



The Himachal Pradesh Municipal Corporation (Amendment) Act, 1983

Act 15 of 1983

Keyword(s):

Corporation, Election, Larger Urban Area, Scheduled Castes and Scheduled Tribes, Wards Committee

Amendments appended: 12 of 1984, 4 of 1986, 21 of 1986

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extend the following sections of the said Act to the Notified Area Committee, Rajgarh in Sirmaur district, Himachal Pradesh and declare that the provisions of the said sections shall come into force from the date of issue of this notification:—

Sections:

2, 4, 5, 12, 13 (c), 14, 15, 17, 18, 19, (2) & (3), 20 to 30, 32, 34, 37, 80, 40 to 50, 51, 53 to 57, 63, 70, 72 to 78, 81 to 89, 93 to 105, 110 to 112, 114 to 117, 119 to 122, 124, 126, 131 to 135, 138 to 159, 167, 169 to 172, 179 to 187, 189 to 192, 195 to 211, 213 to 137, 239 to 251, 254, 255.

(R.H.P. Extra., dated 8-10-1983, P. 1103.)

THE HIMACHAL PRADESH MUNICIPAL CORPORATION (AMENDMENT) ACT, 1983

(Act No. 15 of 1983)

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement.
2. Insertion of new section 289-A.
3. Amendment of Second Schedule.

(Received the assent of the Governor of Himachal Pradesh on 19-9-1983 and was published in R.H.P. Extra., dated 22-9-1983, P. 1043)

An Act to amend the Himachal Pradesh Municipal Corporation Act, 1979 (Act No. 9 of 1980).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Himachal Pradesh Municipal Corporation (Amendment) Act, 1983.

(2) It shall come into force at once.

2. *Insertion of new section 289-A.*—After existing section 289 of the Himachal Pradesh Municipal Corporation Act, 1979 (9 of 1980) (hereinafter called the principal Act) the following new section 289-A, along with its heading, shall be inserted, namely:—

“289-A. Power of Commissioner to require conversion of service latrines into water flush latrines.—(1) Notwithstanding anything contained in this Act, and the rules or bye-laws framed thereunder, the Commissioner may, subject to such rules as the State Government

1. For Statement of Objects and Reasons see R.H.P. Extra., dated 19-8-1983 p. 786.

may make in this behalf, require the owner or occupant of any service latrine, within a period to be specified in the notice, to demolish or close such service latrine and convert it into water flush latrine.

- (2) On the failure of the owner or the occupant, as the case may be, to do so within the specified period, the Commissioner may cause the same to be demolished or closed and converted into water flush latrine, and shall recover the cost thereof as arrears of taxes".

3. *Amendment of the Second Schedule.*—After the existing item pertaining to section 289 in the Second Schedule appended to the principal Act, the following new item pertaining to section 289-A shall be added, namely:—

"Section 289-A	Failure to convert service latrine into water flush latrine.	500 or simple imprisonment not exceeding one month or with both."	10"
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NOTIFICATION AND BYE-LAWS

under

THE HIMACHAL PRADESH MUNICIPAL CORPORATION ACT, 1979

Appointments and Delegations

स्थानीय स्वशासन विभाग

अधिसूचना

शिमला-2, 20 मई, 1983

संख्या एल 0एस 0जी 0ए 0 (3) 5/82.—हिमाचल प्रदेश नगर निगम अधिनियम, 1979 (1980 का 9) की धारा 2 की उप-धारा (10) के अध्याय सहित धारा 420 की उप-धारा (1) द्वारा उनमें निहित शक्तियों का प्रयोग करते हुए, हिमाचल प्रदेश के राज्यपाल, उप-मुख्य चुनाव अधिकारी, हिमाचल प्रदेश को कथित अधिनियम की केवल धारा 10 में प्रयोजनार्थ सहर्ष निर्देशक (स्थानीय स्वशासन) के रूप में नियुक्त करते हैं। वह नगर निगम शिमला के निर्वाचित कार्यों का पर्यवेक्षण करेंगे जोकि उनके पर्यवेक्षण में राज्य के निर्वाचन विभाग द्वारा कार्यन्वित किया जाएगा।

(R.H.P., dated 10-9-1983, p. 1052.)

THE HIMACHAL PRADESH MUNICIPAL CORPORATION
(AMENDMENT) ACT, 1984

(Act No. 12 of 1984)¹

Arrangement of Sections

Sections :

1. Short title and commencement.
2. Amendment of Section 5.
3. Substitution of Section 9.
4. Amendment of Section 13.
5. Insertion of Section 70-A.
6. Insertion of Third Schedule.

(Received the assent of the Governor, Himachal Pradesh on the 26th May, 1984 and was published in R.H.P. (Extraordinary), dated the 30th May, 1984 at Page 930-931)

An Act further to amend the Himachal Pradesh Municipal Corporation Act, 1979 (Act No. 9 of 1980).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-fifth Year of the Republic of India as follows :--

1. Short title and commencement.—(1) This Act may be called the Himachal Pradesh Municipal Corporation (Amendment) Act, 1984.

(2) It shall come into force at once.

2. Amendment of section 5.—For sub-section (1) of section 5 of the Himachal Pradesh Municipal Corporation Act, 1979 (9 of 1980) (hereinafter called the principal Act) the following sub-section shall be substituted, namely :--

"(1) Elected councillor from each municipal ward constituted under section 8 shall be chosen by direct election by the persons who have attained the age of 18 years and whose names are entered in the electoral roll referred to in section 11."

3. Substitution of section 9.—For section 9 of the principal Act the following section shall be substituted, namely ?

"9. The Government, may, from time to time by an order published in the Official Gazette, alter or amend any order made under section 8."

4. Amendment of section 13.—After clause (a) of sub-section (1) of section 13 of the principal Act, the following new clause shall be inserted, namely :--

"(aa) if he is less than 25 years of age;"

1. For statement of Objects and Reasons see R.H.P. (Extra.), dated 12th April, 1984, P. 650.

5. Insertion of section 70-A.—After section 70 of the principal Act the following section 70-A, alongwith its heading, shall be inserted, namely :--

"70-A. Power to take over the employees of Municipal Corporation specified in the Third Schedule.—(1) Notwithstanding anything contained in this Act, any other law in force, rules made thereunder and contract executed and orders made, the State Government, if it thinks fit that it is expedient and necessary to do so, may, by notification in the Official Gazette, take over all or any class of employees working in the Municipal Corporation specified in the Third Schedule of the Act.

(2) Where any class of employees are taken over under sub-section (1), such employees will become the employees of the State Government and shall be entitled to such remuneration and shall be governed by such rules and regulations as are applicable to the employees of the State Government on equivalent post.

(3) Where any class of employees are taken over by the State Government under sub-section (1), they shall be merged with the employees of that Department to which the State Government may order :

Provided that where such employees are so taken over from Municipal Corporation, the corresponding posts in the Municipal Corporation shall be filled in by deputation out of cadre of the Government Department concerned and the expenditure on account of pay and allowances etc. shall be borne by the Municipal Corporation.

(4) Any service rendered by such class of employees under Municipal Corporation before taking over such employees shall be deemed to be service rendered under the State Government :

Provided that where any class of employees are taken over by the State Government under sub-section (1), the employees whose services have been taken over shall be governed by the pensionary regulation as made applicable to Government employees provided they exercise their option to surrender their contribution of contributory fund alongwith interest thereon which amount will be deposited in their General Provident Fund Account in the Department concerned of the State Government and the share of the Municipal Corporation along with interest thereon shall be credited to the consolidated fund of the State of Himachal Pradesh.

(5) Nothing in sub-sections (1) to (4) shall apply to any employee, who by notice in writing in that behalf to the State Government within a period of two months from the date of such taking over intimates his option for not becoming an employee of the State Government, and where any employee gives such notice, his service under the Municipal Corporation shall stand terminated with effect from such date of taking over, and he shall be entitled to compensation from the Municipal Corporation, which shall be as follows :--

(a) In the case of a permanent employee, a sum equivalent to his salary (including all allowances) for a period of three

months or for the remaining period of his service, whichever is less;

- (b) in the case of a temporary employee, a sum equivalent to his salary (including all allowances) for one month or for the remaining period of his service, whichever is less."

6. Insertion of the Third Schedule.—After the Second Schedule annexed to the principal Act, the following Third Schedule shall be inserted, namely :—

"THE THIRD SCHEDULE"

(See section 70-A)

Sl. No. Class of employees

1. Executive Engineer.
2. Assistant Engineer.
3. Junior Engineer.
4. Market Superintendent."

THE HIMACHAL PRADESH MUNICIPAL CORPORATION
(AMENDMENT AND VALIDATION) ACT, 1984

(Act No. 20 of 1984)¹

Arrangement of Sections

Sections :

1. Short title and commencement.
2. Amendment of section 3.
3. Amendment of section 46.
4. Amendment of section 70-A.
5. Amendment of Third Schedule.
6. Validation.
7. Repeal and savings.

(Received the assent of the Governor, Himachal Pradesh on the 10th October, 1984 and was published in R.H.P. (Extra.), dated the 19th October, 1984, Page 1711-1712).

An Act further to amend the Himachal Pradesh Municipal Corporation Act, 1979 (Act No. 20 of 1980) and to validate certain actions taken thereunder.

1. For statement of Objects and Reasons see R.H.P. (Extra.), dated 12th September 1984, P. 1597.

**THE HIMACHAL PRADESH MUNICIPAL CORPORATION
(AMENDMENT) ACT, 1985**

(ACT No. 4 OF 1986)¹

ARRANGEMENT OF SECTIONS

Sections:

1. Short title and commencement.
2. Amendment of section 2.
3. Amendment of section 4.
4. Amendment of section 5.
5. Substitution of section 6.
6. Insertion of section 6-A.
7. Amendment of section 7.
8. Amendment of section 13.
9. Amendment of section 16.
10. Amendment of section 34.
11. Amendment of section 37.
12. Amendment of section 38.
13. Amendment of section 39.
14. Amendment of section 40.
15. Amendment of section 42.
16. Amendment of section 43.
17. Insertion of section 46-A.
18. Amendment of section 47.
19. Amendment of section 50.
20. Insertion of new sections 69-A, 69-B, 69-C, 69-D and 69-E.
21. Amendment of section 70.
22. Insertion of new section 70-B.
23. Amendment of section 74.
24. Amendment of section 78.
25. Amendment of section 90.
26. Amendment of section 91.
27. Amendment of section 92.
28. Insertion of new section 103-A.
29. Amendment of section 134.
30. Amendment of section 136.
31. Amendment of section 137.
32. Amendment of section 138.
33. Amendment of section 145.
34. Amendment of section 146.
35. Amendment of section 150.
36. Amendment of section 186.
37. Amendment of sections 197, 203, 206, 213 and 217.
38. Amendment of section 228.
39. Amendment of Section 232, 240 and 253.
40. Amendment of section 262.
41. Amendment of Section 268.
42. Amendment of section 269.
43. Insertion of new section 269-A.
44. Amendment of sections 272, 283, 285, 290, 292, 293, 269, 270 and 278.

1. For statement of Objects and reasons see R.H.P. Extra. dated 18-12-1985, P. 2967.

45. Insertion of new section 384-A.
46. Insertion of new section 400-A.
47. Amendment of section 404.
48. Substitution of section 405.
49. Amendment of section 406.
50. Amendment of section 408.
51. Substitution of section 409.
52. Amendment of the First Schedule.
53. Insertion of the Fourth Schedule.
54. Repeal and savings.

(Received the assent of the Governor, Himachal Pradesh, on the 23rd January, 1986 and was published in R.H.P. Extra., Dated the 27th January, 1986 at page 87—99).

An Act further to amend the Himachal Pradesh Municipal Corporation Act, 1979 (Act No. 9 of 1980) and to validate certain actions taken thereunder.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Himachal Pradesh Municipal Corporation (Amendment) Act, 1985.

(2) It shall come and shall always be deemed to have come into force on the 31st day of August, 1985.

2. *Amendment of section 2.*—In section 2 of the Himachal Pradesh Municipal Corporation Act, 1979 (9 of 1980) (hereinafter referred to as the principal Act),—

(a) after clause (7), the following clause shall be inserted, namely:—
“(7-a) “Corporation” means a Municipal Corporation established under this Act;” and

(b) for clause (12), the following clause shall be substituted, namely:—
“(12) “Divisional Commissioner” means the Divisional Commissioner-in-charge of a division in Himachal Pradesh within whose jurisdiction a particular city is situate and includes any other officer in the super-time scale of the Indian Administrative Service appointed by the Government to perform all or any of the functions of the Divisional Commissioner under this Act;”

3. *Amendment of section 4.*—In section 4 of the principal Act,—

(a) in sub-section (1), for the word “Government” the word “administration” shall be substituted and the word “the” shall be inserted between the words “for” and “city”; and

(b) in sub-section (3), for the word “co-opted” the word “nominated” shall be substituted.

4. *Amendment of section 5.*—In section 5 of the principal Act,—

(a) in sub-section (2) for the proviso, the following provisos and Explanation shall be substituted, namely:—

“Provided that the total number of elected councillors for a Corporation shall be fixed on the basis of one councillor for a population of not less than three thousand :

Provided further that the total number of elected councillors shall not exceed twenty-one.

Explanation.—In this sub-section, the expression ‘population’ means the population as ascertained at the last preceding census of which the relevant figures have been published.”; and

(b) in sub-section (3), for the word “then” occurring between the words “the” and “composition”, the word “existing” shall be substituted.

5. *Substitution of section 6.*—For section 6 of the principal Act, and its heading, the following shall be substituted, namely:—

“6. *Special representation to women.*—If no woman has been elected to a Corporation or only one woman is elected, the Government shall nominate two women or such number of women as fall short of two from amongst the weaker sections of the society who is or are otherwise qualified to be selected as councillors of the Corporation :

Provided that whenever a casual vacancy occurs in the office of a nominated councillor, the fresh nomination shall be made within a period of thirty days of the occurrence of the vacancy.”

6. *Insertion of section 6-A.*—After existing section 6 of the principal Act, the following new section 6-A shall be inserted, namely:—

“6-A. *Appointment of Advisers.*—(1) Notwithstanding anything contained in this Act, the State Government may appoint to each Corporation such number as may be fixed, but not exceeding five, of the officials to act as advisers. Such advisers shall not be deemed councillors of the Corporation and shall have no right to vote in any capacity whatsoever, but shall be entitled to participate in all proceedings of the Corporation in an advisory capacity.

(2) The term of office of *ex-officio* advisers appointed under sub-section (1) shall, unless the State Government otherwise directs, be co-terminus with the term of office by virtue of which they are appointed.”

7. *Amendment of section 7.*—In section 7 of the principal Act,—

- (a) in the first proviso to sub-section (1), for the words and signs “so, however, that the total period so extended shall never exceed”; the words “so that the total period so extended shall not exceed” shall be substituted ;
- (b) in the second proviso to sub-section (1), for the words “date of accesser of operation.”, the words “date of expiry” shall be substituted ; and
- (c) in sub-sections (2) and (4), for the word “co-opted” wherever it occurs, the word “nominated” shall be substituted.

8. *Amendment of section 13.*—After clause (e) of sub-section (1) of section 13 of the principal Act, the following new clause (ee) shall be inserted, namely:—

“(ee) if he has been found to have encroached upon any land belonging to, or taken on lease, or requisitioned by, or on behalf of the State Government, a municipal corporation, a municipal committee, a notified area committee, a gram panchayat, a panchayat samiti, a zila parishad or a co-operative society ;”.

9. *Amendment of section 16.*—In section 16 of the principal Act, for the words “co-opted” and “co-option”, the words “nominated” and “nomination” shall be substituted respectively.

10. *Amendment of section 34.*—In section 34 of the principal Act,—

- (a) in sub-section (1), for the word “co-opted”, the word “nominated” shall be substituted;
- (b) after sub-section (1), the following new sub-section shall be inserted, namely:—
(2) The person elected or nominated to fill a casual vacancy shall make and subscribe the oath or affirmation in the form given in the preceding sub-section before the mayor of the Corporation.”; and
- (c) sub-section (2) shall be re-numbered as sub-section (3) and in the sub-section (3) so re-numbered, for the words “an arrear of tax under this Act”, the words “arrears of land revenue” shall be substituted.

11. *Amendment of section 37.*—In section 37 of the principal Act—

- (a) in the heading, the words and sign “senior deputy mayor,” shall be omitted ;
- (b) in sub-section (1), for the words “other two members to be the senior deputy mayor and”, the words “another member to be” shall be substituted ;

(c) in sub-section (3), the sign and the words, "senior deputy mayor", and the words "or senior deputy mayor" shall be omitted; and

(d) for sub-section (4) the following sub-section shall be substituted, namely:—

"(4) The mayor or the deputy mayor shall hold the office from the time of his election until the election of his successor in office, unless in the meantime he resigns his office as mayor or deputy mayor or his term of office as a member of the Corporation terminates in any manner or unless in the case of the deputy mayor he is elected as mayor. They shall be eligible for re-election."; and

(e) in sub-section (5) after the word "mayor", the words "or the deputy mayor" shall be inserted.

12. *Amendment of section 38.*—In section 38 of the principal Act,—

(i) in the heading, for the sign and words "senior deputy mayor and deputy mayors", the words "and deputy mayor" shall be substituted; and

(ii) in the body of the section, the sign and the words, "senior deputy mayor", wherever occurring, shall be omitted.

13. *Amendment of section 39.*—In section 39 of the principal Act, the sign and the words, "the senior deputy mayor and in his absence" shall be omitted.

14. *Amendment of section 40.*—In sub-section (1) of section 40 of the principal Act, the words "senior deputy mayor or the" shall be omitted.

15. *Amendment of section 42.*—In sub-section (1) of section 42 of the principal Act, for the word "government", the word "administration" shall be substituted.

16. *Amendment of section 43.*—Clause (r) of section 43 of the principal Act shall be omitted.

17. *Insertion of section 46-A.*—After section 46 of the principal Act, the following new section shall be inserted, namely:—

"46-A. *Appointment of Joint/Assistant Commissioners.*—(1) The State Government may, if in its opinion it is expedient to do so in the public interest, appoint a person or persons to be called the Joint/Assistant Commissioners to assist the Commissioner appointed under section 46 for efficient performance of the functions of the Corporation and they shall be governed by such conditions of service as may be fixed by the State Government from time to time.

(2) The Joint/Assistant Commissioners appointed under sub-section (1) shall be subordinate to the Commissioner and shall exercise such powers and perform such duties as may be conferred and

imposed upon the Commissioner under this Act and are further delegated to them by the Commissioner".

18. *Amendment of section 47.*—In section 47 of the principal Act,—

- (a) in the heading for the word "Commissioner", the words "certain officers" shall be substituted; and
- (b) for the words "The Commissioner" occurring in the beginning, the words "The officers of the Corporation as mentioned in the Fourth Schedule" shall be substituted.

19. *Amendment of section 50.*—For section 50 of the principal Act, the following section shall be substituted, namely:—

"50. The Corporation shall make such contribution towards leave, allowances, pension and provident fund of the officers of the Corporation mentioned in the Fourth Schedule, as may be required by the conditions of their service under the Government".

20. *Insertion of new section 69-A, 69-B, 69-C, 69-D and 69-E.*—After section 69 of the principal Act, the following sections shall be inserted, namely:—

69-A. Power to suspend any resolution or order of the Corporation.—

The Divisional Commissioner may, by order in writing, suspend the execution of any resolution or order of the Corporation, or its committee or prohibit the doing of any act which is about to be done, or is being done in pursuance of or under the cover of this Act, or in pursuance of any sanction or permission granted by the Corporation in exercise of the powers under this Act, if in his opinion, the resolution, order or act is in excess of the powers conferred by law or contrary to the interests of the public or likely to cause waste or damage of Corporation funds or property, or the execution of the resolution or order, or the doing of the act, is likely to lead to a breach of the peace, to encourage lawlessness or to cause injury or annoyance to the public or to any class or body of persons.

69-B. Extra-ordinary power of the Divisional Commissioner in case of emergency.—(1) In case of emergency, the Divisional Commissioner may provide for the execution of any work or the doing of any act, which the Corporation is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing the work or of doing the act shall be forthwith paid by the Corporation.

(2) Should the expense be not so paid, the Divisional Commissioner may make an order directing the person having the custody of the balance of the Corporation fund to pay the expense, of so much thereof as may, from time to time, be possible, from that balance, in priority to all other charges against the same.

69-C. Power to provide for performance of duties in case of default.—

(1) When the Divisional Commissioner, after due inquiry, is

satisfied that the Corporation has made default in performing any duty imposed upon it by this Act, or by any order or rule made under this Act, he may by an order in writing fix a period for the performance of the duty, and should it not be performed within the period so fixed, he may appoint some person to perform it, and may direct that the expense thereof shall be paid by the Corporation within such time as he may fix.

- (2) Should the expense be not so paid, the Divisional Commissioner may make an order directing the person having the custody of the balance of the Corporation fund to pay expense, or so much thereof, as may, from time to time, be possible, from that balance, in priority to all other charges against the same.

69-D. Action of the Divisional Commissioner to be immediately reported.—

When the Divisional Commissioner makes an order under section 69-A, section 69-B or section 69-C, he shall forthwith forward to the State Government a copy thereof, with a statement of the reasons for making it, and with such explanation, if any, as the Corporation may wish to offer.

69-E. Power of the State Government and its officers over Corporation.—(1) The State Government and the Divisional Commissioner, acting under the orders of the State Government, shall be bound to require that proceedings of the Corporation shall be in conformity with the law for the time being applicable to the area over which the Corporation has authority.

- (2) The State Government may exercise all powers necessary for the performance of the duty, and may among other things by order in writing annual or modify any proceeding which it may consider not in conformity with the law or for the reason which would, in its opinion, justify an order by the Divisional Commissioner under section 69-A."

21. Amendment of section 70.—In sub-section (7) of section 70 of the principal Act, for the word "five", the word "six" and in the proviso to this sub-section between the words "thousand" and "rupees", the words "and two hundred" shall be inserted.

22. Insertion of new section 70-B.—After Section 70-A of the principal Act, the following section shall be inserted, namely:—

"70-B. Power to amend the Third and Fourth Schedules.—(1)

Government may, if it is of opinion that it is expedient or necessary to do so in the public interest, by notification in the Official Gazette, add to, or omit from, the Third Schedule or the Fourth Schedule, as the case may be.

- (2) Every such notification shall, as soon as may be after it is issued, be laid before the State Legislative Assembly."

23. Amendment of section 74.—In section 74 of the principal Act, between the words "may" and "make", the signs and words", with the prior approval of the State Government", shall be inserted.

24. *Amendment of section 78.*—After sub-clause (i) of clause (c) of the proviso to section 78 of the principal Act, the following sub-clause shall be inserted, namely:—

“(i-a) under the orders of the Divisional Commissioner made by him in exercise of the powers conferred on him under sections 69-B, 69-C or any other provisions of this Act;”.

25. *Amendment of section 90.*—Clause (b) of sub-section (1) of section 90 of the principal Act, shall be omitted.

26. *Amendment of section 91.*—Sub-section (2) of section 91 of the principal Act shall be omitted and the existing sub-section (1) shall be renumbered as section 91.

27. *Amendment of section 92.*—In section 92 of the principal Act,—

(i) in clauses (a) and (b), for the words “may reasonably be expected to”, wherever occurring, the word “is” shall be substituted ;

(ii) for clause (c) and its proviso, the following clauses and Explanation shall be substituted, namely:—

“(c) where the gross annual rent of any land or building cannot be determined under clause (a) or clause (b),—

(i) in the case of land, 10 per cent of the cost of land ; and

(ii) in the case of a building, 10 per cent of the sum of the cost of erection of the building and the cost of land ;

Provided that in the calculation of the rateable value of any building, 10 per cent of the rateable value so determined shall be deducted for the cost of repairs and for all other expenses necessary to maintain the building ;

(d) where the gross annual rent of the whole of the land or a building cannot be determined under any of the clauses (a), (b) and (c),—

(i) in relation to that part or portion of such land or building to which clause (a) or (b) applies, as determined under the said clause ; and

(ii) in relation to the remaining part or portion of such land or building, as determined under clause (c).

Explanation.—For the purposes of this section “cost of land” and “cost of erection of the building” shall mean cost of land and/or cost of erection of building at the time of the purchase of such land and/or erection of building as the case may be.”

28. *Insertion of new section 103-A.*—After section 103 of the principal Act, the following section shall be inserted, namely:—

“103-A. *Transfer duty.*—(1) The duty on transfer of property (hereinafter referred to as transfer duty) may be levied in the form of a surcharge at such rate as may be fixed by the Corporation

with the approval of the Government not exceeding seven and a half per cent on the duty imposed by the Indian Stamp Act, 1899 (2 of 1899).

- (2) All provisions of the Indian Stamp Act, 1899 (2 of 1899) and the rules made thereunder shall *mutatis mutandis* apply to the said duty as they apply in relation to the duty chargeable under that Act.
- (3) No registering authority shall accept any instrument for registration save on production of proof of payment of the amount of transfer duty to the Corporation."

29. *Amendment of section 134.*—For the word, figure and brackets "sub-section (4)" occurring in sub-section (5) of section 134 of the principal Act, the words "this section" shall be substituted.

30. *Amendment of section 136.*—In section 136 of the principal Act for the words "in the manner provided hereinafter", the words, "as arrears of land revenue" shall be substituted.

31. *Amendment of section 137.*—For section 137 of the principal Act the following section shall be substituted, namely:—

"137. *Manner of recovering tax.*—Any sum due on account of tax payable under this Act may be recovered together with costs of recovery by the following processes, in the manner prescribed:—

- (a) as arrears of land revenue;
- (b) in the case of octroi and toll, by the seizure and sale of goods and vehicles ; and
- (c) in the case of taxes on lands and buildings, by the attachment of rent due in respect of the property."

32. *Amendment of section 138.*—In sub-section (1) of section 138 of the principal Act, for the words "by distress and sale of his other movable property", the words "to recover it as arrears of land revenue" shall be substituted.

33. *Amendment of section 145.*—In sub-section (5) of section 145 of the principal Act, for the words "tax due", the words, "land revenue" shall be substituted.

34. *Amendment of section 146.*—For the sign "." at the end of clause (b) of section 146 of the principal Act, the sign ":" shall be substituted and thereafter following proviso shall be added, namely:—

"Provided that where the deposit of the tax and/or arrears of the tax is likely to cause undue hardship to the appellant, the Divisional Commissioner, after having regard of the circumstances of the case, may, in his discretion for the reasons to be recorded in writing, dispense with such deposit or part thereof subject to such conditions as he may deem fit to impose."

35. *Amendment of section 150.*—In sub-section (2) of section 150 of the principal Act, for the words “arrear of tax under this Act”, the words “arrear of land revenue” shall be substituted.

36. *Amendment of section 184.*—For the sign “.” at the end of clause (f) of the Explanation to sub-section (2) of section 184 of the principal Act, the sign and word “; and” shall be substituted and thereafter the following new clause (g) shall be added, namely:—

“(g) for use in a guest-house, hotel, lodge or restaurant or other commercial establishment.”

37. *Amendment of section 197, 203, 206, 213 and 217.*—In sub-section (3) of section 197, sub-section (3) of section 203, sub-section (2) of section 206, sub-section (3) of section 213 and sub-section (3) of section 217 of the principal Act, for the words “an arrear of tax under this Act”, the words “arrears of land revenue” shall be substituted.

38. *Amendment of section 228.*—For sub-section (1) of section 228 of the principal Act, the following sub-section shall be substituted, namely:—

“(1) The Corporation may—

- (a) prohibit vehicular traffic in any public street or any portion thereof so as to prevent danger, obstruction or inconvenience to the public or to ensure quietness in any locality;
- (b) prohibit in respect of all public streets or any particular public street, the transit of any vehicle of such form construction, weight or size or laden with such heavy or unwieldy objects as may be likely to cause injury to the roadways or any construction thereon except under such condition as to time, mode of transaction or locomotion, use of appliances for the protection of roadways, number of lights and assistants and other general precautions and upon the payment of such charges as may be specified by the Corporation generally or specially in each case;
- (c) prohibit access to premises from any particular street carrying high speed vehicular traffic:

Provided that the Corporation shall not take action without the sanction of the Government in cases under clauses (a), (b) and (c)”.

39. *Amendment of sections 232, 240 and 253.*—In sub-section (3) of section 232, sub-section (2) of section 240 and sub-section (2) of section 253 of the principal Act, for the words “an arrear of tax under this Act”, the words “arrears of land revenue” shall be substituted.

40. *Amendment of section 262.*—In sub-section (1) of section 262 of the principal Act, for the word “sixty”, wherever it occurs, the word “ninety” shall be substituted.

41. *Amendment of section 268.*—In section 268 of the principal Act.—

- (a) for the words “Court of the District Judge of the city” occurring in sub-section (2) and the words “Court of the District Judge”, wherever these occur, the words “Divisional Commissioner” shall be substituted;

(b) for the words "in the opinion of the Court" occurring in sub-section(3), the words "in his opinion" shall be substituted; and

(c) for the words "an arrear of tax under this Act" occurring in sub-section (6), the words "arrears of land revenue" shall be substituted.

42. Amendment of section 269.—For the words "an arrear of tax under this Act" occurring in sub-section (4) of section 269 of the principal Act, the words "arrears of land revenue" shall be substituted and thereafter the following new sub-section (5) shall be added, namely:—

"(5) Where the owner of the building submits the revised plan, after the work has been stopped by him or the work is completed by him and deviations from the sanctioned plan are minor in nature, the Commissioner may, subject to the special and general directions of the State Government under section 269-A, compound the cases involving such deviations."

43. Insertion of new section 269-A.—After section 269 of the principal Act, the following new section shall be inserted, namely:—

"269-A. *Power of State Government to give directions for compounding deviations from sanctioned plans.*—Without prejudice to the provisions contained in this Act, the Government may, from time to time, give such special or general directions in matters of policy in relation to the compounding of the cases involving deviations from the sanctioned plans as in its opinion are required to be followed by the Commissioner for compounding such cases under sub-section (5) of section 269 of this Act."

44. Amendment of sections 272, 283, 285, 290, 292, 293, 369, 370 and 378.—In sub-section (6) of section 272, section 283, sub-section (3) of section 285, sub-section (3) of section 290, section 292, sub-section (5) of section 293, section 369, sub-section (1) of section 370 and section 378 of the principal Act, for the words "an arrear of tax under this Act", the words "arrears of land revenue" shall be substituted.

45. Insertion of new section 384-A.—After section 384 of the principal Act, the following section shall be added, namely:—

"384-A. *Composition of Offences.*—(1) Notwithstanding anything to the contrary contained in section 384, it shall be lawful for the Commissioner or any other person authorised by him, by general or special order in this behalf, to compound, either before or after the institution of the proceedings, offences mentioned in the Second Schedule.

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

46. *Insertion of new section 400-A.*—After section 400 of the principal Act, the following section shall be added, namely :—

“400-A. *Power of revision.*—The Government may at any time, for the purposes of satisfying itself as to the correctness, legality, propriety or regularity of any proceeding or order passed by any officer of the Government or the Commissioner or any officer subordinate to him, call for and examine the record and may pass such order with reference thereto as it may think fit.”

47. *Amendment of section 404.*—In section 404 of the principal Act, for the words “Tree Authority” the words “State Government” shall be substituted and at the end of the section so amended, the following Explanation shall be added, namely :—

“*Explanation.*—For the purpose of this section the expression “damage” in relation to a tree shall include,—

- (a) gridling; drilling of holes, boring and use of poisonous substance ;
- (b) cutting and exposure of roots or making a tree dangerous ;
- (c) setting fire to a tree or its branches ;
- (d) debarking or stripping of the bark ;
- (e) extraction of resin and gum ;
- (f) lopping of branches ;
- (g) extraction and removal of torchwood ; and
- (h) damage to trees by throwing debris or stones ;

but such damage shall not include the damage which is caused,—

- (1) by the *bonafide* exercise of the rights of the right-holders of the area ;
- (2) by the lopping of branches of the trees which are grown mainly for fodder, horticultural or ornamental purposes.”

48. *Substitution of section 405.*—For section 405 of the principal Act, the following section shall be substituted, namely :—

“405. *Constitution of Tree Authority.*—(1) The State Government shall by notification constitute the Tree Authority consisting of the following :—

- (i) the Commissioner ;
- (ii) the Divisional Forest Officer having jurisdiction over the city ;
- (iii) the District Horticulture Officer having jurisdiction over the city ; and
- (iv) two councillors to be nominated by the Mayor.

(2) The Commissioner shall be the Chairman of the Tree Authority.”

49. *Amendment of section 406.*—Sub-section (3) of section 406 of the principal Act shall be omitted.

50. *Amendment of section 408.*—After section 408 of the principal Act, the following section shall be added, namely:—

“408-A. *Application for permission for cutting/felling or removal of a tree.*—(1) Any person intending to cut, lop, fell or remove a tree within the territorial jurisdiction of the Corporation shall make an application to the Tree Officer, in such form and containing such particulars and accompanied by such documents as may be prescribed.

(2) Such application shall be accompanied by such fee as may be prescribed.”

51. *Substitution of section 409.*—For section 409 of the principal Act, the following section shall be substituted, namely:—

“409. (1) On receipt of application from any person to fell any standing tree or to cut, lop, remove or otherwise dispose of a fallen tree, the Tree Authority shall, after making such inquiry as it may think fit, and with prior approval of the Government either permit in whole or in part or refuse the permission applied for :

Provided that no such permission shall be refused if the tree—

(i) is dead, diseased or wind-fallen, or

(ii) constitutes a danger to life or property, or

(iii) is substantially damaged or destroyed by fire, lightning, rain or other natural causes.

(2) Where permission to fell a standing tree or to cut, remove or otherwise dispose of a fallen tree is granted, the Tree Authority may impose condition that the applicant shall plant another tree or trees of the same or other suitable species preferably on the same site within sixty days of the date on which the tree is felled or within such extended time as the Tree Authority may allow.

(3) The permission granted under this section shall be valid for a period of 180 days from the date on which the sanction is conveyed to the applicant. If the applicant fails to cut, fell, lop or remove the tree permitted to be cut, felled, lopped or removed within the aforesaid period of 180 days, the permission granted shall lapse, unless the applicant obtains from the Commissioner an extension of time on an application for extension and payment of prescribed fee.”

52. *Amendment of the First Schedule.*—In the First Schedule of the principal Act,—

(i) in Part I after item 19, the following new item shall be inserted, namely:—

“19-A. Tailoring shop. Keeping a—” ; and

(ii) in Part II,—

(a) for item 4 the following item shall be substituted, namely:—

“4. Bidi or Bidi leaves.” ;

(b) after items 11, 24 and 30, the following new items 11-A, 24-A and 30-A, shall be inserted, namely:—

“11-A. Cement.

24-A. Cosmetics and toilet needs.

30-A. Electric goods (including video and electric games).” ;

(c) for item 60, the following item shall be substituted, namely:—

“60. Leather, leather cloth, rexine cloth and water proof cloth.” ;

(d) after items 75, 79, 82 and 93 the following new items 75 A, 75-B, 79-A, 82-A, 82-B and 93-A, shall be inserted, namely:—

“75-A. Pharmaceutical or medical goods.

75-B. Photostate, cyclostyling, typing and printing machines.

79-A. Rubber and rubber goods.

82-A. Sanitary-ware, hardware and other articles made of iron, iron sheets, pipes, iron angles and G.I. pipes.

82-B. Shoes (including leather, P.V.C., canvas, rubber and plastic shoes).

93-A. Utensils, crockery, china and earthen-ware, aluminium-ware, stainless steel and iron goods.”

53. *Insertion of the Fourth Schedule.*—After the Third Schedule to the principal Act, the following Fourth Schedule shall be inserted, namely:—

THE FOURTH SCHEDULE

(See sections 47, 50 and 70-B)

1. Commissioner.
2. Joint Commissioner.
3. Assistant Commissioner.
4. Executive Municipal Engineer.
5. Assistant Engineer.
6. Junior Engineer.
7. Market Superintendent.”

54. *Repeal and savings.*—The Himachal Pradesh Municipal Corporation (Amendment) Ordinance, 1985 (2 of 1985) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act, as if the Act was in force on the day on which such thing was done or such action was taken.

**THE HIMACHAL PRADESH MUNICIPAL CORPORATION
(AMENDMENT) ACT, 1986**

(ACT NO. 21 OF 1986)¹

ARRANGEMENT OF SECTIONS

Sections :

1. Short title and commencement.
2. Amendment of section 5.
3. Substitution of section 6.
4. Amendment of section 37.
5. Amendment of section 41.
6. Validation.
7. Repeal and savings.

¹(Received the assent of the Governor, Himachal Pradesh on the 18th September, 1986 and was published in R.H.P. Extra., Dated 10-9-1986 at pages 1537-1538).

An Act further to amend the Himachal Pradesh Municipal Corporation Act, 1979 (Act No. 9 of 1980).

Enacted by the Legislative Assembly of Himachal Pradesh in the Thirty-seventh Year of the Republic of India, as follows:—

1. Short title and commencement.—(1) This Act may be called the Himachal Pradesh Municipal Corporation (Amendment) Act, 1986.

(2) Section 2 and section 4 of this Act shall come into force at once and the remaining provisions of this Act shall be deemed to have come into force on the 17th day of July, 1986.

2. Amendment of section 5.—The existing proviso to sub-section (5) of section 5 of the Himachal Pradesh Municipal Corporation Act, 1979 (9 of 1980) (hereinafter called the principal Act) shall be omitted.

3. Substitution of section 6.—For section 6 of the principal Act, the following section, alongwith its heading, shall be substituted, namely:—

“6. **Special representation to women and others.**—(1) If no woman has been elected to a Corporation or only one woman is elected, the Government shall nominate two women or such number of women as fall short of two from amongst the weaker sections of the society who is or are otherwise qualified to be elected as councillor(s) of the Corporation.

(2) The Government shall nominate three persons to a Corporation, who are otherwise qualified to be elected as councillors of the Corporation, having special knowledge or practical experience in respect of

¹ For statement of Objects and reasons see R.H.P. Extra., dated 21-8-1986, P. 1395.

such matters as the following, namely:—

architecture, education, engineering, environmental conservation, law, medical science, administration, trade or commerce, tourism and social service :

Provided that the councillors nominated under this sub-section shall not be entitled to vote at, but shall, subject to the other provisions of this Act, have the right to speak in and otherwise take part in the proceedings of any meetings of the Corporation or its committees of which he may be a member.

(3) Whenever a casual vacancy occurs in the office of the nominated councillor, fresh nomination shall be made within a period of thirty days of the occurrence of the vacancy.”

4. *Amendment of section 37.*—in section 37 of the principal Act,—

(a) for existing sub-section (1), the following sub-section (1) shall be substituted, namely.—

“(1) The Corporation shall, in the prescribed manner, elect one of its elected members to be the mayor and another elected member to be the deputy mayor of the Corporation.” ; and

(b) for the words “one of its members” occurring in sub-section(3) the words “one of its elected members” shall be substituted.

5. *Amendment of section 41.*—In section 41 of the principal Act,—

(a) for the words “the two deputy mayors” occurring in sub-section (4), the words “the deputy mayor shall be substituted; and

(b) for sub-section (5), the following sub-section (5) shall be substituted, namely:—

“(5) Each committee shall elect one of its elected members as the chairman and another elected member as the vice-chairman.”

6. *Validation.*—Notwithstanding anything to the contrary contained in the principal Act, any right of vote exercised before the commencement of this section by any councillor, nominated under sub-section (2) of section 6 of the said Act, in the meetings of the Corporation or its committees, shall and shall always be deemed to have been validly and lawfully exercised.

7. *Repeal and savings.*—(1) The Himachal Pradesh Municipal Corporation (Amendment) Ordinance, 1986 (2 of 1986) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act had come into force on the day on which such thing was done or such action was taken.