

The Sikkim Municipalities (Amendment) Act, 2002

Act 9 of 2002

Keyword(s):

Area Sabha, Backward Class of Citizens, Bio-Medical Waste, Bridge, Building, Carriage, Cart, City, Cubical Extent, Dangerous Disease, Domestic Purposes, Drain, Drug, Dwelling-House, Food, Footpath, Habitable Room, Hazardous Wastes, House-Drain, House-Gully, Hut, Infectious Disease or Communicable Disease, Larger Urban Area, Land or Building, Market, Masonry Building, Milk, Nuisance, Occupier, Private Drain, Private Street, Sewage, Smaller Urban Area, Street Alignment, Ward, Water-Course

Amendments appended: 7 of 2004, 5 of 2007, 15 of 2007

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SIKKIM

GOVERNMENT



GAZETTE

EXTRA ORDINARY
PUBLISHED BY AUTHORITY

Gangtok,	Tuesday,	23 rd	April,	2002	No. 119
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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 9/LD/2002

Dated the 10th April, 2002.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 30th day of March, 2002 is hereby published for general information :-

THE SIKKIM MUNICIPALITIES (AMENDMENT) ACT, 2002
(ACT NO. 9 OF 2002)
AN
ACT

Further to amend the Sikkim Municipalities Act, 1995.

Be it enacted by the Legislature of Sikkim in the fifty – third year of the Republic of India as follows :-

Short title, extent and commencement.

1. 1. This Act may be called the Sikkim Municipalities (Amendment) Act, 2002.
2. It extends to the whole of Sikkim.
3. It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different areas and for different provisions of this Act.

Amendment of section 6.

2. In the Sikkim Municipalities Act, 1995, in section 6, in sub-section (1), for the word 'ninety', the words 'one hundred and eighty' shall be substituted.

By Order of the Governor.

T. D. Rinzing,
Secretary to the Govt. of Sikkim,
Law Department.
File No. 16(82)LD/77-2002.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok Friday 29th October, 2004 No. 416

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 7/LD/2004

Dated: 15.10. 04.

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of October, 2004 is published for general information:-

**THE SIKKIM MUNICIPALISES (AMENDMENT) ACT, 2004
(ACT No. 7 of 2004)**

AN
ACT

further to amend the Sikkim Municipalities Act, 1995.

BE it enacted by the Legislature of Sikkim in the Fifty-fifth Year of the Republic of India.

- | | | |
|--------------------------------|---|-------------------------------|
| <i>Short title,</i> | 1. (1) This Act may be called the Sikkim Municipalities (Amendment) Act, 2004. | |
| <i>extent and</i> | (2) It shall come into force on such date as the State Government may, by | |
| <i>commencement</i> | notification in the Official Gazette, appoint. | |
| <i>Amendment of Section 7.</i> | 2. In the Sikkim Municipalities Act, 1995, in section 7, in clause words 'three', the words 'seven' and for the words 'nine' the words respectively be substituted. | (a), for the 'twenty one' sha |

By Order of the Governor.

**TASHIWANGDI. SSJS
Legal Remembrancer- Cum- Secretary Law.
File No. 16(82)LD/97-2004**

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 5/LD/P/07

Date: 17.05.2007

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on the 16th day of April; 2007 is hereby published for general information:-

The Sikkim Municipalities Act, 2007

(Act No. 5 of 2007)

AN

ACT

to provide for the municipal governance in the State of Sikkim in conformity with the provisions of the Constitution of India as amended by the Constitution (Seventy-fourth Amendment) Act, 1992, based on the principles of participation in, and decentralization, autonomy, and accountability of, urban self-government at various levels, to improve the quality of life of the urban dwellers of Sikkim, to introduce reforms in financial management and accounting systems, to enhance internal resource generation capacity, to improve the organizational design of Municipalities, to ensure professionalization of the municipal personnel, and to provide for matters connected therewith or incidental thereto.

Be it enacted by the Legislature of Sikkim in the Fifty-eighth Year of the Republic of India as follows:-

PART I

PRELIMINARY

Chapter I

Short title, extend and commencement.

1

(1) This Act may be called the Sikkim Municipalities Act, 2007.

(2) It extends to the whole of Sikkim except the cantonments.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf, and different

dates may be appointed for different areas and for different provisions of this Act.

Definitions.

2

In this Act, unless the context otherwise requires, -

- (1) "agency" means a company, firm, society, or body corporate in the private sector, or any agency in the joint sector, or any agency under any other law for the time being in force, as may be appointed by the Municipality to act as its agency on such terms and conditions as the Municipality may determine for any of the purposes of this Act;
- (2) "Area Sabha" means an Area Sabha referred to in Section 26;
- (3) "Auditor" means an Auditor appointed under Section 58, and includes any officer authorized by him to perform all or any of the functions of an Auditor under this Act;
- (4) "backward class of citizens" means the class of citizens, not belonging to the Scheduled Castes or the Scheduled Tribes, who are backward either socially or educationally, and declared as such by the State Government by notification;
- (5) "balance sheet" means the balance sheet prepared under Section 57;
- (6) "*bazar*" means a *bazar* area as may be notified by the State Government;
- (7) "bio-medical waste" means any waste generated during diagnosis, treatment or immunization of human beings or animals or in research activities pertaining thereto or in the production or testing of biologicals;
- (8) "bridge" includes a culvert;
- (9) "budget estimate" means the budget estimate prepared under Section 49;
- (10) "budget grant" means the total sum entered on the expenditure side of a budget estimate under a major head and adopted by the Municipality, and includes any sum by which such budget grant is increased or reduced by transfer from or to other heads in accordance with the provisions of this Act and the rules and the regulations made there under;
- (11) "building" means a structure constructed for whatever purpose and of whatever materials, and includes the foundation, plinth, walls, floors, roofs, chimneys, fixed platforms, verandas, balconies, cornices or projections or part of a building or anything affixed thereto or any wall (other than a boundary wall of less than three metres in height) enclosing, or intended to enclose, any land, sign or outdoor display-structure but does not include a tent, *shamiana* or tarpaulin shelter;
- (12) "carriage" means any wheeled vehicle, with springs or other appliances acting as springs, which is ordinarily used for the conveyance of human beings, and includes a jin-rickshaw, cycle-rickshaw, bicycle or tricycle, but does not include a perambulator or other form of vehicle designed for the conveyance of children or elderly, infirm or handicapped persons;
- (13) "cart" means any cart, hackney or wheeled vehicle with or without springs, which is not a carriage, and includes a hand- cart, a cycle van and a push van, but does not include any wheeled vehicle which is propelled by mechanical power or its trailer;
- (14) "category' post" means a category' A' post classified as such under Section 29; (15) "category 'B' post" means a category 'B' post classified as such under Section 29;
- (16) "Chief Councillor" means, -
 - (i) in relation to a Municipal Corporation, the Mayor,
 - (ii) in relation to a Municipal Council, the Municipal Chairperson, and
 - (iii) in relation to a Nagar Panchayat, the Municipal President;
- (17) "Chief Municipal Officer" means, -

(i) in relation to a Municipal Corporation, the Municipal Commissioner, and

(ii) in relation to a Municipal Councillor Nagar Panchayat, the Municipal Executive Officer;

(18) "city" means a larger urban area declared to be a city under Section 3;

(19) "Councillor", in relation to a Municipality, means a person chosen by direct election from a ward of that Municipality;

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

(21) "Dangerous disease" means -

(i) cholera, plague, small-pox, cerebrospinal meningitis, diphtheria, tuberculosis, leprosy, influenza, encephalitis, poliomyelitis, or syphilis; or

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

(22) "Deputy Chief Councillor" means, -

(i) in relation to a Municipal Corporation, the Deputy Mayor,

(ii) in relation to a Municipal Council, the Municipal Vice-Chairperson, and

(iii) in relation to a Nagar Panchayat, the Municipal Vice-President;

(23) "domestic purposes", in relation to the supply of water, means the purposes other than those referred to in Section 165.,

(24) "drain" includes a *jhora* or water-course of natural drainage line, a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other device for carrying off sullage, sewage, offensive matter, polluted water, rain-water or sub-soil water;

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

- (26) "dwelling-house" means a masonry building constructed, used, or adapted to be used, wholly or principally for human habitation;
- (27) "Establishment Schedule" means the Establishment Schedule prepared under sub-section (8) of Section 29;
- (28) "Executive Authority" means the Executive Authority referred to in Section 20;
- (29) "financial statement" means the financial statement prepared under Section 56;
- (30) "food" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into, or is used in the composition or preparation of, human food, and also includes confectionery, flavoring and coloring matters, spices and condiments;
- (31) "footpath" means a pavement for use by pedestrians which abuts a category I or category II or category III road;
- (32) "habitable room" means a room constructed or adapted for human habitation;
- (33) "hazardous wastes" means the hazardous substance as defined in clause (e) of Section 2 of the Environment (Protection) Act, 1986;
- (29 of 1986).
- (34) "house-drain" means any drain of one or more premises used for the drainage of such premises;
- (35) "house-gully" means a passage or a strip of land constructed, set apart or utilized for the purpose of serving as a drain or affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter for municipal employees or for persons employed in the cleaning thereof or removal of such matter there from, and includes the air space above such passage or land;
- (36) "hut" means any building, no substantial part of which, excluding the walls up to a height of fifty centimeters above the floor or floor level, is constructed of masonry, reinforced concrete, steel, iron or other metal;
- (37) "infectious disease" or "communicable disease" means any disease which may be transmitted from one person to another and declared as such by the State Government by notification;
- (38) "larger urban area" means a municipal area classified as a larger urban area under Section 7;
- (39) "land or building" includes a slum;

- (40) "market" includes any place, by whatever name called, where persons assemble for the sale of meat, fish, fruit, vegetables, live stock, or any other article of food of a perishable nature, or any other article for which there is a collection of shops or warehouses or stalls, declared and licensed by the Municipality as a market;
- (41) "masonry building" means any building, other than a hut, and includes any structure, a substantial part of which is made of masonry, reinforced concrete, steel, iron or other metal and also includes a framed building;
- (42) "milk" includes cream, skimmed milk, separated milk, and condensed, sterilized, desiccated or toned milk;
- (43) "Municipal Accounting Manual" means the Municipal Accounting Manual prepared and maintained under Section 56;
- (44) "Municipal Accounts Committee" means a Municipal Accounts Committee constituted under Section 67;
- (45) "municipal area" means an area constituted as a municipal area under Section 6;
- (46) "Municipal Court" means the Municipal Court created under Section 343;
- (47) "municipal drain" means a drain vested in the Municipality;
- (48) "Municipal Fund" means the Municipal Fund referred to in Section 39;
- (49) "Municipality" means an institution of self-government constituted under section 12, read with article 243Q of the Constitution of India, and includes a Municipal Corporation, a Municipal Council, and a Nagar Panchayat, referred to in Section 13;
- (50) "municipal market" means a market belonging to, or maintained by, the Municipality;
- (51) "municipal slaughterhouse" means a slaughterhouse belonging to, or maintained by, the Municipality;
- (52) "notification" means a notification published in the *Official Gazette*;
- (53) "nuisance" includes any act, omission, place or thing which causes, or is likely to cause, injury, danger, annoyance or offence to the sense of sight, smell or hearing, or disturbance to rest or sleep, or which is, or may be, dangerous to life or injurious to health or property;
- (54) "occupier" includes any person for the time being paying, or liable to pay, to the owner the rent or any portion of the

rent of the land or the building in respect of which the word is used or for damages on account of the occupation of such land or building, and also includes a rent-free tenant:

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

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

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

(57) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

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

(i) the garden, ground and outhouses, if any, appertaining thereto, and

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

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

(60) "presiding officer" means,-

(i) in the case of a Municipal Corporation, the Mayor,

(ii) in the case of a Municipal Council, the Municipal Chairperson, and

(iii) in the case of a Nagar Panchayat, the Municipal President;

- (61) "private drain" means any drain which is not a municipal drain;
- (62) "private street" means any street, road, lane, gully, alley, passage or square which is not a public street, and includes any passage securing access to four or more premises belonging to the same or different owners, but does not include a passage provided in effecting a partition of any masonry building amongst joint owners where such passage is less than two meters and fifty centimeters wide;
- (63) "public building" means a masonry building constructed, used, or adapted to be used, -
- (i) as a place of public worship or as a school, college or other place of instruction (not being a dwelling-house so used) or as a hospital, workhouse, public theatre, public cinema, public hall, public concert- room, public ballroom, public lecture-room, public library or public exhibition room or as a public place of assembly, or
 - (ii) for any other public purpose, or
 - (iii) as a hotel, lodging-house, refuge or shelter, where the building, in cubical extent, exceeds seven thousand cubic metres or has sleeping accommodation for more than one hundred persons;
- (64) "public street" means any street, road, lane, gully, alley, passage, pathway, square or courtyard, whether a thoroughfare or not, over which the public have a right of way, and includes-
- (i) the access or approach to a public ferry,
 - (ii) the roadway over any public bridge or causeway,
 - (iii) the footpath attached to any such street, public bridge or causeway,
 - (iv) the passage connecting two public streets, and
 - (v) the drains attached to any such street, public bridge or causeway, and, where there is no drain attached to any such street, shall be deemed to include also, unless the contrary is shown, all land up to the boundary wall, hedge or pillar of the premises, if any, abutting on the street, or, where a street alignment has been fixed, up to such alignment;
- (65) "regulations" means the regulations made by a Municipality under this Act;

- (66) "rules" means the rules made by the State Government under this Act;
- (67) "sewage" means night-soil and other contents of privies, urinals, cesspools or drains, and includes trade effluents and discharges from manufactories of all kinds;
- (68) "smaller urban area" means a municipal area classified as a smaller urban area under section 7;
- (69) "street" means a public street or a private street;
- (70) "street alignment" means the line dividing the land comprised in, and forming part of, a street from the adjoining land;
- (71) "ward" means an administrative division of a Municipality;
- (72) "water-course" includes a river, stream or channel, whether natural or artificial
- (73) "year" means a financial year beginning on the first day of April.

PART II

CONSTITUTION AND GOVERNMENT

Chapter II

Constitution of Municipal Areas and Classification of Municipalities

Declaration of intention to
constitute a municipal area.

3

- (1) The Governor may, after making such enquiry as he may deem fit, and having regard to the population of any urban area, the density of population therein, the revenue generated for the local administration of such area, the percentage of employment in non-agricultural activities in such area, the economic importance of such area, and such other factors as may be prescribed, by notification, declare his intention to specify such area to be a larger urban area, or a smaller urban area, or an area in transition from a rural area to an urban area referred to in this Act as a transitional area:

Provided that no such declaration shall be made unless the population, -

- (a) in the case of a larger urban area, is seventy thousand or more,
- (b) in the case of a smaller urban area, is five thousand or more but is less than seventy thousand, and
- (c) in the case of a transitional area, is below five thousand:

Provided further that the non-agricultural population in each such area shall be fifty *per cent* or more.

Explanation. - "revenue generated for the local administration" shall not include -

- (a) taxes, if any, distributed to the Municipality by the State Government in accordance with the principle of distribution of such taxes, referred to in article 243Y of the Constitution,
- (b) loans and grants from the State Government, and
- (c) loans and grants from the Central Government or any financial institution or other source.

(2) The Governor shall, by notification, declare an area specified as -

- (i) a larger urban area to be a city,
- (ii) a smaller urban area to be a town, and
- (iii) a transitional area to be a Nagar Panchayat (by whatever name called).

(3) Notwithstanding anything contained in sub-section (1), the Governor may, by notification, determine separate conditions to constitute any eco-sensitive area, tourist centre, pilgrim center, or *bazar* of any class as a municipal area.

Publication of
declaration.

4

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

(2) A copy of the notification shall also be pasted in a conspicuous place in the office of the District Collector of the district and, where there is a Municipality, also in the office of the Municipality, and in such other public places as the State Government may direct.

(3) A public proclamation about the constitution of a municipal area may, if the State Government considers it necessary so to do, be made either by beating of drum throughout the municipal area concerned or through any other publicity media.

Consideration of
objection.

5.

Any inhabitant of the city, town, or Nagar Panchayat, or any area referred to in sub-section (3) of section 3, in respect of which a notification has been published under section 4, may, if he objects to anything contained in the notification, submit his objection in writing to the State Government within one month from the date of its publication, and the State Government shall take such objection into consideration.

- Constitution of municipal area. 6 On the expiry of one month from the date of publication of the notification and after consideration of all or any of the objections which may be submitted, the Governor may, by notification, constitute such city, town, or transitional area, or any area referred to in sub-section (3) of section 3, or such part thereof as may be specified in the notification, as a municipal area under this Act.
- Classification of municipal areas. 7 The Governor may, for the purpose of application of the provisions of this Act, classify, on the basis of the population as ascertained at the last preceding census of which the relevant figures have been published, any municipal area as -
- (a) a larger urban area having population of seventy thousand or more,
 - (b) a smaller urban area having population of five thousand or more but less than seventy thousand, and
 - (c) a transitional area having population below five thousand:
- Provided that for the purpose of classification of municipal areas in any eco-sensitive area, tourist centre, pilgrim centre, or *bazar* of any class, the Governor may, by notification, determine a separate size of population for each class of such municipal area.
- Power of State Government to determine the number of wards in municipal areas. 8 Subject to the provisions of sub-section (I) of section 10, until any law providing for the election of Councillors is enacted, the State Government may, having regard to population, dwelling pattern, geographical condition, and economic consideration of a municipal area, by notification, determine for such municipal area the number of wards, which shall be, -
- (a) in the case of a larger urban area having population of seventy thousand or more, not more than eleven but not less than seven,
 - (b) in the case of a smaller urban area having population of five thousand or more but less than seventy thousand, not more than seven but not less than five, and
 - (c) in the case of a transitional area having population below five thousand, five.
- Power to abolish or alter limits of municipal area. 9. The Governor may, by notification, -
- (a) withdraw any municipal area or part thereof from the operation of this Act, or
 - (b) exclude from a municipal area any area comprised therein and defined in the notification, or
 - (c) include within a municipal area any area contiguous to such municipal area and defined in the notification, or
 - (d) divide any municipal area into two or more municipal areas, or
 - (e) unite two or more contiguous municipal areas so as to constitute one municipal area, or

(f) revise the boundary of two or more contiguous municipal areas:

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

Provided further that the views of the Municipality affected by any such notification shall be invited by the State Government within such time as may be specified in the notification, and the State Government shall consider the views of the Municipality as aforesaid before a final declaration is made:

Provided also that no such notification shall be issued where any part of the municipal area or any area contiguous to the municipal area is a cantonment or part of a cantonment, as defined in the Cantonments Act, 1924.

(2 of 1924).

Power to exempt
municipal area from
operation of any
provision of the Act
unsuited thereto.

10.

- (1) The State Government may, by notification, and for reasons to be recorded in writing, exempt any smaller urban area or any area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 from the operation of any of the provisions of this Act considered unsuited thereto, and, thereupon, the said provisions shall not apply to such smaller urban area or area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3, as the case may be, until such provisions are applied thereto by notification.
- (2) While a notification exempting any smaller urban area or any area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 from the provisions of this Act under sub-section (1) remains in force, the State Government may make rules consistent with the provisions of this Act in respect of any matter within the purview of such provisions from the operation of which the smaller urban area or the area of a Nagar Panchayat or any area referred to in sub-section (3) of Section 3 as aforesaid is exempted.
- (3) Notwithstanding any provisions in this act, the provisions of the land laws of the state shall prevail.

Chapter III

Municipality and Municipal Councillors

The Municipality.

11.

- (1) The Municipality shall consist of such number of elected Councillors as may be determined in accordance with the provisions of any law relating to municipal election in Sikkim.
- (2) The Municipality shall be a body corporate with perpetual succession and a common seal, and may, by the name of the Municipality of the city or the town or the Nagar Panchayat, as the case may be, by reference to which the Municipality is known, sue and be sued.

Constitution of Municipality

(3) Subject to the provisions of this Act, the Municipality shall have the power to acquire, hold and dispose of property.

12.

(1) The Councillors elected in a general election or by-election of a Municipality in accordance with the provisions of any law relating to municipal election in Sikkim, shall constitute the Municipality .

(2) The Municipality shall, unless dissolved earlier, continue for a period of five years from the date of its first meeting after the general election and no longer.

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

(a) before the expiry of the period specified in sub- section (2) or

(b) before the expiry of a period of six months from the date of its dissolution,

as the case may be :

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold a bye election for constituting the Municipality for such period.

(4) The Municipality constituted upon its dissolution before the expiration of the period specified in sub-section (2) shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (2) had it not been so dissolved.

(5) In a municipal area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted a municipal area, shall continue to have jurisdiction and to perform its functions till such time, not exceeding six months from the date of the notification under section 6, as may be necessary for holding elections.

(6) If, for any reason, it is not possible to hold the general election of a Municipality before the expiry of the period of five years specified in sub-section (2), the Municipality shall stand dissolved on the expiration of the said period, and all the powers and functions vested in the municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such authority to be designated as Administrator as the State Government may, by notification, appoint.

Composition of Municipality.

13.

Each Municipality shall consist of such number of Councillors as are specified in the Table below:

THE TABLE

Population Range	Number of Councillors		Maximum Number
	Minimum Number	One Additional Councillor for Incremental Number	
70,000 or more		<i>Municipal Corporation</i>	11
	7	Every sixty five thousand above seventy thousand	
5,000 or more but less than 70,000		<i>Municipal Council</i>	7
	5	Every thirty two thousand five hundred above five thousand	
3,000 or more but below 5,000		<i>Nagar Panchayat</i>	5
	5	-	

Election of Councillors.

14. Notwithstanding anything contained in this Act, the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, elections of Councillors shall be vested in the State Election Commission constituted under the provisions of any law relating to municipal election in Sikkim.

Reservation of seats of Councillors and Chief Councillor

15. (1) The State Government shall, by notification, reserve seats for the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens in every Municipality, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens in the municipal area of that Municipality bears to the total population of that area, and such seats may be allotted by rotation to different wards of that Municipality, at such interval, and in such manner, as may be specified in the notification.
- (2) Not less than one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes, or the Scheduled Tribes, or the backward class of citizens, or the most backward class of citizens, as the case may be.
- (3) Not less than one-third of the total number of seats (including the number of seats reserved for women belonging to the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, and the most backward class of citizens) to be filled by direct election in every Municipality shall be reserved for women, and such seats may be allotted by rotation to different wards in such Municipality in such manner as may be specified in the notification under sub-section (1).
- (4) Notwithstanding anything contained in the foregoing provisions of this section, the office of the Chief Councillor in the Municipality shall be reserved by rotation for the Scheduled Castes, the Scheduled Tribes, the backward class of citizens, the most backward class of citizens, and women to such extent, and in such manner, as may be prescribed.

Oath of allegiance to the Constitution of India and oath of secrecy.

16. (1) Every person who is elected as a Councillor shall, before taking his seat, make and subscribe an oath or affirmation of his allegiance to the Constitution of India in such Form, and in such manner, as may be prescribed.
- (2) The Chief Councillor shall assume office after taking an oath of secrecy in such Form, and in such manner, as may be prescribed.
- (3) If any person, having been elected a Councillor, fails to make and subscribe, within three months of the date on which his term of office commences, the oath or affirmation under sub-section (1), such person shall cease to hold his office, and his seat shall be deemed to have become vacant.

Term of office of Councillors.

17. Subject to the provisions of sub-section (3) or sub-section (4), as the case may be, of Section 12, a Councillor shall hold office for a period of five years from the date of the first meeting of the Municipality under Section 28, or, in the case of a Councillor chosen to fill a casual vacancy, for the remainder of the term of office of his predecessor, unless -
- (a) the Municipality is dissolved earlier, or
- (b) he resigns his office by notice, in writing, under his hand addressed to the Chief Councillor, and, thereupon, his office shall become vacant from the date of the notice, or
- (c) his election is void, or is declared to be void, under the provisions of any law relating to municipal election in Sikkim for the time being in force, or
- (d) the entire area of the ward from which he has been elected is withdrawn from the operation of this Act under clause (a) of Section 9.

Disqualification for being a Councillor, if employed in a Municipality.

18. No employee of a Municipality shall be eligible to contest an election to become a Councillor of that Municipality or any other Municipality.

Remuneration and allowances of Councillors.

19. The Chief Councillor and the other Councillors may receive such remuneration and allowances as may be prescribed:
- Provided that different rates may be prescribed for different classes of Municipalities.

Chapter IV

Municipal Authorities and Executive Authority

Municipal authorities and Executive Authority.

- 20 (1) The municipal authorities for the purpose of giving effect to the provisions of this Act shall be,
- (a) in the case of a larger urban area, -

- (i) the Municipal Corporation,
- (ii) the Executive Authority, and
- (iii) the Mayor;

- (b) in the case of a smaller urban area, -
 - (i) the Municipal Council,
 - (ii) the Executive Authority, and
 - (iii) the Municipal Chairperson;

- (c) in the case of a transitional area, -
 - (i) the Nagar Panchayat,
 - (ii) the Executive Authority, and
 - (iii) the Municipal President.

- (2) The presiding officer of the Municipality shall be, in the case of-
 - (a) the Municipal Corporation, the Mayor,
 - (b) the Municipal Council, the Municipal Chairperson, and
 - (c) the Nagar Panchayat, the Municipal President.

- (3) The Executive Authority of every Municipality shall consist of –
 - (a) the Chief Councillor,
 - (b) the Deputy Chief Councillor, and
 - (c) such other Councillor as may be elected by the Councillors.

- (4) The Chief Councillor and the Deputy Chief Councillor shall be entitled to such remuneration and perquisites as may be determined by the State Government.

Executive and financial powers of Municipality to be exercised by Executive Authority.

21.

- (1) Subject to the provisions of this Act and the rules, and the regulations, made thereunder, the executive and financial powers of a Municipality shall be exercised by the Executive Authority.
- (2) All executive actions of the Executive Authority shall be expressed to be taken in the name of the Municipality.

Execution of works, sanction of estimates, and contracts.

22.

- (1) The Executive Authority may determine, either generally or for any class of cases or specially for any particular case, whether the Chief Municipal Officer shall execute any work by a contract or otherwise.
- (2) (a) When a project is framed for the execution of any work or series of works, the Chief Municipal Officer shall cause a detailed report to be prepared stating the scope of the project, its techno-economic viability, and its social

benefits, and shall prepare an estimate.

(b) In the case of a Municipal Corporation, the sanctioning authority in respect of such estimate shall be -

(i) the Chief Municipal Officer, if the amount does not exceed five lakhs of rupees,

(ii) the Executive Authority, if the amount exceeds five lakhs of rupees but does not exceed one crore of rupees, and

(iii) the Municipal Corporation, if the amount exceeds one crore of rupees.

(c) In the case of a Municipal Councillor a Nagar Panchayat, the State Government may specify different limits in respect of such estimate.

(d) In respect of an estimate for any other item of expenditure, the Chief Municipal officer, the Executive Authority, and the Municipality shall respectively be the sanctioning authority in respect of the amount mentioned in sub-clause (i), sub-clause (ii), and sub-clause (iii), of clause (b).

(3) (a) Subject to the other provisions of this Act, the Municipality may enter into and execute all such contracts as it may consider necessary or expedient under, or for any of the purposes of, this Act.

(b) Every contract under clause (a) shall be subject to the following provisions:-

(i) every contract shall be executed on behalf of the Municipality by the Chief Municipal Officer or such other officer of the Municipality as the Executive Authority may direct or authorize from time to time,

(ii) no such contract as cannot, under any provision of this Act, be entered into without the approval or sanction of any authority or officer under this Act shall be entered into by any officer referred to in sub-clause (i) until and unless such approval or sanction has been duly obtained,

(iii) no contract involving an expenditure exceeding ten thousand rupees or such higher amount as the Executive Authority may fix shall be entered into by any officer referred to in sub-clause (i) unless the same has been previously approved by the Executive Authority, and

(iv) every contract involving an expenditure exceeding two thousand rupees but not exceeding ten thousand rupees or such higher amount as may be fixed under sub-clause (iii), entered into by an officer referred to in sub-clause (i), shall be reported by such

officer to the Executive Authority within one month of such contract.

(4) (a) The manner of execution of contracts under this Act shall be determined by regulations.

(b) No contract which is not entered into in accordance with the provisions of this Act or any regulation made thereunder shall be binding on the Municipality.

Election of Chief
Councillor and term of
his office.

23.

(1) The Councillors shall, in the first meeting under section 28, elect in accordance with such procedure as may be prescribed one of the Councillors to be the Chief Councillor, who shall assume office forthwith after taking the oath of secrecy under section 16.

(2) If the Councillors fail to elect a Chief Councillor under sub-section (1), the State Government shall, within seven days from the date of the first meeting as aforesaid, appoint by name one of the Councillors to be the Chief Councillor.

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

(4) The term of office of the Chief Councillor shall be coterminous with the duration of the Municipality.

Chief Councillor.

24.

(1) The Chief Councillor shall cease to hold office as such if he ceases to be a Councillor.

(2) The Chief Councillor may, at any time, by giving a notice, in writing, to the Municipality, resign his office, and such resignation shall take effect from such date as may be specified in the notice or, if no such date is specified, from the date of its receipt by the Municipality.

(3) The Chief Councillor may be removed from office by a resolution carried by a majority of the total number of Councillors holding office for the time being at a special meeting to be called for this purpose upon a requisition made in writing by not less than one-third of the total number of Councillors:

Provided that no such resolution shall be moved before the expiry of six months from the date of entering office by the Chief Councillor, and if such resolution is not carried by a majority of the total number of Councillors, no further resolution for such purpose shall be moved before the expiry of a period of six months from the date on which the former resolution was moved.

Deputy Chief
Councillor.

25

(1) The Deputy Chief Councillor shall be elected by the Councillors from amongst themselves:

Provided that the Deputy Chief Councillor may resign by a letter, in writing, addressed to the Chief Councillor.

(2) The Deputy Chief Councillor shall, in the absence of the Chief Councillor, preside over the meetings of the Municipality.

(3) When-

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

(b) the Chief Councillor is, by reason of leave, illness or other cause, temporarily unable to exercise the powers, or perform the functions, or discharge the duties, of his office, under this Act, the Deputy Chief Councillor shall exercise the powers, perform the functions, and discharge the duties, of the Chief Councillor until a Chief Councillor is elected under sub-section (3) of section 23 and enters upon his office or until the Chief Councillor resumes his duties.

(4) The Deputy Chief Councillor shall, at any time, exercise such other powers, perform such other functions, and discharge such other duties, as may be delegated to him under the provisions of this Act.

(5) The Deputy Chief Councillor may be removed from Office in the same manner as is provided in sub-section(3) of section 24 for the removal of the Chief Councillor.

Area Sabha.

26.

(1) Each ward of a Municipality shall have an Area Sabha.

(2) The Councillor elected from a ward shall be the chairperson of the Area Sabha for that ward.

(3) The composition of the Area Sabha, the representation of various interest groups therein, and the functions thereof, shall be such as may be prescribed.

Constitution of Subject
Committee, *Ad hoc*
Committee, or Joint
Committee.

27.

(1) Subject to such directions as the State Government may give from time to time, a Municipal Corporation may constitute a Subject Committee consisting of Councillors to deal with the following matters, namely :-

(a) water-supply, drainage and sewerage, and solid waste management,

(b) urban environment management and land use control, and

(c) slum services.

(2) A Municipal Corporation, or a Municipal Council, or a Nagar Panchayat, singly or jointly, may constitute an Ad hoc Committee or a Joint Committee to perform such functions as the State Government may direct.

First meeting of
Municipality.

28.

(1) the first meeting of a Municipality after the general election of Councillors to the Municipality shall be convened within thirty days from the date of publication of the names of the elected Councillors in the *Official Gazette* under the provisions

of any law relating to municipal election in Sikkim.

(2) Seven days' notice shall be given for the meeting.

(3) In the case of a Municipal Corporation, the meeting shall be convened by the Secretary to the State Government in charge of Urban Development and Housing Department or any other officer not below the rank of a Deputy Secretary to the State Government, duly authorized by him.

(4) In the case of a Municipal Councillor a Nagar Panchayat, the meeting shall be convened by such officer of the Urban Development and Housing Department of the State Government as may be authorized by the Secretary of that Department.

Chapter V

Organizational Structure of Municipality

Statutory officers of Municipality, Establishment of Municipality and schedule of posts.

29. (1) Having regard to the need for ensuring maximum possible economy in municipal administration and subject to the prior approval of the State Government, the Municipal Corporation may have a Chief Municipal Officer and other officers to deal with all or any of the functions relating to finance and accounts, health, sanitation, architecture and town planning, engineering, administration, law, fire services, urban forestry, parks, gardens, playgrounds, promotion of cultural, educational and aesthetic aspects, cattle pounds, prevention of cruelty to animals, and internal audit.
- (2) Appointment of Chief Municipal Officer referred to in sub-section (1) may be made either on a regular basis or on deputation from the State Government or any agency of the State Government or on a contract basis for such term, not being less than three years, as the State Government may consider necessary.
- (3) The method of, and the qualifications required for, recruitment, and the terms and conditions of service including conduct, discipline and control, of other officers appointed under sub-section (1) shall be such as may be prescribed.
- (4) The State Government may appoint an officer of that Government, or any other person, possessing such qualifications as may be determined by that Government for a Municipal Councillor class of Municipal Councils or Nagar Panchayats as Chief Municipal Officer, Municipal Finance- cum-Accounts Officer, Municipal Engineer, or Municipal Health Officer, or any other officer with such designation as the State Government may consider necessary, and in such manner, and on such terms and conditions of service, as the State Government may determine in this behalf, to deal with all or any of the functions referred to in sub-section (1).
- (5) At the requests of the Chief Councillors of more than one Municipality, the State Government may, by order, provide for sharing of services of officers referred to in sub-section (4) by such Municipalities, and on such terms and conditions, as may be specified in the order.
- (6) The posts of officers and other employees of the Municipality, other than those referred to in sub-section (1) and sub-section (4), shall constitute the Establishment of the Municipality.
- (7) The State Government shall, by rules, classify the posts of officers and other employees constituting the Establishment of the Municipality into two categories, namely, category 'A' post and category 'B' post, on the basis of the scales of pay of such posts.
- (8) The Municipality shall prepare, and maintain, a schedule of posts of officers and other employees constituting the Establishment of the Municipality, to be called Establishment Schedule, and such Establishment Schedule shall include the designation, and the number of posts under each designation.
- (9) Every year the Chief Municipal Officer shall place before the Chief Councillor for his consideration the Establishment

Schedule along with the proposals for such changes therein as he may consider necessary:

Provided that no upward revision of the size of the Establishment of the Municipality shall be made without the prior approval of the State Government.

(10) The Chief Councillor shall, after consideration of the Establishment Schedule along with the proposals, if any, for changes therein, place the same along with his recommendations, if any, before the Municipality prior to the presentation of the budget estimates to the Municipality by the Chief Councillor, and shall cause a copy of the Establishment Schedule to be sent to the State Government for approval.

(11) The Chief Municipal Officer shall revise the Establishment Schedule as approved by the State Government.

(12) No person above the age of sixty years shall be appointed to any post under a Municipality.

Payment of salaries and allowances to officers and other employees.

30. Payment of salaries and allowances to the officers including the statutory officers and other employees of the Municipality shall be made from such Fund as the State Government may, by notification, specify from time to time.

Chapter VI

Functional Domain of Municipalities

Core municipal services and other functions.

31. (1) Every Municipality shall-
- (a) provide on its own or arrange to provide through the State Government or any agency of the State Government or any other agency the following core municipal services :-
 - (i) water-supply for domestic, industrial, and commercial purposes,
 - (ii) sewerage and drainage,
 - (iii) solid waste management,
 - (iv) communication systems including construction and maintenance of roads, footpaths, pedestrian pathways, transportation terminals (both for passengers and goods), bridges, over- bridges, and subways,
 - (v) transport system accessories including traffic engineering schemes, street furniture, street lighting, parking areas, and bus stops,
 - (vi) community health and protection of environment including planting and caring of trees on road sides and elsewhere,
 - (vii) bazars, and
 - (viii) slaughterhouses, and
 - (b) perform such other statutory or regulatory functions as may be provided by or under this Act or

under any other law for the time being in force.

(2) The Municipality may, having regard to its managerial, technical, financial, and organizational capacity, and the actual conditions obtaining in the municipal area, decide not to provide any of the core municipal services as aforesaid.

(3) The State Government may direct a Municipality to provide any of the core municipal services as aforesaid, if such services are not being provided by the Municipality.

(4) The Municipality may plan, build, operate, maintain, or manage the infrastructure required for providing any of the *core* municipal services as aforesaid and for harvesting of rain water, either by itself or by the State Government or by any agency of the State Government.

Functions assigned by
Government.

32. A Municipality may, subject to the underwriting of the costs by, and the approval of, the Central Government or the State Government, as the case may be, undertake any function belonging to the functional domain of the Central Government or the State Government, as the case may be, and such functions may include primary education, curative health, public transport, supply of energy, and urban poverty alleviation.

Other functions.

33. A Municipality may, having regard to the satisfactory provision of the core municipal services which shall constitute the first charge on the Municipal Fund, and subject to its managerial, technical and financial capabilities, undertake or perform, or promote the performance of, such functions in the sphere of -

(1) town planning, urban development, and development of commercial and tourism infrastructure,

(2) protection of environment,

(3) public health and sanitation,

(4) education and culture,

(5) public welfare, and

(6) community relations as may be prescribed.

Chapter VII

Conduct of Business

Transaction of business
etc. by Municipality.

34. The State Government may, by rules, provide for the following matters relating to the conduct of business of the Municipality or any committee of the Municipality :-

A. Transaction of Business by Municipality

- (1) meetings of the Municipality,
- (2) notice of meeting and list of business,
- (3) quorum for transaction of business at a meeting of the Municipality and method of deciding question,
- (4) presiding officer of a meeting of the Municipality,
- (5) maintenance of order at a meeting of the Municipality, and withdrawal and suspension of Councillors,
- (6) whether a meeting of the Municipality should be open to the public,
- (7) right of Chief Municipal Officer and other officers to attend meeting of the Municipality and a committee of the Municipality,
- (8) right of Councillor to ask questions,
- (9) discussion on urgent matters of public interest, (10) asking for statement from Chief Councillor,

B. Minutes and Proceedings

- (11) keeping of minutes and proceedings,
- (12) circulation and inspection of minutes,
- (13) forwarding of minutes to the State Government, and

C. Validation

- (14) validation of acts and proceedings of a meeting of the Municipality

Councillor having pecuniary interest in any contract etc. with Municipality and disclosure of such

35. Subject to such rules as the State Government may make in this behalf, if a Councillor has any pecuniary interest, direct or indirect, in any contract or proposed contract with or without employment under, or in any other matter concerning, the Municipality, he shall, before he is present at a meeting of the Municipality or of a committee thereof at which such contract or employment or other matter is a subject for consideration, disclose, in the manner prescribed, the fact regarding such contract or employment or other matter, and shall abide by the directions of the Presiding Officer of the meeting as to his

interest.

taking part in the consideration or discussion of, or vote on, any question with respect to such contract or employment or other matter.

Chapter VIII

Power of State Government to give Direction to, and to Control and Dissolve, Municipality

Power of State Government to give direction and to control.

36. The State Government may -
- (1) call for records or documents from a Municipality,
 - (2) depute an officer to inspect or to examine any department, office, service, work, or property of a Municipality and to report after such inspection or examination,
 - (3) require a Municipality to take action in any matter concerning the Municipality, and
 - (4) enforce any order in relation to any of the matters as aforesaid,
- in such manner as may be prescribed.

Power of State Government to dissolve Municipality.

37. (1) If, in the opinion of the State Government, the Municipality has shown its incompetence, or has persistently made default, in the performance of the duties, or in the exercise of the functions, imposed on it by or under this Act or any other law for the time being in force, or has exceeded or abused its powers, or is unable to function under the provisions of this Act, the State Government may, subject to the provisions of sub-section (2), by an order published in the *Official Gazette*, and stating therein the reasons therefor, declare the Municipality to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and dissolve it with effect from such date, as may be specified in the order.
- (2) The State Government shall, before making any order under sub-section (1), give a notice to the Municipality calling upon the Municipality to submit representation, if any, against the proposed order within such period as may be specified in the notice.
- (3) On receipt of such representation, if any, the State Government shall move a resolution in the State Legislature for consideration and decision thereon.

Effect of dissolution.

38. (1) notwithstanding anything contained in this Act or in any other law for the time being in force, with effect from the date of the order of dissolution under sub-section (1) of section 37, -
- (a) all the Councillors including the members of any committee of the Municipality constituted under this Act, and the Chief Councillor and the Deputy Chief Councillor shall vacate their respective offices, and
 - (b) all the powers and duties which, under the provisions of this Act or the rules or the regulations made thereunder or any other law for the time being in force, may be exercised or performed by the members of any committee of the Municipality or the Chief Councillor or the Deputy Chief Councillor, shall be exercised or performed, subject to such directions as the State Government may

give from time to time, by an Administrator to be appointed by that Government in this behalf:

Provided that the State Government shall fix the remuneration of such Administrator, and may direct that such remuneration shall be paid out of the Municipal Fund.

- (2) For the avoidance of doubt, it is hereby declared that an order of dissolution under sub-section (1) of section 37 shall not effect or imply in any way the dissolution of the Municipality as a body corporate.

PART III

FINANCIAL MANAGEMENT OF MUNICIPALITIES

Chapter IX

Municipal Fund

Municipal Fund.

39.

- (1) There shall be a fund to be called the Municipal Fund which shall be held by the Municipality in trust for the purposes of this Act, and all moneys realized or realizable under this Act and all moneys otherwise received by the Municipality shall be credited thereto.
- (2) Subject to such directions as the State Government may give in this behalf, and keeping in view the classification of municipal areas under section 7, the receipts and expenditure of the Municipality shall be kept under the following heads of accounts :-
- (a) the Water Supply, Sewerage and Drainage Account,
 - (b) the Solid Waste Management Account,
 - (c) the Road Development and Maintenance Account,
 - (d) the Slum Services Account,
 - (e) the Commercial Projects Account, and
 - (f) the General Administration Account.

Explanation. -For the purposes of this section, "commercial projects" shall include *bazars*, *bazar* development projects, property development projects, and such other projects of a commercial nature as may be specified by the Municipality from time to time.

Grants and other financial assistance from State Government

40.

- (1) The State Government may, from time to time, give grants or other financial assistance to a Municipality with directions, if any, as to the manner in which such grants or other financial assistance shall be applied.
- (2) The Municipality shall maintain separate accounts for each such grant or other financial assistance.

- Revenue Account and Capital Account to be maintained seperately
41. Every head of account specified in sub-section (2) of section 39 shall be split up into revenue account and capital account and all items of receipts and expenditure shall be kept appropriately under such revenue account or capital account, as the case may be.
- Application of Municipal Fund.
42. The moneys credited to the Municipal Fund from time to time shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and the regulations made thereunder and for payment of all sums payable out of the Municipal Fund under any other law for the time being in force.
- Payments not to be made out of Municipal Fund unless covered by budget grant.
43. No payment of any sum out of the Municipal Fund shall be made unless such expenditure is covered by a current budget grant and a sufficient balance of such budget grant is available, notwithstanding any reduction or transfer thereof under any provision of this Act:
- Provided that this section shall not apply to any payment in the following cases :-
- (a) refund of taxes and other moneys which are authorized by this Act,
 - (b) repayment of moneys belonging to contractors or other persons and held in deposit and all moneys collected by the Municipality or credited to the Municipal Fund by mistake,
 - (c) temporary payment for works urgently required by the State Government in the public interest,
 - (d) expenses incurred by the Municipality on special measures on the outbreak of dangerous diseases, or for dealing effectively with natural or technological hazards, or in any other emergent case,
 - (e) sums payable as compensation under this Act or the rules or the regulations made thereunder,
 - (f) sums payable -
 - (i) under the orders of the State Government on failure of the Municipality to take any action required by the State Government under any provision of this Act, or
 - (ii) under any other law for the time being in force, or
 - (iii) under the decree or order of a civil or criminal court against the Municipality, or
 - (iv) under a compromise of any claim, suit or other legal proceeding, or
 - (v) on account of the cost incurred in taking immediate action by any of the municipal authorities referred to in section 20 to avert a sudden threat or danger to the property of the Municipality or to human life, and
 - (g) such other cases as may be determined by regulations.
- Procedure when money, not covered by budget grant, is paid.
43. Whenever any sum is paid in any of the cases referred to in the proviso to section 42, the Chief Municipal Officer shall forthwith communicate to the Executive Authority, the circumstances of such payment, and, thereupon, the Executive Authority may take, or recommend to the Municipality to take, such action under the provisions of this Act as may appear to the Executive Authority to be feasible and expedient for covering the amount of such payment.
- Temporary payment from Municipal Fund for works urgently required in the public
44. (1) On a requisition, in writing, by the State Government, the Chief Councillor may, at any time, require the Chief Municipal Officer to undertake the execution of any work certified by the State Government to be urgently required in the public interest and, for this purpose, to make payment for such work from the Municipal Fund in

interest.

so far as such payment may be made without unduly interfering with the regular work of the Municipality.

(2) The cost of any work so executed, and the proportionate establishment charges for executing such work, shall be paid by the State Government and credited to the Municipal Fund.

(3) The Chief Councillor shall, on receipt of a requisition under sub-section (1), forthwith forward a copy thereof to the Municipality together with a report of the steps taken in pursuance of the said requisition.

Power to incur expenditure beyond the limits of Municipality.

46. Notwithstanding anything contained elsewhere in this chapter, the Municipality may, with the approval of the State Government, authorize expenditure to be incurred beyond the limits of the municipal area for creation of physical assets and for maintenance thereof for providing the core municipal services.

Exclusive use of Municipal Fund for particular purpose.

47. (1) Notwithstanding anything contained elsewhere in this chapter, the State Government may, by order, require the Municipality to earmark a particular portion of the Municipal Fund, or a particular grant or a part thereof, or any item of receipt under any head of account or any percentage thereof, or any share of tax receivable by the Municipality other than taxes, duties and fines assigned to the Municipality under this Act or any part thereof, to be utilized exclusively for such purpose related to municipal functions as may be specified by the State Government in the order, and it shall be the duty of the Municipality to act accordingly.

(2) The State Government may, for carrying out the purposes of sub-section (1), make rules for different classes of Municipalities.

Operation of accounts.

48. Subject to the other provisions of this Act, payment from the Municipal Fund shall be made in such manner as may be determined by regulations, and the heads of accounts referred to in section 39 shall be operated by such officers of the Municipality as may be authorized by the Executive Authority.

Investment of surplus moneys.

49. (1) Surplus moneys standing at the credit of any of the heads of accounts referred to in section 39, which are not required, either immediately or at any date in the near future, to be applied for the purposes of this Act by the Municipality, may, in accordance with such rules as may be made by the State Government in this behalf, be transferred by the Municipality, either in whole or in part, to any other head of account:

Provided that no such money shall be transferred permanently from any head of account to any other head of account without the previous approval of the Municipality:

Provided further that such surplus moneys standing at the credit of the Commercial Projects Account shall not be transferred to the General Administration Account.

(2) Surplus moneys, which are not transferred under sub-section (1), may be invested in public securities or small savings schemes, approved by the Municipality, or deposited at interest with such nationalized bank as may be determined by the Executive Authority.

(3) Profit or loss, if any, arising from the investment under sub-section (2) shall be credited or debited, as the case may be, to the account to which such profit or loss relates.

Chapter X

Budget Estimates

- Budget estimate to be prepared separately for Revenue Account and Capital Account. 50. The Municipality shall prepare in each year a budget estimate for the ensuing year separately for Revenue Account and Capital Account, and such budget estimate shall be an estimate of the income and the expenditure under each such account.
- Preparation of budget estimate for Revenue Account of Municipality. 50. (1) The Chief Municipal Officer shall prepare in each year a budget estimate for Revenue Account along with an establishment schedule of the Municipality for the ensuing year, and such budget estimate shall be an estimate of the income and the expenditure of the Municipality under such account.
- (2) Subject to the provisions of sub-section (2) of section 39, the budget estimate shall separately state the income and the expenditure of the Municipality to be received and incurred under various heads of accounts.
- (3) The budget estimate shall state the rates at which various taxes, surcharges, cesses, and fees shall be levied by the Municipality in the year next following.
- (4) The budget estimate shall state the amount of money to be raised as loan during the year next following.
- (5) The Chief Councillor shall present the budget estimate to the Municipality on the thirty-first day of August in each year.
- (6) The budget estimate shall be prepared, presented, and adopted in such Form, and in such manner, and shall provide for such matters, as may be prescribed.
- (7) The annual statement of any changes in the inventory of immovable property prepared under sub-section (2) of section 86 and the annual statement prepared under sub-section (I) of section 73 together with the reports prepared under sub-section (I) of section 51 on services provided at subsidized rate and sub-section (2) of section 230 on environmental status of the Municipalities shall be supplied with the budget estimate, and a copy of such annual statement shall also be sent to the State Government.
- Report on services provided at subsidized rate. 51. (1) The Chief Municipal Officer shall, while preparing the budget estimate, add at the end thereof a report indicating whether the following services are provided at a subsidized rate and, if so, the extent of the subsidy, the reasons thereof, the source from which the subsidy is met, and the sections or the categories of the local population who are the beneficiaries of such subsidy, namely:-
- (a) water-supply and disposal of sewage, and
- (b) scavenging, transporting, and disposal of solid wastes.

Explanation. -A service shall be construed to be provided at a subsidized rate if the total cost of providing such service, comprising the expenditure on operation, maintenance, and adequate provision for depreciation of assets and debt servicing, exceeds the income for the rendering of such service.

- (2) The Executive Authority shall examine the report referred to in sub-section (1) and shall place it before the Municipality with its recommendations, if any.
- Sanction of budget estimate of Municipality. 53. (1) The Municipality shall consider the budget estimate and the recommendations thereon, if any, of the Executive Authority, and shall, by the thirtieth day of September in each year, adopt the budget estimate for the ensuing year with such changes therein as it may consider necessary, and shall submit the budget estimate so adopted to the State Government.
- (2) The budget estimate received by the State Government shall be returned to the Municipality before the thirty-first day of March of the year immediately preceding the year to which the budget estimate relates with or without modifications of the provisions thereof.
- (3) A copy of the budget estimate as received from the State Government shall be sent to the District Planning Committee for information.
- Power to alter budget grant. 54. Subject to the recommendation of the Executive Authority, the Municipality may, from time to time, during a year-
- (a) increase the amount of any budget grant under any head of account,
 - (b) make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year,
 - (c) transfer the amount of any budget grant or portion thereof under one head of account to the amount of budget grant under any other head of account, or
 - (d) reduce the amount of the budget grant under any head of account.

Chapter XI

Accounts and Audit

- Maintenance of accounts. 55. The Chief Municipal Officer shall prepare and maintain, in such manner as may be prescribed, accounts of receipts and expenditure of the Municipality separately under revenue account and capital account on the basis of accrual.
- Preparation of Municipal Accounting Manual. 56. The State Government shall prepare and maintain a Manual to be called the Municipal Accounting Manual containing details of all financial matters, and procedures relating thereto, in respect of the Municipality.
- Financial statement. 57. (1) The Chief Municipal Officer shall, within four months of the close of a year, cause to be prepared under revenue account and capital account a financial statement containing an account of income and expenditure and an account of receipts and payments for the preceding year in respect of the Municipality.
- (2) The Form of the financial statement, and the manner in which the financial statement shall be prepared, shall be such as may be prescribed.
- Balance sheet. 58. (1) The Chief Municipal Officer shall, within three months of the close of a year, cause to be prepared a balance sheet of assets and liabilities of the Municipality for the preceding year.
- (2) The Form of the balance sheet, and the manner in which the balance sheet shall be prepared, shall be such as may be

prescribed.

Submission of financial statement and balance sheet to Auditor.

59. The financial statement prepared under section 56 and the balance sheet of assets and liabilities prepared under section 57 shall be placed by the Chief Municipal Officer before the Chief Councillor, who shall, after examination of the said financial statement and the balance sheet, adopt them, and shall remit them to the Auditor as may be appointed by the State Government in this behalf.

Power of Auditor.

60. (1) The municipal accounts as contained in the financial statement, including the accounts of special funds, if any, and the balance sheet shall be examined and audited by the Director, by whatever name called, or any other person of equivalent rank, as may be appointed by the State Government or an Auditor appointed by the Municipality from the panel of professional Chartered Accountants prepared in that behalf by that Government.

(2) (a) The Comptroller and Auditor-General of India shall provide technical guidance to, and supervision over, the proper maintenance of accounts of the Municipalities and audit thereof.

Explanation. -The technical guidance to, and supervision over, the proper maintenance of accounts of the Municipalities by the Comptroller and Auditor-General of India shall include providing guidance regarding maintenance of accounts, standard of audit, guidelines of certification, training for capacity building, comments on accounts, and test audit of Municipalities selected as a representative sample.

(b) The Comptroller and Auditor-General of India shall prepare an Annual Technical Inspection Report based on technical guidance to, and supervision and test check of accounts of, Municipalities, to be placed before the Executive Authority.

(c) The Comptroller and Auditor-General of India may, at his discretion, exercise the right to report to the State Legislature the results of such test check of accounts.

(3) The Chief Municipal Officer shall submit such further accounts to the Auditor and the Comptroller and Auditor-General of India, as may be required.

(4) The Auditor appointed under sub-section (1) may-

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

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

(c) require any person so appearing before him, or before any officer subordinate to him, to make or sign a

declaration with respect to such document, cash or article, or to answer any question, or to prepare, and to submit, any statement, and

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

(5) The Auditor, or the officer subordinate to him, may report to the Executive Authority any item of accounts contrary to the provisions of this Act.

(6) The Executive Authority shall consider the report of the Auditor along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India, as early as possible, and shall, if necessary, take prompt action thereon, and shall also, if necessary, surcharge the amount of any illegal payment on the person making or authorizing such payment, and shall charge against any person the amount of any deficiency or loss incurred by the negligence or misconduct of such person or any amount which ought to have been, but is not, brought into account by such person, and shall, in every such case, certify the amount due from such person.

(7) Any person who willfully neglects, or refuses to comply with, the requisition made by an Auditor, or an officer subordinate to him, shall, on conviction by a court of competent jurisdiction, be punishable with such fine as may be prescribed.

Audit report.

61. (1) As soon as practicable after the completion of audit of the accounts of the Municipality, but not later than the thirtieth day of September each year, the Auditor shall prepare a report of the accounts audited and examined and shall send such report along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India to the Chief Municipal Officer.

(2) The Auditor shall include in the report as aforesaid a statement showing

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

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

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

(d) any other material impropriety or irregularity in the accounts.

Placing of audited accounts before Municipality.

62. (1) The Chief Municipal Officer shall place the audited financial statement, the balance sheet and the report of the Auditor and his comments along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India before the Executive Authority who, after the examination thereof, shall place them before the Municipality with its comments, if any.

(2) The Chief Municipal Officer shall remedy any defect that has been pointed out by the Auditor in his report.

- Submission of audited accounts. 63. (1) After adoption of the financial statement and the balance sheet and the report of the Auditor along with the report of the results of the test check of accounts of the Comptroller and Auditor-General of India by the Municipality, the Chief Municipal Officer shall, forward the same to the State Government together with a report of the action taken thereon by the Municipality and shall also send copies thereof to the Auditor and the Comptroller and Auditor- General of India.
- (2) If there is any difference of opinion between the Auditor and the Municipality or if the Municipality does not remedy the defects or the irregularities mentioned in the report of the Auditor within such period as may be prescribed, the Auditor shall refer the matter to the State Government whose decision thereon shall be final and binding.
- Power of State Government to enforce order upon audit report. 64. If any order made by the State Government under this chapter is not complied with, it shall be lawful for that Government to take such steps as it thinks fit to secure the compliance of the order and to direct that all expenses therefor shall be defrayed from the Municipal Fund.
- Special audit. 65. In addition to the audit of annual accounts, the State Government or the Municipality may, if it thinks fit, appoint an Auditor to conduct special audit pertaining to a specified item or series of items requiring thorough examination, and the procedure relating to audit shall apply *mutatis mutandis* to such special audit.
- Internal audit. 66. The State Government or the Municipality may provide for internal audit of the day to day accounts of the Municipality in the manner prescribed.
- Municipal Accounts Committee. 67. (1) A Municipal Corporation shall, at its first meeting in each year or as soon as may be at any meeting subsequent thereto, constitute a Municipal Accounts Committee.
- (2) The Municipal Accounts Committee shall consist of-
- (a) three members, not being the members of the Executive Authority, to be elected by the Councillors, from amongst themselves, and
- (b) such number of persons, not exceeding two and not being Councillors, or officers or other employees of the Municipal Corporation, having knowledge and experience in financial matters, as may be nominated by the Municipal Corporation.
- (3) The members of the Municipal Accounts Committee shall elect from amongst themselves one member to be its Chairperson.
- (4) Subject to the other provisions of this Act, the members of the Municipal Accounts Committee shall hold office until a new Municipal Accounts Committee is constituted.
- (5) The manner of submission of resignation by the Chairperson, or any other member, and the manner of filling up of a casual vacancy in the office of a member, of the Municipal Accounts Committee shall be such as

may be prescribed.

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

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

(b) to examine and scrutinize the report on the accounts of the Municipal Corporation by the Auditor appointed under section 58 and to satisfy itself that the moneys shown in the accounts as having been disbursed were available for, and applicable to, the services or purposes to which they were applied or charged and the expenditure was incurred in accordance with the authority governing such expenditure,

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

(d) to consider the report of the Auditor appointed under section 64 in cases where the State Government or the Municipal Corporation requires him to conduct a special audit of any receipt or expenditure of the Municipal Corporation or to examine the accounts of stores and stocks of the Municipal Corporation or to check the inventory of the properties of the Municipal Corporation including land holdings and buildings of the Municipal Corporation, and

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

(7) The Municipal Accounts Committee may call for any book or document if, in its opinion, such book or document is necessary for its work and may send for such officers of the Municipal Corporation as it may consider necessary for explaining any matter in connection with its work.

(8) The manner of transaction of business of the Municipal Accounts Committee shall be such as may be prescribed:

Provided that the persons nominated under clause (b) of sub-section (2) shall not have the right to vote at the meeting of the Municipal Accounts Committee.

- (9) In the case of a Municipal Councillor a Nagar Panchayat, the duty of the Municipal Accounts Committee under sub-section (6) shall be performed by the Executive Authority.

Chapter XII

Borrowings

Power of Municipality
to raise loan.

68. (1) Subject to the approval of the State Government, the Municipality may, from time to time, by a resolution in this behalf passed at a meeting of the Municipality, raise a loan by the issue of debentures or otherwise, on the security of the property tax or all or any of the other taxes, surcharges, cesses, fees, and dues under this Act or both the property tax and all or any of the other taxes, surcharges, cesses, fees, and dues under this Act, or on the guarantee provided by the State Government for any sum of money which may be required for the purpose of -

(a) construction of works under this Act, or

(b) acquisition of lands and buildings required under this Act, or

(c) paying off any debt due to the State Government, or (d) repayment of a loan raised under this Act,

or

(e) acquisition of a concern of public utility which renders such services as the Municipality is authorized to render under this Act, or (f) purchase of vehicles, locomotive engines, boilers and machinery necessary for implementing the provisions of this Act, or for any other purpose for which the Municipality is, by or under this Act or any other law for the time being in force, authorized to borrow:

Provided that in addition to the loan as aforesaid, the Municipality may also take loan from the State Government or any statutory body or public sector corporation.

- (2) When any loan has been raised under sub-section (1), -

(a) no portion thereof shall, without the previous sanction of the State Government, be applied to any purpose other than the purpose for which it has been raised, and

(b) no portion of any loan raised for any of the purposes referred to in that sub-section shall be applied to the payment of salaries or allowances to any officer or other employee of the Municipality, other than those who are exclusively employed for the purpose for which the loan has been raised.

Explanation. -The expression "dues under this Act" in sub-section (1) shall, for the purpose of clause (e) of that sub-section, be deemed to include the income derivable from the concern of public utility referred to in that clause.

- Power of Municipality to open credit account with bank. 69. Notwithstanding anything contained in section 67, the Municipality may, instead of raising a loan under that section, take, on such terms as may be approved by the State Government, credit from any nationalized bank, to be kept in a cash account bearing the name of the Municipality to the extent of such credit and, with the sanction of the State Government, may grant mortgage of all or any of the properties vested in the Municipality by way of securing the repayment of the amount of such credit or of the sums advanced from time to time on such cash account with interest.
- Power of Municipality to raise short-term loan. 70. Notwithstanding anything contained in this chapter, the Municipality may, from time to time, take a short-term loan repayable within such period, not exceeding twelve months, from any other nationalized bank for such purpose, not being a purpose referred to in sub-section (1) of section 67, on such terms, and on furnishing such security for the repayment of such loan, as may be approved by the State Government.
- Power of Municipality to reserve for investment a portion of debentures issued for raising loan. 71. (1) For the purpose of investment of any portion of the Municipal Fund in the debentures issued by the Municipality for raising a loan, the Municipality may reserve and set apart any portion of such debentures for issue on a par therewith in the name of the Municipality, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of raising the loan.
- (2) The issue of any debentures by the Municipality under sub-section (1) shall not operate to extinguish or cancel such debentures, but every such debenture shall be valid in all respects as if it were issued to, and in the name of, any other person.
- (3) The purchase by, or the transfer, assignment, or endorsement to, the Municipality of any debenture issued by it shall not operate to extinguish or cancel such debenture, and every such debenture shall be valid and negotiable in the same manner and to the same extent as if it were held by, or transferred, assigned, or endorsed to, any other person.
- Manner of repayment of loans. 72. Every loan raised by the Municipality under section 67 shall be repaid within such period as may be sanctioned by the State Government.
- Form and effect of debentures 73. All debentures issued under this chapter shall be in such Form, and shall be transferable in such manner, as the Municipality may, by regulations, determine, and the right to sue in respect of the moneys secured by any of such debentures shall vest in the holders thereof for the time being without any preference being given to one debenture over another by reason of one being prior to the other in so far as the dates of the debentures are concerned.
- Annual statement. 74. (1) The Chief Municipal Officer shall, at the end of every year, prepare, and submit to the Municipality, an annual statement showing -
- (a) the last date of investment, if any, made during the year, and
- (b) the aggregate amount of the securities at the credit of the Municipality at the end of the year.

(2) A copy of every such annual statement shall be submitted to the State Government by the Chief Municipal Officer.

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| Issue of Municipal Bonds for development of urban infrastructure. | 75. | Subject to such guidelines and procedure as the Central Government may lay down from time to time and with the previous approval of the State Government, the Municipality may issue tax-free Municipal Bonds for financing of projects for development of urban infrastructure. |
| Credit rating of Municipal Bonds. | 76. | (1) A Municipality shall, if and when required for the purpose of raising funds through a Municipal Bond, arrange to have a credit rating of the Municipal Bonds by a Credit Rating Agency, duly approved by the Central Government or the State Government, as the case may be.

(2) The Municipality shall provide to the Credit Rating Agency such information as it may require. |
| Pledging of municipal assets as security for Municipal Bonds. | 77. | The Municipality may pledge its movable and immovable assets including lands, buildings, and revenues from tax in special escrow accounts as security for the Municipal Bonds issued for development of urban infrastructure. |
| Debt Service Reserve Fund | 78. | The Municipality may set up a Debt Service Reserve Fund by providing special grants from its surplus revenue or through capitalization of proceeds from Municipal Bonds to service bond- holders in case of default in payment of principal and interest for a period not exceeding two years. |
| Limit to encumbrances through future debt. | 79. | If and when required, the Municipality may, for the purpose of issuing Municipal Bonds, limit its future debt encumbrances by adoption of suitable debt service coverage ratio as a minimum ratio in relation to its future cash flow projections |
| Use of proceeds from Municipal Bonds. | 80. | The fund to be raised from the Municipal Bonds shall be used for the purpose of -

(a) capital investment for development of urban infrastructure in the spheres of water-supply, sewerage, drainage, solid waste management, <i>bazars</i> , roads, bridges, traffic engineering schemes, and urban transport,

(b) reforming and improving the efficiency of existing systems of municipal administration, and

(c) repayment of loans raised through earlier issues of municipal bonds or otherwise for any of the purposes as aforesaid. |

Chapter XIII

Municipal Property

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| Power to acquire and hold property. | 81. | Subject to the provisions of any law relating to land for the time being in force, the Municipality shall, for the purposes of this Act, have power to acquire, by gift, purchase or otherwise, and hold, movable and immovable properties or any interest therein, whether within or outside the limits of the municipal area. |
| Vesting of property. | 82. | Notwithstanding anything contained in any other law for the time being in force, the movable and the immovable properties of the following categories within the limits of a municipal area, not belonging to any Government department or statutory |

body or corporation, shall vest in the Municipality, unless the State Government directs otherwise by notification, namely :-

- (a) all vested public lands,
- (b) all public tanks, streams, reservoirs, and wells,
- (c) all *bazars* and slaughterhouses,
- (d) all public sewers and drains, channels, tunnels, culverts, and watercourses in, alongside, or under, any street,
- (e) all public streets and pavements, and stones and other materials thereon, and also trees on such public streets or pavements not belonging to any private individual,
- (f) all public parks and gardens, including squares and public open spaces,
- (g) all public *ghats* on rivers or streams or tanks,
- (h) all public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto,
- (i) all public places for disposal of the dead, excluding those governed by any law for the time being in force,
- (j) all solid wastes collected on a public street or public place, including dead animals and birds, and
- (k) all stray animals not belonging to any private person.

Acquisition of property by Municipality by agreement, exchange, lease, grant, etc.

83. (1) Subject to the provisions of any law relating to land for the time being in force, the Municipality may, on such terms and conditions as may be approved by it, acquire by agreement -
- (a) any immovable property, and
 - (b) any easement affecting any immovable property.
- (2) The Municipality may also acquire any property by exchange on such terms and conditions as may be approved by it.
- (3) The Municipality may also hire or take on lease any immovable property on such terms and conditions as may be approved by it from time to time.
- (4) The Municipality may receive any grant or dedication by donor, whether in the form of any income or any movable or immovable property, by which the Municipality may be benefited in the discharge of any of its functions.
- (5) It shall be lawful for the Municipality to be the beneficiary of any trust created under the Charitable and Religious Trusts Act, 1920, or the Indian Trusts Act, 1882.

(14 of 1920).

(2 of 1882).

Compulsory acquisition of land.

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

(1 of 1894).

- (2) The Municipality shall be bound to pay to the State Government the cost including all charges in connection with the

acquisition of the land under the Land Acquisition Act, 1894.

(3) The Municipality may resort to other methods of land assembly including the use of transferable development rights, if any, under any law for the time being in force.

Special provision for acquisition of lands adjoining streets.

85. Whenever the Municipality makes a request to the State Government for acquisition of land for the purpose of widening or improving an existing street, it shall be lawful for the Municipality to apply to the State Government for the acquisition of such additional land immediately adjoining the land to be occupied by such new street or existing street as is required for the sites of buildings to be erected on either side of the street, and such additional land shall be deemed to be required for the purposes of this Act:

Provided that every such acquisition shall be subject to the provisions of any law relating to land for the time being in force.

Disposal of property.

86. The Municipality may dispose of any movable property, and, subject to the provisions of any law relating to sale, transfer, or lease of land for the time being in force, any immovable property, belonging to the Municipality in the manner hereinafter provided, namely :-

(a) the Executive Authority may sell, or grant lease of, or otherwise dispose of, by public auction, any movable property, and may grant lease of, or let out on hire, any immovable property, belonging to the Municipality,

(b) the Municipality may, with the prior approval of the State Government and subject to the provisions of any law relating to land for the time being in force, for valuable consideration, sell or otherwise transfer, any immovable property belonging to the Municipality which is not required for carrying out the purposes of this Act, and

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

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

Explanation. -"valuable consideration" shall, in relation to any immovable property, mean anything of considerable value in terms of money or property given in lieu of transfer, by way of sale or otherwise, of such immovable property.

Inventory of properties of Municipality.

87. (1) The Executive Authority shall cause to be maintained a register, and a map, of all immovable properties of which the Municipality is the owner or which vest in it, or which the Municipality holds in trust on behalf of the State Government, and a register of all movable properties belonging to the Municipality.

(2) The Executive Authority shall, in the case of the inventory of an immovable property, cause to be prepared an annual statement indicating the changes, if any, in the said inventory and shall place the said inventory before the Municipality along with the budget estimate.

MUNICIPAL REVENUE**Chapter XIV****Sources of Internal Revenues**

- Implementation of report of Finance Commission. 88. Subject to the provisions of article 243 Y, read with item (c) of clause (3) of article 280, of the Constitution of India, and the action taken report of the State Government on the recommendations of the Finance Commission as constituted under article 243-1 of the said Constitution, the Municipality shall take such measures as may be specified by the State Government.
- Internal revenues of Municipality. 89. (1) The internal revenues of the Municipality shall consist of the receipts of the Municipality from the following sources :-
- (a) taxes levied by the Municipality,
 - (b) user charges levied for provision of civic services, and
 - (c) fees and fines levied for performance of regulatory and other statutory functions.
- (2) Subject to the provisions of this chapter, and such directions as the State Government may give from time to time, the Municipality may levy any tax, user charge or fee as may be specified by that Government:
- Provided that in no case the rate of tax, user charge or fee shall exceed the rate at which such tax, user charge or fee was being levied on the date immediately before the date of coming into force of this Act and such rate of tax, user charge or fee shall be increased at a graduated rate at such interval as the State Government may direct:
- Provided further that the State Government may, if it thinks fit, exempt any class or classes of assesses, including those in any peripheral municipal area, till such time the municipal services, the service delivery mechanism, and the requisite amenities under this Act are provided to such class or classes of assesses including those in any peripheral municipal area.
- Power to levy taxes. 90. (1) The Municipality shall have, for the purposes of this Act, the power to levy the following taxes:-
- (a) property tax on lands and buildings,
 - (b) surcharge on transfer of lands and buildings,
 - (c) tax on deficits in parking spaces in any non-residential building or *bazar*,
 - (d) water tax,
 - (e) fire tax,
 - (f) tax on advertisements, other than advertisements published in newspapers,
 - (g) surcharge on entertainment tax,
 - (h) tax on congregations,
 - (i) tax on pilgrims and tourists, and
 - (j) toll on –
 - (i) roads and bridges, and
 - (ii) heavy trucks which shall be heavy goods vehicles, and buses, which shall be heavy passenger

motor vehicles, within the meaning of the Motor Vehicles Act, 1988, plying on a public street.

(59 of 1988).

(2) The State Government may authorize a Municipality to levy, collect and appropriate such other taxes, which the State Legislature has the power to levy under the Constitution of India, for such purposes, and subject to such conditions, as may be prescribed.

(3) The levy, assessment and collection of taxes under this Act shall be in accordance with the provisions of this Act and the rules and the regulations made thereunder.

Power to levy user charges.

91. The Municipality shall levy user charges for -

(i) provision of water-supply, drainage and sewerage,

(ii) solid waste management,

(iii) parking of different types of vehicles in different areas and for different periods,

(iv) stacking of materials or rubbish on public streets for construction, alteration, repair, or demolition work of any type, and

(v) other specific services rendered in pursuance of the provisions of this Act, at such rates as may be determined from time to time by regulations:

Provided that a Municipality may, having regard to the conditions obtaining in the municipal area, and with the prior approval of the State Government, decide not to levy, or postpone the levying of, any of the user charges as aforesaid.

Power to levy fees and fines.

92. The Municipality shall have the power to levy fees and fines in exercise of the regulatory powers vested in it by or under this Act or the rules or the regulations made thereunder for -

(a) sanction of building plans and issue of completion certificates,

(b) issue of municipal licences for various non-residential uses of lands and buildings,

(c) licensing of-

(i) various categories of professionals such as plumbers and surveyors,

(ii) various activities such as sinking of tube-wells, sale of meat, fish, or poultry, or hawking of articles,

(iii) sites used for advertisements or premises used for private markets, slaughterhouses, hospitals, nursing homes, clinics, factories, warehouses, godowns, goods transport depots, eating-houses, lodging- houses, hotels, theatres, cinema-houses, and places of public amusement and for other non-residential uses,

(iv) animals,

(v) carts or carriages, and

(vi) such other activities as require a licence or permission under the provisions of this Act, and

(d) issue of birth and death certificates.

Levy of surcharge on tax or user charge or fee.

93. (1) The Municipality may levy a surcharge on a tax, or user charge, or fee on a premises used for non-residential purposes at such rate, being not less than ten per cent and not more than thirty per cent, of such tax, user charge, or fee, as the case may be, as may be prescribed.

(2) Subject to the provisions of sub-section (1), the Municipality may levy, at a different rate, a surcharge on a tax, or user charge, or fee on -

(a) a premises in an area which is categorized as a-

(i) commercial area, or

(ii) non-commercial area, and

(b) a premises, depending upon its use for -

(i) residential purpose, or

(ii) non-residential purpose.

Explanation I -"commercial area" shall mean an area for the activity of buying and selling, especially on a large scale, and declared as such by the Municipality by notification, and "non- commercial area" shall, accordingly, mean an area which is not a commercial area.

Explanation II -"residential purpose" shall mean a purpose designed for people to live in, and "non-residential purpose" shall, accordingly, mean a purpose which is not a residential purpose.

Power to levy development charge.

94. The Municipality may levy a development charge on such residential buildings, taking into account such considerations, and at such rates, as may be prescribed.

Realisation of tax, cess, fee, etc. under any

95. The Municipality may, if so authorized by any other law for the time being in force, realise any tax, development charge, cess, or fee, imposed under that law, or any dues payable under that law, in accordance with the provisions thereof.

other law.

Chapter XV

Tax on Lands and Buildings and Related Taxes

A. Property tax on lands and buildings, surcharges and rebates

- Property tax on lands and buildings. 96. (1) For the purposes of this Act, a property tax determined under this chapter on the annual value of any land or building in the municipal area, including any land or building belonging to the State Government, or the Municipality, or any undertaking or public sector corporation under the control of the State Government or the Municipality, but excluding any land or building specifically exempted under this Act, shall be levied by the Municipality.
- (2) The rate of such property tax shall such as may be prescribed:

Provided that such tax shall not exceed one-fourth *per cent* of the annual value of the property.

Explanation.-“annual value”, not being capital value, shall mean the annual value determined after taking into consideration the prevailing rent in the neighbourhood of the land or the buildings as aforesaid.

- (3) The amount of property tax determined under this chapter shall be linked to the consumer price index of urban non-manual workers for a year in which a general valuation of all lands and buildings within the municipal area has been made, and it shall be lawful to realize the amount of such tax so determined on a yearly basis according to the changes in the aforesaid index till the next general valuation of such lands and buildings.
- (4) In calculating the amount of property tax and the amount payable per quarter or half year or year after allowing the rebate as may be admissible for payment within the date fixed therefor, the fraction of a rupee shall be rounded off to the nearest rupee, fifty paise being treated as one rupee.

- Property tax on Central Government properties. 97. Notwithstanding anything contained in this Act, any land or building, which is the property of the Central Government, shall, save in so far as Parliament by law otherwise provides, be exempt from the property tax:

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent the Municipality from levying any tax on any property of the Central Government to which such property was immediately before the commencement of the Constitution of India liable or treated as liable, so long as the property tax continues to be levied by the Municipality.

Explanation. -A property of the Central Government shall not include any property vested in, or belonging to, any statutory body or public sector corporation under the control of the Central Government.

- Rate of property tax on any land, hut, or building in a slum. 98. The rate of property tax shall not exceed, in respect of any land, hut, or building in a slum, two-thirds of the rate of tax on land, hut or building not located in a slum as provided in this chapter.

- Surcharge. 99. (1) The Municipality may, where any land or building or hut or portion thereof is used for any non-residential purpose, levy a surcharge on the property tax on such land or building or hut or portion thereof at such rate, not exceeding ten *per cent* of the rate of property tax, as the Municipality may, from time to time, determine:

Provided that where any portion of any land or building or hut is used for any non-residential purpose, the amount of the property tax payable in respect of such portion of land or building or hut shall, while fixing the property tax for the entire land or building or hut, be separately calculated:

Provided further that the Municipality may, subject to such rules as may be made in this behalf for the grant of

exemption from surcharge in respect of any class or classes of lands or buildings or huts used for educational, public health, medical, cultural, or sports purposes, exempt any such land or building or hut from payment of the surcharge:

Provided also that such exemption shall in no case exceed fifty *per cent* of the surcharge.

(2) For the avoidance of doubt, it is hereby declared that for the purposes of sub-section (1), "educational, public health, medical, cultural, or sports purposes" shall mean -

(a) the purposes of education intended to be imparted by a Government school or Government-aided school or municipal school or any other educational institution affiliated to any university or the All-India Council for Technical Education, and

(b) the purposes of public health, medical treatment, cultural functions, or sports, ensured or organized by a Government institution or Government-aided institution or the Municipality or an institution aided by the Municipality or any other public institution, not being a Government institution.

Additional surcharge. 100.

The Municipality may levy an additional surcharge at a rate, not exceeding twenty-five *per cent* of the rate of property tax, on such land or building or hut or portion thereof as is rented out:

Provided that in the case of any building which is partly occupied and partly rented out, the additional surcharge shall be levied only on the annual value of the rented portion.

Exemption of lands and buildings from property tax. 101.

(1) Notwithstanding anything contained in the foregoing provisions of this chapter, -

(i) any land or building or portion thereof exclusively used for the purpose of public worship, or

(ii) any land or building exclusively used for the purpose of public burial or as cremation ground, or any other place used for the disposal of the dead duly registered under this Act, or

(iii) any open space including a parade ground which is the property of the Central Government or the State Government, may be exempted by the Municipality from the property tax.

Explanation. -For the purposes of clause (i), any land or building used for public worship shall not be deemed to be exclusively used for such worship, if, on such land or in such building, any trade or business is carried on, or any rent or income is derived in respect of such land or building.

(2) The Chief Municipal Officer shall cause to be maintained a register showing separately the lands and buildings exempted from the property tax under sub-section (1) in such Form as may be determined by regulations, and such register shall be open to the public for inspection.

Exemption of diplomatic or consular mission of a foreign State from payment of 102.

The State Government may, subject to any reciprocal agreements between various countries, by order, exempt from the payment of any rate, tax, or fee payable under the provisions of this Act, any diplomatic or consular mission of a foreign State and the diplomatic or consular officers of such mission.

any rate, tax, or fee.

B. Classification of lands and buildings and determination of annual values

Classification of lands and buildings and fixation of annual values.

103. (1) The Municipality shall, on the recommendation of the Municipal Valuation Committee constituted under section 113, and having regard to -

(a) the location of lands and buildings in the municipal area, and

(b) the structural characteristics of buildings,

declare its intention to classify lands and buildings in each ward of the Municipality into such groups as the Municipality may specify by a public notice, and shall also specify in such public notice the annual value it proposes to fix per unit area of vacant land and per unit area of covered space of buildings within each such group.

(2) If any owner or occupier of any land or building in any ward in respect of which a public notice has been issued under sub-section (1), has any objection to the manner of classification of any group or groups or the value per unit area of vacant land or the value per unit area of covered space of building in any such group, he may submit to an officer of the Municipality, duly authorized by the Municipality in this behalf, his objection in such Form, and containing such particulars, as may be prescribed, within sixty days from the date of publication of such public notice, and such objection shall be considered by the Municipal Valuation Committee.

(3) On the expiry of sixty days from the date of publication of the public notice under sub-section (1), and after considering the objections, if any, in accordance with the provisions of section 104, the Municipality shall, by a public notice, specify group wise the value per unit area of vacant land and the value per unit area of covered space of building.

Procedure for hearing objection to classification of lands and buildings.

104. Any objection under sub-section (2) of section 103 shall be -

(a) entered in such register,

(b) determined by the Municipal Valuation Committee in such manner, and

(c) disposed of in accordance with such procedure, as may be prescribed.

Validity of unit area values and periodic revision thereof.

105. The unit area value of vacant land and the unit area value of covered space of building, as may be specified under section 103, in respect of a group in any ward shall remain in force for a period of five years and shall be revised at the expiration of each such period of five years:

Provided that till the revision of such unit area values is completed, the existing unit area values shall continue to be in force.

Locational characteristics.

106. (1) The location of any land or building in the municipal area, referred to in clause (a) of sub-section (1) of section 103, shall be determined with reference to -

(a) the ward or a *Bazar* in which the land or the building is situated, and

(b) the type of public street as classified in section 258 on which such land or building is situated.

(2) In the case of any private street or pedestrian pathway, the Chief Municipal Officer shall, having regard to the nature and width of the private street or pedestrian pathway on which any land or building is situated, and with the previous sanction of the Executive Authority, determine the category of such private street or pedestrian pathway under sub-section (1) of section 258.

Structural characteristics.

107. (1) For the purposes of this Act, any building in any ward of the Municipality shall, according to the type of structure of such building, be classified as -

(a) *pucca* building, or

(b) *semi-pucca* building, or

(c) *kutch*a building.

(2) The Municipality shall, having regard to the materials of construction used and the construction practices employed, specify, by regulations, the types of buildings which may be classified as *pucca* building, or *semi-pucca* building, or *kutch*a building.

Annual value of land and building.

108. (1) The annual value of any vacant land and building in any ward of the Municipality shall be the sum of the amount arrived at by multiplying the value per unit area of such vacant land by the total area of such vacant land and the amount arrived at by multiplying the value per unit area of the covered space of such building by the total area of such covered space, if any, and shall be determined accordingly by an order by the Chief Municipal Officer, and a copy of the order shall be supplied within ten days thereof to the owner or the occupier of the land or the building, as the case may be, in such Form, and in such manner, as may be prescribed.

(2) The value of any machinery contained in, or situated upon, any land or building shall not be taken into consideration while determining the annual value.

Explanation I. -In the case of a building with appurtenant land, the area of the land under the plinth area of the building shall be excluded from the total area of the land, the balance being treated as vacant land which shall be assessed as such.

Explanation II -The covered space of any building shall mean the total floor area of the building in all the storey.

Explanation III -For the purposes of this section, "machinery" shall include lift, air-conditioning equipment, and equipment for providing earthquake proofing.

Deduction from annual value for repair etc. of building.

109. (1) In the case of a building, there shall be deducted from the annual value determined under section 108 a sum equal to ten *per cent* of such annual value, and such deduction shall be on account of cost of repair or insurance or on any other account.

(2) The annual value of any land or building, as determined under this section, shall be a multiple of ten rupees, any fraction below five being ignored and any fraction of five or above being rounded off to the next ten rupees.

Determination of annual value of building where land is exempted from property tax.

110. Where any land is exempted from property tax under any law for the " time being in force, the annual value of any building erected on such land, which is in existence for more than one year and is not entitled to any exemption from such tax under this Act or any other law for the time being in force, shall be determined separately from the tax on land in accordance with the provisions of this chapter.

Self-assessment.

111. Any owner of any land or building or any other person liable to pay the property tax or any occupier in the absence of such owner or person shall compute the tax due on the basis of the annual value of such land or building as determined under section 108 and section 109, and the rate of tax as determined under section 96.

Unit of assessment.

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

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

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

Provided that if such land or building is sub-divided into separate shares which are not entirely independent and capable of separate enjoyment, the Chief Municipal Officer may, on application from the owners or co-owners, apportion the valuation and assessment of such land or building among the co-owners according to the value of their respective shares, treating the entire land or building as a single unit.

(3) Each residential unit with its percentage of the undivided interest in the common areas and facilities, constructed or purchased and owned by or under the control of any housing co-operative society registered under any law regulating co-operative housing for the time being in force, shall be assessed separately.

(4) Each apartment and its percentage of the undivided interest in the common areas and facilities in a building within the meaning of any law regulating apartment ownership for the time being in force shall be assessed separately.

(5) Notwithstanding any assessment made before the commencement of this Act, the Chief Municipal Officer may, on his own or otherwise, amalgamate or separate, as the case may be, lands or buildings or portions thereof so as to ensure conformity with the provisions of this section.

(6) If the ownership of any land or building or a portion thereof is sub-divided into separate shares, or if more than one land or building or portion thereof comes under one ownership by amalgamation, the Chief Municipal Officer may, on an application from the owner or the co-owners, as the case may be, separate, or amalgamate, such lands or buildings or portions thereof so as to ensure conformity with the provisions of this section.

- (7) The Chief Municipal Officer shall, upon an application made in this behalf by an owner, lessee, sub-lessee, or occupier of any land or building and upon payment of such fee as may be determined by the Municipality by regulations, furnish to such owner, lessee, sub-lessee, or occupier, as the case may be, information regarding the apportionment of the property tax on such land or building among the several occupiers of such land or building for the current assessment period or for any preceding assessment period:

Provided that nothing in this sub-section shall prevent the Municipality from recovering any arrear dues on account of property tax from any such person.

B. Municipal Valuation Committee and Municipal Assessment Tribunal

Constitution of
Municipal Valuation
Committee.

113. (1) The State Government may, by notification, constitute a Municipal Valuation Committee.
- (2) The Municipal Valuation Committee shall consist of-
- (a) a Chairperson, and
- (b) other members, being not less than three and not more than five.
- (3) The Chairperson and the other members shall be appointed by the State Government.
- (4) The Chairperson shall be a person who is or has been a member of the State Higher Judicial Service for a period of not less than three years.
- (5) Of the other members, -
- (a) at least one shall be a person who is or has been a qualified chartered accountant or a qualified valuer, and
- (b) at least one shall be a person who is or has been a qualified engineer, not below the rank of a Chief Engineer in a Municipality.
- “(c) at least one shall be a person who is or has been holding the post of Joint Secretary or equivalent and above in the State Civil Service preferably working/worked in the Urban Development & Housing Department, Government of Sikkim”.
- “(d) at least one shall be a person who is or has been holding the post of Joint Director or equivalent and above in the State Finance and Accounts Service of Sikkim”
- (6) Subject to the directions by the State Government in this regard, the Municipal Valuation Committee shall perform its functions in respect of all the Municipalities of the State.

Terms and conditions
of service of
Chairperson and other
members.

114. (1) The Chairperson of the Municipal Valuation Committee shall hold office till he attain the age of sixty-five years whichever is earlier.

- (2) The other terms and conditions of service of the Chairperson and the other members of the Municipal Valuation Committee, including salaries and allowances, shall be such as may be determined by the State Government:

Provided that if a serving judicial officer of Higher Judicial Service is designated as the Chairperson the provision as aforesaid shall not apply.

- (3) The salaries and allowances of the Chairperson and the other members of the Municipal Valuation Committee shall be apportioned by the State Government and shall be paid from the Municipal Funds of various Municipalities as may be directed by the State Government.

Functions of Municipal Valuation Committee

115. The functions of the Municipal Valuation Committee shall be-
- (a) to make recommendations to the Municipality on matters relating to classification of lands and buildings into different groups and fixation of values per unit area of such lands and buildings under section 103,
 - (b) to determine objections under sub-section (2) of section 103,
 - (c) to advise the Executive Authority on all matters relating to determination of annual values of lands and buildings, and
 - (d) to perform such other functions as the State Government may, by rules, determine.

Constitution of Municipal Assessment Tribunal.

116. (1) The State Government may constitute a Municipal Assessment Tribunal consisting of a Chairperson and such other members, not exceeding five, as the State Government may determine.
- (2) The Chairperson and the other members shall be appointed by the State Government for a period of five years or till they attain the age of sixty-five years, whichever is earlier.
- (3) The other terms and conditions of service of the Chairperson and the other members of the Municipal Assessment Tribunal, including salaries and allowances, shall be such as may be determined by the State Government.
- (4) The salaries and allowances of the Chairperson and the other members of the Municipal Assessment Tribunal shall be apportioned by the State Government and shall be paid from the Municipal Funds of various Municipalities as may be directed by the State Government.
- (5) The Chairperson and not less than one half of the other members shall be persons who are or have been members of the State Higher Judicial Service for a period of not less than five years, and the remaining members shall have such qualifications and experience as the State Government may determine.
- “(6) Not less than one half of other members shall be persons who are or have been members of State Civil Service holding the post of Jt. Secretary or equivalent and above and the State Finance & Accounts Service holding the post of Jt. Director and equivalent or above”

D. Assessment

- Submission of returns. 117. (1) The Chief Municipal Officer shall, with a view to determine the annual value of lands and buildings in any ward and the persons primarily liable for the payment of the property tax, by notice, require the owners and the occupiers of such lands or buildings or any portion thereof, including such owner or person computing the tax due under the provisions of section 111, to furnish returns in such Form, containing such particulars, and within such time, as may be prescribed.
- (2) Every owner or occupier shall be bound to comply with such notice and to furnish a return with a declaration that the statement made therein is correct to the best of his knowledge and belief.
- (3) The Chief Municipal Officer, or any person subordinate to him and duly authorized by him, in writing, in this behalf, may, with or without giving any previous notice to the owner or the occupier of any land or building, enter upon, and make any inspection or surveyor take measurement of, such land or building with a view to verifying the statement made in the return for such land or building or for collecting the particulars referred to in sub-section (1) in respect of such land or building:

Provided that no such entry shall be made except between the hours of sunrise and sunset.

- Periodic assessment. 118. The Chief Municipal Officer shall, having regard to the recommendations under section 115 of the Municipal Valuation Committee relating to classification of lands and buildings into different groups and fixation of values per unit area of such lands and buildings, cause a general valuation of all lands and buildings in the municipal area in accordance with the provisions of this chapter as soon as possible after the constitution of a new municipal area and at periodic intervals in the case of all other municipal areas so as to ensure that there is a revision of such valuation of all lands and buildings at the expiration of successive period of five years:

Provided that the annual value of any land or building situated in the municipal area, which has been determined earlier and is in force on the date of commencement of this Act, shall remain in force, and shall be deemed to be the annual value for the purpose of assessment of property tax on such land or building under this chapter, until a fresh annual value is determined under the provisions of this Act:

Provided further that where, on the date of commencement of this Act, the determination of the annual value of any such land or building is under process under any law for the time being in force, such determination shall be completed under that law and shall be deemed to be the annual value in force under this Act, until a fresh annual value is determined under the provisions of this Act.

- Period of validity of assessment. 119. (1) The annual value of any land or building determined under this chapter -
- (a) shall have effect from the date of commencement of the quarter of a year ending on 30th June or 30th

September or 31st December or 31st March, as the case may be, following that in which a public notice under clause (b) of section 121 has been given, and

(b) shall, subject to the other provisions of this chapter, remain in force in respect of each ward of the Municipality for a period of five years.

(2) Where the annual value of any land or building in any ward has not, for reasons which are on record in writing, been revised on the expiration of five years, the annual value of such land or building in force immediately before such expiration shall continue to remain in force until it is revised.

Revision of assessment.

120. (1) The Chief Municipal Officer may cause any revision to be made in the annual value of any land or building or any portion thereof in the following cases, namely :-

(i) where any tenancy or any rent changes, or .

(ii) where the nature of use changes, or

(iii) where a new building is erected or an existing building is redeveloped or substantially altered or improved during the period the annual value remains in force, or

(iv) where, on an application made in writing by the owner or the person liable to pay the property tax, it is established that during the period the annual value remains in force, its value has been reduced by reason of any substantial demolition or has suffered depreciation on account of any accident or any calamity proved to the satisfaction of the Chief Municipal Officer to have been beyond the control of such owner or such person, or

(v) where any land or building or portion thereof is .acquired by purchase or otherwise by the Central Government or the State Government or the Municipality, or

(vi) where any land or building, or portion thereof, is sold or otherwise transferred to the Central Government or the State Government or the Municipality, or

(vii) where, upon the acquisition or transfer of any land or building in part, a residual portion remains, or

(viii) where it becomes necessary so to do for any other reason to be recorded in writing.

(2) Any revision in the annual value of any land or building or portion thereof under this section shall come into force from the date of commencement of the quarter of a year ending on 30th June or 30th September or 31st December or 31st March, as the case may be, following that in which such revision comes into force and shall remain in force for the unexpired portion of the period during which but for such revision, such annual valuation would have remained in force.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), where the annual value of any land or building -

(i) has not, for any reason, been determined under this Act, the annual value of such land or building may be determined by the Chief Municipal Officer at any time during the currency of the period of assessment in respect of such land or building under section 118 or section 119, or

(ii) has been cancelled on the ground of irregularity, the annual value of such land or building may be determined by the Chief Municipal Officer at any time after such cancellation,

and such annual value shall remain in force until a fresh valuation or revision is made and shall take effect from the beginning of the quarter from which the previous valuation which has been cancelled would have taken effect:

Provided that the valuation made under clause (i) or clause (ii) shall remain in force for the unexpired portion of the period specified in this chapter.

(4) Any revision of annual value of any land or building or any portion thereof under this section shall be made with reference to the group into which such land or building or portion thereof is classified under section 103, and the annual value fixed per unit area of such land or building for that group shall be applicable.

(5) Notwithstanding anything contained in the foregoing provisions of this section, no revision of the annual value of any land or building or portion thereof under this section shall be made without giving the owner or the occupier of such land or building or portion thereof a reasonable opportunity of being heard.

(6) Where any revision of annual value of any land or building or portion thereof is made under this section, the order of such revision shall be communicated to the owner or the occupier of such land or building or portion thereof within ten days from the date of the order.

(7) An appeal shall lie against an order under sub-section (6) to the Municipal Assessment Tribunal, if preferred by the owner or the occupier of such land or building or portion thereof within forty- five days from the date of receipt of the order.

Public notice and inspection of assessment list.

121. Where the determination of the annual value of any land or building in any ward or part thereof has been completed, the Chief Municipal Officer shall –

- (a) cause such annual value to be entered in an assessment list in such Form,
- (b) give public notice of the assessment list and the place of inspection thereof in such manner,
- (c) fix such date, time and place for consideration of the annual value of any land or building entered in the assessment list, and
- (d) give, in the case of a revision of the annual value of any land or building or portion thereof, such notice fixing the date, time and place for consideration of the revision of the said annual value, and in such manner, as may be prescribed.

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| Objection. | 122. | Any objection to the annual value of any land or building as entered in the assessment list may be made by the owner or the occupier of such land or building in writing to the Chief Municipal Officer before the date fixed in the public notice under section 121, stating the reason for such objection. |
| Appointment of officer to hear objection. | 123. | <p>(1) The State Government shall appoint such number of officers, and on such terms and conditions, as it may determine to hear and determine objections to the annual value of any land or building entered in the assessment list.</p> <p>(2) The officers appointed under sub-section (1)–</p> <ul style="list-style-type: none"> (a) shall be paid from the Municipal Fund such salary and allowances, and (b) may be provided with such assistance in course of their making any query or observation in relation to any entry in the assessment list and calling for any record, return or explanation, as may be prescribed. <p>(3) Every query or observation as aforesaid shall be taken into consideration within such time, and in such manner, as may be prescribed.</p> |
| Hearing of objections. | 124. | <p>(1) Any objection made under section 122 shall be entered in a register maintained for the purpose in such Form, and in such manner, and containing such particulars, as may be prescribed.</p> <p>(2) On the date, time and place fixed under clause (c), or clause (d), of section 121, and, after giving the person making the objection a reasonable opportunity of being heard, either in person or through an authorized agent, the officer appointed under section 123 shall determine the objection.</p> <p>(3) The manner of recording an order of determination of an objection under sub-section (2), the period within which, and the Form in which, a copy of the order as aforesaid shall be supplied to the owner or the occupier of the land or the building, as the case may be, the procedure for hearing and disposal of objections, and the date of effect of the annual value after determination of any objection under this section, shall be such as may be prescribed.</p> |
| Appeal. | 125. | (1) Any owner or occupier of any land or building aggrieved by an order of the Chief Municipal Officer under section 108 or by the determination of annual value under section 124 may prefer an appeal before the Municipal Assessment Tribunal in such Form as may be prescribed: |

Provided that such appeal shall be preferred to the Municipal Assessment Tribunal within forty-five days

from the date of supply of the order under section 108 or section 124, as the case may be, and shall be accompanied by a copy of the said order.

(2) No appeal under this section shall be entertained unless the property tax in respect of any land or building due on the date of presentation of the appeal has been deposited, and the appeal shall abate, unless such property tax is continued to be deposited till the appeal is finally disposed of.

(3) The annual value of any land or building determined after the disposal of the appeal shall take effect from the quarter from which such annual value would have taken effect and shall continue to remain in force during the period such annual value would have remained in force, had no appeal been preferred.

(4) The provisions of Part II and Part III of the Limitation Act, 1963, relating to appeals shall apply to every appeal preferred under this section.

(36 of 1963).

(5) The procedure for hearing and disposal of appeals by the Municipal Assessment Tribunal shall be such as may be prescribed.

(6) The decision of the Municipal Assessment Tribunal shall be final and no suit or other proceeding shall lie in any Civil Court in respect of any matter which has been, or may be, referred to, or has been decided by, the said Tribunal.

Final valuation.	126.	Every valuation in the assessment list under section 108 or section 120 shall, subject to the provisions of section 124 or section 125, as the case may be, be final.
Municipal Assessment Book.	127.	The Municipality shall maintain a Municipal Assessment Book for making entries of the annual value of any land or building referred to in section 108, or revised under section 120, or determined under section 124, or decided under section 125, as shall be final under section 126, in such Form, and in such manner including the manner of amendment of the said Municipal Assessment Book, as maybe prescribed

E. Incidence of Property Tax

Property tax and surcharge thereon to be first charge on lands and buildings and movables.	128.	The property tax on any land or building and the surcharge thereon, due from any person, shall, subject to the prior payment of land revenue, if any, due to the State Government on account of such land or building, be a first charge upon such land or building belonging to such person and upon the movable property, if any, on or within such land or building and belonging to the person liable to such property tax and surcharge thereon.
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Incidence of property tax.	129.	(1) The property tax on any land or building shall be primarily leviable upon the owner thereof.
		(2) The liability of the several owners of any land or building constituting a single unit of assessment, which is, or purports to be, severally owned in parts or flats or rooms, for payment of property tax or any installment thereof, payable

during the period of such ownership, shall be joint and several:

Provided that the Chief Municipal Officer may apportion the amount of property tax on such land or building among several co- owners:

Provided further that in any case where the Chief Municipal Officer is, for reasons to be recorded in writing, satisfied that the owner is not traceable, the occupier of such land or building for the time being shall be liable for payment of the property tax and the surcharge thereon and shall also be entitled to the rebate, if admissible.

(3) The property tax on any land or building, which is the property of the Municipality and the possession of which has been delivered under any agreement or licensing arrangement, shall be leviable upon the transferee or the licensee, as the case may be.

Incidence of surcharge. 130. Where a surcharge has been imposed under section 99, such surcharge shall be payable by the owner or the occupier, as the case may be, who uses such land or building for any purpose other than residential purpose.

Apportionment of surcharge. 131. The person primarily liable to pay the property tax in respect of any , land or building may recover the entire amount of the surcharge on the property tax on such land or building from the occupier who uses it for any purpose other than residential purpose:

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

Recovery of property tax on lands and buildings from occupiers. 132. (1) On the failure to recover any sum due on account of property tax on any land or building from the person primarily liable therefor under section 129, the Chief Municipal Officer shall, notwithstanding anything contained in any law regulating premises tenancy for the time being in force, recover from every occupier or such land or building, by attachment of *the* rent payable by such occupier, a portion of the total sum due which bears, as nearly as may be, the same proportion to such sum as the rent annually payable by such occupier bears to the total amount of rent annually payable in respect of the whole of such land or building.

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

Payment of property tax on land and building. 133. (1) Save as otherwise provided in this Act, the property tax on any land or building under this chapter shall be paid by the person liable for the payment thereof in a year in quarterly or half-yearly installments or annually.

(2) The Chief Municipal Officer shall cause to be presented to the person liable for payment of property tax a comprehensive bill in respect of the said tax to be paid in accordance with the provisions of sub-section (1) by such

date, and the said bill shall be dispatched in such manner, as may be prescribed.

Self-assessment and submission of return

134. (1) Any owner of any land or building or any other person liable to pay the property tax or any occupier in the absence of such owner or person, who computes such property tax under section III, shall, on such computation, pay the property tax on lands and buildings, together with interest, if any, payable under the provisions of this Act on-
- (a) any new building or existing building which has not been assessed, or
 - (b) any existing building which has been redeveloped or substantially altered or improved after the last assessment, but has not been subjected to revision of assessment consequent upon such redevelopment or alteration or improvement, as the case may be, or
 - (c) any new building referred to in clause (a) or any existing building referred to in clause (a) and clause (b), the bills in respect of which have not been issued.

Explanation. -For the purposes of this sub-section, "last assessment" shall mean the assessment where the annual value has been determined by the officer appointed under section 123 and communicated to the assessee.

- (2) Such owner or person, as the case may be, shall furnish to the Chief Municipal Officer a return of self-assessment in such Form, and in such manner, as may be prescribed. Every such return shall be accompanied by proof of payment of property tax and interest, if any.
- (3) The payment of property tax and interest, if any, shall be made, and the return shall be furnished, within sixty days of the coming into force of this Act.
- (4) In the case of any new building for which an occupancy certificate has been granted or which has been taken possession of after the coming into force of this Act, such payment shall be made, and such return shall be furnished, within thirty days of the expiry of the quarter in which such occupancy certificate is granted or such possession is taken, whichever is earlier.

Explanation. -For the removal of doubt, it is hereby declared that occupancy certificate may be provisional or final and may be for the whole or any part of the building and possession may be of the whole or any part of the building.

- (5) Such payment shall continue to be made for each subsequent quarter and the last date of such payment shall be thirty days after the expiry of each such quarter.
- (6) After the determination of annual value of land or building under section 108, or revision thereof under section 120, has been made, any amount paid on self-assessment under this section shall be deemed to have been paid on account of such determination under section 108 or such revision under section 120, as the case may be.

- (7) If any owner or other person, liable to pay the property tax under this Act, fails to pay such property tax together with interest, if any, in accordance with the provisions of this section, he shall, without prejudice to any other action to which he may be subject, be deemed to be a defaulter in respect of the property tax or interest or both, remaining unpaid, and all the provisions of this Act applicable to such defaulter shall apply to him accordingly.
- (8) If, after the assessment of annual value of any land or building is finally made under this Act, the payment on self-assessment under this section is found to be less than that of the amount payable by the assessee, the assessee shall pay the difference within two months from the date of final assessment, failing which recovery shall be made in accordance with the provisions of this Act, but, after the final assessment, if it is found that the assessee has paid excess amount, such excess amount shall be adjusted against the tax payable by the assessee.
- Levy of surcharge on transfer of lands and buildings. 135. (1) The Municipality may levy a surcharge on the transfer of lands and buildings situated within the municipal area as a percentage of stamp duty levied on such transfer under the Indian Stamp Act, 1899. (2 of 1899).
- (2) The rate of surcharge, and the manner of -
- (a) collection of surcharge,
- (b) payment of surcharge to the Municipality, and
- (c) deduction of the expenses, if any, incurred by the State Government in course of collection of surcharge, shall be such as may be prescribed.
- Tax on deficits of parking spaces in non-residential buildings. 136. (1) The Municipality may, by regulations, levy a tax on the deficits in the provision for parking spaces required for different types of vehicles in any non-residential building.
- (2) The amount of tax shall be determined by multiplying the quantum of such deficit in the area of parking spaces by the unit area value of land in the case of open parking spaces or by the unit area value of covered space of a building in the case of covered parking spaces, as the case may be, as specified in section 103.
- Water tax. 137. The Municipality may levy a water tax on any land or non-residential building as a percentage of property tax as may be specified by regulations.
- Fire tax. 138. The Municipality may levy a fire tax on any building as a percentage of property tax as may be specified by regulations:
- Provided that a surcharge may be levied on such fire tax at such rate as may be specified by regulations for any non-residential building.

Chapter XVI

Tax on Advertisements Other Than Advertisements in Newspapers, and Licence Fees for Advertisement Spaces

Prohibition of advertisements without permission, in writing, of Chief Municipal Officer.

139. (1) No person shall erect, exhibit, fix, or retain upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign any advertisement, or display any advertisement to public view in any manner whatsoever (including any advertisement exhibited by means of cinematograph), visible from a public street or public place, in any place within the municipal area without the permission, in writing, of the Chief Municipal Officer.

(2) The Chief Municipal Officer shall not grant such permission, if -

(a) a licence for the use of the particular site for the purpose of advertisement has not been taken, or

(b) the advertisement contravenes any provisions of this Act or the rules or the regulations made thereunder, or

(c) the tax, if any, due in respect of the advertisement has not been paid.

(3) No person shall broadcast any advertisement, except on radio or television, without the permission, in writing, of the Chief Municipal Officer.

Tax on advertisement

141. (1) Every person, who erects, exhibits, fixes or retains upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign any advertisement, or displays any advertisement to public view in any manner whatsoever (including any advertisement exhibited by means of cinematograph), visible from a public street or public place in any location in a municipal area including a helipad, shall pay for every advertisement, which is so erected, exhibited, fixed or retained or displayed to public view, a tax calculated at such rate as may be determined by regulations:

Provided that a surcharge, not exceeding fifty *per cent* of the rate of tax as aforesaid, may be imposed on any advertisement on display in any temporary congregation of whatever nature including fairs, festivals, circus, *yatra*, exhibitions, sports events, or cultural or social programmes.

(2) Notwithstanding anything contained in sub-section (1), no tax shall be levied under this section on any advertisement which -

(a) relates to a public meeting, or an election to Parliament or the State Legislature or the Municipality or any other local authority, or a candidature in respect of such election, or

(b) is exhibited within the window of any building, if the advertisement relates to any trade, profession, or business carried on in such building, or

(c) relates to any trade, profession, or business carried on within the land or the building upon or over which such advertisement is exhibited, or any sale or letting of such land or building or any effects therein, or any sale, entertainment, or meeting to be held on, upon, or in, such land or building, or

(d) relates to the name of the land or the building upon or over which the advertisement is exhibited or the name of the owner or the occupier of such land or building,

or

(e) relates to the business of any airport, or helipad, and is exhibited within such airport, or helipad, or upon any wall or other property of any airport or helipad, or

(f) relates to any activity of the Central Government or the State Government or any local authority.

(3) The tax on any advertisement leviable under this section shall be payable in advance in such installments, and in such manner, as may be determined by regulations:

Provided that the Municipality may, under such terms and conditions of a licence as may be determined by regulations under section 140, require the licensee to collect, and to pay to the Municipality, subject to a deduction of five *per cent* of the tax to be kept by him as collection charges, the amount of tax in respect of such advertisements as are displayed on any site for which the licence has been granted.

Permission of Chief
Municipal Officer to be
void in certain cases.

142.

Any permission under section 139 shall be void, if-

(a) the advertisement contravenes the provisions of any regulations made under this Act, or

(b) any material change is made in the advertisement or any part thereof without the previous permission of the Chief Municipal Officer, or

(c) the advertisement or any part thereof falls otherwise than by accident, or

(d) due to any work by the Central Government, the State Government, or the Municipality, or by any statutory authority, the advertisement is required to be displaced.

Licence for use of site
for purpose of
advertisement to be
void in certain cases.

143.

Any licence granted under section 140 shall be void, if-

(a) the licensee contravenes any of the terms and conditions of licence, or

(b) any addition or alteration is made to, or in, the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign, upon or over which the advertisement is erected, exhibited, fixed, or retained, or

(c) the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign over which the advertisement is erected, exhibited, fixed, or retained is demolished or destroyed.

- Presumption in case of contravention.
144. Where any advertisement has been erected, exhibited, fixed, or -retained upon or over any land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign or displayed to public view from a public street or public place in contravention of the provisions of this Act or the regulations made thereunder, it shall be presumed, unless the contrary is proved, that the contravention has been made by the person or persons on whose behalf the advertisement purports to be or the agents of such person or persons.
- Power of Chief Municipal Officer in case of contravention.
145. If any advertisement is erected, exhibited, fixed, or retained in contravention of the provisions of this Act or the regulations made thereunder, the Chief Municipal Officer may require the owner or the occupier of the land, building, wall, hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign, upon or over which such advertisement is erected, exhibited, fixed, or retained to take down or remove such advertisement or may enter any land, building, or other property and cause the advertisement to be dismantled, taken down, removed, spoiled, defaced, or screened.
- Removal of poster, hoarding, etc.
146. Notwithstanding any other action that may be taken against the owner or the occupier of any land or building, upon or over which there is any hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky- sign for erecting any advertisement in contravention of the provisions of this Act or the regulations made thereunder, or the person who owns such hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign, the Chief Municipal Officer may, for removal and storage of such hoarding, frame, post, kiosk, structure, vehicle, neon-sign, or sky-sign, realize from such owner, occupier, or person such charges as may be fixed by the Executive Authority from time to time.

Explanation. -In this chapter, -

(a) the word "structure" shall include any movable board on wheels used as an advertisement or advertisement medium, and

(b) the word "advertisement", in relation to a tax on advertisement, shall mean any word, letter, model, sign, neon-sign, sky-sign, placard, notice, device, or representation, whether illuminated or not, in the nature of, and employed wholly or in part for the purposes of, advertisement, announcement, or direction.

Chapter XVII

Other Taxes and Tolls

- Surcharge on tax on entertainment.
147. (1) Subject to the approval of the State Government, the Municipality may levy a surcharge on any tax levied by the State Government on any entertainment or amusement within the municipal area.
- (2) The rate of the surcharge and the manner of-
- (a) collection of the surcharge,
- (b) payment of the surcharge to the Municipality, and
- (c) deduction of the expenses, if any, incurred by the State

Government in course of collection of the surcharge, shall be such as may be prescribed.

Tax on tourists and congregations.

148. (1) The Municipality may levy a tax per vehicle for providing municipal services to such vehicle visiting the municipal area

-

(a) for the purpose of tourism, or

(b) in connection with any congregation of whatever nature, including pilgrimage, fair, festival, circus, or yatra, within such municipal area and assembling within such municipal area for the purpose of such tourism or in connection with such congregation:

Provided that such tax shall not be levied on any vehicle passing through such municipal area.

(2) The tax for the purposes of sub-section (1) shall be such as may be determined by the Municipality from time to time and shall not exceed rupees twenty per vehicle.

(3) The Municipality may make regulations specifying the occasions on which such tax may be imposed and the rate of such tax, the mode of collection thereof, and the other matters incidental thereto.

Toll on roads.

149. The Municipality may, with the sanction of the State Government, establish a toll-bar on any public street in the municipal area and levy a toll on vehicles plying on such public street at such rate as may be determined by the State Government from time to time.

Toll on bridges.

150. (1) The Municipality may, with the sanction of the State Government, establish a toll-bar on any bridge in the municipal area and levy a toll on vehicles, carriages, and carts using such bridge:

Provided that no such toll-bar shall be established, or tolls levied, for any purpose other than the purpose of recovering the expenses incurred in the construction of such bridge together with interest on such expenses and in maintaining such bridge in good repair.

(2) The State Government may, with the consent of a Municipality, make over to such Municipality any existing toll-bar on a bridge within the municipal area to be administered by the Municipality and, thereupon, such Municipality shall administer such toll-bar until the State Government directs otherwise. Every such toll-bar, while so administered, shall be deemed to be a municipal toll-bar, and the tolls derivable therefrom, or such parts thereof as shall be agreed upon between the State Government and the Municipality, shall be credited to the Municipal Fund.

Toll on heavy trucks and buses.

151. (1) The Municipality may levy toll on heavy trucks and buses referred to in sub-clause (ii) of clause (j) of sub-section (1) of section 90, plying on a public street.

- (2) The rate of toll for the purposes of sub-section (1) shall be such as may be determined by the Municipality by regulations from time to time.
- (3) The Municipality may make regulations providing for the mode of collection of toll under this section and other matters incidental thereto.

Chapter XVIII

Payment and Recovery of Taxes

A. Recovery of Taxes by Municipality

- | | | |
|--|------|--|
| Manner of recovery of taxes under the Act. | 152. | <p>Save as otherwise provided in this Act, any tax levied under this Act may be recovered in accordance with the following procedure and in such manner as may be determined by regulations :-</p> <p style="margin-left: 40px;">(a) by presenting a bill, or</p> <p style="margin-left: 40px;">(b) by serving a notice of demand, or</p> <p style="margin-left: 40px;">(c) by distraint and sale of movable property of a defaulter, or</p> <p style="margin-left: 40px;">(d) by attachment and sale of immovable property of a defaulter, or</p> <p style="margin-left: 40px;">(e) in the case of property tax on any land or building, by attachment of rent due in respect of such land or building, or</p> <p style="margin-left: 40px;">(t) by a certificate under any law for the time being in force regulating the recovery of any dues as a public demand.</p> |
| Time and manner of payment of taxes. | 153. | <p>(1) Save as otherwise provided in this Act, any tax levied under this Act shall be payable on such date, in such number of installments, and in such manner, as may be determined by regulations.</p> <p>(2) If any amount due is paid on or before the date referred to in sub- section (1), a rebate of five <i>per cent</i> of such amount shall be allowed.</p> |
| Presentation of bill. | 154. | <p>(1) When any tax has become due, the Chief Municipal Officer shall cause to be presented to the person liable for the payment thereof a bill for the amount due:</p> <p style="margin-left: 40px;">Provided that no such bill shall be necessary in the case of –</p> |

- (a) a tax on advertisements,
- (b) a tax on tourists and congregations, and
- (c) a toll:

Provided further that for the purpose of recovery of any tax by preparation and presentation of a bill or notice of demand and collection of tax in pursuance thereof, the Executive Authority may, with the approval of the Municipality, entrust the work to any agency under any law for the time being in force, or to any other agency, on such terms and conditions as may be specified by regulations.

Explanation I. -A bill shall be deemed to be presented under this section if it is sent by post under certificate of posting or by courier agency or by electronic mail to the person liable for payment of the amount included in the bill, and, in such case, the date of certificate of posting of the bill or the date on which the bill is delivered by the courier agency or by electronic mail, as the case may be, shall be deemed to be the date of presentation of the bill to such person.

Explanation II. -"courier agency" shall mean any agency engaged in door to door delivery of time-sensitive documents, utilizing the services of a person, either directly or indirectly, to carry such documents.

Explanation III. -"electronic mail" shall include e-mail or facsimile transmission.

- (2) Every such bill shall specify the particulars of the tax and the period to which the bill relates.

Regulations regarding payment and recovery of tax.

155

The Municipality shall, with a view to ensuring payment and recovery of any tax levied by the Municipality, by regulations, provide for the -

- (a) issue of a notice of demand, charging of fee for such notice, levy of interest for delayed payment, rate of such interest, and the amount of penalty therefore,
- (b) issue of warrant for attachment, distress, and sale of movable property for recovery of tax due to the Municipality,
- (c) attachment and sale of immovable property for recovery of tax due to the Municipality, and
- (d) recovery of dues from a person about to leave the municipal area.

Requirement of payment of rent by occupier towards property tax on land or building due to Municipality.

156.

- (1) For the purpose of recovery of property tax on any land or building from any occupier, the Chief Municipal Officer shall, notwithstanding anything contained in the State Act relating to premises tenancy or any other law for the time being in force, cause to be served on such occupier a notice requiring him to pay to the Municipality any rent due, or falling due, from him in respect of the land or the building to the extent necessary to satisfy the portion of the sum due for which he is liable under the said Act.
- (2) Such notice shall operate as an attachment of such rent unless the portion of the sum due shall have been paid and satisfied, and the occupier shall be entitled to credit in account with the person to whom such rent is due, any sum paid by him to the Municipality in pursuance of such notice:

Provided that if the person to whom such rent is due is not the person primarily liable for payment of the tax on land or

building, he shall be entitled to recover from the person primarily liable for payment of such tax any amount for which credit is claimed.

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

Recovery of property tax on lands and buildings or any other tax or charge when owner of land or building is unknown or ownership is disputed.

157. (1) If any money is due under this Act from the owner of any land or building on account of tax on such land or building or any other tax, expense or charge recoverable under this Act, and if the owner of such land or building is unknown or the ownership thereof is v disputed, the Chief Municipal Officer may publish twice, at an interval of not less than two months, a notification of such dues and of sale of such land or building for realization thereof, and may, after the expiry of not less than one month from the date of last publication of such notification and, unless the amount recoverable is paid, sell such land or building by public auction to the highest bidder, who shall deposit, at the time of sale, twenty- five *per cent* of the purchase money, and the balance thereof within thirty days of the date of sale. Such notification shall be published in the *Official Gazette* and in local newspapers and by displaying on such land or building, as the case may be.
- (2) After deducting the amount due to the Municipality as aforesaid, the surplus sale proceeds, if any, shall be credited to the Municipal Fund and may be paid, on demand, to any person who establishes his right thereto to the satisfaction of the Chief Municipal Officer or a court of competent jurisdiction.
- (3) Any person may pay the amount due at any time before the completion of the sale, whereupon the sale shall be abandoned. Such person may recover such amount by a suit in a court having jurisdiction from any person beneficially interested in such land or building.

Power of Chief Municipal Officer to prosecute or to serve notice of demand.

158. (1) When any sum is due from any person on account of -
- (a) tax on advertisements other than the advertisements published in newspapers, or
- (b) any other tax, fee or charge leviable under this Act, the Chief Municipal Officer may either prosecute such person, if prosecution lies under the provisions of this Act, or cause to be served on such person a notice of demand in such Form as may be specified by regulations or as the Chief Municipal Officer may deem fit.
- (2) The provisions of section 155 shall apply, *mutatis mutandis*, to every such recovery of sum due.

Cancellation of irrecoverable dues.

159. The Municipality may, by order, strike off the books of the Municipality any sum due on account of the property tax or any other tax or on any other account, which may appear to it to be irrecoverable.

B. Recovery of Tax on Lands or Buildings by Person

Primarily Liable to Pay to the Municipality

Apportionment of property tax on lands and buildings by person primarily liable to pay

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

(a) if there is but one occupier of the land or the building, from such occupier half of the tax so paid:

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

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

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

(2) Notwithstanding anything contained in sub-section (1), if, as a result of the determination of the annual value of any land or building and the imposition of the property tax thereon under this Act for the first time, there is an increase in the amount of tax payable in respect of such land or building from the amount of tax previously payable under this chapter, the person primarily liable to pay the property tax may recover the difference in the amount due to such increase from the occupier or occupiers

Mode of recovery.

161. If any person primarily liable to pay any property tax on any land or building or surcharge thereon is entitled to recover part of such property tax or surcharge thereon from an occupier of such land or building, he shall, for recovery thereof, have the same rights and remedies as if such part of the property tax or the surcharge thereon were rent payable to him by such occupier.

Chapter XIX

Commercial Projects

Commercial projects and receipts therefrom

162. The Municipality may, either on its own or through public or private sector agencies, undertake the planning, construction, operation, maintenance, or management of commercial infrastructure projects, including district centres, community and neighborhood shopping centres, industrial estates, bus or truck terminals, and tourist lodges with commercial complexes, and any other type of commercial projects on commercial basis.

SIKKIM

GOVERNMENT



GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Saturday 29th September , 2007

No. 441

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 15/LD/2007

Dated: 28/09/2007

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 13th day of September, 2007 is hereby published for general information:-

THE SIKKIM MUNICIPALITIES (FIRST AMENDMENT) ACT, 2007

(ACT NO. 15 OF 2007)

AN
ACT

to amend the Sikkim Municipalities Act, 2007.

Be it enacted by the Legislature of Sikkim in the Fifty-eighth Year of the Republic of India as follows:-

Short title and
commencement

1. (1) This Act may be called the Sikkim Municipalities (First Amendment) Act, 2007
- (2) It shall come into force at once

Amendment of Section 8.

2. In the Sikkim Municipalities Act, 2007 (hereinafter referred to as the said Act), in clause (a) of Section 8, for the word "eleven" the word "fifteen" shall be substituted.

Amendment of Section 13.

3. In the said Act, in Section 13, in the existing table, against **Municipal Corporation**, under the heading "Maximum Number", for the figure "11" the figure "15" shall be substituted.

Amendment of Section 14.

4. In the said Act, in Section 14, after the word "direction" and before the words "and control" the words "delimitation, reservation" shall be inserted.



- Amendment of Section 364.** 5. In the said Act, in sub-section (1) of Section 364, the words “and subject to condition of previous publication” shall be omitted.

By Order.

**(R.K. Purkayastha) SSJS,
Secretary –cum- Legal Remembrancer,
Law & Parliamentary Affairs Department.**

File No. 16 (42) LD/2007

