



The Gangtok Municipal Corporation Act, 1975

Act 4 of 1975

Keyword(s):

Bridge, Conservancy, Dangerous Disease, Drain, Holding, Hut, Inhabitant, Land, Market, Owner, Private Street, Public Street, Sewage, Slaughter-House, Tribunal

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THE GANGTOK MUNICIPAL CORPORATION ACT, 1975

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The Gangtok Municipal, Corporation

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Act, 1975:

(Act No. IV of 1975).

AN,
ACT

to make provisions for the establishment of a Municipal Corporation in Gangtok and for matters con

[12th October, 1975]

WHEREAS, it is expedient to make provisions for the establishment of a Municipal Corporation at Gangtok and matters connected therewith.

It is hereby enacted: as follows;

CHAPTER I Preliminary

Short title, extent and commencement.

(1) This Act may be called the Gangtok Municipality, Corporation Act, 1975.

(2) It extends and applies to the town of Gangtok; but the State Government, may- by notification extend all or any of the provisions of, this Act to areas outside the town of Gangtok.

(3) It shall come into force [at once.]

Definitions.

In this Act, unless there is anything repugnant in the subject or context,
(1) "Administrator" means the officer appointed by the State (Government under sub-section (5) of section 3 ;)

" Administrator"

(1 a) "bridge" includes a culvert;

(2) building includes a, house, out-house, stable, privy, urinal, shed, hut" wall (Other than a boundary wall not exceeding ten feet in height and any other such structure," whether of masonry" bricks, wood, mud, metal or any' other material whatsoever but

"Bridge'.

1. Subs, by sec. 3 of G. Nt. C. (Amd.) Act No. 5 of 1976. (w.e. f. 9.12.76). 2. Ins. by sec. 2 of G. M. C. (Amd.) Act No. 1 of 1982 (w. e. f. 9. 12. 76).

does not include any temporary shed erected on ceremonial or festive occasions:

"Conservancy" (3) 'conservancy' means the removal and disposal of sewerage, offensive matter and rubbish

.. Corporation" 3[(3a) "Corporation" means the Gangtok Municipal Corporation constituted under subsection (1) of section 3;]

"Dangerous disease" (4) "dangerous disease" means
 . (a) cholera, plague, small-pox', cerebrospinal meningitis and diphtheria: and
 (b) any other disease which the State, Government may, by" notification, declare to be a dangerous disease for all or any of the purposes of this Act.

"Drain" (5) "drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and 'any other such device for carrying of salvage, sewage, offensive matter, polluted water rainwater or sub-soil water; .

"Executive Officer" (5a) "Executive Officer" means the Officer appointed by the State Government under section 10;]

" Holding" (6) "holding" means land held under one title or agreement and surrounded by one set of boundaries:

Provided that where two or more adjoining holdings from part and parcel of the site or premises of a dwelling house, manufactory, warehouse or place of trade or business, such holdings shall be. deemed to be one holding for the purpose of this Act.

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

" Hut" (7) "hut" means any building which is constructed principally of wood, bamboo,' mud, leaves, grass

or thatch and includes any temporary structure of

3, Ins. by sec. 2 of G. M. C. (Amd.) Act NQ, 1 of 1982 (w. c}. 9. 12. 76).

4. Ins. by *ibid*.

Whatever, size, or any small building (not being masonry building) of whatever material made;

(8) "inhabitant" used with reference to any local area means' any "person' ordinarily residing or carrying on business or owing of occupying immovable property therein;

"Inhabitant"

(9) "land" includes benefits arising out of land, .and things attached to the earth, or permanently fastened to any thing attached to the earth;"

"Land"

(10) "market" includes anyplace where 'persons assemble for the sale of any living thing' intended *for* human food *or of* any article 'of food;

" Market"

(11) "notification" means a notification published in the official Gazette;'

"Notification"

(12) "occupier" mean any person *for* the time being in possession or deemed *to* be in possession of any land ,or building, in respect of which 'the word is used and includes' an' owner living in, or' otherwise using ,his own land or building'

"Occupier".

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

" Owner"

(14) "prescribed" means prescribed by this Act *or, by* .rules, *or* by-laws made there under;

Prescribed"

(15), "private street" means, any street, road, lane, gully, alley. passage or square which is *not* a public street as defined in this section, but does *not* include a passage securing access to less than four premises, *or* a passage provided in effecting the partition *of* any building amongst joint-owners;

"Private Street"

(16) "public street" means any street *road*, lane, gully, alley, passage, pathway, square or, . Court,

.. Public Street"

whether a thoroughfare or not, over which the public have a right of 'way,' and includes

- (a) the roadway over any, public bridge or causeway,
- (b) the footway attached to any such' street, public bridge, or causeway;
- (c) the passage connecting two, public streets; and,
- (d) 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 if a street alignment have been fixed then up to 'the, alignment; .

Sewage

(17) "(Sewage" means night soil and other contents of privies; a urinal, cesspools of drains and includes trade effluent and discharges from manufactories of all kinds;

"Slaughter-house"

'(18) 'slaughterhouse" means any place used for the slaughter 'of .cattle, sheep, goat, kids -or pigs for the purpose 'of selling the flesh there Of as meat

"Tribunal"

5{(18a) "Tribunal" means the Tribunal constituted by the State Government under section 49F ;}

"Year"

(19) ,"year" means a year beginning on the "first day 'Of April.

CHAPTER
The Municipal Authorities

Constitution and

3. (I) There shall be established for the town

5. In;,, by see, :2 of the 0, M. Co (Amd,) Act No.1 of 1982 (w. e. f 12-10"7a).

of Gangtok a Municipal Corporation consisting of such number of Councillors not exceeding nine in number as the State Government may specify in the notification constituting the Corporation. The boundaries of the Corporation shall be specified in the notification and may, by notification be altered by the State Government from time to time.

(2) The Corporation shall be a body corporate by the name of the Gangtok Municipal Corporation having

perpetual succession and a common seal and by that name shall sue and be sued.

(3) The first Councillors shall be nominated by the Government by notification and shall hold office for four years commencing from the date of the first meeting of the newly formed Corporation after the notification at which a quorum is present:

[Provided that the Government may by notification nominate a new Councillor or Councillors in the place of the existing Councillor or Councillors within the said period of four years.]

(4) Subject to the provision of sub-section (3), the Councillors shall be elected on the basis of adult franchise in the manner prescribed by rules made by the State Government and shall hold office for four years commencing from the date of the first meeting of the Corporation after such election at which a quorum is present.

(5) If before the expiry of the term of the first Councillors nominated under subsection (3) no new Councillors have been

Incorporation of Corporation and number of Councillors.

6. Ins. by sec. 3 of the G. M. C. (Amd.) Act No.2 of 1978 (w. e. f. 30-3-78). Ins. by sec. 7. 2 of the G. M. C. (Amd.) Act No.5 of 1980 (w. e. f. 11-12-79).

elected as required under sub-section (4), the State Government may by order published in the Official Gazette, appoint an officer (hereinafter referred to as Administrator) for the Corporation for a period of 8[four years] or until the reconstitution of the Corporation, whichever is earlier.

9[Provided that the State Government may by a like order, extend the period of appointment of the Administrator for a further period of one year or until the reconstitution of the Corporation, whichever is earlier.]

- (6) When an order is issued under sub-section (5) the following consequences shall ensue:
- (a) all the powers, functions and duties of the Corporation, its Chairman, Vice Chairman and Committee, if any, shall be exercised, performed and discharged by the Administrator until the reconstitution of the Corporation;
 - (b) the administrator shall be deemed in law to be the Corporation 10[the Corporation at meeting] Chairman, Vice Chairman or Committee, if any, as the occasion may require;
 - (c) such salary and allowances as the State Government may, by order, in that behalf fix, shall be paid to the Administrator out of the Corporation Fund;
 - (d) notwithstanding anything in the Act, the Administrator may review any act done or decision taken by the outgoing

8 Subs. by sec. 3 of the G. M. C. (Amd.) Act No.1 of 1982 (w. e. f. 16-12-81).

9 Ins. by *ibid.*

10. Ins. by *ibid.*

Corporation Chairman, Vice-Chairman or Committee in the exercise or performance of their powers and duties under the Act."

4. The State Government may, by notification, divide the Corporation into Wards and for the purpose of the election of the Councillors determine the number of Councillors to be elected from each such Ward.

Power to divide Corporation into Wards and fix the number of Councillors of each Ward. Disqualification for being a Councillor.

5. (l) A person shall not be eligible for nomination or election as a Councillor if such person

(a) has been adjudged by a competent Court to be of unsound mind; or.

(b) is under twenty one years of age; or

(c) is an undischarged insolvent; or

(0)

(d) being a discharged insolvent, has not obtained from the Court a certificate that his insolvency was caused by misfortune without any misconduct on his part; or

(e) is a municipal officer or servant or holds any office of profit under the Corporation; or

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

(g) is in arrears for more than six months in payment of any rate or tax; or

II[(h) having held any office under the Government of any State, has been dismissed for corruption or disloyalty to the State, unless a

period of five years has elapsed since his dismissal; or
(i) is disqualified under sub-section (4) of section
8 of the Act.] .

(2) If any person is or has been convicted by a Criminal Court of an offence punishable with imprisonment for a period of more than six months, such person shall not be eligible for election or nomination for five years from the date "of expiration of the sentence:

Provided that, on application made by a person disqualified under this sub-section, the State Government shall by an order made in this behalf, remove the disqualification if in the opinion of the State Government the offence does not involve moral turpitude.

6. Every person who is nominated or elected as Councillor shall before taking; his. Seat makes and subscribe before such officer as the State' Government may authorize in this'. behalf an oath or affirmation in the following form, namely,

"I, A.B., having been nominated/elected a Councillor of the Gangtok Municipal Corporation, do swear in the name of God (or solemnly affirm) that I will bear true faith .and allegiance to the Constitution of India as by law established and that I will faithfully discharge the duties upon which I am about to enter."

*Oath of allegiance to
be taken by the
Councillor*

7. At the first meeting of the Corporation, the Councillors, after making and subscribing the oath of allegiance under section 6 shall appoint one of their member to preside at the meeting and shall proceed to elect a Chairman and a Vice-Chairman of the Corporation,

8. (1) The State Government may remove a_Councillor

*Election of Chairman
and Vice-Chairman.*

*Removal of Counci-
llors.*

- (a) if the removal is recommended by a resolution of the Corporation passed at a special meeting called for the purpose and supported by the votes of not less than two-thirds of the total number of the Councillors of the Corporation holding office for the time being; or

- (b) if he has been declared by the State Government by notification issued after due enquiry to have violated his oath of allegiance; or

- (c) if he absents himself from the meetings of the Corporation for six months continuously without having obtained permission from the Chairman, or in his absence from the Vice. Chairman; or

- (d) if he refuses to act or becomes incapable of acting or is declared insolvent or if, after his appointment as Councillor, he is convicted of an offence which in the opinion of the State Government involves moral turpitude or

- (e) if he acquires or continues to have directly or indirectly by himself or his partner or his agent, any share Of interest in any contract or employment with, by, or on behalf of the Corporation or holds any office of profit under the Corporation; or

- (f) if he is in arrears for more than one year in payment of rates and taxes payable under this Act; or

12[(g) if he has acted as a Councillor by voting or taking part in the discussion of any matter in which he has, directly or indirectly a personal interest or in which he is professionally interested on behalf of a client, principal or any other person; or

(h) if he has flagrantly abused his position or has been guilty of gross misconduct in the discharge of his duty as such Councillor].

(2) Before removing a Councillor under subsection (1), the State Government shall allow the Councillor concerned an opportunity of being heard.

(3) All acts' and proceedings of any Councillor shall, if done previously to such removal, be valid and effectual to all intents and purposes.

13[(4) A person who has been removed from the Councillorship of the Corporation under subsection (I), shall be disqualified for being elected or nominated and being a Councillor of the Corporation for a period of four years from the date of his removal:

Provided that the State Government may at any time by order remove the disqualification.]

Casual Vacancy.

14[8A. (1) Where before the expiry of the term of office of a Councillor or his seat becomes vacant owing to death, resignation' or any other cause, a new Councillor shall be elected or nominated as the case may be, in the same manner as is provided for the nomination or election of Councillors under the Act:

Provided that where the term of an outgoing Councillor would be in the ordinary. course expire

12. Ins. by sec. 5 of the G. M. C. (Amd.) Act No.2 of 1978 (w.e.f. 30-3-78). 13. Ins. by *ibid*.

14. Ins. by sec. 6 of the G. M. C.(Amd.) Act No.2. of 1978 (w.e.f. 30-3-78).

within four months of the occurrence of, the vacancy his seat shall be left unfilled unless the Government decides otherwise.

(2) The existence of a casual vacancy will not at any time render any action of the Corporation invalid or inoperative in anyway whatsoever.

8B. A Councillor may at any time resign by writing under his hand addressed to the Chairman and his resignation shall take effect from the date of its acceptance by the Councillors at a meeting. In case the Chairman wishes to resign he shall address his resignation letter to the Government and his resignation shall take effect from the date of its acceptance by the Government.]

Resignation.

9. (1) The Corporation may subject to the provisions of this Act and the rules made there under from time to time determine what officers and other servants of the Corporation are necessary for the Corporation and may make appointments of such officers and servants and fix their salaries and allowances.

Appointment of Sub-ordinate Officers.

(2) The Corporation may delegate to the Chairman the power to appoint and dismiss such officers and Servants as it may deem fit.

(3) No appointment to and dismissal from the post of any officer or servant carrying a monthly salary rising by periodical increments to more than 15(eight hundred] rupees shall be made by the Corporation under sub-section (1) or by the {' Chairman under sub-section (2) without the approval of the State Government.

(4) No person shall be eligible for employment as an officer or servant of the Corporation if he has, directly or indirectly by himself or his partner

or employer or employee, any share or interest in any contract or employment with, by, or on behalf of the Corporation and if any such officer or servant subsequently acquires such share or interest he may be removed from service in accordance with rules which may be prescribed.

Appointment of Executive Officer' by the State Government.

10. (1) The State Government may, after consulting with the Councillors, if it thinks necessary so to do in the public interest, appoint by notification, an Executive Officer for the Corporation and shall make such appointment if in its opinion the affairs of the Corporation are not properly managed or can not be managed in accordance with law, for such period -not exceeding one year at a time as may be specified in the notification.

(2) The Executive Officer shall be paid out of the Municipal Fund such salary and allowances as may from time to time to be fixed by the State Government.

(3) The Executive Officer appointed under this section shall exercise such powers of the Chairman or of the Corporation as may be conferred on him by notification by the State Government, and on such notification such powers shall cease to be exercisable by the Chairman or by the Corporation as the case may be.

(4) The Corporation may delegate to the Executive Officer all or any of the powers of the Corporation.

(5) The State Government may at any time suspend, remove, dismiss or otherwise punish the Executive Officer appointed under this section.

Powers of the Executive Officer..

11. (1) The Executive Officer shall be the principal executive officer of the Corporation and all other officers and servants of the Corporation shall be

subordinate to him. He shall have the same right of being present at a meeting of the Corporation or any special or standing committee, and of taking part in the discussion thereat as if he was a Councillor or a member of the Committee, but he shall not be entitled to vote at such meeting.

(2) Subject to the provisions of sub-section (3) and sub-section (4) of section 10, the Executive Officer. shall act in respect of all other matters under "the direction of the Chairman through whom he shall be responsible to the Corporation.

12 16[The State Government may,} make rules as to

- (i) the appointment, leave, duties, conditions of service, disciplinary proceedings, punishment or dismissal and removal of the officers and servants, of the Corporation:
- (ii) the granting of pensions, gratuities, bonuses or other grants and allowances to or for the officers and servants of the Corporation out of the Municipal Funds;
- (iii) the creation and management of a provident fund or annuity fund, for compelling contributions to such provident or annuity fund on the part of their officers and servants, and for supplementing such contributions out of the Municipal Fund;
- (iv) the nature and amount of security to be furnished by different classes' of officers and servants of the corporation for the proper discharge of their duties;
- (v) the payment to be made out of the Municipal-Fund to the Chairman, Vice-Chairman, Councillors and officers and servants of the Corporation for traveling expenses as may be incurred in performing journey for carrying out for purposes of this Act.

Power to make rules.

16. Subs. by sec. 7 of the G. M. C. (Amd.) Act No.2 of 1978 (w. e. f. 30.3. 7.8).

Conduct of business.

Meetings and persons to preside at meeting.

13. (1) The Chairman or in his absence, the Vice Chairman shall call a meeting of the Corporation at least once in every month.

(2) The Chairman or in his absence the Vice Chairman shall call a special meeting of the Corporation on a requisition signed by not less than one-third of the total number of Councillors; if the Chairman or Vice-Chairman fails to give notice of a special meeting to be held within fifteen days after such requisition has been made, the meetings may be called on seven days' notice by the Councillors signing the requisition.

(3) The Chairman, or in the absence, the Vice Chairman shall preside at every meeting and in his absence of both the Chairman and the Vice Chairman, the Councillors shall choose one of their member to preside.

Decisions of questions and casting Vote and prohibition from Voting.

"14.(1) All questions which may come before the Corporation at a meeting shall be decided by a majority of votes and in case of equality of votes, the person presiding shall have a second or casting vote.

(2) No Councillor shall vote on any matter affecting his own pecuniary interest or on any question exclusively relating to his liability to any tax, rate, toll or fee or any assessment of himself or valuation of any property in which he is in any way interested as owner, manager or agent or otherwise.

Quorum and adjournment for want of quorum.

15.(1) No business shall be transacted in any meeting of the Corporation unless a quorum shall be present.

(2) One-third of the total of the Councillors holding office for the time being shall be the quorum: provided that in case where the total number of

Councillors holding office for the time being is not evenly divisible by three, the one-third shall be ascertained by taking the number next above such total number which is evenly divisible by three, as the number to be divided.

(3) If at the appointed time for a meeting, or within half an hour thereafter, a quorum is not present, the meeting, shall be adjourned to some future day to be appointed by the Chairman or, in his absence, by the Vice-Chairman and three days; notice of such adjourned meeting shall be given, and no quorum shall be necessary for such adjourned meeting.

16. (1) A list of the business to be transacted at a meeting and, in the case of meeting called on a requisition, the terms of the requisition, shall be sent to every Councillor at least three days before the date appointed for the meeting and no business of which such notice has not been given shall be brought forward at a meeting.

Notice of meeting and list of business and minutes of proceedings.

(2) Minutes of the proceedings of all meetings of the Corporation, in which shall be recorded interalia the names of all the Councillors present, and the person presiding, shall be entered into a book to be kept for the purpose and shall be signed by the person presiding over the meeting and such book shall be open to inspection of the tax-payers.

(3) The minutes shall be laid before the next meeting of the Corporation for confirmation and shall be also signed by the person presiding at such meeting.

17. (1) The Corporation may from time to time appoint standing committees and by specific resolution delegate to, or withdraw from, such committees any of its functions, powers and duties.

Formation of standing Committee.

(2) Each standing committee shall consist of Councillors who shall not be less than two-thirds of the total number of the members of the Committee and such other persons not exceeding one-third in number as the Corporation at a meeting may, from time to time, determine and nominate for this purpose.

(3) All the proceedings of any such committee shall be subject to confirmation or modification by the Corporation unless in special case the Corporation at a meeting otherwise directs.

(4) All questions regarding the removal or resignation of members of a Committee shall be decided by the Corporation.

Formation of Joint Committees.

18. (1) The Corporation may join with any other local authority in constituting out of their respective bodies a joint committee for any purpose in which they may be jointly interested and in delegating to any such joint committee any power which might be exercised by the Corporation or any of the local authorities concerned.

(2) Such joint committee may, from time to time, make -rules as to its proceedings and as to the conduct of correspondence relating to the purpose for which it is constituted.

Decision of disputes between local authorities.

19. If a dispute arises between the Corporation and any other local authority on any matter in which they are jointly interested, such dispute shall be referred to the State Government whose decision shall be final and shall not be questioned in any Court.

Power to make rules as to business of Corporation and the Committee.

20. 17[* * *] State Government may make rules as to
(a) the time of its meetings, the business to be transacted at meetings and the

17. Omitted by sec. 8 of the G. M. C. (Amd.) Act No.2 of 1978 (w. e. f. 30-3-78).

- ! period *of* notice of meetings and the manner in which such notice shall be given;
- (b) the conduct and control *of* proceedings at meetings, the due record of all discussion and dissents and the adjournment *of* meetings;
- (c) the custody of the common seal;
- (d) the division *of* duties among the Councillors and the powers to be exercised by the Councillors to whom particular duties are assigned;
- (e) the manner of appointment and constitution *of* committees and the regulation and conduct *of* their business; and
- (f) the delegation *of* powers or duties to committees or to the Chairman of a committee.

21. (1) No act done or proceedings taken under this Act shall be questioned on the ground merely *of* *Validation of acts and proceedings.*
- (a) the existence of any vacancy in or any defect in the constitution *of* the Corporation or any standing, joint or other committees or any disqualification in less than half *of* the Councillors or members *of* the Committee present when the act *Of* proceeding was done or taken;
 - (b) any defect or irregularity not affecting the merits *of* the case.
- (2) Every meeting *of* the Corporation, or any *of* the standing, joint or other committees, the minutes *of* the proceedings *of* which have been duly signed by the person presiding over the meeting, shall

be deemed to have been duly convened and when the minutes are confirmed at a subsequent meeting shall be deemed to be free from all defects and irregularities and the accidental omission to serve notice of a meeting on any Councillor shall not affect the validity of the meeting.

Additional duties and functions of the Corporation.

18[21A. In addition to the duties and functions already provided for in the Act the State Government may by notification entrust any other duty or function to the Corporation and thereafter it shall be the duty of the Corporation to make reasonable provision therefore within the municipal corporation limits.]

CHAPTER III

Municipal property and finance

Corporation may acquire and dispose property.

22. The Corporation may acquire by gift, purchase or otherwise and hold property whether moveable or immovable within or without the limits of the Corporation and may also sell or otherwise dispose of such property in pursuance of a resolution at a meeting.

Property of the Corporation.

23. (I) All property within the limits of the Corporation of the nature hereinafter in this section specified, other than property owned or maintained by the Central or the State Government or any other local authority, shall vest in and belong to the Corporation and shall, with all other property of whatsoever nature or kind which may become vested in the Corporation, be under its direction, management and control, that is to say

18. Ins. by sec. 9 of the G. M. C (Amd.) Act No.2 of 1978 (w. e. r. 30-3-78)

- (a) all public streets and all things connected with or provided for such streets;
 - (b) all public channel, water courses, springs, tanks, reservoirs, cisterns, walls and other water-works, bridges, buildings and all other materials or things connected therewith;
 - (c) all public sewers and drains and all works, materials and things pertaining thereto and other conservancy works;
 - (d) all sewage, rubbish and offensive matters deposited on streets or collected by the Corporation from streets, latrines, urinals, sewers, cess-pools and other places;
 - (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto; and
 - (f) all buildings erected by the Corporation and all lands, buildings or other property transferred to the Corporation or acquired by gift, purchase or otherwise.
- [2] The State Government may, by notification, exclude any street bridge, sewer or drain from the operation of the Act or any specified provisions of this Act.

24. [1] The Corporation may enter into and perform any contract necessary for the purpose of this Act.

[2] Every contract made on behalf of the Corporation in respect of any sum exceeding five hundred rupees or which shall involve a value exceeding five hundred rupees shall be sanctioned by the Corporation at a meeting and shall be in writing and signed by at least two Councillors, one of whom shall be the Chairman or Vice-Chairman and shall be sealed with the Common seal of the Corporation and unless so executed, such contract shall not be binding on the Corporation.

Execution of contracts.

THE MUNICIPAL FUND

Municipal Fund.

25. (1) There shall be one Municipal Fund held by the Corporation in trust for the purpose of this Act to which all sums realized or realizable under this Act and all sums otherwise received by the Corporation shall be credited.

2) Unless the State Government otherwise directs, all sums received on account of the Municipal Fund shall be paid into a Government Treasury or into any Bank used as a Government Treasury and shall be credited to an account to be called the account of the Gangtok Municipal Corporation.

(3) All sums from time to time credited to the Municipal Fund shall be applied in payment of all sums, charges and costs necessary for carrying out the purposes of this Act or of which payment is duly directed or sanctioned by or under any of the provisions of this Act or payment of which is directed or sanctioned by the Corporation with the approval of the State Government.

26. (1) At least two months before the close of the year, the Corporation shall have prepared a complete account of the actual and expected receipts and expenditure for that year together with a budget estimate of the income and expenditure of the Corporation for the next year.

Budget.

(2) When the budget has been passed at a meeting, the Corporation shall obtain the approval of the State Government and shall not incur any expenditure except in accordance with the budget approved by the State Government.

(3) A revised or supplementary budget may be passed by the Corporation in the course of the year and, if approved by the State Government, the Corporation may incur expenditure in accor

dance with the revised or supplementary budget.

19["26A. The Corporation may, with the previous sanction of the State Government, borrow money from banks and other financial institutions, on the security of the Municipal Fund or any of its other assets for the purposes of this Act."]
see sec5 of the G. M. C. (Amd.) Act No. I of 1982 (w. e. f. 12.10. 1975.)

Borrowing powers.

..

27. The State Government may make rules

Power to make rules.

- (a) to regulate the application of the Municipal Fund to the purposes to which it is applicable;
- (b) to regulate the keeping, checking and publication of accounts and periodical audit thereof;
- (c) to regulate. the preparation of the budget estimate including revised or supplementary budget estimate and the expenditure of money for purposes provided therein;
to provide for the retention of adequate working and closing balances;
- (d)
- (e) to regulate the preparation, submission and publication of returns, statements and reports by the Corporation and to prescribe registers and forms;
- (f) to determine the persons by whom orders for payment of money from the Municipal Fund may be signed, how such payments shall be made and by whom receipts may be given;
- (g) to provide for the supply of certified copies of municipal records to the public and the levy of fees for such supply.

..

CHAPTER IV MUNICIPAL TAXATION

Power to Impose Taxes.

28. The Corporation may, from time to time at a meeting convened expressly for the purpose, subject to the provision of the Act, impose within the limits of the Corporation the following rates, taxes and fees or any of them:

- (a) 20[a rate on holdings situated within the limits of the Corporation assessed on their annual value including different rates for different grades of valuation.]
a conservancy rate on the annual value
- (b) of holdings;
a water-rate on the' annual value of the holdings;
- (c) a tax on trades, profession and callings;
- (d) any other tax, rate or fees which the Corporation is
- (e) empowered to impose under any law for the time being in force

Annual value of Holdings.

29. (1) The annual value of a holding shall be deemed to be the gross annual rental at which the holding may reasonable be expected to let.

(2) If such gross annual rental cannot be easily estimated or ascertained, the annual value of such holding shall be deemed to be an amount which may be equal to but not exceeding seven and half per centum on the value of the building or buildings on such holding at the time of assessment plus a reasonable ground rent for the land comprised in the holding.

(3) The value of any machinery or furniture which may be on a holding shall not be taken

into consideration in estimating the annual value of such holding, under this section.

30. (1) The rate on holdings shall not exceed fifteen per centum on the annual value of holdings.

Restriction on the Imposition of rates.

(2) 21[The rate imposed under clause (a) of section 28 shall be levied in respect of all holdings within the limits of the corporation except

(a) holdings belonging to the State and

Central Government;

(b) holdings used exclusively as a place of public charity or a public burial or burning ground or as a mortuary;

(c) any holding the annual value of which is less than an amount to be fixed by Government before the close of the year next preceding the year to which such fixation will be applicable.]

(3) The water rate shall not be levied at more than seven and half per centum and shall be imposed only on holdings within an area for the supply of water to which the Corporation has made arrangements.

(4) The conservancy rate shall not be levied at more than ten per centum on the annual value of the holdings and the Corporation shall make arrangements for the cleansing of all latrines, urinals and cess-pools. A rebate of seventy-five per centum of the conservancy rate levied on a holding shall be allowed if the holding is provided with necessary sanitary-type latrines in working order and with no service privy or service-urinal.

Preparation of valuation Lists.

31. (1) When it has been decided to impose any rate to be assessed on the annual value of holdings, the Corporation at a meeting shall appoint an assessor for the purpose who shall determine annual value of all buildings within the Corporation and shall enter such value in a valuation list.

(2) A new valuation list shall unless otherwise ordered by the State Government be prepared in the same manner once in every five years.

Determination of percentage of rate of Holding & preparation of assessment List.

32. (1) The Corporation at a meeting to be held before the close of the year next preceding the year to which the rate will apply shall determine the percentage on the valuation of holdings at which any rate on the annual value of holdings shall be levied and the percentage so fixed shall remain in force until the Corporation at a meeting shall determine some other percentage on the valuation of holdings at which the rate will be levied from the beginning of the next year.

(2) As soon as possible after the percentage at which the rate or rates shall be levied for the next year has been determined under subsection (1), the Corporation shall cause to be prepared by the assessor an assessment list, which shall contain the following particulars and any other which the Corporation may think proper to include:

- (a) the name and/or number and other particulars of the street in which the holding is situated;
- (b) the number of the holding on the register;
- (c) a description of the holding;
- (d) the annual value of the holdings;
- (e) the name of the owner and occupier;
- (f) the amount of rate payable for the year showing each rate separately;

(g) the amount of quarterly installment

33. The Corporation at a meeting may' for good and sufficient reasons recorded in writing, at any time, direct alteration or amendment of the assessment list by revaluing or re-assessing any building.

Amendment and alteration of lists and reduction or remission of rates.

(2) The Corporation at a meeting may reduce or remit the amount payable as rate or rates on account of any holding. If it is satisfied that the levy of such rate or rates would be productive of excessive hardship to the person liable to pay the the same.

34. (1) When the assessment list mentioned in section 32 has been prepared or reviewed, the Chairman shall sign the same and shall cause it to be deposited in the office of the Corporation and shall also give notice of assessment to the owners and occupiers in respect of their respective holdings.

Publication of Notice of Assessments & review.

(2) Any person who is dissatisfied with the amount of assessment in respect of his holding or disputes his liability to be assessed, may apply to the Corporation to review the amount of assessment or valuation or to exempt him from the assessment of rate and such application shall be disposed of by the Corporation at a meeting or by any committee constituted and authorised by the Corporation by a resolution.

(3) No such application shall be received after the expiration of 60 days from the date of service! of the notice under sub-section (1).

(4) An appeal against any decision under sub.' section (2) may be filed within 30 days from the date of such decision before the District Officer within whose jurisdiction the Corporation is situated, and the decision on appeal ,shall be final and shall not be questioned in any Court.

*Tax to be paid
Quarterly in advance
& notice of Demand.*

35. (1) The rate or rates assessed shall be payable by the owner in quarterly installments and every such installment shall be due in the first day of the quarter in respect of which it is payable.

(2) As soon as may be after any sum has become due on account of any tax, rate or fee, the Corporation shall cause to be presented to the persons liable a notice of demand in the prescribed form.

*Levy by Distress &
realization by suit.*

36. (1) If any person does not within sixty days of the service of a notice of demand under subsection (2) of section 35 pay the sum due either at the office of the Corporation or to some person authorised by the Corporation in this behalf or show sufficient cause for not paying the same, the amount of the arrear due along with interest at the rate of twelve per centum per annum and with costs, may, at any time be levied by distress and sale of any movable property belonging to the defaulter' except ploughs, plough-cattle, tools or implements of agriculture or trade.

(2) In the event of failure to recover the whole or any part of the sum due by distress and sale under sub-section (I), the Corporation may sue the person liable to pay the same in any Court of competent jurisdiction.

*Tax on profession,
Trades & Calling.*

37. When it has been determined that a tax shall be imposed on any profession, trade or callings, every person who exercises within the Corporation either by himself or by an agent or representative any such profession,. trade or calling shall take out a yearly licence .and pay the tax as may be imposed by the Corporation which shall be realized in quarterly instalments.

38. The, State Government may by notification direct that the works as may be specified in the notification may be continued to be undertaken by the concerned departments of. The State Government within the limits of the Corporation and that so long such. works will be so continued to be undertaken by the concerned departments of the State Government, a portion of the taxes collected by the Corporation as may be fixed by the State Government shall be paid by the Corporation to the departments concerned.

Power of the Government to direct Corporation to make payments to the Departments of the Government.

39. The State Government may make rules

Power to make Rules.

(a) prescribing the qualifications of and the procedure to be followed by, an assessor appointed under this Act;

(b-)prescribing the procedure to be followed for reviewing assessments;

(c) prescribing the form of notices of demand under sub-section (2) of section 35. and fixing the fees payable in connection with distress under. this. Act;

(d) prescribing the conditions and limitations under which a licence may be granted for the purpose of a tax on trades, professions and callings;

...

(e) regulating any other matter relating to tax, fees or rates in respect of which this Act makes no provision or insufficient provision and for which provision is, in the opinion of the State Government t, necessary.

CHAPTER V.**Streets.**

Power of Corporation to layout, make improvements of & close public streets.

40. The Corporation in pursuance of a decision at a meeting may-----

- (a) lay out new streets, squares and gardens; construct new
- (b) bridges, causeways, culverts and sub-ways;
- turn, divert or temporarily or permanently close any public
- (c) square, street or garden; widen, open, enlarge or otherwise improve any public street, square or garden;
- (d) pass order regulating or prohibiting any description of traffic on any particular or on public streets in general or
- (e) preventing obstruction, encroachment or excavation on or near such street or streets.

CHAPTER VI**Conservancy and Drainage.**

Duties of Corporation for conservancy & for the removal of Drainage.

41. The Corporation shall provide for the removal

- (a) of sewage, rubbish and offensive matters from all public latrines, urinals and drains and from all public streets and other property vested in the Corporation:
- (b) if a conservancy-rate has been imposed under section 28, of sewage and offensive matters from all private latrines, urinals and cesspools.

Appointed hours for placing rubbish etc. on public street.

42. (1) The Corporation at a meeting may from time to time publish an order prescribing the hours within which only an owner or occupier of any house or land may place rubbish or offensive matters on the public street adjacent to his house or lands, in a proper receptacle provided by the

Corporation in order that such rubbish or offensive matters may be removed by the servants of the Corporation.

(2) No person shall place or, cause to be placed' rubbish or offensive matters on a public street at other than the times appointed and except in the receptacles provided for by the Corporation under sub-section (I).

Water Supply and Lighting.

43. (1) It shall be lawful for the Corporation
 (a) to provide a sufficient supply of water for the domestic use of the inhabitants;
 (b) to cause the public streets to be sufficiently lighted.

Corporation to provide water supply and Lighting.

(2) . If a water-rate has been imposed under section 28, the Corporation shall provide a sufficient supply of water for the domestic use of the inhabitants.

If lighting-rate has been imposed under section 28, the Corporation shall cause, the public streets to be sufficiently lighted.

CHAPTER VII

Buildings.

44. No piece of land shall be used as a site for the erection of a building and no building shall be erected otherwise than in accordance with the provision of this Chapter and of any rule or by-law made under this Act, relating to the use of building sites or to the erection of buildings, as the case may be. .

Building-sites & erection of buildings

Application for sanction.

45. Every person who intends to erect a building shall first submit an application in the forms prescribed to the Corporation together with, such plans, specifications and other particulars as may be prescribed in any rule or by-law made under the Act

Permission to execute work when to be given or refused.

46. (1). Within 23[sixty days] after the receipt of any application made under section 45 or of any information or documents; which the Corporation may reasonably require, the applicant to furnish before deciding whether permission shall be granted to execute any work under the aforesaid section, the Corporation shall by written order" either

(a) grant permission conditionally or unconditionally to execute the work, or

(b) refuse permission on the ground that the plans, specifications and other particulars are not in conformity with the rules or bylaws made in this behalf or that the proposed building is likely to affect the safety of, the site or its adjoining area or, safety or sanitation of any neighboring building or buildings or of the locality.

(2) **When** the Corporation grants permission conditionally' under clause (a) of sub-section (I), it may in regard thereto impose such condition consistent with this Act, as it may think fit.

(3) The decision of the Corporation in the matter of granting or not granting the permission as stated above shall be final and shall not be questioned in any Court:

(3) The decision of the Corporation in the matter of granting or not granting the permission as stated above shall be final and shall not be questioned in any Court:

Duration and expiry 47. (I) A permission to erect a building granted under section 46 shall, unless it is renewed on an application made to the Corporation for this only

22. Subs. by sec. 12 of the G. M. C. (Amd.) Act No.2 of 1978 (w. e. f. 30-3-78),

23. Subs. by sec. 6 of the G. M. C. (Amd.) Act No.1 of 1982 (w. e. f. 12-10-75).

For two years after the date on which it is granted, unless the work ~ *of* erection has been - commenced within that period but in any case shall not continue for a period longer than three years from the' said date: unless it is so renewed.'

. (2) Any person who erects a building or continues. the work. *of* erection *of* a building, when the permission granted therefore has expired, shall be deemed to erect, such building . or to continue such work: without sanction.

48. (1) The provisions *of* this Chapter and any rules or by.-laws made under this Act relating to the erection of" buildings shall also apply to every material alterations *of* or additions to, any building, but shall. *Not* apply to necessary repairs not involving any of the works which constitute a material alteration, or addition.

*Application of Act
to alteration or "*
addition to buildings

(2) An alteration or addition in or *to* a building shall, for the purpose 'of this Chapter and *of* any rule or by-laws made under' this Act, be deemed to be material. *if*

(a) it increases or. diminishes the height
of the area covered by or the cubical
Capacity. *of* the building or any part
thereof or

.(b) it affects or is likely to affect judicially the
stability *or* safety *of* the building or the condition
of the building in respect *of* drainage, ventilation,
sanitation or hygiene; or

(c) it. converts into a place for human habitation a
building or part *of* a building originally constructed
for other purposes or

(d) it is an alteration or addition declared
 . by any rule or by-laws made in this
 behalf to be a material alteration or
 Addition.

(3) If any question arises as to whether any addition or alteration is necessary repairs not affecting the position, safety, stability, use, sanitary condition or dimension of a building or room, such question shall be referred to the Corporation at a meeting and the decision of the Corporation shall be final.

*Power Of demolition
 or alteration of
 building etc.*

24[49. (1) if the Corporation is satisfied

- (a) that the erection of any, building
- (i) has been commenced without obtaining any permission required to be obtained by or under this Act, or
 - (ii) Is being carried on or has been completed otherwise than in accordance with the particulars. on which such permission was based, or
 - (iii) . is being carried on or has been completed in breach of any provision of this Act or any rule or bye-law made there under, or any direction or requisition lawfully given or made under this Act or under such rule or
 A
- (b) that any alteration of, or addition to, any building or any other work made or done for any purpose in,
to or upon any building, has been

commenced or is being carried on or has been completed in contravention of, or otherwise than in accordance with any sanction granted under section 46 or section 48, or

- (c) that any alteration required by any notice issued under this Act or any rule or bye-law made under this Act, has not been duly made, he may, without prejudice to any action that may be taken under any other provisions of this Act, by a notice in writing require the person responsible, to demolish within ten days of receipt of notice such erection, alteration, as the case may be, or to show cause why such erection, alteration, addition or other work should not be demolished or the alteration should not be made.

(2) The Corporation may issue notice under sub-section (1) notwithstanding the fact that the valuation of such building has been made under this Act and the Corporation has received payment of tax .on such valuation.

(3) If the person responsible fails

- (a) to demolish such erection, alteration, addition or other work, or to make the alterations, or
- (b) to show cause to the satisfaction of the Corporation why such erection, alteration, addition or other work should not be demolished, or the alteration should not be made, the Corporation may, by order and

through its officers, employees or workmen demolish the' erection, alteration, addition or other work and recover the expenses of demolition from the person responsible:

Provided that a copy of the order shall be served upon the owner and the occupier thereof and no such action shall be taken until after the expiry of thirty days from the date of the service of the said order.

(4) Notwithstanding anything contained in sub-section (1), sub-section (2) or sub-section (3), no action shall be taken under this section in respect of any erection, alteration, addition or other work executed more than twelve years before or before the commencement of Gangtok Municipal Corporation Act, 1975 whichever is later:

Provided that the onus of proving, that the erection, alteration, addition, or other work was executed more than twelve years before or before the commencement of the Gangtok Municipal Corporation Act, 1975 shall lie on the person responsible:

Provided further that no action shall be taken in respect of any erection, alteration, addition or other work which has been regularized under the provision of this Act.

(5) Whoever contravenes any of the provisions of this Chapter shall be liable to prosecution and upon conviction to a fine which may extend to ten thousand rupees and if the offence is of a continuing nature a further fine of five hundred rupees per day after the first conviction.

Explanation.

In this section, the expression, "person responsible" include the owner, the occupier and any other person who executes the erection, alteration, addition or other work or who is liable to make any alteration required by any notice issued under this Act or any rule or bye-law made there under.]'

25[49A. (1) When any verandah, platform, building or other structure or any fixture attached to a building so as to form part of the building, whether erected before or after the commencement of this Act causes a projection, encroachment or obstruction over or on any public street or any land vested in the Corporation, the Corporation, in accordance with such rule or bye-law as may be made by it, may, by written notice, require the owner or occupier of the building to remove or alter such structure or fixture within such time, not being less than fourteen days as may be specified in the notice

Power of Corporation to remove or alter verandah, etc. or fixtures attached to building which project over public street or land.

(2) If the expenses of removing or altering any such structure or fixture is paid by the occupier of the building, in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building.

(3) If the owner or occupier of the building proves that any such structure or fixture was erected before the commencement of the Gangtok Municipal Corporation Act, 1975 or that it was erected on or after that day with the consent of any authority duly empowered for the time being

in this behalf, the requisition made under sub-section (1) shall not be enforced except in pursuance of specific order of the Corporation made in that behalf and the Corporation shall after such structure or fixture has been removed or altered, pay reasonable compensation to every person who suffers damage by the removal or alteration thereof.

(4) Where any owner or occupier fails to comply with the notice served upon him under sub-section (1), the Corporation may remove such structure or fixture and recover the expenses of such removal from the owner or occupier, as the case may be.

(5) Any proceeding under section 49 pending before any' Magistrate shall abate:

Provided that the Corporation may in respect of the proceedings as abated, take fresh action in accordance with the provisions of this Act.

*Obstructions and
encroachment upon
Public streets and
open spaces.*

49B. (1) Whoever, in any place within the boundaries of the Corporation, shall have built or set up, or shall build or set up, any wall or any fence, rail, posts, stall, verandah, platform, plinth, step or any projection, structure or thing or other encroachment or obstruction, in any public street or shall deposit or caused to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, or in or over or upon, any open drain, sewer in such street, shall be punished with fine which may extend to five hundred rupees and with further fine which may extend to fifty rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction.

(2) The Corporation shall have power to

remove any such obstruction or encroachment and shall have the like power to remove any" unauthorized obstruction or encroachment of the like nature in any open space not being private, property whether such space is vested in the Corporation or not, the permission of the Secretary Local Self, Government and, Housing Department of the State Government shall have first been obtained

and, the expenses of such removal shall be paid, by the person who has caused. The, said obstruction, or encroachment and such expenses shall be recoverable under sub-section. (1) or sub-section(2) of section .49K as the case may be..

(3) 'The materials or goods removed under sub-section' (2)' may be stored at such place or places as the Corporation may think fit and if within seven days of such removal, no person claims the return' of such materials .or goods or establishes his claim thereto and pays up the expenses. incurred by the Corporation for removal and storage, the Corporation shall have the power to sell the same by: public auction and recover the expenses incurred including the .expenses of .such auction from the proceeds of ' the sale.

.(4) When under sub-section(2),the 'Corporation' causes, any wall. to be. Removed or, removes any other obstruction, projection or encroachment from land which forms part of a public street no compensation shall be payable but the Corporation shall be bound, to provide proper means of access to and from, the .street,. if .none exists already.

'(.5) whoever not being. duly;' authorised in that behalf, removes earth, 'sand or other material or makes. any: encroachment in or upon any open space. Which .is not: private property shall be punished with fine which may extend *to* two hundred rupees

and, in the case, of an encroachment, which is continuing in nature, with further 'fine which may extend. to fifty rupees .for every day on, which the encroachment continues after the date of first conviction

(6) Nothing contained, in this section shall prevent the Corporation' from 'allowing' any temporary occupation of or erection, in any public street on, occasions of festivals and ceremonies, or the piling of fuel in 'bye-lanes and spaces for not more than seven days and in such manner as not to inconvenience the public or any individual or from allowing the occupation of. or temporary erection or structures for, any other purposes in accordance with any rule or' bye-law made under this Act.

(7) Nothing contained in this section shall apply to any structure duly authorised under this Act or any rule or bye-law "made there under.

Removal of structures etc. which are in ruins or likely to fall.

49C. (I) If at any time it appears to the Corporation that any structure.,(including under. this expression any .building wall or other. structure and: anything affixed to ..or projecting. from any. , building, wall or other structure) is in a ruinous condition .or likely to' fall or in any way dangerous to any 'person occupying, resorting to or passing by such structure or any other structures or place in the neighborhood thereof, the Corporation may, by 'a written notice of not less than seven days require the owner or occupier--

- (a) . to demolish or to repair such structure in such manner as may be specified in the notice of
- (b) to repair, protect or enclose such structure in such manner as may be specified in the notice

(2) Where it 'appears to the Corporation that immediate action is necessary for the purpose of preventing imminent danger to any person or property it shall be' the duty of the Corporation itself to take such immediate action. And in such case, it shall not be necessary' for the Corporation to give notice, if it appears to it that the object of taking immediate action shall, be defeated by the delay incurred in giving notice.'

(3) Where any owner or occupier fails to comply with the notice served upon him, the Corporation may demolish' or remove such structure or fixture under sub-section (1), or sub-section (2) and recover the expenses of such demolition or removal from the owner or occupier, as the case may be.

49D: (1) In an of the following cases, namely

(a) If, within the period prescribed in any notice issued under this Act,

requiring the removal or alteration of a verandah platform or other similar structure or a fixture, the same is not duly removed or altered or

(b) if the owner of any building which is erected or added to a street alignment and the building line fails to remove such building or addition when called upon by the Corporation to do so under this Act, or

©if the owner of any building which is unfit for human habitation, fails to demolish such

building when required to do so under this Act or

- (d) if any privy or urinal be placed in contravention of the made under this Act ,or
- (e) if within the period prescribed in any notice issued under this Act or any rule or bye law made there under requiring the owner or the occupier of the building to comply with any condition on which the erection of any verandah or other projection was permitted ,such condition is not complied with ,or
- (f) if within the period prescribed in any notice issued under this Act or any rule or bye law made there under requiring the owner or occupier of a building to remove a verandah or a projection the same is not duly removed, or
- (g) if within the period prescribed in any notice issued or any rule or bye law made there under requiring the owner of a building to remove or alter an external roof or wall made of inflammable material the same is not duly removed or altered ,or
- (h) if any owner or occupier neglects to execute any work or to take any measure required by any notice issued under this Act or any rule or bye law made there under the Corporation may make an order directing that the pro

jection, building, block of buildings verandah, platform, fixture, additions, roof, wall, as the case may be, shall be demolished by the owner' or occupier thereof who may 'be the person .responsible .or altered by such person to 'the satisfaction of the Corporation within, the time specified in the order.

(2) If the person responsible fails-

- (a) to demolish such erection, alteration, addition or other work or to make the alteration, or
- (b) to show sufficient cause to the satisfaction of the Corporation or an officer specially appointed by the Corporation' with the approval of the State Government in this behalf, as -the 'case' maybe, why such erection, alteration, addition or other work should not be demolished or the alteration should not be made, the Corporation may by an order in writing and through its officers, employees and workmen demolish the erection, alteration, addition or other work:

Provided that where the person responsible shows cause, the order to demolish the erection, alteration, addition or other work shall not be made without giving the person responsible, an opportunity of' being heard':

'Provided further that a copy of the order referred to in 'this clause or in the .first proviso shall be served upon the owner and the occupier

thereof, and no action shall be taken until the expiry of thirty days from the date of the service of such order

Provided also that the Corporation may make any such order notwithstanding the fact that a valuation of such building has been made under this Act' and,' the Corporation has received payment of tax on' such valuation.

(3) Notwithstanding anything contained in

Sub-section. (1), and.(2) no action' shall be taken under this. section in 'respect of any ,erection alteration, addition or other work executed more than twelve years before or before the commencement of the Gangtok' Municipal Corporation Act, whichever is later

. Provided that the. Onus, of proving that the work was done more than twelve years previously on or 'before the commencement of the Gangtok 'Municipal, Corporation Act shall lie on the person responsible. ..

Explanation

In this section the expression, 'person responsible' includes the owner, the occupier, and any other 'person who executes the erection, alteration addition or other work or who is liable to make any alteration required by any notice issued under this Act or any rule or bye-law made under this Act.

49E. (1) In any case in which the erection of a new: building or any other work referred. to in section 49, has been commenced. or is. 'being carried on unlawfully as mentioned in that section, the Corporation may, by written notice, ,require the person carrying on such erection or unlawful work to stop. the same forthwith. ,

Power of Corporation to stop progress of building work unlawfully commenced or carried on.

(2) If any notice issued under subsection(1) ,is not duly' complied with, 'the Corporation may with the' assistance of the police, if necessary, take such' steps as it may deem necessary in order to stop the continuance of such unlawful work.

, (3) The Corporation, if it considers, necessary may depute any municipal officer to watch the premises in order to' prevent the continuance of the unlawful work. (4) Where, any: person after receipt of the notice under sub-section (1) fails to. Comply with the said notice and carries on any' work, relating to the, erection of a new building or any other work the Corporation may demolish or' remove such unlawful work and recover the expenses of such demolition or removal from the owner in accordance with -the provisions of section 49K.

49F (1), The State Government shall constitute
A tribuna1 to be called the' Gangtok Municipal
Corporation Tribunal- for' the purpose of hearing
Appeals against the orders made or the notices or
Requisitions issued by -the Corporation under this
Act, or any' rule 'or bye-law made there under.

*Gangtok Municipal'
Corporation Tribunal.*

(2) The, Tribunal shall consist of--

(A) The District Judge

(B)an Officer not below the rank of a Joint Secretary to the State Government who has been a member of the Judicial Service of any State for a period of not less than seven years

(C) An Officer who is or has been a member of the Sikkim Judicial Service

(3) The District Judge shall be the President of the Tribunal and during his absence on leave or otherwise, the officer at clause (b) of sub-section (2) shall be the President of the Tribunal.

(4) The Tribunal shall have the power to Regulate its own procedure. .

(5) The "quorum of the Tribunal shall have two members.

(6) The State Government may, on a request made by the President of the Tribunal, nominate not more than two other persons to be members of the Tribunal for specific purposes.

(7) Each member of the Tribunal shall be entitled to receive such remuneration, either by way of monthly salary or by way of honorarium or fees as the State Government may determine.

(8) The Tribunal shall, for the purposes of this Act, have the same-powers as are vested in a court under the Code of Civil Procedure, 1908 when trying, a suit, in respect of following matters, namely:

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of accounts and documents

(c) , issuing commissions for the examination of witnesses and every proceeding under this Act before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections

193 and 228 and for the purposes of Section 196 of the Indian, Penal Code. 45

(9) Tribunal may in disposing of an appeal, exercise the same power, as its Corporation.

49G. The Tribunal may call for and examine the

record of any proceeding in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any order passed and if in any case it shall appear to the Tribunal that any such order should be modified, annulled or reversed, the Tribunal may pass such order thereon as it may deem fit.

49H. (1) The Tribunal may either on its own motion or on the application of any party interested, review its own order in any case, or pass in reference thereto such order as it thinks just:

Provided that no application made by the party interested shall be entertained unless the Tribunal is satisfied that there has been the discovery of new and important matter of evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the time when the Tribunal made its order or that there has been some mistake or error on the face of the record:

Provided further that no such order shall be varied or revised unless notice has been given to the parties interested to appear and be heard.

(2) An application for review under sub-section

(1) by any party shall be made within ninety days

from the date of communication of the order of the Tribunal.

(3) The Tribunal shall not review any order on its own motion after the expiry of a period of ninety days from the date on which such order was made by it.

*Power of revision by
the Tribunal.*

*Power of review by
Tribunal.*

49I. An order passed in appeal or in revision or in review by the Tribunal under this Act shall be final and conclusive and shall not be called in question in any Civil or Revenue court.

*Order of the
Tribunal to be
final.*

Appeal. ,

49J. Any person 'aggrieved' 'by an order made or notice issued. By the Corporation, under this' Act Of any rule or bye-law made there under, may: within thirty days from the date on -which' such order is communicated to him; prefer an appeal to the Tribunal

Provided that the said Tribunal may entertain the appeal after. the expiry of the said period of thirty days if sufficient cause from filing the appeal in time. .

(2)- The appeal referred to in sub-section (1) shall be in the form of a memorandum giving the grounds of appeal and shall. be accompanied by a, copy of the order appealed against and a fee of three hundred rupees:

Provided that 'when on appeal is preferred against any notice issued by the Corporation: under this Chapter, the fees payable under this sub-section shall be fifty rupees.'

Recovery of expenses for demolition or removal.

49K. (1) If any person, after. Receipt of a' notice of demand fails to pay, within thirty days,. the expenses incurred by the Corporation under section 49, 49A, 49B, 49C, 49D, and 49E for demolition or removal of any structure or any other work, the Corporation may issue distress directing that the expenses incurred by it may be realized by the sale of movable property belonging to the defaulter except ploughs, plough cattle, tools or implements of agriculture, trade or profession.

(2) In the event of failure to recover the whole or any part of, the sum due by distress and sale, under sub-section (1) the Corporation may sue the defaulter in any court of competent jurisdiction for the recovery of such dues.

49L (1) Notwithstanding anything contained in this Chapter, if the Corporation, after considering all the facts and circumstances of the case and after making such inquiry it may deem fit, is of the opinion that the party concerned has not complied with the notice, if any issued under sub-section (1), of section 49 or sub-section (1) of section 49A or in other cases of contravention of the provisions of this Act or any rule or by law made there under, the Corporation, instead of making an order for

*Power of Corporation
to regularize on
payment of fees.*

- (a) demolition of any building, verandah platform, or other structure; or
- (b) making any alteration of any building or other work; or
- (c) removal of any verandah, platform or other fixture attached to a building so as to form a part of such building or which causes a projection; encroachment or obstruction over any public street may, if satisfied that. Such demolition alteration or removal of the works of the party concerned referred to in clauses (a), (b) and (c)-;
 - (i), would result in undue hardship to the party concerned; or
 - (ii) would not cause unreasonable inconvenience to the public, order regularizations of such works if the party concerned pays to it such fee not exceeding rupees one hundred per square foot of the constructed area or the area covered by any alteration, verandah, other structure, projection or encroachment as may be specified by the State Government by a notification, having regard to the nature and type of the construction

Provided that where the works referred to in clause (a), (b) and (c) are situated over the land belonging to the Corporation or' the State' Government or any 'other authority owned and controlled by the State Government, the Corporation shall not order regularization of such works 'except, after ascertaining from the State Government the cost of such land and upon payment by the party concerned of such .cost in addition to -the regularization fee.

(2) If the party concerned fails to .pay the fee referred to in sub-section (1) or the cost of the land within such time (not being less than one month from the date of making an order) as may be specified by the Corporation this order, it may pass such order as to demolition of building, alteration or other -works as it may deem fit."]

Power to make rules.

, 50. The Corporation may make 26[bye-law] relating to submission and disposal of applications for and plans specifications and other matter in respect of building and any other matter which ,it may deem necessary for carrying out the provisions of this Chapter.

CHAPTER VIII
In sanitary and Dangerous
Property.

power to direct the filling up etc.of un-wholesome wells, ditches etc.

51. (1)

When

(a) any ditch, pool, well, tank, pond, pit or marshy or undrained ground; or

(b) any cistern, reservoir or' water tank or any other receptacle or place where

26. Subs. by sec. 13 of the G. M. C. (Amd.) Act No.2 of 1978 (w. e. f. 30-3-78).

water is stored or accumulated or

©any waste or stagnant water whether within any private enclosure or not

appears to the corporation to be or likely to become injurious to health or

offensive to the neighborhood ,the corporation may by written notice require the owner or

- (i) to cleanse the same; or occupier of the land or building to which
 - (ii) to re-excavate the same; or ditch ,pool, well, cistern,reservior
 - (iii) to fill up the same with suitable materials . receptacle
 - (iv) to drain off or to remove water from is situated at the expense of such owner
 - (v) to take such other order therewith as the Corporation may or occupier-
- deem necessary

, (2) If the owner or occupier fails to comply with the notice under sub-section (1) the Corporation shall be entitled to get the' works done and recover the cost incurred therefore from the owner or occupier as the case may be as if it were arrear of rate payable under- this Act.

Procedure in case of buildings deemed unfit for human habitation,

.. 52 (1)If, for any reason, any building or portion of a building

27. omitted by sec. 9, of: the G. M: C: (Amd.) Act 'No I of 1982(w.e.f. 12:10-75)

appears to the corporation

intended for or used as a dwelling place

to be unfit for human habitation ,the corporation may by notice
require the owner or occupier of such a building to make such
building to make such alteration as the corporation

think It necessary in the building in order to make
it fit for human habitation

(2)If after one month after the service of the notice under sub section (1)it appears to the Corporation that the building has not been rendered fit for human habitation and that the necessary steps are not being taken with all due diligence to render it so fit , the Corporation may apply to a Magistrate to prohibit the further use of such building or portions thereof as the case may be or to execute such work as in the opinion of the Magistrate may be necessary to render the building fit for human habitation

53. 27 (* * *) . CHAPTER IX'

Offensive and Dangerous Trades, Occupation or Processes.

54,(1) No person shall use or permit to be used anyplace within such local 'limits as may be fixed by the Corporation at. a. meeting. without a license from the Corporation (which shall be renewable annually) for any. of the following purposes, namely;

Power to prohibit certain' offensive & dangerous trades without licenses.

(i) for the slaughter- of animals, or for the skinning or disemboweling of, animals for purposes other than human consumption

Provided. that this clause shall not apply to slaughter of .animals for a.bonafide religious purpose. or on a ceremonial occasion; or

(ii) for storing hides,' horns or 'skins or

. (iii) for boiling or storing offal, blood bones

. or 'rags or

(iv)for melting tallow

- (v)for tanning or for the manufacture of leather, or goods
- (vi)for oil boiling or
- (vii)for soap making ,or
- (viii)for burning or baking bricks ,pottery or lime whether for trade or private purposes
- (ix)as a depot for trade in coal or coke or
- (x)for storing kerosene ,petroleum, naphtha or any inflammable oil or spirit or
- (xi)for trading in or storing for other than his own domestic use ,hay, straw, wood, thatching grass, jute or other dangerously inflammable materials

55 No dairyman , milkman or stable keeper shall keep cattle ,ponies, horses or four footed animals for the purpose of trade or business except in a place licensed by the Corporation

56 (1)Within such limits as the Corporation at a meeting ,may direct, no person shall keep pigs or in any place more than twenty sheep or twenty goats without a license from the Corporation which shall be renewable annually

(2)The Corporation at a meeting may charge an annual fee not exceeding 28 (twenty five rupees)for such license and in respect of such license may impose such conditions as to fencing , drainage ,paving cleansing and other matters for the regulation of such places as the Corporation may deem fit

57 The Corporation may make bye laws regulating places used for offensive or dangerous trades

*places used for
offensive trades,
etc.*

**CHAPTER X
Fairs and Melas.**

*Power of
Corporation to
grant license for
Fairs or
Melas.*

58. The Corporation at a meeting may require the owner or lessee of a fair or mela or an owner or a lessee of land intending to hold a fair or mela thereon, to obtain a licence in this behalf, from the Corporation on such terms and conditions and on payment of such fee as may be prescribed.

*Rules for Fairs &
Melas.*

59. The State Government may make rules regulating the granting of licenses for holding fairs and melas and fixing the fees in respect thereof.

**CHAPTER XI
Market and Slaughter Place.**

*Power to
provide and maintain.
Municipal markets,
slaughterhouses and
stockyards.*

60. The Corporation at a meeting may
- (a) construct, purchase, or take on lease or otherwise acquire any land, or building for the purpose of establishing a municipal market or municipal slaughter-house or municipal stock-yards or of extending or improving any existing municipal market, municipal slaughter-house or municipal stock-yard, and
 - (b) from time to time build and maintain such, municipal markets, municipal slaughter-house and municipal stock-yards and such stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in or frequenting such markets, slaughter house or stock-yards and charge rents, tolls and fees- for the right to expose goods for sale in such market and for

the use of shops" stalls", slaughter': houses stock-yards and standings therein. ,

61. The Corporation at a meeting may, at any time; in the interest of public, temporarily or permanently, close any municipal' market, municipal slaughter-house or municipal stock-yard or any' portion thereof.

Power to close municipal markets, Slaughter; houses and Stock-yards.

62.No Person shall, without the permission of the Corporation, sell or expose' for sale any living thing or arty article within a municipal market.

Prohibition of use of municipal market without permission.

63. If .the, Corporation publishes an order in this behalf, no' person shall establish a new private market or continue to run any existing private market, for the purpose of sale or exposing for sale any article of human food except with the sanction of the Corporation and in conformity with the terms of a licence granted by the Corporation.

Power to Permit opening or running of private market.

64 (1) The Corporation may,' subject to such terms and conditions as may be prescribed grant and withdraw licenses for the use of any premises for the slaughter of animals for the sale of their flesh for human consumption.

Licensing of private slaughter-houses and prohibition.

(2) No person shall slaughter any animal for the sale of its flesh for human consumption within the Corporation at any, place other than a municipal Slaughter-house or a slaughter-house licensed under sub-section (1).

65 Every licence granted under this Chapter shall be in force until the end of the year during which it is granted.

Duration of License.

CHAPTER XII. Restrain of Infection.

66 The Corporation may make by-laws for the

Restrain of Infection.

effective control, 'restraint and- prevention of any dangerous' disease 'and in particular and without prejudice to the generality of the foregoing power the Corporation may, and when required by the State Government, shall make by-laws regulating, the following matters,

- (a) the restraint, segregation and isolation' of persons. suffering from any dangerous or likely to suffer from any dangerous disease owing to exposure to infection or contagion;
- (b) the' removal, disinfection and destruct . tion of personal effects, goods and other property and disinfection of houses exposed to infection or contagion;~
- (c) the removal to hospital and *the* treatment of persons suffering from any dangerous disease or. likely. to ! suffer' from 'any such. disease, owing to exposure to infection or contagion;
- (d)' the speedy burial or cremation of the: bodies of persons who have died from any dangerous disease;
- (e) house to house visiting and inspection;
- (f) the promotion of cleanliness, ventilation and - disinfection
- (g) the duties and responsibilities in respect of the prevention and notification of any dangerous disease
- (h) the duties and responsibilities of parents or guardians in respect to their school going children who are suffering or have recently suffered from any dangerous disease or have

been exposed to infection or contagion and the, duties and responsibilities of persons in: charge of schools in respect of such children

- (i.) the prevention of, the spread from any animal, or the carcasses or product of any animal, to man, of rabies, glanders, anthrax, plague, tuberculosis, trichinosis or any other disease communicable to man by any animal or the carcass or product of any animal;
- (j) the prevention of the spread and the eradication of malaria, the destruction of mosquitoes and the removal or abatement of condition permitting or favoring. the multiplication or prevalence of mosquitoes
- (k) the prevention of the spread of diseases by flies or other insects and the destruction of such insects, and the removal or abatement of conditions permitting or favoring the prevalence or multiplication of such insects;
- (l) the destruction of rodents and other vermin's and the removal or abatement of conditions permitting or favoring the' harborage or multiplication thereof;
- (m) the 'prevention of the spread of any dangerous disease by the carrying on of any business, trade or occupation;
- (n) the regulation of rag-flock manufacture and the trade in rags in bones and in second-hand' clothing, beddings or any similar article and the requiring of any such article to be disinfected

- before. its importation, r removal, sale or exposure' for sale, or use' in any manufacturing process;
- (0) the disposal of any 'refuse, waste matter or other matter or thing, which has been contaminated with or exposed to infection or contagion; and
- (p) compulsory vaccination, inoculation or their measures in respect of persons residing within the Corporation and such other preventive measures.

CHAPTER XIII

Nuisance.

Nuisance

67. (1) The powers conferred by the Chapter shall be in addition and not in derogation of any powers conferred by the other provisions of this Act.,

- (2) (a) the condition of--
- , (i) any premises or part thereof of such a construction or in such a state or so situated or so dirty as to be a cause of annoyance to the inmates thereof, the neighbors or the public or injurious or dangerous to health or unsafe, including places infected by, or providing haunts for mosquitoes or mosquito larvae, flies or fly maggots, hookworm larvae or ova, or 'rats or other noxious animals or' insects and thereby liable to favor the spread' of infectious disease

(ii) any street tank pool, ditch, gutter water course, sink, cistern, water closet earth-closet, privy urinal, cess pool, drain, dung pit or ash pit so foul or in such a state or so situated as to be a cause of annoyance to the inmates of the premises, the neighbors or the public, or injurious or dangerous to health;

(iii) any premises by reason of abandonment: of disputed ownership or for any other reason unoccupied and thereby become a resort of idle and disorderly person;

(iv) any school factory, workshop or other trade premises so unclean 'as to be a cause of, annoyance to the inmates, the neighbors or the public, or injurious to health, or not so ventilated as to render harmless, as far as practicable, all gases, vapors, dust or other' impurities, generated in the course of the work carried on therein, that are a cause' of annoyance to the inmates, the neighbors or the public or injurious to health, or so overcrowded as to be injurious to the health of the persons therein engaged or employed, or not provided with sufficient and suitable privy or urinal accommodation;

(V.) any offensive trade or business so carried on as to be injurious to the health or offensive to the public

(vi) any well tank or any other water supply injurious or dangerous to health

(vii) any stable, cowshed or other buildings or enclosure in which any animal or animals are kept in such a manner as to be a cause of annoyance to the inmates of the premises, the neighbors or the public or injurious or dangerous to health

(viii) any burial or burning ground which in the opinion of the Corporation is injurious or dangerous to the health of persons living in the neighborhood or to the public or offensive to such persons

(ix) any accumulation or deposit of animals or vegetables or animal refuse which is offensive to the neighbors or to the public or any deposit of offensive matter refuse or offal or manure within fifty yards of any public street, wherever situated; and

(b) any act omission, condition or thing which the State Government

shall. declare to be a nuisance or which after due inquiry by the Corporation on the complaint of two or more persons residing in the neighborhood is found by the Corporation to be a cause of annoyance to the neighbors or to the inmates of the premises affected or to the public or to be dangerous or injurious to health ; ”

Shall be deemed to be a nuisance liable to be dealt with under the provision of this Chapter

provided that no nuisance shall be deemed to have committed in respect of any accumulation or deposit necessary for the effectual carrying on any business, trade or manufacture, if it be proved to the satisfaction of the Court that the accumulation or deposit has not been kept longer than is necessary for the purpose of the business, trade or manufacture and that the best available means have been taken to prevent injury or danger thereby to the public health

68 (1) The Corporation shall cause to be made from time to time inspection with a view to ascertain what nuisance exists calling for removal under the powers of this Act, and shall enforce so far as possible the provisions of this Act in order to remove the same, and otherwise put in force the powers vested in the Corporation relating to public health, so as to secure the proper sanitary condition of all premises within the Corporation

*Inspection for
ascertaining
existence of
nuisance.*

(2) If the Corporation *or* a Health Officer or a Sanitary Inspector has reasonable grounds for believing that a nuisance exists in any premises, the Corporation may order of such officer may make an inspection of such premises at any hour, when. the operations suspected to cause nuisance are believed to' be in progress or are usually carried .on or when the special conditions suspected to cause the nuisance are believed' to exist, and may cause such work to be done as may be necessary for an effectual examination of the said premises including the .opening *of* the ground or surface, where necessary, and the testing of the drains.

(3) When the ground or surface has been opened an *no* nuisance is found' to exist, the Corporation shall restore the premises at their own cost.

Municipal Officer to gives information as to nuisance.

69. Information' of any nuisance under this Chapter may be given to the' Corporation by any person and every officer of the Corporation shall bring the existence of any nuisance to the notice of the Corporation or cause it to be brought to the notice of the Corporation

Notice to remove nuisance.

70. The Corporation, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or if he cannot be found, then on the owner or occupier of the building or premises on. which the, nuisance arises or continues, requiring him to remove it within the time specified in the notice and to execute such works and do such thing& as may be necessary for that purpose and if the, Corporation thinks it desirable (but not otherwise) specifying any works to be executed to prevent a recurrence of the said nuisance:

Provided that-

(a) Where the nuisance arises from any

want or defect of a structural character, or were the building or

premises are unoccupied, the notice shall be served on the owner;

(o) Where the author of the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the owner or occupier of the building or premises, the Corporation may remove the same and, may do what is necessary to prevent the recurrence thereof.

71(1) If the person on whom a notice to remove a nuisance has been served under section 70 fails to comply with any of the requirements, thereof within the time specified, or if the nuisance, although removed, since the service of the notice is in the opinion of the Corporation likely to recur on the same premises shall cause a complaint relating to such nuisance to be made before a Magistrate, and such Magistrate shall thereupon issue a summon requiring the person, on whom the notice was served to appear before him.

(2) If the Magistrate is satisfied that the alleged nuisance exists or that, although removed it is likely to recur on the same premises, he, shall make

(a) an order, on the author thereof, or the owner or occupier of the premises as the case may be, requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a

Procedure in case persons fail to comply with notice.

time specified in the order and to do any works necessary, for that purpose or an order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence or an order Both, requiring the removal and prohibiting the recurrence of the nuisance, or

...

(b) an order, on the Corporation directing them to. Remove or prevent the recurrence of, the nuisance or both, at the expense, of the author thereof or the owner or occupier of the premises, as the case may be.

- (3) Before making an order the Magistrate may if he thinks fit adjourn the hearing, or further hearing of the case until an inspection, investigation or analysis *in* respect of the nuisance alleged has been made by some competent person.
- (4) Any costs incurred by the Corporation in executing an order of the magistrate under clause (b) of sub-section (2) shall be payable on demand, and 'if not paid on demand recovered by distress and sale of the moveable property of the' defaulter.

Magistrate may order local authority to execute works in certain cases.

72. Whenever it "appears to the satisfaction of the Magistrate that the' author of the nuisance or that the owner or occupier of the premises is not known or cannot be found, the Magistrate may at once order the Corporation to execute the 'works thereby directed and the cost of executing

the same. shall be payable by, the person liable;
 if subsequently found and if not paid on demand
 within fifteen day from the date of .execution of
 The work, may be recovered by distress and, sale,
 of the moveable property of the defaulter, if known

, Chapter XIV .

**Places of disposal of the dead and., the registration of
 Births and Deaths**

73. The Corporation at a meeting may from
 time to time cut of the Municipal Fund with the sanction of the State
 Government providing fitting places either within. or without the. Limits,
 of Corporation to 'be used as, burial grounds or burning grounds and may
 impose such fee as may be fixed by the Corporation' at a. 'meeting with
 the
 approval of the State. Government in. respect of every corpse buried or.
 burnt within such burial or burning grounds.

*Provisions. of place, to
 be used as burial
 grounds.*

74. The. Corporation, if required, by thy State Government. to do so shall
 at a, meeting provide for the registration of births and.' deaths within the
 limit of the Corporation and for the issue of, certificate of birth and deaths.

29[74AThe State Government may at' any time'

*Registration of
 birth and death.*

call upon the Corporation to furnish it with any
 Information, report or extract 'from any proceedings, of the, Corporation
 or any, of its 'Committees or from any record under - the control of the
 Corporation and with any statistics concerning or connected' with the
 administration of the' Act and the Corporation shall furnish the' same
 without

*Power of Government
 to call for extracts
 from proceedings etc.*

unreasonable delay.

74B. (1) In case of emergency the State Government' . may provide for the' execution. through such' agency and in such manner as it may' specify' in its order, of any work or the doing of. any' act which' the- Corporation or the Executive Officer is empowered to execute or do and of- which the immediate' execution or

(2) If the'; expenses are, not, so paid the State Government may make an, order 'directing the person having the custody of the, Corporation, fund to pay' the expenses from. such fund.

doing is, in its opinion, necessary for the safety 'or

protection

of the public and expenses of

may .direct that the executing

Suspension of resolution.

the act shall be paid by

74C. (1) If the State, Government is of the opinion that; the execution _of ,any resolution or order of the Corporation or any Corporation authority or of any officer or ,servant of the 'Corporation or the doing of any act, which is about to be done or is being done by or on behalf of the Corporation, is 'in' contravention of or in excess of the powers conferred by the Act or the rules' and bye-laws framed 'under the Act or of any other law for the time being in force or has been passed or made in abuse of any such power or is likely to lead a breach of peace or to cause, obstruction, injury or ,annoyance to. the public or to, any class or body of persons or danger to human life ,health or safety ',or is prejudicial to public interest the State Government may by order in writing, suspend the execution of such resolution or order or prohibit the doing of any such act.

the work or doing the Corporation

(2) A copy of such order shall forthwith be sent to the Corporation by the State. Government.

(3) The State Government may at any time, on representation by the Corporation or otherwise, review, modify or revoke an order passed under sub-section (1).

74D. (1) If at any time it appears to the State Government that the Corporation is not competent to perform, or is persistently making default in the performance of, duties imposed upon it by or under this Act or any other law for the time being in force or has exceeded or abused its powers more than once, the State Government may, after having given the Corporation an opportunity to show cause why such order should not be made, by an order published with the reasons therefor in the Official Gazette; supersede the Corporation for such period as may be specified.

Super session.

(2) The period of suppression specified under sub-section (1) may, if the State Government so consider expedient, be extended from time to time by notification.

(3) When the Corporation is superseded under sub-section (1) the following consequences shall ensue

(a) all the Councillors of the Corporation including the Chairman and Vice-Chairman shall vacate their offices as such from the date of the order of super session

(b) all the powers and duties of the Corporation shall, during the period of super session, be exercised and performed by such person or persons as the State Government may appoint in this behalf from time to time and until a new body of Councillors is elected under the provisions of the Act in pursuance of an order of the State Government issued in this behalf.]

CHAPTER XV
Penalties and Miscellaneous.

Offence punishable with fine.

75. Whosoever commits any offence, by contravening or failing to comply with any provision of this Act or rules or by-laws made there under or, any direction lawfully given to him or any requisition lawfully made upon him under any provision of this Act or rules or by-laws made there under, shall be punished, with fine which may' Extend to 30(ten thousand rupees;]

And if such offence continues in its nature to further fine which. May extend to 3I[five hundred rupees] for each day during which the offence is continued after the first day,

Sanction and limitation for prosecution.

76..No prosecution for an offence under this Act or any rules or by-laws made in pursuance thereof shall be instituted without the order or consent of the Corporation and no such prosecution shall be instituted except within six months next- after the commission-of the offence, unless the offence

is of continuous in its nature, in which case of prosecution may be instituted within six months of the date on which the commission or existence of the offence was first brought to the notice of the Chairman.

Notice of suit against Corporation.

77. (1) No Suit or other legal proceedings shall be brought against the Corporation or the Councilors or any - of the agents, officers or servants of the Corporation, or any person acting under is for their direction,, for any act purporting to be done under this Act or any rules or by-laws made there under, until the expiration of one month next after notice in writing is served on the Corporation or the Councilor or such

30. Subs. by sec. 10 (a) of the G. M. C. (Amd.) Act, No.1 of 1982(w. e. f. 12.10.75).
31. Subs. by sec. 10 (b) of the G. M. C. (Amd.) Act, No.1 of 1982 (w. e. f. 12.10.75).

agent, officer or servant. or 'person' acting under its or their direction as., the case may be, stating, the cause of action and the name and place abode, of the person who intend to bring the suitor or proceeding and the relief claimed.'

(2) Every such suit t or proceeding shall be

commenced Within six months next after the accrual. }
of cause of action and not afterwards.'

78. The Corporation shall, as soon as possible, take steps for the construction of public urinals and latrines at such places as the Corporation will deem fit and shall make necessary arrangements. for their proper cleansing, and disinfection.

Corporation to provide public urinals and latrines.

79. The Corporation may with the previous sanction' of the State Government direct that

Licensing of certain trade and business.

(a) No person shall without or' otherwise in conformity with the terms of licence' granted by the Corporation in this behalf, carry on within the limits of the Corporation the trade or business of a dairy men or milk men or of a baker, confectioner, ice or- aerated water manufacturer or sweet. meat maker or of a keeper of a tea shop, hotel or eating house;

32((b) such person as mentioned in clause (a)' shall observe the terms and conditions which 'may be prescribed by the Corporation by laws.]

80. (1) The Chairman shall for the transaction of business of the Corporation connected with this Act or any other law or for the purpose of making any order authorised thereby, exercise all the powers vested by this Act in the Corporation:

Powers of Chairman and delegation to Vice-Chairman.

32. Subs. by sec; d170f the G. M. C. (Amd.) Act, No.2 of 1978 (w. e. f. 30.3.78).

Provided the Chairman shall not act in opposition to, or in contravention of any order or action of the Corporation at a meeting or exercise any power which is vested in or directed to be exercised by the Corporation at a meeting.

(2) The Chairman may in accordance with the decision of the Corporation at a meeting, delegate all or any of his powers to the Vice Chairman.

Councilors, Municipal Officers etc. to be public servants.

81. Every Councilor, every officer and servant of the Corporation and every person authorised by the Corporation to do any act under this Act or any rule or by-law made there under shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Power of entry to inspect, survey or execute work.

82. The Chairman, Vice-Chairman, Executive Officer or any other person authorised by the Corporation in this behalf, may enter into on any building or land with or without the assistants or workmen in order to make any inquiry, inspection, test, examination, survey, measurement or valuation or for the purpose of lawfully placing or removing pipes, meters or other things, or to execute any other work which is authorised by the provision of this Act or of any rule, by-law or order made there under or which it is necessary for any of the purpose of this Act or in pursuance of the said provision or any resolution passed by the Corporation, to make or execute:

Provided that

- (a) except when it is in this Act or in any rule or by-law made there under otherwise expressly provided, no such entry shall be made between sunset and sunrise

(b) except when it is otherwise expressly provided as aforesaid, no dwelling; house, And 'no part of' a public building used as a dwelling place, shall be so entered without the consent of the occupier thereof, unless the said occupier has .received at least twelve hours' previous notice of the intention to make such

entry
(c) reasonable notice shall be given in every case even when any premises may otherwise be entered without notice, to enable the inmates' of any apartment appropriated to women to remove some part of the premises' where their privacy may be preserved.

(d) due regard shall be paid, so far as may be compatible with the exigencies of the purpose of the entry, to the social and religious usages of the occupants of the premises.

33[82A. (1)' The' Chairman, Vice-Chairman, every Councilor and 'every Officer; and servant of the Corporation shall be liable to' surcharge for the loss, waste: or misapplication of any money or property 'of the Corporation, if such loss, waste Or' misapplicaition is a direct consequence of his neglect or misconduct while acting as such Chairman,' Vice-Chairman, Councilor Officer or servant.

Surcharge.

(2) The procedure, of imposing surcharge and the' manner of recovery of the amount involved in loss, waste' Or, misapplication shall be such, as
may be prescribed by rules.

33. Ins. by sec. 18 of the G. M. C. (Amd ;) Ad, No. 2 Of 1978(w.e. f. 30.3.78).

(3) Where no proceeding for imposing surcharge is taken the Corporation may with the previous sanction of the Government, institute a suit for compensation against such Chairman, Vice-Chairman, Councilor, officer or servant.]

Service how to be effected.

83. When any notice, bill, summons or other document is required by the Act or by any rule or by-law made there under to be served upon or issued to any person, such service or issue shall be effected

(a) by giving or tendering such documents

to such persons; or

(b) if such person is not found, by leaving such document at his last known place of abode or business within the Corporation or by giving or tendering the same or by sending it by post to any adult male member of his family or adult male servant in his employment; or

(c) if such person does not reside within the Corporation and his address elsewhere is known to the Corporation, by forwarding such document to him by post in a cover bearing the said address; or

(d) if none of the means referred to in clause (a), (b) or (c) be available, by affixing such notice, bill, summons or other document on some conspicuous part of the land or building (if any) or other thing to which the document relates.

Residuary power to make rules and by-laws.

84. (1) Without prejudice to any of the provisions hereinbefore contained, the State Government may make rules for carrying out the purposes and objects of this Act.

(2) Without prejudice to any of the provisions hereby contained the Corporation may make bylaws for the purpose connected with this Act

34[(3) No bye-laws made by the Corporation under the Act shall have any validity unless they are approved by the State Government and while approving the bye-laws, the State Government may make such modification or modifications therein, as it may deem fit.

(4) The rules made by the State Government under sub-section (I) and bye-laws made by the Corporation under sub-section (2) shall take effect from the date of their publication in the Official Gazette.]

85. No suit or legal proceedings shall 35[lie] against the Councilors, or any officer or servant of the Corporation or any other person for anything in good faith done or intended to be done under the provision of this Act or rules or by-laws made under this Act.

Protection of action.

36[85A. Notwithstanding anything contained in any law relating to the Criminal Procedure for the time being in force in this State, it shall be lawful for any Magistrate of the first class specially empowered by the State Government in this behalf to pass a sentence of fine exceeding two thousand rupees on any person convicted of contravening any order made under this Act or any rule or bye-law made there under.

Special provision Regarding fine.

85B. Notwithstanding anything contained in any law relating to the Criminal procedure for the time

Offences to be cognizable.

34 Ins. by section 19 of the G. M. C. (Amd.) Act, No.2 of 1978 (w. e.f. 30-3.1978).

35. Subs. by section 11 of the G. M. C. (Amd.) Act, No.1 of 1982 (w. e. f. 12. 10. 1975).

36. Ins. by section 12 of the G. M. C. (Amd.) Act, No.1 of 19 8.2 (w. e. f: 12. 10. 1975).

being in force, in this 'State, offences, punishable
under-' this Act shall' be .cognizable

*Offences by
companies.*

85C (1) where an offence under this Act has been committed by a company, or any person 'who, at the time 'the offense was committed, was in charge of and, was responsible to, the company for the conduct of the business of -the 'company

as well: as the' company; .shall be deemed to be, guilty' of the offence, and: shall be .liable to' be proceeded against and punished accordingly

Provided that nothing contained, in this. , subsection' shall' render any such person liable of any punishment if he proves that the offence was committed without his knowledge or that he, had exercised all due diligence to prevent the commission of 'such offence. .

(2) Notwithstanding anything contained in sub-section (1),' where', any offence under 'this' Act has' been committed 'by a 'company and it is proved that the offence, has been committed with the consent. or connivance of, or is attributable, to any neglect on the part of, any director manager, secretary or other. officer of the company, such director, manager. secretary, or' other officer shall also be deemed to be, guilty, of .that. offence, and shall be .liable to; be proceeded against and punished accordingly. .

Explanation - ! for 'the' purposes' of this- 'section

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

(b)"director" in relation to firm, means partner in the' firm;]

85&87

86. Any law in force immediately before the commencement of this Act with respect to any matter for which provision is made in this Act or which is inconsistent with the provisions of this Act shall cease to have effect in the areas within the jurisdiction of the Corporation constituted under this Act.

*Overriding effect
of this Act.*