanation 1: For the purposes of this section, the expression "expenses incurred for such work" means the total cost as certified by the Commissioner or an architect from the panel of architects notified by the State Government for the purposes of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, together with simple interest at ten per cent per annum on such amount calculated from the date of completion of such work till the

date of deduction or recovery thereof.

Explanation II:- The approval of the Commissioner given under this section shall include the right to enter the building or land for the purpose of execution of work.]

500. Limitation of liability of agent or trustee of owner. :-

No person who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3 shall be liable to do anything which is by this Act required to be done by the owner, unless he have sufficient funds of or due to the owner to pay for the same.

501. Compensation for damages may be paid by the Commissioner or General Manager. :-

In any case not otherwise expressly provided for in this Act, the Commissioner [or the General Manager] may, with the previous approval of [Standing Committee or the Brihan Mumbai Electric Supply and Transport Committee, as the case may be] pay compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Act in the Commissioner 1 [or the General Manager] or in any municipal officer or servant.

1. This proviso was added by Bom. 32 of 1935, s. 15

502. Compensation to be paid by offenders against this Act for any damage caused by them. :-

(1) If, on account of any act or omission any person has been convicted of an offence against this Act or against any regulation or bylaw made under this Act, and, by reason of the same act or omission of the said person, damage has occurred to any property of the corporation, compensation shall be paid by the said person for the said damage notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation, payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined, the same shall be recovered under a warrant from the said Magistrate as if it were a fine inflicted by him on the person liable therefore.

503. In cases falling under section 491, disputes to be

determined by the Chief Judge of the Small Cause Court. :-

(1) If, when the Commissioner [or the General Manager] demands payment of any expenses under section 491, his right to demand the same or the amount of the demand is disputed, or if, in the case of expenses incurred by the Commissioner in taking temporary measures under sub-section (2) of section 329, the necessity for such temporary measures is disputed, the Commissioner [or the General Manager, as the case may be], shall refer the case for the determination of the Chief Judge of the Small Cause Court.

(2) Pending the Chief Judges decision the Commissioner [or the General Manager, as the case may be,] shall defer further proceedings for the recovery of the sum claimed by him and, after the decision, shall proceed to recover only such, amount, if any, as shall be thereby ascertained to be due.

(3) The Commissioner or the General Manager may apply to the Chief Judge that, having regard to the amount under dispute, the persons or persons should be directed to deposit in Court one-half of the amount

(4) Where the Chief Judge, after hearing the person or persons concerned, passes an order directing deposit of one-half or such reasonable part of the amount under dispute as he may deem proper by a specified date, it shall be competent for the Commissioner or General Manager to withdraw the same.

504. Amount of expenses or compensation to be determined in all cases of dispute by the Chief Judge of the Small Cause Court. :-

If, in any case not falling under section 491, any person is required by this Act, or by any regulation or by-law framed under this Act, to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided in sections 503 and 515, by the Chief Judge of the Small Cause Court on application being made to him for this purpose at any time within one year from the date when such expenses or compensation first became claimable.]

1. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

505. Expenses or compensation awarded by Chief Judge of

the Small Cause Court to be recovered, if necessary, as if they were due under a decree of the Court. :-

If the amount of any expenses or compensation ascertained in accordance with the last preceding section is not paid by the person liable to pay the same on demand, it shall be recoverable as if the same were due under a decree of the Small Cause Court.

506. Persons liable for expenses or compensation may be issued for recovery thereof. :-

Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due, or the balance of the sum due, as the case may be, may be recovered by a suit brought against the person liable for the same in any Court of competent jurisdiction.

507. Remedy of owner of building or land against occupier who prevents his complying with any provisions of this Act. :-

(1) If the owner of any building or land is prevented by the occupier thereof from complying with any provision of this Act or of any regulation or by-law made under this Act or with any requisition made under this Act or under any such regulation or by-law in respect of such building or land, the owner may apply to the Chief Judge of the Small Cause Court.

(2) The said Chief Judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition and may also, if he thinks fit, direct that the cost of such application and order be paid by the occupier.

(3) After eight days from the date of any such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid as shall be prescribed in the said order; and in the event of his continued refusal so to do, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

508. Power to summon witnesses and compel production documents. :-

(1) For the purposes of any inquiry or proceeding under this Act, the Chief Judge of the Small Cause Court may summon and enforce the attendance of witnesses and compel them to give evidence and compel them to give evidence and compel the production of documents by the same means and, as far as is possible, in the same manner as is provided, in the case of the Small Cause Court by the Presidency Small Cause Courts Act, 1882, and in all matters relating to any such inquiry or proceeding the said Chief Judge shall be guided generally by the provisions of the said Act so far as the same are applicable.

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made fails to appear, notwithstanding that he has been duly summoned for this purpose, the said Chief Judge may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding as determined by the said Chief Judge, shall be payable by such parties and in such proportions as the said Chief Judge shall direct and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Small Cause Court: 1 [Provided that if such inquiry or proceeding relates to a dispute regarding expenses declared to be improvement expenses under section 494, the amount of the costs directed by the said Chief Judge to be paid by the owner or occupier of the premises in respect of which or for the benefit

1. The words "Provincial Government" were substituted for the words "Government in Council" by the Adaptation of Indian Laws Order in Council.

509. Fees in proceedings before the Chief Judge of the Small Cause Court. :-

(1) The 1[2[State] Government], may, from time to time by notification in the 3[Official Gazette], prescribe what fee, if any, shall be paid

(a) on any application, appeal or reference made under this Act to the Chief Judge of the Small Cause Court: and

(b) previous to the issue, in any inquiry or proceeding of the said Chief Judge under this Act, of any summons or other process :

Provided that the fees, if any, prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fees at the time being levied, under the provisions of the Presidency Small Cause Courts Act, 1882, in cases in which the value of the Claim or subject-matter is of like amount.

(2) the 1[2 [State] Government] may from time to time by a like notification determine by what person any fee prescribed under clause (a) shall be payable.

(3) No application, appeal or reference shall be received by the said Chief Judge, until the fee, if any, prescribed therefore under clause (a) has been paid.

1. The words, figure and brackets "and shall be a first charge on and be primarily payable form the fines levied and recovered in respect of the offences referred to in sub-section (1), and the balance of the fines, if any, shall be credited to the municipal fund" were omitted by the Adaptation of Indian Laws Order in Council.

2. This section was substituted for the original section by Bom 2 of 1911, s.21

3. These figures and letter were inserted by Bom. 8 of 1918, s. 20

510. Exemption of poor persons from fees. :-

The Chief Judge of the Small Cause Court may, whenever he thinks fit, receive an application, appeal or reference made under this Act, by or on behalf of a poor person, and may issue process on behalf of any such person without payment or on a part payment of the fees prescribed under section 509.

511. Repayment of half fees on settlement before hearing. :-

Whenever any application, appeal or reference made to the Chief Judge of the Small Cause Court under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the said Chief Judge to the parties by whom the same have been respectively paid.

512. Authority to the Chief Judge of the Small Cause Court to delegate certain powers and to make rules. :-

The Chief Judge of the Small Cause Court may --

(a) delegate, either generally or specially to any other Judge of the

said court, power to receive applications, appeals and references under this Act, and to discharge any other duty in connection with such applications, appeals and references, except the hearing and adjudication thereof;

(b) if for any reason, it shall be necessary so to do in order to secure the disposal of any application made to him under section 20 within the limited period prescribed in the said section, delegate to any other judge of the said Court the hearing and adjudication of the said application;

(c) from time to time, with the approval of [[State] Government], make rules, not inconsistent with this Act, providing for any matter connected with the exercise of the jurisdiction conferred upon him by this Act which is not herein specifically provided for.

513. Cognizance of offences. :-

All offences against this Act, or against any regulation or bylaw made under this Act, whether committed within or without the city, shall be cognizable by a Presidency Magistrate; and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any municipal tax or of his being benefited by the municipal fund. * * * *

513A. Appointment Of Presidency Magistrates :-

(1) [[State] Government].may with the consent of the corporation create one or more posts of Presidency Magistrates for the trial of offences against this Act, or against any regulation or bye-law made thereunder, and may appoint any person to such post and may also appoint such ministerial officers for the Court of any such Magistrate as they may think necessary : Provided that notwithstanding the appointment of one or more Presidency Magistrates under this section, it shall be open to the Chief

(2) Such Magistrate or Magistrates and their establishments shall be paid such salary, pension, leave allowances and other allowances as may, from time to time, be fixed by 1[the 2[State] Government]

(3) The amounts of the salary, pension, leave allowances and other allowances as fixed under sub-section (2), together with all other incidental charges shall be reimbursed to 2[the 3[State] Government] by the corporation: * * * *

Provided that 1[the 2[State] Government] may. with the concurrence of the corporation, direct that in lieu of the amounts payable under this section, the corporation shall pay to 1[the 2[State] Government] annually, on such date as may be fixed by 1[the 2[State] Government] in this behalf, such sum based on the average of the total amounts recovered by 1[the 2[State] Government] from the corporation under this section during the three years immediately preceding the date of such, direction as may be determined by 1[the 2 [State] Government] in this behalf.]

1. As to appeal to High Court from order under s. 515, see Act 12 of 1888, s. 4. As to period of limitation for such appeals by Bom. 5 of 1938, s. 5.

2. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996)

514. limitation of time within which complaints of offences punishable under this Act shall be entertained. :-

1No person shall be liable to punishment for any offence made punishable by this Act, unless complaint of such offence is made before a Presidency Magistrate within the time hereinafter prescribed in that behalf, namely:

(a) if the offence be against the provisions of section 155, within six months next after the commission of such offence:

(b) if the offence be against the provisions of sections 3[223, 229A, 240, 258] 272(1), 2[272 (5), 274 (1), 274(1 A)], 281, 284, [2878(1), 3 [* * or 390, [or any bye-laws framed under section 461(b),] within three months next after the commission or discovery of such offence.

(c) if the offence be against any other provision of this Act, within three months next after the commission of such offence.]

1. As to appeal to High Court from order under s. 515, see Act 12 of 1888, s. 4. As to period of limitation for such appeals by Bom. 5 of 1938, s. 5.

2. This section was inserted by Mah. 32 of 1964, s. 19.

3. Section 516AA was inserted by Mah. 32 of 1962, s. 7.

515. Complaint concerning nuisances. :-

.1 (1) Any person who resides in 3[Brihan Mumbai] may complain to a Presidency Magistrate of the existence of any nuisance, or that in the exercise of any power conferred by sections 224, 244, 245, 246 or 367, more than the least practicable nuisance has been created.

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may if he sees fit, direct the Commissioner -

(a) to put in force any of the provision of this Act or to take such measures, as to such Magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance;

(b) to pay to the complainant such reasonable costs of and relating to the said complaint and order as the said Magistrate shall determine, inclusive of compensation for the complainants loss of time in prosecuting such complaint.

(3) It shall be incumbent on the Commissioner to obey every such order.

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by sections 224, 244, 245, 246 or 367 to recover damages for the same.

1. Section 516AAA was inserted by Mah. 51 of 1975, s. 20.

515A. Special Provision Regarding Fines And Other Punishments Under This Act :-

1 Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers specified in that section.

1. Section 516A was inserted by Bom. 64 of 1953, s. 28

516. Offenders against this Act may in certain cases be arrested by police officers :-

.

(1) Any police officer may arrest any person who commits in his view any offence against this Act or against any regulation or bye-law made under this Act, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

1 (2) No person so arrested shall be detained in custody after his true name and address are ascertained or without the order of nearest Magistrate, for a longer period than twenty-four hours from the time of arrest exclusive of the time necessary for the journey from the place of arrest to the Court of such Magistrate.

1 . These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 199 (a) (w.c.f. 23-4-1999)

516A. Offences Under Section 313A And 313B To Be Cognizable And Bailable :-

The offence under sections 313, 313A, or 313B shall be cognizable and bailable

516B. Offences Under Section 394 And 394A Be Cognizable And Under Clause (A)(I) Of Sub Section (I) Of Section 394

And Section 394 A To Be Non Bailable :-

(1) The offence of contravention of any provisions of section 394 or 394A shall be cognizable. The offence of contravention of clause (a) (i) of sub-section (1) of section 394 or section 394A shall be non-bailable.]

516C. Offences Under Section 403(1)(B)Or(C)To Be Cognizable :-

The offence under Clause (b) or (c) of sub-section (1) of section 403 shall be cognizable.]

517. Provisions respecting institution, etc of civil and criminal actions and obtaining legal advice. :-

(1) The Commissioner may

(a) take, or withdraw from, proceedings against any person who is charged with:

(i) any offence against this Act;

(ii) any offence which affects or is likely to affect any property or interest of the corporation or the due administration of this Act;

(iii) committing any nuisance whatsoever;

(b) compound any offence against this Act, which under the law at the time in force may legally be compounded;

(c) defend any election petition brought under section 33;

(d) defend, admit or compromise any appeal against a rateable value or tax brought under section 217;

(e) take, withdraw from, or compromise, proceedings under section 502, sub-section (2), 503, 504 and 505, for the recovery of expenses or compensation claimed to be due to the corporation;

(f) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable under a contract entered into with such person by the Commissioner, or, with the approval of 1[the Standing Committee], any such claim for any sum exceeding five hundred rupees;

(g) defend any suit or other legal proceeding brought against the corporation or against the Commissioner or a Deputy Commissioner or a municipal officer or servant in respect of anything done or omitted to be done by them, respectively, in their official capacity;

(h) with the approval of 2[the Standing Committee], admit or compromise any claim suit or legal proceeding brought against the corporation or against the Commissioner or a Deputy Commissioner

or a municipal officer or servant, in respect of anything done or omitted to be done as aforesaid;

(j) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the corporation or of the Commissioner;

(k) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain or as he may be desired by 2[the Standing Committee] to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal officer or servant:

(2) Provided that the Commissioner shall not defend any suit or legal proceeding under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the corporation shall determine to have instituted and prosecuted.

3[(3) In relation to legal proceedings arising out of the acquisition, extension, administration, operation and maintenance of the 4[Brihan Mumbai Electric Supply and Transport Undertaking] (excepting proceedings, if any, arising out of the acquisition made with effect from the 7th August 1947 of the said undertaking from the Bombay Electric Supply and Tramways Company Limited), the provisions of sub-sections (1) and (2) shall apply as if for the words "the Commissioner " the words "the General Manager" 5[and for the word "Standing Committee" the word "Brihan Mumbai Electric Supply and Transport Committee" had respectively been substituted.]

6 [(4) In regard to legal proceedings arising out of the corporations powers and duties under clause (q) of section 61, the provisions of subsection (1), shall apply as if for the words "Standing Committee" the words "Education Committee" had been substituted.]

1 . These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 199(a), (w.c.f. 23-4-1999)

2. These figures and letters were inserted by Bom. 3 of 1907, s. 21.

3. The figures and letter "62E" were inserted by Bom. 12 of 1925, s. 4

4. These figures and letter were inserted by Bom. 5 of 1948, s. 46.
5. These figures, word and letter were substituted for the original word and figures "and 438" by Bom. 10 of 1930, s. 5.
6. The words "Provincial Government" were substituted for the words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

CHAPTER 20

Control

518. Power to 7[8[Statc]Government], to provide for performance o duties in default of any municipal authority.

:-

(1) If, upon complaint being made to 1[it] and after such inquiry as 2[it] thinks fit to make, it shall at any time appear to the 3[[State] Government] that any of the provisions of sections 61, 62, 4[62C, 62D, 5[62E], 89F,] 134, 225, 6 [381, 381A] 434, [438 and 513A] have not been or are not being duly carried out or enforced, the [[State]0ovemment] may make an order prescribing a period within which such provision shall be carried out or enforced.

(2) Provided that, except in any case which appears to the 5[6[State] Government] to be one of emergency, no such order shall be made until after the expiry of one month from the date of service of a written notice on the Corporation, and if the 5[6[State] Government] shall think fit, on the Commissioner, requiring cause to be shown why such order should not be made, nor until the cause, if any so shown has been considered by the 2[3 [State] Government].

(3) If, within the period prescribed in an order made under subsection (1) the provision is not carried out or enforced, the 5[6[State] Government] may appoint some person to carry out or enforce the same and may direct that the expense of carrying out or enforcing such provision together with such reasonable remuneration to the persons carrying out or enforcing the same as the 5[6[State] Government] shall determine and the cost of the proceedings under this section shall be paid out of the municipal fund.

1 . This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

2. These figures and letters were inserted by Bom. 3 of 1907, s. 21.

3. The words "the Provincial Government" were substituted for the

words "Governor-in- Council" by the Adaptation of Indian Laws Order in Council.

4. The words "Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

5. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

6. The heading and section 520A were inserted by Mah, 32 of 1966, s. 7.

519. Power to 6[State] Government to enforce repair, etc., of vchar water works. :-

(1) If, from the report of any person appointed by 7[the 6[State] Government] under section 264 to inspect the Vehar water works, it shall appear to the [the 6[State]Government] that any portion of the said water works is not in a sound and effective condition, 7[the 6[State] Government] may, by notice under the signature of a Secretary to 2[the3[State]Government], require that the said portion of the said works be repaired, improved or otherwise rendered sound and effective, within a reasonable time to be prescribed in the notice.

(2) The said notice shall be addressed to the corporation and to the Commissioner and it shall be incumbent on the corporation and on the Commissioner , within the limits of their respective powers, to give effect 1 [the [State] Government], may cause the required work to be done and may direct that the expenses thereof shall be paid by the Commissioner.

1. Section 520B was inserted by Mah. 4 of 1973, s. 5

520. Expenses of measures enforced under section 518 and 519 how to be recovered. :-

(1) When any such order as is mentioned in sub-section (3) of section 518 or in sub-section (2) of section 519 shall have been made, the corporation shall cause to be paid to 1[the 2[State] Government] the sum or sums of money of which payment shall from time to time be required, in pursuance of the said order, in any requisition signed by a Secretary to 1[the [State] Government]

(2) And if, within fourteen days from the delivery of any such requisition, the same is not complied with, 1 [the [State] Government] may, by a written order signed by one of their Secretaries, authorise and direct some person to receive from the

bank in which the municipal fund is lodged the sum or sums mentioned in the said order.

(3) The said bank shall, upon production of the said written order, forthwith pay the said sum or sums to the persons therein authorised to receive the same and the said written order shall be a sufficient discharge to the said bank from all liability to the corporation in respect of any sum or sums so paid by it out of the municipal fund. [Emergency Provisions for water

1. Section 520B was inserted by Mah. 4 of 1973, s. 5

520A. Power Of State Government To Issue Directions To Corporation In Emergency Arising Out Of Scarcity Of Water

:-

(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, if the State Government is of opinion that because of acute scarcity of water, it is necessary or expedient so to do, for securing the maintenance or equitable distribution of water supply available from any municipal water works or any other water works, for drinking and other domestic use of the inhabitants receiving such water supply it may, by order published in the Official Gazette, and in such other manner as the State Government thinks fit, direct the corporation or any other person in charge of the water works to regulate or prohibit the supply of water, from any such municipal water works or any other water works to such undertakings or class of undertakings receiving such water supply, on such day or days, or during such time in any day or days, and during such period or periods, as may be specified in the order.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide

(a) that any undertaking, or any section thereof, shall not take water on any day or days, or during the time or times in any day or days, or during the period or periods, specified in the order;

(b) for the exemption of any undertakings or any sections thereof, from the provisions of the order, regard being had to the nature of the undertakings such as, undertakings engaged for the purposes of the defence of the country or undertakings engaged in work which for technical reasons must be carried out continuously or cannot be interrupted.

(c) for any incidental, consequential or supplementary matters (including provision for entry upon, and the inspection of, any premises) which the State Government thinks necessary or expedient to give effect to the purposes aforesaid.

Explanation-- In this section, "undertaking" means any undertaking by way of any industry, trade or business, or building construction.

(3)

(a) If any person fails to comply with, or contravenes, any of the provisions of any order made under this section, he shall be guilty of an offence and, without prejudice to any other penalties to which he may be liable under this Act or any other law for the time being in force, he shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine not exceeding rupees one thousand, or with both.

(b) Where an offence under this section has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person

liable to any punishment if he proves that the offence was committed, without his knowledge or that he exercised all due diligence to prevent such offence.

(c) Notwithstanding anything contained in this sub-section, where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect, on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall 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 sub-section -

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

(ii) "director" in relation to a firm means a partner in the firm.

(4) No suit or prosecution or other legal proceedings, shall lie against any person for anything in good faith done in pursuance of the provisions of this section; and no suit or other legal proceedings shall lie against the government or any local authority, for any damage caused or likely to be caused by anything in good faith done in pursuance of the provisions of this section]

520B. Power Of State Government To Suspend Or Rescind Any Resolution Or Order Etc., Of Corporation Or Other Authority In Certain Cases :-

. 1 (1) If the State Government is of opinion that the execution of any resolution or order of the corporation or any other authority or that the doing, of any act which is about to be done or is being done by or on behalf of the corporation or such authority is in contravention of or in excess of the powers conferred by or under this Act or any other law for the time being in force, or is likely to lead to abuse or misuse, of or to cause waste, of municipal fund against the interests of the public; the State Government may, by order in writing, suspend the execution of such resolution or order or prohibit the doing of any such act, for such period or periods as it may specify therein. A copy of such order shall be sent forthwith by the State Government to the corporation and to the Commissioner or the General Manager.

(2) On receipt of a copy of the order as aforesaid, the corporation or Commissioner or General Manager may, if it or he thinks fit, make a representation to the State Government against the said order.

(3) The State Government may after considering any representation received from the corporation or Commissioner or General Manager and where no such representation is received within a period of thirty days, either cancel, modify or confirm the order made by it under sub-section (1) or take such other action in respect of the matter as may in its opinion be just or expedient, having regard to all the circumstances of the case. Where any order made under sub-section (1) is confirmed, the State Government may direct that the resolution or order of the corporation or its authority in respect of which the suspension order was made under sub-section (1), shall be deemed to be rescinded.

(4) Where any order is made by the State Government under subsection (3), it shall be the duty of every Councillor and the corporation and any other authority or officer concerned to comply with such order.

1. Section 520C was inserted by Mah. 21 of 1989, s. 66.

520C. Power To Issue Directions :-

1 (1) Notwithstanding anything contained in section 520B or any other provision of this Act, it shall be lawful for the State Government to issue directions to the corporation [or any officer of the corporation, requiring him] to do a thing or refrain from doing a thing in public interest

Provided that, the State Government shall, before issuing a direction under this section, give an opportunity to the corporation to make a representation within thirty days. If the corporation fails to represent within thirty days or, after having represented, the State Government, on considering the representation, is of the opinion that the public interest demands issuing of such a direction, the State Government shall issue necessary direction; and the directive so issued shall be final and binding on the corporation and the Councillors

(2) 1. The words "the Mayor-in-Council" deleted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 202, (w.e.f. 23-4-1999)

520D. Removal Of Doubt :-

For the removal of doubt it is hereby declared that, notwithstanding anything contained in this Act as amended by the Mumbai Municipal Corporation (Amendment) Act, 1998 and the Mumbai Municipal Corporation (Second Amendment) Act, 1998, the corporation shall not, at any time, be competent to pass any resolution or take any action or to do anything which may result in or have the effect of giving independent status quo or separation of, the City of Mumbai from the State of Maharashtra. Any such resolution, moved or action initiated or anything done or proposed to be done which would result in or have effect of, such separation shall be illegal and void ab initio.]

520E. Power To Dissolve Corporation :-

If, in the opinion of the State Government, -

- (a) the corporation is not competent to perform the duties assigned to it by or under this Act or any other law for the time being in force; or
- (b) the Corporation persistently makes default in the performance of such duties, or in complying with the lawful directions or orders issued by
- (c) the Corporation exceeds or abuses its powers; or
- (d) a situation has arisen in which the administration of the corporation cannot be carried out in accordance with the provisions of this Act; or
- (e) the financial position and the credit of the corporation is seriously threatened, the State Government may, after giving the corporation a reasonable opportunity of being heard, by an order published in the Official Gazette, stating the reasons therefor, dissolve the corporation.

520F. Consequences Of Dissolution :-

When the corporation is dissolved under section 520D, the following consequences shall ensue, namely :--

- (a) all Councillors of the corporation shall, as from the date, specified in the order of dissolution, vacate their offices as such Councillors;
- (b) all the powers and functions vesting in or exercisable by the corporation, 1 [* * *], the Mayor, the various Committees and the Councillors, under this Act or any other law for the time being in force shall vest in and be exercisable by such Government officer or officers, as the State Government, from time to time, appoints in this behalf, and such officer or officers shall receive such remuneration from the municipal fund as the State Government may, from time to time, determine;
- (c) all property vested in the corporation shall, during the period of dissolution, vest in the State Government.

1. These words were substituted for the words "and Deputy Commissioner " by Mah. 53 of 1981, s. 20.

520G. Reconstruction Of Corporation After Dissolution :-

When the corporation is dissolved under section 520D, general election shall be held to constitute the corporation on such date as may be specified by the State Election Commissioner:

Provided that, the election to constitute the corporation shall be completed before the expiration of the period of six months from the date of dissolution of the corporation.]

CHAPTER 21

Supplemental Provisions.

521. Councillors, etc., to be deemed to be public servants :-

The Commissioner 1 [Director, Deputy Commissioner,] [General Manager] and every councillor and every municipal officer or servant appointed under this Act [and every person appointed to make a valuation under sub-section (1) of section 218B], and every contractor or agent for the collection of any municipal tax and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

1. These words were inserted by Bom. 48 of 1950, s. 76(1)

522. Co operation of Police :-

(1) The Police Commissioner shall, as far as may be, cooperate, by himself and through his subordinates, with the Commissioner [and the General Manager] for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in 5[Brihan Mumbai]

(2) It shall be the duty of every police officer in [Brihan Mumbai] to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any regulation by by-law made under this Act, and to assist the [Commissioner, the General Manager] or any municipal officer or servant, reasonably demanding his aid.for the lawful exercise of any power vesting in the [Commissioner , the General Manager] or in such municipal officer or servant under this Act.

522A. Assistance For The Recovery Of Rent On Land In The Suburbs Or Extended Suburbs :-

For the purpose of the recovery of any amount due on account of rent from any person to the corporation in respect of any land in the suburbs [or extended suburbs] vested in or otherwise held by the corporation, the corporation shall be

deemed to be a superior holder and every such person an inferior holder of such land within the meaning of sections 86 and 87 of the Bombay Land Revenue Code, 1879] ; and the corporation as superior holder shall be entitled, for the recovery of such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent of land revenue payable to him by an inferior holder.

523. Computation of time. :-

(1) In computing any limited time before or from or after any date or event which is appointed or allowed by or under this Act for the doing of any act or the taking of any proceeding, such time shall be taken as exclusive of the day of that date or of the happening of that event and as ending or commencing, as the case may be, at the end of the last preceding day, or the beginning of the next following day.

(2) Where the limited time is to be computed from or after any date or event, the act or proceeding shall be done or taken at the latest on the last day of the limited time computed as aforesaid, unless the last day is a Sunday or a public holiday or unless, in the case of a proceeding to be taken before the Chief Judge of the Small Cause Court, the said Court is closed on such last day, in which events any act or proceeding shall be deemed to be done or taken in due time if it is done or taken on the next day after such Sunday, or after the close of such public holiday or on the first day when such Court reopens, as the case may be.

(3) Where by this Act any act or proceeding is directed or allowed to be done or taken on a certain day and such day happens to be a Sunday or a public holiday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day after such Sunday or after the close of such public holiday.

524. Measurement of distances. :-

The distances mentioned in this Act shall be measured in a straight line of a horizontal plane

525. Informalities and errors in assessments, etc., not to be deemed to invalidated such assessment, etc. :-

(1) Any informality, clerical error, omission or other defect in any assessment made or in any distress levied or any notice, bill, schedule, summons or other document issued under this Act, or

under any regulation or by-law 1 [or rule] made under this Act, may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, notice, bill, schedule, summons, or other document invalid or illegal, if the provisions of this Act and of the regulations, *1[by-laws and rules] made hereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

1. These words were substituted for the words " and by-laws" by Bom. 48 of 1950, s. 76(2).,

526. Power to [State] Government to call for extracts from proceedings, etc. :-

1The 2[3 [State] Government] may at any time call upon the corporation to furnish [it] with any extract from any proceedings of the corporation, of Standing Committee or of any committee constituted under this Act or from any record under the control of the corporation and with any statistics concerning or connected with the administration of this Act; and the corporation shall furnish the same without unreasonable delay.

1. The word "previous" was inserted by Bom. 19 of 1930, s. 20.

2. These words were substituted for the words "the Mayor-in-Council" by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s. 203 (w.e.f. 23-4-1999)

3. These words were substituted by Mah. 25 of 1996, (w.e.f. 4.9.1996)

527. Protection of persons acting under this Act against suits. :-

(1) No suit shall be instituted against the corporation or against [the Commissioner , the General Manager] [or the Director] or a Deputy Commissioner, or against any municipal officer or servant, in respect of any act done in pursuance or execution or intended execution of this Act or in respect of any alleged neglect or default in the execution of this Act

(a) until the expiration of one month next after notice in writing has been, in the case of the corporation, left at the chief municipal office and, in the case of [the Commissioner, the General Manager]

[or the Director] or of a Deputy Municipal Commissioner or of a municipal officer or servant delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney or agent, if any, for the purpose of such suit; nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit -

(c) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid;

(d) the claim, if it be for damages shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into Court with costs.

(3) Where the defendant in any suit is a municipal officer or servant, payment of the sum or of any part of any sum payable by him in or in consequences of the suit whether in respect of cost, charges, expenses, compensation for damages or otherwise, may be made, with the 1[previous] sanction of 2[the Standing Committee or the Brihan Mumbai Electric Supply and Transport Committee], from the municipal fund or the 2 [Brihan Mumbai Electric Supply and Transport Fund], as the case may be].

1. Section 527A was inserted by Bom. 77 of 1950, s. 33.

2. Section 528 was deleted by Mah. 10 of 1998, s.250.

527A. Savings In Respect Of Certain Provisions Of Bombay Land Revenue Code. 1879 :-

Notwithstanding the provisions of sections 48, 65, 66 and 67 of the Bombay Land Revenue Code, 1879 -

(1) the use of any land in the suburbs [or extended suburbs] for any purpose to which it may lawfully be put under the provisions of this Act shall not be prohibited in exercise of the powers conferred by or under the said Code;

(2) it shall be sufficient for any occupant of land in the suburbs [or extended suburbs] assessed or held for the purpose of agriculture to show to the satisfaction of the Collector that he has complied with all the requirements of this Act and the bye-laws made thereunder to entitle such occupant to permission under section 65 of the said code subject to the condition of the payment of altered assessment and fine, if any, for the use of the holding or part thereof for any purpose unconnected with agriculture.

528. Section 528 :-

SCHEDULE 1

SCHEDULE A

(See section 2)

Enactments Repealed

No. and Year of Act	Title or Subject	Extent of Repeal
Act of the Governor General in Council		
XLVIII of 1860	An Act to amend Act XIII of 1 856	Section 17, as amended by Bombay Act IV of 1882 and clause (16) of section 19.
Act of the Governor of Bombay		
VI of 1863	An Act for the regulation of public conveyances in the towns, suburbs and harbour of Bombay	In section 7, the words "by the Commissioner of Police to the credit of the Municipal Commissioners of Bombay and"
III of 1870	An Act to secure the payment to Government of certain sums of money by the corporation of the Justices of the Peace for the City of Bombay.	The whole.
III of 1872	The Bombay Municipal Act of 1 872	The whole.
IV of 1878	The Bombay Municipal Act Amendment and Continuance Act, 1878.	The whole.
VI of 1878	An Act to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.	The whole.
II of 1880	The Bombay Municipalitys Consolidated Loan, Act 1880.	The whole.
II of 1881	An Act to confirm the jurisdiction of Presidency Magistrates in municipal cases.	The whole.

No. and Year of Act	Title or Subject	Extent of Repeal
	1872 and 1878	
II of 1885	An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Funds of the Bombay International Exhibition, and for other purposes.	So much as has not already been repealed.
III of 1885	An Act to provide for the occasional appointment of a Deputy Municipal Commissioner for the City of Bombay	The whole.

I of 1886	An Act to remove certain doubts in the construction of section 9B of the Bombay Municipal Acts of 1872 and 1878.	The whole.
II of 1886	An Act to enable the Municipal Corporation of the City of Bombay to raise increased revenue from town duties.	The whole.

SCHEDULE 2

SCHEDULE B

Form of Debentures SCHEDULE B

(See section 24)

[Division of the city into words.]

Deleted by Mah. 8 of 1965, s. 19

SCHEDULE 3

SCHEDULE C

(See section 110)

Form of Debentures

No. _____ for Rs. _____

By virtue of the [Mumbai Municipal Corporation Act], we, the Municipal Corporation of 2[Brihan Mumbai], in consideration of the sum of _____ paid to us by A.B., I _____ for the purposes of the said Acts, promise to pay to the said A.B., for the purpose of the said Acts, promise to pay to the said A.B., his heirs, executors, administrators and assigns, the said sum of _____ together with interest at the rate of per centum per annum payable half-yearly on the _____ day of _____ and the _____ day of _____.

Mah substituted these words for the words Bombay Municipal Corporation Act. 25 of 1996 (w.e.f. 4.9.1996)

2 These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

And, by way of security for the said payment, we do hereby grant and assign unto the said A.B., his heirs, executors, administrators and assigns such proportion of the moneys arising or accruing by virtue of the said Act from (taxes mortgaged) as the sum aforesaid doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said (taxes), to hold to the said A.B., his heirs, executors, administrators and assigns from the day of the date hereof until the sum aforesaid with interest for the same at the rate aforesaid shall be fully paid and satisfied;

And it is hereby declared that the said principal sum shall be repaid on the _____ day of _____ 18____ at (place of payment).

Dated this _____ day of _____ 18____.

(To be sealed with the common seal of the corporations) (Signed)

Municipal Commissioner on behalf of the Corporation.

This debenture has been sealed with the common seal of the Municipal Corporation of 2[Brihan Mumbai] 1[in our presence-]

(Signed) 1. _____ 3[Member of the Standing Committee]

2. _____

SCHEDULE 4

SCHEDULE D

(Deleted by Bom. 76 of 1948, s.38)

This portion was substituted by the Mumbai Municipal Corporation (Amendment) Act 27 of 1999, s.204 (w.e.f. 23-4-1999)

SCHEDULE 5

SCHEDULE E

(See section 150)

Form of Notice of Transfers to be given when the Transfer has been effected by Instrument

To the Municipal Corporation for [Brihan Mumbai],

I, A.B., hereby give notice, as required by section 149 of the 2[Mumbai Municipal Corporation Act], of the following transfer of property:-

Date of Notice	
Date of Instrument	
Name of Vendor or Assignor	
Name of Purchaser or Assignee	
Amount of consideration	
Of what it consists	Description Of the Property
Situation	
No. in Assessment Book	
Collectors No.	
Dimensions of Land	
Boundaries	
If Instrument has been registered to date of Registration	
Remarks	

(Signed) A.B.

These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

These words were substituted for the words "Bombay Municipal Corporation Act" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

SCHEDULE 6

SCHEDULE F

(See section 150)

Form of Notice of Transfer to be given when the Transfer has taken place otherwise than by Instrument

To the Municipal Corporation for [Brihan Mumbai],

I, A.B., hereby give notice, as required by section 149 of the 2[Mumbai Municipal Corporation Act], of the following transfer of property:-

Date of Notice
Name in which the property is at present entered in the Commissioner s Records.
To whose name it is to be transferred
Of what it consists

Situation	Description Of the Property
No. in Assessment Book	
Collectors No.	
Dimensions of Land	
Boundaries	
Remarks	

Signed) A.B.

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996 (w.e.f. 4.9.96)

2. These words were substituted for the words "Bombay Municipal Corporation Act" by Mah. 25 of 1996 (w.e.f. 4.9.1996)

SCHEDULE 7

SCHEDULE G

(See section 180)

Tax on Vehicles and Animals

Serial No.	Description of vehicle or animal	Maximum amount of tax per annum	
		For vehicles with pneumatic tyres	For vehicles without pneumatic tyres
1	2	3	4
1.	Vehicles impelled by machinery and used for commercial purposes other than the carriage of passengers -Weighing up to 2,030 kg. empty Weighing up to 4,065 kg. empty Weighing up to 8, 1 30 kg. empty Weighing up to 12190 kg. empty Over 12,190 kg. empty	180.00 220.00 260.00 300.00 340.00	260.00 320.00 380.00 440.00 500.00
2.	Each Vehicle drawn or intended to be drawn by any vehicles falling under Serial No.1 and used for commercial purposes (i.e. Trailors)-Weighing up to 2,030 kg. empty Weighing up to 4,065 kg. empty Weighing up to 8,130 kg. empty Weighing up to 12, 190 kg. empty Over 12,190 kg. empty	120.00 160.00 200.00 240.00 280.00	180.00 240.00 300.00 360.00 400.00
3.	Each Vehicle impelled by machinery and used solely for carrying passengers- Weighing up to 760. empty Weighing up to 1,525 kg. empty Weighing up to 2,285 kg. empty Over 2,285 kg. empty	100.00 140.00 200.00 260.00	160.00 200.00 300.00 360.00
4.	Vehicle drawn or intended to be drawn by any vehicle falling under Serial No. 3 (i.e. Trailer)	48.00	80.00

1. Schedule G was substituted for the original by Mah.70 of 1975, s. 20

1	2	3	4
5.	Each three-wheeled vehicle impelled by machinery and used solely for carrying passengers.	60.00	100.00
6.	Each two-wheeled vehicle impelled by machinery.	48.00	80.00
7.	Each four-wheeled vehicle drawn by horses, ponies, mules, donkeys or bullocks-(a) Labour Carts (b) Other vehicles in this class	8.00 32.00	24.00 48.00
8.	Each two-wheeled vehicle drawn by horses, ponies, mules, donkeys or bullocks-(a) Labour Carts (b) Other vehicles in this class	8.00 16.00	24.00 24.00
9.	Each vehicle drawn or impelled otherwise than by horses, ponies, mules, donkeys or bullocks or machinery.	8.00	4.00
10.	Each horse, pony or mule of a height of 1.2 metres or upwards	—	32.00
11.	Each horse, pony or mule of a height less than 1.2 metres	—	16.00
12.	Each bullock or buffalo kept for draught or pack purposes.	-	8.00
13.	Each donkey kept for draught or pack purposes or for riding.	—	8.00

SCHEDULE G1

(See section 191-E)

Theatre Tax

Type of entertainment	Maximum amount of tax
(1) Class I Cinema theatre	Rs. 20 per show.
(2) Class II Cinema theatre	Rs. 15 per show.
(3) Class III Cinema theatre	Rs. 12.50 per show.
(4) Drama, Concert, variety entertainment or tamasha	Rs. 12.50 per show.
(5) Circus, Carnival or fete	Rs. 25 per day.
(6) Any other entertainment	Rs. 15 per show or if there are no separate shows Rs. 15 per day.

Explanation 1:-For the purposes of this Schedule,-

(a) Class I Cinema theatre means a cinema theatre, the premises of which are assessed at a rateable value

(b) exceeding Rs. 15,000 per year.

(a) Class II Cinema theatre means a cinema theatre, the premises of which are assessed at a rateable value exceeding Rs. 10,000 but not exceeding Rs. 15,000

per year.

(a) Class III Cinema theatre means a cinema theatre, the premises of which are assessed at a rateable value not exceeding Rs. 10,000 per year.

Explanation 2:- For the purposes of this Schedule, rateable value of any premises means the rateable value thereof as entered in the assessment book kept by the Commissioner under section 156, and where the premises of any cinema theatre include any other tenements, such portion of the rateable value so entered as the Commissioner may determine, having regard to the rent or the expected rent of such other tenements.

II. If any question arises whether any cinema theatre belongs to Class I, Class II or Class III, it shall be referred to the Commissioner, who after making such inquiry as he thinks fit, shall decide the question, and his decision shall be final.

SCHEDULE 8

SCHEDULE H

SCHEDULE H1

[See section 192(6)]

Articles Free from Payment of Octroi

S1.No. (1)	Articles (2)	
1.	Foodgrains, flour, pulses and cereals of all kinds including gaver, soyabean, parched grain and paddy.	
2.	Gur of all kinds.	
3.	Whole milk, toned milk and curds	
4.	Breads.	
5.	Coconut in shell, separated kernel of coconut and copra.	
6.	Chillies, fennel, ajwaen, turmeric, dhanian, methi, suva-whole or powdered tamarind seeds-whole or separated.	
7.	Edible oil and oil seeds of edible oil.	
8.	Salt.	
9.	Sugar Cane.	
SI. No. (1)	Articles (2)	
10.	Fresh vegetables, potatoes, sweet potatoes, elephants foot (Yam), ginger, onions, garlic, fresh fruits, betal leaves and lemon grass.	
11.	Fish-fresh and dry.	
12.	Poultry, eggs and flesh of poultry.	
13.	Pan, tambul, vida, or patti prepared from betal leaves.	
14.	Plantain leaves, palas leaves, patrahal, dron.	
15.	Bidi leaves. , , -:	
16.	Water excluding distilled, mineral, demineralised or aerated water, plain water for injection.	water,
17.	Ice and dry ice.	
18.	Flower seeds, fruit seeds, vegetable seeds, seeds of lucerne and other fodder grass, seeds of canna and hemp, bulbs, corns, rhizomes, suckers and tubers (including edible tubers), bud grafts, cuttings, grafts, layers, seedlings and plants.	
19.	Fresh flowers.	

20.	Fertilizers and manures including chemical manures.	
21.	Old, used household goods on transfer of residence.	
22.	Umbrellas of all types and parts thereof.	
23.	Brooms.	
24.	Kerosene sold through public distribution system.	
25.	Safety matches (excluding matches ordinarily used as fire works)	
26.	All animals, wild beasts, domestic pets.	
27.	Animal bones, horns, hooves, animal carcasses.	
28.	Fowls of all sorts, ducks and birds.	
29.	Silk worm eggs and silk worm cocoons.	
30.	Human hair and animal hair.	
31.	Bee wax, baby berry wax and wax excluding petroleum wax.	
32.	Books, panchangs, used office files and documents, exercise and drawing books, answer books-blank or used, tags, postcards, newspapers, religious paper posters, painting and portraits.	
Sl.No. (1)	Articles (2)	
33.	Slates of all kinds, slate pencils, chalk-sticks, crayons, lead pencils, orreries, globes and their parts, maps, all kinds of pens such as fountain pens, ball pens, stylograph pens etc., propelling pencils and refills, writing inks.	
34.	Marbles and pebbles.	
35.	All kinds of ships and their components, parts and accessories.	
36.	Life saving drugs as notified by the Commissioner from time to time and medicines, excluding tooth-powder, tooth-paste, cosmetics, toilet requisites, soaps and confectionary used as medicines or otherwise.	
37.	Blood and blood products.	
38.	Mica, graphite, activated earth and red earth.	
39.	Idols, statues to be put up in public places.	
40.	Currency notes and coins and National Flags.	
41.	Molasses.	

The appellate authority, therefore, cannot be said to have committed any error in taking the view that publication of the telephone directories by the respondent herein for the purpose of M.T.N.L. falls in the exempted entry 32 of schedule H1. The impugned order does not suffer from any error warranting interference by this Court.

Bombay Municipal Corporation and another, Appellants v Daily Taj Pvt.Ltd., Respondent AIR 2001 Bom 263 per Mr.R.M.Lodha J.

SCHEDULE 9

SCHEDULE I

(See section 202)

Form of Notice of Demand

To, A.B. residing at_____ Take notice that the Municipal Commissioner for 1[Brihan Mumbai] demands from (you) the sum of_____due from (you) on account of_____(here describe the premises, vehicle or animal on account of which the tax is leviable) for

the half year (or quarter) commencing (or ending on) the_____day of_____ 19____;

and that if the said sum is not paid into the municipal office at_____, or if sufficient cause for non-payment of the sum is not shown to the satisfaction of the Commissioner within fifteen days from the service of the notice, a warrant of distress 2[or attachment] will be issued for the recovery of the same, with costs.

Dated this_____day of_____19__.

(Signed) Municipal Commissioner for 1[Brihan Mumbai]

SCHEDULE 10

SCHEDULE J

(See section 203 and sub-section (3) of section 207A)

Form of Warrant of Distress or Attachment.

To (here insert the name of the officer charged with the execution of the warrant).

WHEREAS A.B.of_____has not paid or shown sufficient cause to any Satisfaction for the non-payment of the sum of_____due for the tax 4 mentioned in the margin for the half-year (or quarter)_____commencing (or terminating) on the 1 These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996) 2These words were inserted by Bom. 64 of 1953, s. 24 3This Schedule was substituted for the original by Bom. 64 of 1953, s. 25 4Here describe the tax.

_____day of_____19__although the said sum has been duly demanded in writing from the said A.B. and fifteen days have elapsed since the service of the notice of the demand/order;

This is to command you to distrain the goods and chattels / attach any property of the said A.B. (or, as the case may be, any good and chattels on the premises in respect of which the said tax is due) to the amount of the said sum of_____and such further sum as may be sufficient to defray the cost of recovering the said amount, and forthwith to certify to me together with this warrant all particulars of the goods and chattels distrained / property attached by you thereunder.

dated this_____day of_____19__

(Signed) Municipal Commissioner for [Brihan Mumbai]

SCHEDULE 11

SCHEDULE K

(See section 205)

Form of Inventory Notice

To, A.B. residing at_____

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the sum of_____due for the tax mentioned in the margin² for the half-year (or quarter) commencing (or terminating) on the _____day of_____19__and that unless you pay into the municipal office at_____the amount due, together with the costs of recovery, within five days from the day of the date of his notice, the goods and chattels will be sold.

Dated this_____day of_____19__.

(Signature of the officer executing the warrant) Inventory (Here state particulars of the goods and chattels seized)

1. These words were substituted for the words "Greater Bombay" by Mah. 25 of 1996, (w.e.f. 4.9.1996) 2. Here describe the tax. 3 Schedule L was deleted by Mah. 42 of 1976, s. 17

SCHEDULE 12

SCHEDULE L