

## THE MEGHALAYA MUNICIPAL ACT

(THE ASSAM MUNICIPAL ACT, 1956 AS ADAPTED BY MEGHALAYA)

Whereas it is expedient to make better provision for the organization and administration of municipalities in Meghalaya.

### NOTES

#### MEGHALAYA

This Act was extended in its application to the State of Meghalaya vide the Meghalaya Adoption of laws Order (No.4). 1971 to be applicable from 2<sup>nd</sup> April, 1970, and Meghalaya Adoption of Laws Order No.3 1973 which shall be deemed to have had effect and came into force on the 21st day of January, 1972, and further named as the Meghalaya Municipal Act.

### CHAPTER-1

#### PRELIMINARY

1. **Short title, extent and commencement:** - (I) This Act may be called the Meghalaya Municipal Act, 1973.

2. It extends to the whole of Meghalaya provided that the State Government may by Notification direct that the Act shall apply to any particular area with such exceptions as may be specified;

### NOTES

#### MEGHALAYA

**Section 1:** - The sub-section (3) has been omitted in its application to the State of Meghalaya vide the Meghalaya Adoption of Laws Order (No.3), 1973, which shall be deemed to have had effect and come into force on the 21st day of January, 1972 and named as the Meghalaya Municipal Act.

2. **Repeal and Savings-**On and from the date on which this Act comes into force, the Assam Municipal Act 1923 (Act I of 1923), shall be repealed

Provided that-

(a) the said repeal shall not affect the validity or invalidity of anything already done under the said enactment;

(b) all Municipal Boards constituted under the Assam Municipal Act, 1923 (Assam Act 1 of 1923) shall continue to function for the remaining period of their terms as if they were constituted under this Act; and.

(c) all Municipalities constituted, limits defined, regulations and division made all rules and bye-Laws, notifications, orders, appointments and assessments made, licenses and notices issued, taxes, tolls rates and fees imposed or assessed, budgets passed, plans approved permissions or sanction granted contracts entered into, suits instituted and proceedings taken under the Assam Municipal Act, 1923 (Assam Act I of 1923) and in force immediately before the commencement of this Act shall continue to be in force and in so far as they are

not inconsistent with this Act, shall be deemed to have been respectively made, issued, imposed or, passed processed approved, granted, entered into instituted and taken under this Act until new provisions are made under this Act.

## NOTES

### ASSAM (AMENDMENTS)

SECTION 2: -The clauses (b) and (c) under the proviso were substituted vide Assam Municipal (Amendment) Act, 1958 (Assam Act XVII of 1958) for the then existing clause (b) published in Assam Gazette, dated 13th June, 1958, to have come into force at once.

3. **Definitions**-In this Act, unless there is anything repugnant in the subject or context-

(1) "Board" means a Municipal Board.

(I-A) "Boat" means steamer or vessel propelled by steam, motor, electrical or other mechanical power including flats and tugs country boat, rowboat, skiff or other like craft.

(2) "Building" means a house, hut, shed or other roofed structure, for whatsoever purpose and of whatever material constructed and every part thereof, but shall not include a tent, or other merely temporary shelter including any kind of temporary shed erected on ceremonial or festive occasions

(3) "Carriage" means any wheeled vehicle with springs or other appliances acting as springs of a kind ordinarily used for conveyance of human beings and includes jin-rickshaws, cycle rickshaws bicycles tricycles but does not include perambulators and In particular does not include any motor vehicle as defined in the Assam Motor Vehicles Taxation, Act, 1936 (Act I of 1936);

4) "Cart" means any cart hackney or wheeled vehicle with or without springs, which is not carriage as defined in sub-section (3);

5) "The Commissioners" mean the persons for the time being appointed or elected to conduct the affairs of any municipality under the Act;

(6) "Compost mature" means the product prepared from offensive matter rubbish and sewage by subjecting them to the process of compost making in the manner prescribed by rules;

(7) "Conservancy" means the removal and disposal of sewage offensive matter and rubbish

(8) "Cubical extent" when used with reference to the measurement of a building, means the space contain within the external surfaces of its walls and roof and the upper surface of the floor of its lowest or only story;

(8a) "Cattle" shall mean and include oxen, bull-, cows, goats, sheep, horses, buffaloes, asses, mules and donkeys excluding those covered by Section 68 (1) (g).

(9) A supply of water for domestic purposes shall not deemed to include a supply:

(a) for animals or for washing carriages where such animals or carriage are kept for sale or hire.

(b) for any trade, manufacture or business other than those concerned with the manufacture or supply of articles of food and drink for human beings,

(c) for fountains,

(d) for watering gardens, roads or paths,

(e) for any ornamental or mechanical purpose,

(f) for building purposes;

(10) "Drain" include, sewer, a houses-drain a drain of any other' description, a tunnel, culvert, a ditch, a channel and any other device for carrying of sullage sewage, offensive matter polluted water, rain water or sub-soil water;

(11) "Financial year" means the year commencing on the first day of April or on such other date as the State Government may, by confiscation appoint;

(12) "Food" notwithstanding anything contained in the Prevention of Food Adulteration Act, 1954 (or 37 of 1954), includes every article used, used for food or drink by man other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionery, flavouring and colouring matter and spices and condiments;

(13) "Half-year' a half-year commencing on the first day of April or the first day of October, or on such other dates as the State Government may by notification appoint;

(14) "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 period of the site or premises of a dwelling-house, manufactory ware-house, or place of trade or business, such holding shall be deemed to be one holding for the purposes of this Act;

Explanation-Holdings separated by a road or other means of communication such be deemed to adjoining within the meaning of this provide;

Provided also that where land has been let out to occupants in separate parcels paying rents separately, each such parcel shall be treated a distinct holding in spite of such parcels of land being held under one title;

(15) Any plot of land having clear' boundaries and lying entirely vacant, if fit for building purposes or if yielding any income, shall, when not appointment to any buildings and not used for any agricultural purposes be regarded as a holding".

(16) "House:' means any hut, shop warehouse workshop, a masonry or framed building;

(17) "House-guilty" means a passage or strip of land constructed set apart or utilized, or the purposes of serving as a drain or affording access to a latrine, urinal, cess-pool or other receptacle for filthy or ported matter by municipal servants or by persons employed the cleansing thereof or in the removal of such matter there from and includes the air-space above such passage or land,

(18) "Hut" means any building, which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary, structure of whatever size, or any small building of whatever material made.

(19) "Infections or contagious disease" means cholera plague small pox, kala azar, tuberculosis, diphtheria and typhoid or enteric fever or such other dangerous disease as the State Government may notify in this behalf,

(20) "Inhabitants:" used with reference to a local area means any persons ordinarily residing or carrying on business or owning or occupying immovable property therein,

(21) "Joint family" means a family of which the members live together, have a common mess and are descendants from a common ancestor and shall include Wives or husbands, as the case may be, of its members but shall exclude married daughters and their children.

(22) "Land" includes (besides land) benefit arising out of land houses and things attached to the earth or permanently fastened to anything attached to the earth and also land covered by water.

(23) "Local authority" includes Local Boards, Municipal Board, Town Committees and Panchayats,

(24) "Lodging house" means a house, in which visitors or other persons are lodged for hire for a night or more and where there is community of eating or sleeping accommodation,

(25) "Magistrate" includes the District Magistrate, the Sub-divisional Magistrate and any Magistrate to whom either such Magistrate has made over any duties under this Act,

(26) "Market" means any place where persons assemble for the sale of articles intended for food or drink or of livestock or other merchandise;

(27) "Municipal Board" means the body of persons for the time being elected or appointed to conduct the affairs of any municipality under this Act;

(28) "Municipal Market" means a market belonging to or maintained by the Board;

(29) "Municipality" means any local area declared by or under this Act to be Municipality ;

(30) "Nuisance" includes any act, emission, place or thing which causes or is likely to cause injury danger, annoyance or offence to the sense of sight, smelling or hearing or which is or may be dangerous to life or injurious to health or property;

(31) "Occupies" means the persons for the time being in actual occupation of, or paying, or liable to pay to the owner, the rent or any portion of the rent of the land or building in respect of which the word is used, and includes a person occupying a holding or part of holding rent free, and an owner living in his own house;

(32) "Offensive matter" means dirt, dung, kitchen and stable, refuse, putrid or putrefying substance, and filth of any kind not included in the term sewage"

32-A- "Ordinary resident of a municipality" means any person occupying-

- (i) a holding assessed for tax under Section 68 of the Act; or
- (ii) a legal holding, if no assessment is made

continuously for a period of twelve months previous to the first January of the year for which the electoral roll is being prepared, as owner leasee or tenant and every member of the family of such owner, lessee or tenant”.

The Clause 32-A was inserted vide Meghalaya Municipal (Amendment) Act No. 6 of 2000, published in the Gazette of Meghalaya dated 4th of April, 2000, to have come into force at once.

(33) 'Owner" includes-

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

(b) the person for the time being in charge of the animal or vehicle, in connection with which the word is used;

(34) “Platform” as used in Section 165 means any structure, which is placed on or covers, or projects over any public road or any open drain sewer or aqueduct;

34-A- “Population” means the population as ascertained at the last preceding census of which the relevant figures have been published”

The Clause 34-A was inserted vide Meghalaya Municipal (Amendment) Act No. 6 of 2000, published in the Gazette of Meghalaya dated 4th of April, 2000, to have come into force at once.

(35) "Prescribed" means prescribed by rules under this Act;

(36) “Public road ” means any street road square, court alley passage or pathway over which the public have a right of way, whether a thorough fare or not and includes-

(a) the road way over any public bridge or cause-way,

(b) the footway attached to any such road, public bridge or cause-way and

(c) the drains attached to any such road, public bridge or cause-way and the land whether covered or not by any pavement, verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property of the State;

(37) Private road" means any street, road, square, court alley or passage which is not a public road and includes a pathway made by the owner or premises on his Own land to secure access to or the convenient use of such premises;

38) "Rates as used in Section 14 means:

(a) The tax upon the annual value of holding,

(b) License fees,

(c) the water-tax on the annual value of holdings,

(d) the lighting-tax on the annual value of holdings,

(e) the drainage tax,

(f) the latrine-tax on the annual value of holdings, and

(g) the tax on private markets;

(39) The expression re-erect", with used with reference to a building, include-

- (a) the reconstruction of building, after more than one half of its cubical extent has been taken down or burnt down or has fallen down.
- (b) the conversion of one or more huts or temporary structures into a masonry or framed building,
- (c) the conversion into a place for human habitation or any building not originally constructed for such habitation; and
- (d) the extent of a building

(40) "Rubbish" means broken brick, mortar, broken glass, or refuse of any kind whatsoever not included in the term "offensive matter,

(41) "Salaried servant of Government" means a whole time servant the Government who receives his salary direct from any Government and includes a manager of an estates under the Court of Wards and an officer whose services have been lent by any Government to a local authority but does not include a retired servant of Government in receipt of a pension;

(42) "Sewage" means night soil and other content of latrines urinals cess-pools and drains, and includes polluted water from sinks bath-rooms, stables, cattle-sheds and other like places and also discharges from manufactories of all kinds;

42-A-“State Government” means the Government of the State of Meghalaya”.

The Clause 42-A was inserted vide Meghalaya Municipal (Amendment) Act No. 6 of 2000, published in the Gazette of Meghalaya dated 4th of April, 2000, to have come into force at once.

(43) “Water works” includes all tanks, streams, cisterns springs pumps, wells, reservoirs aqueducts sluices mains pipes hydrants stand-pipes, conduits, and all engines, machinery, land buildings and things for supplying water.

## NOTES

### ASSAM (AMENDMENTS)

Section 3-The clause (I-A) was inserted vide the Assam Municipal (Amendment) Act No. XXIX of 1966, published in the Assam Gazette, dated 24 11 1966, to have come into force at once, and clause (8-A) was inserted by the Assam Municipal (Amendment) Act No. 11 of 1966.

## CHAPTER II

### CONSTITUTION OF MUNICIPALITIES

**4. Notification of intention to create, alter limits of, or abolish municipality-**( l) The State government may, by notification in the official Gazette and by such other means as it may determine; declare its intention-

(a) to constitute any town together with or exclusive of any railway station, village, building or land contiguous to any such town a municipality under this Act;

(b) to include within a municipality any local area contiguous to the same ;

(c) to exclude from a municipality any local area comprised therein; or

(d) to withdraw the whole area comprised in any municipality from the operation of this Act:

Provided that no municipality under this Act shall include any military cantonment or part of a military cantonment,

2) Every notification published under subsection (1) shall define the limit of the local area to which it relates.

(3) A copy, both in English and the Vernacular of the district, of every notification issued under sub-section (1) shall be posted up in a conspicuous place in the office of the Municipal Board or, in the case of a notification under clause (a) that subsection, in the office of the District Magistrate and in such other public place as the Board or the District Magistrate, as the case may be, may direct and public proclamation shall be made by beat of drum through the municipality or local area concerned that such copy has been so posted up, and is open to inspection in such office.

**5. Objection to the creation, alteration of limits, or abolition of municipality-** (1) Any inhabitant of any part of a local area defined in, a notification published under Section 4 or any rate-payer of the municipality, may, if he objects to anything therein contained, submit his objection in writing through the Deputy Commissioner to the State Government within forty two days from the date of the publication, and the State Government shall take his objection into consideration.

(2) When sixty days from the date of the publication of the notification have expired, and after considering any objection, which may be submitted, the State Government may by Notification-

(a) Constitute the local area or any specified part thereof to be a municipality under this Act, or

(b) Include the local area or any part thereof in the Municipality or exclude it there from, or

(c) Withdraw the whole area comprised in the Municipality from the operation of this Act, as the case may be,

**6. Effect of including local area in Municipality.** -When a local area is included in a Municipality by a notification Published under section 5 sub-section (2), all the provisions of this Act and all rule and bye-laws made orders, directions and notices issued and power conferred there under and in force throughout the municipality at the time when the local area is so included, shall apply thereto unless the State Government, by notification, otherwise direct.

**7. Effect of excluding local area from Municipality or withdrawing the whole area of Municipality from Act.-** (1) When a local area is excluded from a Municipality by a notification published under Section 5, sub-section(2),

(a) this Act and all rules and bye-laws made, orders, directions and notices issued, and powers conferred there under shall cease to apply thereto;

(b) the State Government shall, after consulting the Board, frame a schemes determining what portion of the balance of the Municipal fund and other property vested in the Board shall vest in the State Government and in what manner the liabilities of the Board shall be apportioned between the Board and the State Government; and on the publication of such scheme in the Gazette, such property and liability shall vest and be apportioned accordingly.

(2) When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification published under Section 5. Sub-section (2), this Act and all rules and bye-laws made orders, directions and notice issued and powers conferred there under, shall cease to apply thereto; and the balance of the municipal fund and all other property at the time of the issued of the notification vested in the Board shall be transferred to the State Government.

**8. Power to exempt Municipality from provisions of Act unsuited thereto.** -(l) Should the circumstances of any Municipality be such that any of the provisions of this Act are unsuited thereto the State Government may, by notification, either of their own motion after consultation with the Board or on the recommendation of the Board are meeting specially convened for the purpose exempt the Municipality or any part of it from the operation of those provisions; and thereupon the said provisions shall not apply to the Municipality until apply thereto by notification after consultation with the Board.

(2) While such exception as aforesaid remains in force the State Government may make rules for the guidance of the Board and public officers in respect of the matter expected the operation of the said provisions.

**9. Erection and maintenance of boundary marks.** -Every Municipal Board already existing and every municipality newly constituted under this Act and every municipality whose local limits are altered, shall cause to be erected and set up and there after maintain substantial boundary marks defining the limits or altered limits of the area subject to its authority, as set out in any Notification published under this Act.

### CHAPTER III

#### MUNICIPAL BOARDS

##### CONSTITUTION OF MUNICIPAL BOARDS

**10. Constitution of Municipal Board**-There shall be established for each municipality of a body of Commissioners designated as the Municipal Board having authority over the Municipality. Such Board shall be a body corporate by the name of the Municipal Board of ... .. having perpetual succession and a common seal, and by that name shall sue and be sued.

**11. Number of Commissioners:** (1) The number of Commissioners of each board shall be such as the State Government may, by notification in this behalf, determine:

Provided that the number of Commissioners shall in no case be more than thirty two or less than twelve.

(2) Seats of Commissioners in every municipality shall be reserved for scheduled tribes and the number of seats so reserved shall bear, as nearly as practicable, the same proportion to the total number of seats to be filled by direct election as the population of scheduled tribes in the municipal area bears to the total population of the Municipality. The seats so reserved for the scheduled tribes, however shall not be less than  $\frac{4}{5}$ <sup>th</sup> of the total number of Wards of the Municipality.

(3) 33% of the seats of Commissioners in every Municipality shall be reserved for the women. The seats so reserved shall be selected from the wards having the highest percentage of women population at the time of conduct of election to the concerned Municipality.

(4) Only a person belonging to a scheduled tribe shall be eligible to contest an election in a reserved seat.



(5) The Government shall notify the reserved seats for every municipal election and allotment of reserved seats will be made by rotation, as far as practicable, from one election to another.

Note: (i) Section 11 was substituted by the Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

(ii) Sub-Section (2) & (3) of Section 11 was substituted by the Meghalaya Municipal Act, 2010 (Act No. I of 2011) published in Gazette of Meghalaya dated 4<sup>th</sup> January 2011.

**12. Election of Commissioner.** - The election of Commissioners shall be conducted in accordance with rules prescribed under this Act.

**13. Power to divide municipality into wards and to fix the number of Commissioners of each ward.** - The State Government may, in case of new municipalities or its own motion, and in case of municipalities already in existence at the time the notification is made after consideration of the views of the Board at a meeting, by notification divide a Municipality into wards for the purpose of the election Commissioners and determine the number of Commissioners to be elected from each such ward.

**14. Qualification of voters-**

“14. (1) Any ordinary resident of a municipality, being a citizen of India and having attained the age of eighteen on the first January of the year for which the municipal electoral roll is being prepared shall be eligible for registration as a voter in such electoral roll:

Provided that no person shall be registered as a voter in more than one ward.

(2) A person shall be disqualified for voting at a municipal election if he is or becomes subject to any disqualification prescribed under the Representation of the People Act, 1951 for voting in an election to the State Assembly”.

Note: Section 14 (1) and (2) was substituted by the Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

**15. Ineligibility for election:-** No person shall be eligible for election as Commissioner of a Municipal Board if such person-

(i) is not entitled to vote at the election of Commissioners or the Municipal Board, or

(ii) has been adjudged by a competent court to be of sound mind, or

(iii) is an un-certificated bankrupt or an un-discharged insolvent, or

(iv) has during the four years immediately preceding the date of the election been convicted by a Criminal Court of an offence involving a sentence; of transportation or imprisonment for an offence involving moral turpitude, or of an offence under Chapter IX-A of the Indian Penal Code (Act XLV of 1960) or served any portion of a sentence on such conviction, or has been ordered by a Criminal Court to furnish security for good behavior under the Code of Criminal Procedure (Act V of 18-8) unless such conviction or order has been set aside, or such offences pardoned by competent authority, or

(v) has been declared by notification to be disqualified for employment in the public service, or

(vi) has during the four years immediately preceding the date of election been declared from practicing as a legal practitioner by order of any competent authorities, or

(vii) is a salaried servant of Government or is an employee of any Local Authority, or

(viii) is less than twenty one years of age on the first of January of the year in which the election is held; or

(ix) is a member of the Meghalaya Legislative Assembly or a member of an Autonomous District Council; or

(x) is in arrear for more than three months on the date of submission of nomination paper of any due to the Municipality including in respect of the holding of which he is a resident or occupant; or

(xi) has been disqualified under any law for the time being in force for election to the State Legislative Assembly.

Note: Clause viii of Section 15 was substituted and clause ix, x & xi was inserted vide Meghalaya Municipal (Amendment) Act No. 6 of 2000, published in the Gazette of Meghalaya dated 4th of April, 2000, to have come into force at once.

**15-A-“Political parties barred to contest election”**- No person shall be allowed to contest a municipal election on the ticket or the symbol of a political party recognized by the Election Commission of India”.

Note: Section 15-A was inserted by the Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

**16. Proceedings to set a side an election**-If the validity of an election of a Commissioner is brought in question by an unsuccessful candidate or person qualified to vote at the election to which such question refers, such person may, at any time within twenty-one days after the date of the declaration of the result of the election file a petition in the prescribed manner before the District Judge of the district within which the election has been or should have been held and in the case of the Shillong Municipality to the District Judge, Lower Assam District, and shall at the same time deposit one hundred rupees in court as security for the costs likely to be incurred:

Provided that the Deputy Commissioner or the Sub-divisional Officer as the case may be, authorized by the State Government to receive election petitions on behalf of the District Judge for transmission to him:

Provided further that the validity of such election shall not be questioned in any such petition-

(a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll: or

(b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll; or

c) on the ground, of acceptance or refusal of nomination of candidates provided further that an appeal in the manner prescribed shall be to the District Judge against such acceptance or refusal of nomination.

**17. Procedure and powers of Judge holding enquiry-(I)** Where a petition has been filed under Section 16 the District Judge, or any judicial officer subordinate to him and not below the rank of a Subordinate Judge other than an Officer exercising the powers of a Subordinate Judge ex-officio (hereinafter referred to in this chapter as the Judge) to whom the District Judge may transfer the petition, may after holding such inquiry as he deems necessary, in accordance with the prescribed procedure and subject to the provisions of Section 18 and 19 pass an order confirming or amending the declared result of the election or setting the election aside.

(2) For the purpose of the said inquiry the judge may summon and enforce the attendance of witnesses and compel them to produce documents or articles in their possession and to give evidence as if were a Civil Court, and may also direct by whom the whole or any part of the costs of such inquiry shall be paid and such costs shall be recoverable as if they had been awarded in a Suit under the Code of Civil Procedure, 1908 (Act V of 1908).

(3) The Judge may at any stage of the proceedings require the petitioner to deposit in Court a further sum at the costs incurred or likely to be incurred by any respondent, or to give security, or further security for the payment of the same and if, within the time fixed by him, or, within such further times as he may allow, such costs are not deposited or such security is not furnished, as the case may be, may dismiss the petition.

(4) An appeal shall be to the District Judge from any decision or order of a Subordinate Judge and a decision or order of the District Judge either when he has himself made the enquiry or an appeal shall be final.

**18. Setting aside of election-** (i) If the judge after holding an enquiry is satisfied that-

(a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected by a corrupt practice or

(b) the election has not been a free election by reason of the general employment or bribery or undue influence as defined in Chapter IX.A of the Indian Penal code (Act XLV of 1860), or by reason of any form of general intimidation, including any form of social boycott,

(c) the result of the election has been materially affected by any non compliance with the provisions of this Act or the rules made there under or by any mistake in the use of any form prescribed for an election or by any error, irregularity or informality on the part of any officer charged with or carrying out any duty under this Act or rules made there under; he shall declare the election of such candidate to be void and if the election is set aside for any cause which is the result that of acts of a candidate or his agents may declare that candidate to be disqualified for the purpose of such fresh election as may be held under Section 22.

(2) If, after any such inquiry, the Judge is of opinion that a returned Candidate has been guilty, by an agent (other than his election agent) or any other person of any corrupt practice which does not amount to any form of bribery other than treating a hereinafter explained or to the procuring or abutment or personation, and if the Judge is also of opinion that the candidate has satisfied him that-

(a) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practice which were found by the Judge to have been committed were of a trivial unimportant and limited character and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and

(b) In all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,

than the Judge may find that the election of such candidate is not void.

Explanation-For the purposes of this sub-section "treating" means the incurring in whole or in part by any person of the expense of given or providing any food drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from Voting or as a reward for having voted or refrained from voting.

## NOTES

Section 13- Under Section 18 (1) (c) the District Judge is vested with the power to set aside an election if he finds is that the result of the, election has been materially affected by non-compliance with the provisions of this Act or the rules made thereunder. Section 23 provides that no election of a Commissioner shall be called in question in any Court except under the procedure provided under the Act. Hence an election of the Commissioner under the Act, cannot be challenged in a writ petition on the ground of non-compliance of the rules made there under [Ram Chandra Malpani v. State of Assam, AIR 1963 Assam 168.]

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Where the S.D.O. quashed all proceedings before scrutiny and calling for fresh nomination and fixing fresh date for scrutiny, it was held in the case Hiralal Patowary v. Ramakrishnan, [AIR 1964 Assam 74] that the notification canceling previous proceedings was illegal.

**19. Scrutiny of votes and declaration in other cases** -If, in any case to which Section 1 does not apply, the validity of an election is in dispute between two or more candidates the Judge shall, after scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person known or unknown, in giving or obtaining it.

**20, Disqualification of persons from being candidates who commit corrupt practices**-If the Judge sets aside an election under Section 18 he may if he thinks fit, declare any person by whom a corrupt practice has in his opinion been committed to be disqualified from being a candidate for election in that or any other municipality for a period not exceeding five years, from the date of decision, and the Judge's decision shall be final.

**21. Saving of acts done by a Commissioner before his election is set aside**-Where a candidate, Who has been elected to be a Commissioner is declared by the Judge not to have been duly elected, acts done by him in execution of the office before the time when the decision is communicated to the Board shall not be invalidated by reason of that declaration.

**22. Fresh election when election set aside**-If an election is set aside by the Judge, a case shall forthwith be fixed and the necessary steps taken for holding a fresh election for filling up the vacancy, as though it had been a casual vacancy.

**23. Bar to interference by courts in election matters** -No election of a Commissioner shall be called in question in any Court except under the procedure provided by this Act and no



period not exceeding one year at a time, as may be specified in the notification, provided that the total period of such extension shall not exceed to years.

(5) If the term of the office of the Commissioner of a Board expires and for any reason the election as provided in sub-section (1) cannot be held, the Board shall be deemed to have been dissolved under Section 298 with effect from the date of expiry of the term of the Commissioners and thereafter the provisions of Section 299 shall apply to the Board and the Government shall nominate the Commissioners accordingly in conformity with Section 11(2) and 11(3), provided that the term of such nominated Commissioners under this sub-section shall not exceed more than one year at a time but may be re-nominated for a like term. The Government may de-notify any or all the Commissioners nominated at any time without giving any reason thereof.

Note: (i) In Section 26 in sub-section (2) the words “State Government” was inserted by the Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

(ii) In Sub-Section (1) and Sub-Section (3) of Section 26, the word “five” was substituted by the Meghalaya Municipal (Amendment) Act 2010 (Act No. 1 of 2011), published in the Gazette of Meghalaya dated 4<sup>th</sup> January 2011.

(iii) Sub-Section (5) of Section 26 was substituted by the Meghalaya Municipal (Amendment) Act 2010 (Act No. 1 of 2011), published in the Gazette of Meghalaya dated 4<sup>th</sup> January 2011.

## NOTES

### ASSAM (AMENDMENT)

The sub-section (1) was submitted vide Assam Act No II of 1966, published in the Assam Gazette, dated 10-1-1966, to come into force on such date as the State Government may by notification in the official gazette, appoint

The sub-section (5) was inserted by Assam Act No XXIZ of 1966, published in the Assam Gazette dated 24-11-1966.

**27. Resignation of Chairman, vice Chairman or Commissioners-** (1) An appointed Chairman of a municipality may resign by notification in writing his intention to do so to the State Government through the Commissioner of Division and on such resignation being accepted shall be deemed to have vacated his office.

(2) An elected chairman may resign by laying notice in writing of his intention to do so before the Board at a meeting with intimation to the District Magistrate and the Commissioner of Division. The chairman shall cease to hold office on his laying such notice.

(3) A Vice Chairman or a Commissioner may resign by writing under his hand addressed to the Chairman and thereupon the vice Chairman or the Commissioner, as the case may be, shall be deemed to have vacated the office as such. The Chairman shall forthwith inform the Deputy commissioner or the Sub-Divisional Officer, as the case may be of the resignation and also inform the next meeting of the Municipal Board or Town Committee of such fact.

(4) [Deleted]

## NOTES

### ASSAM (AMENDMENTS)

Section 27-In sub-section (2), the word "The Chairman shall cease to hold office on his laying such notice", and sub-section (3) being submitted and the then sub-section (4) omitted by the Assam Act II of 1966, published in the Assam Gazette, dated 10-1-1996.

**28. Removal of Chairman and vice Chairman-** (1) The State Government may at any time remove a Chairman appointed by it.

(2) An elected Chairman or Vice Chairman may be removed from his office by a resolution of the Board in favour of which a majority of elected Commissioners shall have given their votes at a meeting specially convened for the purpose.

Note: In Section 28 in sub-section (2) the words "a majority of elected" were inserted by the Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

(3) The State Government after giving an opportunity to explain, may remove the Chairman or Vice Chairman from his office if he persistently omitting or refusing to carry out or disobeying the provision of this Act and the rules there under or any lawful orders issued there under or he becomes incapable of so acting or is declared insolvent or is convicted by a Criminal Court for any offence involving moral turpitude.

**29. Removal of Commissioners-** (1) The State Government may remove any elected Commissioner on the ground of his misconduct in the discharge of his duties if the removal is recommended by a resolution of the Board passed at a special meeting called for the purpose and supported by the municipality.

(2) The State Government may remove any Commissioner-

(a) if he ceases to reside within the municipality continuously for a period of twelve months, or

(b) if he refuses to act or becomes incapable of acting as a Commissioner, or if he has been declared by the State Government by notification to have violated his oath or affirmation of allegiance, or

(c) if without an excuse sufficient in the opinion of the State Government he absents himself from four consecutive meeting of the Board, or

(d) if being a legal practitioner, he appears against the Board before any Court in his professional capacity in any case instituted by or against the Board, or

(e) if he becomes subject to any disabilities stated in clauses (ii), (iii), (iv) (v) and (vi) of Section, 5, or

(f) if he has within the meaning of Section 55 knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly, or by a partner, any share of interest in any contract or employment with, by or on behalf of the Board, or

(g) if he is in arrears of any kind of dues to the municipality for more than six months after a bill or a notice has been duly served upon him.

(3) The State Government may, after consultation with the Board, remove any Commissioner if his continuance in office is in its opinion dangerous to the public peace or order or likely to bring the administration of the Board into contempt.

Provided that no Commissioner shall be removed under sub-section (1) or sub-section (2) or sub-section (3) unless he has been given an opportunity of showing cause against such order of removal.

**30. Eligibility for election or re-election of Commissioners removed from office-** No Commissioner of a Board who has been removed from his office under sub-section (1) or under clause (b), (c), (d), (e), (f) or (g) of sub-section (2) or under sub-section (3) of Section 29 shall be eligible for election or re-election as a Commissioner without the State Government.

**31. Filling up of casual vacancies of Commissioners-** If any commissioner appointed or elected, shall be unable to enter upon or complete his term of office, the vacancy shall be filled by appointment or election, as the case may be, for the remainder of the term.

**32. Power to appoint commissioners if prescribed member not duly elected-** If the electorate in any municipality fails within the prescribed time to elect the number of Commissioners to be elected in accordance with the provision of Section 11, a date shall be fixed by the Commissioner of Division for another election and in case the electorate still fails to elect the number of Commissioners as such second election the State Government may appoint Commissioners to complete that number. Any person so appointed shall be deemed to be duly elected Commissioner.

32 .Provided that if the electorate in any municipality fails within the prescribed time to elect at least one-third of the total number of Ward Commissioners to be elected, the State Government may, at its discretion, declare such election null and void and order fresh election covering all the wards and no revision of electoral roll shall be required for any such second election ordered under this section:

#### **Note**

In Section 32 the words “Provided that if the electorate in any municipality fails within the prescribed time to elect at least one-third of the total number of Ward Commissioners to be elected, the State Government may, at its discretion, declare such election null and void and order fresh election covering all the wards and no revision of electoral roll shall be required for any such second election ordered under this section” were inserted vide Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

#### **CHAIRMAN AND VICE-CHAIRMAN**

**33. “Appointment or election of Chairman and Vice-Chairman-** (1) At the first meeting of the Board, which shall be called by the State Government as soon as may be after the general



election, the elected commissioners shall elect a Chairman and a Vic-chairman of the Board from among themselves.

(2) If the elected commissioners fail to elect a Chairman or a Vice Chairman, the State Government may appoint a Chairman or a vice-Chairman, as the case may be, from amongst the elected commissioners”

Note: Section 33 were inserted vide Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

**34. Status and term of office of Chairman and Vice-Chairman-** Except as otherwise provided in this Act, every Chairman and every Vice-Chairman shall take office immediately after his election or appointment, as the case may be, and shall remain in office until the election or appointment of the Chairman after the next general election”.

Note: Section 34 were inserted vide Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

**35. When Chairman and Vice-Chairman cease to hold office as such-**When a Commissioner who holds the office of Chairman or Vice-chairman ceases for any reason whether to be a Commissioner be shall at the same time cease to hold the office of Chairman and Vice-Chairman.

**36. When Government may appoint Chairman-** Whenever for any cause the offices, of both the Chairman and the vice-Chairman are vacant in any Board the State Government shall appoint any one from amongst the Commissioners and the Chairman to hold office as such temporarily till a chairman is elected.

**37. Powers of Chairman-(I)** The chairman shall, for the transaction of the business connected with this Actor for the purpose of making any order authorized thereby, exercise all the powers vested by this Act in the Board:

Provided that the chairman shall not exercise any power which shall be exercised under the rules by the Executive Officer is where such officer is appointed under Section 53 of the Act.

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

(2) Notwithstanding anything contained in sub-section (I) the chairman may in cases of emergency, direct any execution of any work or the doing of any act which the Board at a meeting is empowered to execute or do, and the immediate execution or doing of which is in his opinion, necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act incurred as the emergency may require shall be paid from the municipal fund:

Provided that he shall forthwith report the action taken under this sub-section and the reason therefore to the Board at a meeting.

The first proviso to sub-section (1) was added and in the second proviso thereto the word "also" was inserted by the Assam Act No. VI of 1959, published in the Assam Gazette dated 1-5-1958 to come into force at once.

**38. Delegation of duties and powers by Chairman to Vice-Chairman-** (i) The Chairman may delegate to the Vice Chairman all or any of the duties and powers of a Chairman as defined in this Act, and may at any time withdraw or modify the same:

Provided that nothing done by the Vice-Chairman, which might have been done under the authority of a delegation from the Chairman, shall be invalid for want of or defect in such delegation if it be done with the express or implied consent of the Chairman.

(2) During the vacancy in the office of Vice-Chairman, or the absence of Vice-Chairman on leave or otherwise, the Chairman may, by an order in writing, delegate and of his functions to any Commissioner of the municipality till the Vice-Chairman resumes office or a new Vice-Chairman is elected or appointed, as the case may be:

Provided that every such order shall be communicated to the Municipal Board at the next meeting.

**39. Duties of Vice-Chairman-**The Vice-Chairman shall-

(a) during a vacancy in the office of the Chairman or temporary absence of the Chairman perform any of the duties and when occasion arises, exercise any of the powers of the Chairman; and

(b) at any time, perform any duty and exercise when occasions arises, any power delegated to him under Section 38.

**40. Grant of leave to Chairman or Vice-chairman-** The Board at a meeting may grant leave of absence to its Chairman or Vice-Chairman for any period not exceeding three months in any one year:

Provided that if a Chairman or Vice-Chairman who has been granted leave for the maximum period of three months overstay his leave, he shall be deemed to have vacated his office and the acting Chairman or Vice-Chairman, as the case may be, shall continue to act for him till the vacancy has been filled up by appointment or by fresh election at the next meeting of the Board.

**41. Filling of casual vacancies of Chairman and Vice-Chairman-** (1) If any Chairman or Vice-Chairman of a Board be unable to complete his full term of office or avails himself of leave granted under Section 40, the vacancy caused by his resignation, removal, death or leave shall be filled by appointment or election, as the case may be, and the person so appointed or elected shall fill such vacancy for the unexpired portion of the term for which such Chairman or Vice-Chairman would otherwise have continued in office or during the absence on leave, as the case may be. The election shall be subject to the approval of the State Government, but pending such approval the person elected shall be competent to discharge the duties of the Chairman:

Provided that no commissioner appointed under sub-section (2) of Section 11 shall be elected as the Chairman.

Note: The proviso to sub-section (1) thereto the word “commissioner” was inserted by the Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

(2) In case of vacancy in the office of the Chairman, the Vice-Chairman, and in the case of vacancy in the office of the Vice-Chairman, the Chairman, shall call a meeting so as to complete the election within 45 days of the occurrence of the vacancy if the Chairman or the Vice-Chairman, as the case may be, fails to call the meeting, the Deputy Commissioner or the Sub-divisional Officer, as the case may be, shall call the meeting.

(3) In case of such a meeting for the election of the chairman, the Vice-Chairman shall preside unless he is himself a candidate for election as Chairman or for other reasons intimates to the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, in writing his inability to preside. In such an event any Commissioner who is not a candidate for office of the Chairman as may be nominated in the form prescribed in the Third Schedule by the Deputy Commissioner or the Sub-Divisional Officer, as the case may be, shall preside.

(4) In case of such a meeting called for the election of the Vice-Chairman, the Chairman shall preside unless there is vacancy in the office of the Chairman in which case any Commissioner who is not a candidate for the office of the Vice-Chairman as may be nominated by the Deputy Commissioner or sub-divisional officer, as the case may be shall preside.

## NOTES

### ASSAM (AMENDMENTS)

Section 41- This section was substituted by the Assam Act No II of 1966, published in the Assam Gazette, dated 10-1-1966.

**42. Allowance of Chairman, Vice-Chairman and Commissioners-** (1) The Chairman and Vice-Chairman of any municipality may, if the Board thinks fit receive such conveyance allowances out of the municipal fund as shall from time to time be fixed by the Board at a meeting.

Provided the grant of such allowances to a Chairman or Vice-Chairman shall be subject to the approval of the State Government.

(2) No Commissioners shall receive or be paid from the municipal fund, any salary or remuneration for services rendered by him in any capacity whatsoever but may be allowed traveling allowances when admissible.

### CONDUCT OF BUSINESS

**43. Ordinary and special meetings-** (1) The Commissioners shall meet ' for the transaction of business at their office, at least once in every month, and as often as a meeting shall be called by the Chairman or in his absence, by the vice-Chairman.

If there be no business to be laid before the Commissioners as any monthly meeting, the Chairman shall instead of calling the meeting give notice of the fact to each Commissioner three days before the date which is appointed for the monthly meeting.

(2) The Chairman, or, in his absence the Vice-Chairman may call special meeting whenever he thinks fit and shall call one on a requisition signed by not less than three of the Commissioners.

(3) If the Chairman or the Vice-Chairman fails to call a special meeting to meet within twenty days after any such requisition has been made, the meeting may be called by the persons who signed the requisition.

#### NOTES

##### ASSAM (AMENDMENT)

Section 43-In this section, the sub-section (3) was substituted by the Assam Act No. II of 1966, published in the Assam Gazette, dated 10-1-1966.

**43-A. Annual Budget-**A Municipal Board shall pass the Annual Budget Estimates for the next financial year before the end of the preceding financial year:

Provided that when the failure to pass the Budget as aforesaid is due to causes beyond the control of a Municipal Board or Town Committee, the Commissioner may on application by the Municipal Board or Town Committee give such extension of time as he may seem necessary to pass the Budget.

#### NOTES

##### ASSAM (AMENDMENTS)

Section-43-A. This section was inserted by the Assam Act No.1 of 1966, published in the Assam Gazette, dated 10-1-66.

**44. President of meeting** -(l) The Chairman or in his absence the Vice-Chairman, shall preside at every meeting, and, in the absence of both the Chairman and Vice-Chairman, the Commissioners shall choose some one of their member to preside:

Provided that no candidate for election to the office of Chairman or Vice-Chairman shall preside at the election,

(2) When a meeting under Section 28 is held for the removal of the Chairman or the Vice-Chairman or both-

(a) The Vice-Chairman or in his absence a member duly elected at the meeting shall preside if the resolution relates to the removal of the Chairman:

(b) The Chairman or in his absence a member duly elected at the meeting shall preside if the resolution relates to the removal of the Vice-Chairman;

(c) A member duly elected at the meeting shall preside if the resolution relates to the simultaneous removal of both the Chairman and the vice-Chairman.

**45. Manner of deciding questions-** Save as otherwise provided in or under this Act-

(a) all questions at a meeting of the Board shall be determined by a majority of votes of the Commissioners present;

(b) in the case of equality of votes, on any question other than the election of the Chairman or Vice-chairman, the President, if there is one, shall have a second or casting votes;

(c) in the case of equality of votes in the election of Chairman or the Vice-Chairman President, the determination shall be by the drawal of lots:

Note: The proviso to Section 45 has been omitted by the Meghalaya Municipal (Amendment) Act 2000 (Act No. 6 of 2000), published in the Gazette of Meghalaya dated 4<sup>th</sup> April, 2000.

Explanation: -To decide the issue by "drawal of lot" the President shall draw lots amongst them by writing the names of the candidate in two sheets of paper, rolling up the papers into balls and getting one of the balls picked by some disinterested person, who has not seen the writing of the names in the papers, from a receptacle where both the papers (rolled up into balls) have not been placed.

#### NOTES ASSAM (AMENDMENTS)

Section 45-The Explanation to this section was inserted vide Assam Act No. II of 1966, published in the Assam Gazette, dated 10-1-9966.

46. **Quorum** :- ( 1) No business shall be transacted at any meeting of the Board unless such meeting has been called by the Chairman or Vice-Chairman, or, under sub-section (3) of Section 4.3, by person signing a requisition, nor unless a quorum shall be present.

(2) the quorum necessary for the transaction of a business at a meeting shall be one half or the total) umber of Commissioners of the Board when any of the following subjects are to be disposed of at such meeting-

(i) scale of establishment and salaries

(ij) the framing of bye-laws under Section 302 and or subsidiary rules under Section 306 of the Act.

(iii) the annual budget estimate,

(iv) the appointment or the fixing of the pay or allowances of a paid Secretary, Engineer, Water Works Superintendent, Health Officer, Assessor or Executive Officer.

(v) imposition of taxes, fees and tools under Section 68.

(vj) the election of Chairman or Vice-Chairman.

(vii) the raising of a loan,

(viii) the subject of a meeting specially convened as provided in Section 8.

(ix) any other subject prescribed by a subsidiary rule made in this behalf by the Board under the provisions of section 306 (1).

(3) For all other business the quorum shall be one-third of the total number of Commissioners;

Provided that in cases where the whole number of Commissioners is not evenly divisible by three, the one-third shall be ascertained by taking the number next above the whole number which is evenly divisible by three as the number to be divided.

(4) If at any meeting the prescribed quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the President and three day's notice of such adjourned meeting shall be given.

(5) The Commissioners present at such "adjourned meeting for transaction of business other than those mentioned in sub-section (2) shall form a quorum whatever their number may be.

#### ASSAM (AMENDMENTS)

Section 46-This section was substituted vide Assam Act No. II of 1966, published in the Assam Gazette, dated 10-1-1966.

**47. Minutes of Proceedings-** (1) Minutes of the proceedings of all meetings of the Board shall be entered in a book to be kept for the purpose, and shall be signed by the President of the meeting and shall be published in such manner as may be prescribed and shall, at all reasonable times and without charge, be open to the inspection of the tax-payers.

(2) A copy of the minutes of the proceeding of all meetings of the Board shall forth with be forwarded by the Board to the Deputy Commissioner, and the Commissioner of Division and another copy submitted to the State Government.

(3) The minutes shall be laid before the next meeting of the Board for confirmation and shall also be signed at such meeting by the President if the same has been correctly entered.

#### COMMITTEES

**48. Appointment of Committees-**The Board at a meeting may appoint, from time to time, committees to assist it in the discharge of any specific duties or class of duties devolving upon it, under this Act, within the whole or any portion of the municipality, and may delegate to any such committee all or any of its powers which may be necessary for the purpose of rendering such assistance, or withdrawal or any for such powers.

(2) Each committee shall consist of Commissioners and, when necessary of such residents with special qualifications whom the Board at a meeting desires to appoint, in such a case the number of Commissioners shall not be less than one-thirds of the whole number of the members of the Committee.

(3) The Commissioners of such committees shall be liable to all the obligations imposed by this Act on the Commissioners of the Board in respect of such powers as may be delegated to them.

(4) All the proceedings of any such committee subject to confirmation by the Board at a meeting.

(5) All questions connected with the removal or resignation of the Commissioners of committees shall be settled by the Board at a meeting.

#### JOINT COMMITTEE

**49. Formation of Joint-Committee-** (1) Any Municipal Board may join with any other Local Authority or with any cantonment authority, or with more than one such local authority or cantonment authority, in constituting out of their respective bodies a joint committee, consisting of not more than two Commissioners/members from each of such bodies, for any purpose in which they are jointly interested, and in delegating to any such joint committee any power which might be exercised and which can be lawfully delegated by either or any of the local authority or cantonment authorities concerned.

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

#### ESTABLISHMENT

**50. Appointment and pay of establishment -**(1) The board at a meeting may from time to time, determine and appoint the establishment to be employed by it and may fix the salaries and allowances to be paid to such establishment:

Provided that subject to the scale of establishment approved by the Board, the Chairman may appoint such persons as he may think fit with the prescribed qualifications if the monthly salary of the office does not carry more than fifty rupees or a salary rising by periodical increments to more than fifty rupees. The Chairman may remove from time to time such persons for inefficiency negligence of duty or misconduct:

Provided further that the appointment of any officer whose pay is wholly or partly contributed by the State Government shall not be created or abolished without the sanction of the State Government and that every nomination to, or dismissal from, any such appointment shall be subject to confirmation by the State Government.

(2) Right of appeal-Consequent on disciplinary action against him every employee of a Municipal Board shall have the right of appeal to the Board from the orders of the Chairman or Vice-Chairman; and in the case of orders involving dismissal or removal of officers not liable to be so dismissed or removed by the Chairman or Vice-Chairman, an appeal to the Government in the Local Self-Government Department may be filed as may be prescribed by rules.

(3) Gratuity or pension-A Municipal Board may at a meeting, from time to time, make rules for gratuities or pension to be granted and paid out of its fund to its establishment subject to the approval of the State Government.

(4) Provident Fund-A Municipal Board at a meeting may, with<sup>111</sup> the sanction of the State Government, make rules-

(a) for the creation and management, of a Contributory Provident Fund for its establishment;

(b) for compelling members of its establishment to make contribution to such Fund;

(c) for making contribution to the fund by the Board at such rates and subject to such conditions, as may be prescribe, out of the Municipality Fund; and

(d) for the payment of moneys out of such Provident Fund.

**51. Power of Municipal Board to frame regulations for establishments-** The Board at a meeting specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the Commissioners present at such meeting shall have voted, may make regulations consistent with this Act and with any rules made thereunder, in respect of officers and employees on its staff for-

(a) fixing the amount and nature of the security to be furnished;

(b) regulating the grant of leave allowances, acting allowances and traveling and other allowances; and

(c) regulating conduct and generally laying down condition of services-

Provided that--

(1) The amount of any leave, leave allowances, traveling allowances, or gratuity provided for in such regulations, shall in no case, without the special sanction of the State Government exceed what would be admissible in case of State Government officials of similar class and status.

(2) The conditions under which such allowances are granted or any leave, superannuation or retirement sanctioned, shall not, without similar sanction, be more favourable than those for the time being in force for such State Government officials.

**52. Appointment of Health Officers, Sanitary Inspectors and Water Works Superintendents, etc-** Notwithstanding anything contained in section 50, the State Government may require the Board, after considering any cause that it may show to the contrary-

(a) to appoint such Health Officers, Sanitary Inspectors, other public health establishments and Water Works Superintendent as it may consider necessary on such terms as it may think fit ; or

(b) to employ such officers of Government as Health Officers, Sanitary Inspectors and Water Works Superintendents as it may consider necessary.

**53. Appointment of Executive Officers-** A Municipal Board may appoint an Executive Officer with the approval of the State Government. The State Government may if it finds that any particular Board should have an Executive Officer and the said Board does not make such an appointment, appoint any person as such officer in respect of that particular Board. In either case the salary of the officer including allowances, etc., and other charges shall be charges on the Municipal Fund unless the State Government agree to bear the same or any portion thereof.

(2) The State Government shall make rules regarding the appointment, salaries, conditions of service, powers, duties and functions of the Executive Officers and other relevant matters connected therewith and also providing that no disciplinary action shall be taken against the Executive Officer, except with the approval of the State Government.



## LIABILITY OF COMMISSIONERS OF BOARDS AND COMMITTEES

**54. Liability for loss, waste or misapplication of funds and property-** (1) Every Chairman, Vice-Chairman, Commissioner, Officer or servant of a Municipal Board including a Government servant whose services are lent to the Board shall be liable for the loss waste or misapplication of any money or other property owned by or vested in the Municipal Board, if such loss, waste or misapplication is a direct consequence of any illegal act, omission, neglect or misconduct on his part, and a suit for compensation may be institute against him in any Court of competent jurisdiction by the Board.

(2) Every such suit shall be instituted within one year after the date on which cause of action arose.

**55. Disqualification of Commissioner having share or interest is in contracts-** No Commissioner of a Board or a committee shall have without the written permission of the State Government, directly or indirectly, any share of interest in any contract, lease, sale or purchase of land or any agreement for the same of any kind whatsoever to which the Board is a party, or shall hold any office of profit under it, and if any Commissioner shall have such share or interest or shall hold such office he shall thereby become disqualified to continue in office as a Commissioner, and shall be liable to a fine not exceeding hundred rupees:

Provided that a Commissioner shall not be disqualified or liable by reason only-

(a) of his having a share or interest in-

(i) a contract entered into between the Board and any incorporated or registered Co-operative Society of which such Commissioner is a member or share holder; or

(ii) any agreement for the loan of money, or my security for the payment of money only; or  
(iii) any newspaper in which any advertisement relating to the affairs of the municipality is inserted; or

(b) of his being professionally engaged on behalf of the Board as a legal or medical practitioner and receiving a fee for services rendered in his professional capacity.

But no Commissioner shall act as commissioner of a Board or committee in any proceedings relating to any matter in which he is so interested or take any part therein.

Provided that the State government may as order in that behalf remove any disqualification or liability mentioned in this section.

**56. Commissioners disqualified from voting on certain questions-** No Commissioners of a Board or a committee shall vote on any matter affecting his own conduct or pecuniary interest or on any question which regards exclusively the assessment of himself, or the valuation of any property in respect of which he is directly or indirectly in any way interested or of any property of or for which he is a manager or agent, for his liability to any tax.

## VALIDITY OF ACTS AND PROCEEDINGS

**57. Presumption and savings-** (l) No disqualification, or defect in the election or appointment, of a person acting as a Commissioner of a Board or a committee or a joint-committee appointed under this Act or as the President of a meeting of the Board or of such committee or joint-committee, shall be deemed to vitiate any act or proceeding of the Board or of the committee or the joint committee, if the majority of the persons present at

the time of the act being done or proceedings being taken were qualified and duly elected or appointed Commissioners of the Board or the committee or the joint-committee.

(2) Until the country is proved, any document or minutes, which purport to be the record of the proceedings of the Board or committee or joint committee shall if substantially made and signed in the manner prescribed for the making and signing of the record of such proceedings, be deemed to be a correct record of the proceedings or a duly concerned meeting held by a duly constituted Municipal Board or committee or joint committee, whereof all the Commissioners were duly qualified.

(3) The powers of the Board or of any committee or joint-committee may be exercised notwithstanding any vacancy in their number.

(4) Accidental omission to serve notice of a meeting on any commissioner of a Board or committee or joint committee shall not affect the validity of a meeting of the Board or of the committee or joint-committee.

## CHAPTER IV

### MUNICIPAL FINANCE AND PROPERTY MUNICIPAL FUND

**58. Constitution and custody of Municipal Fund-** (1) there shall be formed, for each Municipal Board a fund to be called the Municipal Fund.

(2) There shall be placed to the credit of-

(a) the balance, if any, standing at the credit of the Board at the commencement of this Act.

(b) all sums received by, or on behalf of the Board under this Act or otherwise;

(c) all sums received under any loan raised by the Board,

(3) The Municipal Fund shall be vested in the Board.

(4) Unless the State Government shall otherwise direct the Municipal Fund shall be paid into a government treasury or into any bank or branch thereof used as a Government treasury in or near the municipality and shall be credited to an account called the account of the Municipal Board to which it belongs.

Provided that the Board may invest any money not required for immediate use either in Government securities or in any other form of security which may be approved of by State Government.

**59. Municipal Board may raise loans and may form a sinking fund-** It shall be lawful for a Municipal Board subject to the provision of any law relating to the raising of loans by local authorities for the time being in force, from time to time, to raise loans for the purposes of carrying out any of the provisions of this Act and to form a sinking fund.

**60. Application of fund-** (1) Except as otherwise provided in this Act, the Board shall set apart and apply annually out of the Municipal Fund-

(a) firstly such sum as may be required for the payment of and the payment of interest on any loan incurred under the provisions of any law.

(b) secondly, such sum as may be required to meet the charges of its own establishment, including in the case of Government officers whose services are wholly or partly employed by the Board, the payment of such contribution to the pensions, gratuities, provident fund and leave allowances as may be required by the conditions of their services under the Government to be made by them or on their behalf.

(c) thirdly, the liabilities and obligations arising from a trust legally imposed upon or accepted by the Municipal Board; and

(d) fourthly, such sum as may be required to pay the expenses of paupers, lunatics and lepers who are inhabitants of the municipality and are sent to public asylums, which in the opinion of the State Government, to be paid by the Board.

(2) Subject to the charges specified in sub-section (1), the Board fit a meeting shall, as far as the Municipal Fund permits, from time to time cause roads, bridges, tanks, ghats, wells, channels, drains, latrines and urinals being the property of the Board, to be maintained and repaired, and the municipality to be cleansed and may apply the Municipal Fund to any of the following purposes within the municipality, and with the sanction of the Commissioner of Division outside the municipality, that is to say-

(i) construction, maintenance and improvement of roads tramways, bridges, squares, tanks, ghats, wells, drains, latrines and urinals;

(ii) planting and reservation and felling of trees and bamboos;

(iii) supply of water, and lighting and watering of roads;

(iv) erection and maintenance of town halls, offices and other buildings, required for municipal purposes;

(v) payment of a gratuity to any officer or servant in its employ, or to any member of the family of such officer or servant who has died from disease or injury contracted in the discharge of duties of his office;

(vi) establishment and maintenance of a municipal market, or the taking of a market on lease;

(vii) establishment and maintenance of schools, and of hostels to be used in connection with schools, either wholly or by means of grants-in-aid;

(viii) establishment and maintenance of poor houses, hospitals and dispensaries and, at the discretion of the Board, the payment of allowances to medical practitioners for professional services rendered to the establishments employed by it;

(ix) payment of the expenses of any of the poorer inhabitants of municipality for journeys to and from any hospital established in any part of India for the treatment of special diseases and of their subsistence thereat according to such scale as may be fixed by the Board at a meeting;

(x) employment of public vaccinators and the promotion of free vaccination;

(xi) acquiring, keeping and equipping of open spaces for purposes of ventilation, or for the promotion of physical exercise and public recreation;

(xii) industrial and other technical training and the employment, of medical and veterinary practitioners;

(xiii) establishment and maintenance of veterinary dispensaries for the reception and treatment of horses, cattle and other animals;

(xiv) payment of contributions towards any public fund raised for the relief of human suffering within or without the municipality;

(xv) appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals;

(xvi) improvement of the breed of horses and cattle and the breeding of mules;

(xvii) establishment and maintenance of, or the granting of aid to public libraries and reading rooms, amateur theatrical institutions and music schools;

(xviii) payment for fire brigade services;

(xix) provisions of burial and burning grounds and the burial or burning of paupers;

(xx) taking of census other than a census order by the Central Government;

(xxi) holding of fairs and industrial exhibition;

(xxii) payment of rewards for the destruction of noxious animals or diseased or unclaimed dogs;

(xxiii) preparation of compost manure;

(xxiv) prevention of the spread of dangerous diseases;

(xxv) establishment and maintenance of dairies;

(xxvi) other works of public utility calculated to promote the health, comfort or convenience of the inhabitants;

(xxvii) payment of contributions by the Board to any other local authority;

(xxviii) payment of anti-malarial and other projects of social services for the improvement of Public Health within the Municipal areas;

(xxix) payment of advances to members of the establishment employed by the Board or on behalf for the purposes of enabling them to acquire or construct residences for themselves and to purchase means of conveyance required for the performance of their duties;

(xxx) any expenditure not provided for in the items quoted above which may be declared by the Board at a meeting, with the sanction of the State Government, to be and appropriate charge on the municipal fund:

Provided that the net proceeds of the taxes or fees, as the case may be, imposed under Section 68, sub-section (1) (b) and Section 212, Section 68, sub-section (1) (c ), Section 68, sub-section (d) and Section 212, Section 68, sub-section (1) (e), Section 68, sub-section (1) (l) and Section 68, sub-section (1) (m) after deducting a proportionate share, to be fixed by the Board in a meeting, of the cost of the staff employed in collecting and in supervising the collection of the taxes or fees and in keeping and in auditing the accounts thereof, shall be applied in defraying the expenses respectively, of making extending, improving or maintaining the water supply, of making extending, improving or maintaining the lighting system, of cleansing latrines, urinals, cess-pools, establishing, maintaining and improving closed sanitary water flushed sewerage system, of constructing, extending, improving, or maintaining the drainage system, in establishing, maintaining and improving fire brigade services, in establishing, maintaining and improving anti-malarial and other projects of social services for the improvement of public health:

Provided also that no money which has been received by the Board on account of any hospital or dispensary or directed by donor to be applied to the establishment of any hospital or dispensary, shall be expended on any other object:

Provided further that without the prior sanction of the State Government the municipal fund shall not be expended for contesting any case filed against the chairman, the Vice-Chairman, a Commissioner or any other person in authority where such Chairman, Vice-Chairman, Commissioner or the person, as the case may be, is involved in his individual capacity to contest such case.

(3) The Board may do all things not being in consistent with this Act, which may be necessary to carry out the purposes of sub-section (2).

## NOTES

### ASSAM (AMENDMENTS)

Section 60-the third proviso to sub-section (2) was inserted vide Assam Act No. XXIX of 1996, published in the Assam Gazette, dated 24<sup>th</sup> November 1966.

**61. Orders for payment of money from the municipal fund-** Unless otherwise authorized by the State Government, all orders for the payment of money from the municipal fund if for a sum not above five hundred rupees shall be signed by the Chairman or Vice-Chairman, and all orders for larger sums, by both of the said officer or by one of the said officer and another Commissioner of Board.

No such order shall be issued otherwise than the payment of money of which the expenditure has been authorized, subject to rule, by Board at a meeting.

### MUNICIPAL PROPERTY

**62. Municipal property-** (1) Subject to any reservation made by the State Government all property of the nature hereinafter in this section specified and situated within the municipality shall vest in and belong to the Board and shall with all other property of whatever nature or kind which may become vested in the Board, be under its direction, management and control, that is to say.

(a) all public roads including the soil, the pavements, stones and other materials thereof, and all drains, bridges, trees, erection, materials, implements and other things provided for such roads;

(b) all public streams, channels, water-courses, springs tanks, reservoirs cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works whether made laid are created at the cost of the Board or otherwise and bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land, not being private property, appertaining to any public tanks:

Provided that water pipes and any water works connected therewith or appertaining thereto which with the consent of the Board are laid or set up in any street by the owner of any mill, factory, workshop or the like primarily for the use of their employees shall not be deemed to be public water-works by reason of their use by the public;

(c) all public sewers and drains, and all works materials and things appertaining thereto and other conservancy works;

(d) all sewage, rubbish and offensive matter collected by the Board from roads, latrines, sewers, cess-pools and other places;

(e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto and all public gates, markets, slaughter houses and public buildings of every description which have been constructed or are maintained out of the municipal fund;

(f) all land or other property transferred to the Board by the Government or acquired (by the Board) by gift, purchase or otherwise for local public purposes.

(2) The State Government may by notification in the official gazette, direct that any property which has vested under sub-section (1) in the Board shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested and the State Government may pass such orders as it thinks fit regarding the disposal and management of such property:

63. Power to purchase, lease and sell land- (1) A Board may, a meeting decide, to purchase or take on lease or by gift any land for the purposes of this Act, with the approval of the State Governments.

(2) No Board shall sell, let, exchange or otherwise dispose of any land vested in it under Section 62, except with the sanction of the State Government.

## NOTES

### ASSAM (AMENDMENTS)

**Section 63-This Section was substituted vide Assam Act No. II of 1966, published in the Assam Gazette, dated 10<sup>th</sup> January, 1966.**

64. Execution of contracts- (1) the Board may enter into and perform any contract necessary for the purposes of this Act.

(2) Every contract made by or on behalf of a Municipal Board in respect of any sum exceeding five hundred rupees or which shall involve a value exceeding five hundred rupees

shall be sanctioned by the Board at a meeting, and shall be in writing, and signed by the Chairman or Vice-Chairman, and shall be sealed with the common seal of the Board.

Unless so executed, such contract shall not be binding on the Board.

**65. Transfer of certain public institutions to Boards-** (I) Every hospital, dispensary, school, rest-house, ghat and market, not being private property or the property of a religious institution or society, and all medicines, furniture, and other articles appurtenant thereto, not being such property, which at and after the commencement of this Act shall be found within any municipality, may by order of the State Government duly published on the spot, be vested in the Municipal Board of such municipality; and thereupon all endowments of funds belonging thereto shall be transferred to and vested in, such Board as trustees or the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the Gazette and within the Municipality.

(2) If the Board at the meeting shall after publication of the aforesaid notice, object to the transfer to itself of any hospital, dispensary, school, rest-house, ghat or market on the ground that its funds cannot bear the charge, then such transfer shall not be made save under such conditions as the Board at a meeting may agree to accept.

**66. Transfer of private road etc. to Boards-** the Board at a meeting may agree with the person in whom the property in any roads, bridge, tank, ghat, well, channel or drain is vested, to take over the property therein or the control thereof, and after such agreement may declare on notice in writing put up thereon or near thereto that such road, bridge, tank, ghat, well, channel or drain has been transferred to the Board. Thereupon, the property therein or the control thereof as the case may be shall vest in the Board and such road, bridge, tank, ghat, well, channel or drain shall thenceforth be repaired and maintained out of the municipal fund.

**67. Acquisition of land-** When any land, whether within or without the limits of a municipality is required for the purpose of this Act the State Government may, at the request of the Board, proceed to acquire it under the provisions of the Land Acquisition Act, 1984 (Act 1 of 1984); and on payment by the Board of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the Board.

## CHAPTER V

### MUNICIPAL TAXATION

#### Imposition of taxes

**68. Taxes-**(I) subject to the provisions of their Act and the rules made there under the Board may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, impose within the limits of the municipality the following taxes, fees and tolls, or any of them:

- (a) a tax on holding situated within the municipality assessed on their annual value, payable by the owner;
- (b) a water tax payable by owner or occupier, on the annual value of holdings;
- (c) a light tax payable by the owner or occupier, on the annual value of holdings;

(d) a latrine tax payable by the owner, or occupier, on the annual value of holdings  
(e) a drainage-tax payable by the owner, where a system of drainage has been introduced;  
(f) a tax on private markets payable by the owner ;  
(g) license fees on carts, carriages and animals used for riding, or burden;  
(h) a fee on the registration of dogs and cattle ;  
(i) a fee on boats mooring within the municipality ;  
(j) tolls on bridges ;  
(k) a better men fee on holding in any area of which value has increased due to improvement schemes completed as Board's cost ;

(l) fees for setting up and maintenance of fire brigade;  
(m) fees for conducting at the cost of the Board, any scheme of social service for the improvement of public health;  
(n) With the sanction of the State Government any other tax toll, rate or fee; provided-

(i) that both the taxes mentioned in clauses (a) and (f) shall not be imposed in respect of the same premises;

(ii) that when the Board has taken a loan from or guaranteed by the State government, the Board shall not, without the previous sanction of the State Government, make any alteration in respect of any tax which may have the effect of reducing the income of the Board; and

(iii) the State Government may by order, exempt from the payment of any rate, tax, toll or fee payable under the provisions of this Act any diplomatic or consular mission of a foreign State and the diplomatic and consular officers of such mission

(O) license fee on boats.

(2) Taxes of Providing Public Utility Services: -The Board may from time to time at a meeting convened as aforesaid and in accordance with a scale of fees to be approved by the State Government charge a fee in respect of the issue and the renewal of any license which may be granted by the Board under the Act and in respect of which no fee is leviable under sub section (l).

(3) Nothing in this section shall authorise the imposition of any tax or fee, which the State Legislature has no power to impose in the State under the Constitution.

#### NOTES ASSAM (AMENDMENTS)

Section 68.-In clause (h) the words "and cattle" were inserted and the clauses (i), (k), (l) and (m) were substituted by the Assam Act No II of 1966. The clause (i) was further substituted and clause (b) inserted by the Assam Act No. XXI X of 1966, published in the Assam Gazette, dated 24-11-1966.

**68-A. Taxes for providing public utility services.**-Every Board within whose area public utility services such as electricity, water supply sanitation are provided shall levy, within four months of the providing of such service or services or within four months of the coming into force of this section, whichever is later, a tax on the holding covered by such service or services expressed as a percentage of the tax assessed under Section 68 (1) (a):

Provided that the tax or taxes levied under this section shall be so regulated that the net proceeds they not exceed the gross cost of providing the service or services.

#### NOTES



## ASSAM (AMENDMENTS)

Section 68 A. This section was inserted vide Assam Act No. 11 1966, published In the Assam Gazette, dated 10-1-1966.

**69. Taxes on Government holding.**-Not with standing any provision to the contrary, all municipal taxes in respect of Government holdings shall be payable by Government themselves to the Municipal Boards and not by occupiers.

**70. Restriction, regarding tax on holdings.**-Where the aggregate annual value of all holdings held by one owner within the municipality does not exceed six rupees the tax mentioned in Section 68 (1) (a) shall not be imposed on any of the holdings of the said owner provided such owner is not assessed with any professional tax or income tax.

**71. Restriction regarding water-tax and lighting-tax.**- The imposition of water-tax or lighting-tax shall be subject to the following restrictions namely:

(a) that the tax shall be imposed only on holdings situated within an area for the supply of water to which or for the lighting of which, as the case may be, a scheme has been approved by the State Government :

Provided that where the Board-

(i) distribute Water by means of water carts or other like agency or provide a water-supply by means of tanks or wells or other reservoirs; Or

(ii) provide acetylene lamps or such other means of lighting as may be approved by the State Government:

The Board at a meeting may impose in the case (i) a water rate and in the case (ii) a lighting-tax under such conditions and limitations as may be prescribed;

(b) that the tax shall not be imposed on land used exclusively for purposes of agriculture, or on any holding consisting only of tanks, or in the case of the water-tax on any holding no part of which is within a radius to be fixed by the State Government, from the nearest stand pipe or other supply of water available to the public;

(c) that in fixing the rate, at which the tax is to be impose, regard ,shall be had to the principal that the total net proceeds of the tax, together with the estimated income from payment for water or lighting as the case maybe, supplied from the works under special contract or otherwise shall not exceed the amount required for making or extending for maintaining or the water supply or lighting system as the case may be, together with an amount sufficient to meet the proportionate share of the cost of supervision and collection and the repayment of an payment of interest on any loan incurred in connection with any such supply or system;

(d) at the tax shall not be leviabale until a supply of water has been provided in the area to be supplied or untill the lamps in the area to be lighted have been lighted as the cases may be, nor shall the tax leviabale for any quarter or portion of a quarter antecedent to the provision of such water supply or lighting;

Provided that nothing in this section shall prevent the Board from making any special arrangement consistent with this Act, with persons residing beyond the radius fixed by the State Government.

(2) The amount of the tax may vary with the distance of holdings from the nearest stand-pipe or other sources of water supply, and the amount may be higher in the case of premises to which communication pipes are attached than in case of other premises.

(3) The Board, at its discretion, may, compound for only period not exceeding one year with the person liable to pay the tax on: any railway premises or any premises used as a factory, dockyard, workshop, mazdur depot, school, college, hospital, market, court-house, jail reformatory, lunatic, asylum, or other similar place, for a certain sum to be paid by such person in lieu of the tax.

(4) Subject as aforesaid in the preceding sub-sections additional water tax under Section 212 shall be imposed only in the areas served by the closed sanitary water flushed sewerage system.

72. Restriction regarding latrine-tax.-(1) The imposition of a tax under Section 1163, sub-section (1) (d), shall be subject to the following restriction, namely:

(a) that the tax shall be imposed only holdings containing dwelling houses, shops, places of business, latrines, urinals or cesspools;

(b) that the tax shall not be imposed on any jail, reformatory, lunatic asylum, school, college or hospital in which an establishment is maintained for the cleaning of latrines, urinals and cesspools therein without making use of any place or receptacle maintained by the Board for the deposit of sewage or offensive matter;

(c) that in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for the cleaning of latrines, urinals and cess-pools together with the amount required to meet the proportionate share of the cost of supervision and the collection of the tax; and

(d) that the tax shall not be leviable in any area until the Board has made provision for the cleaning of latrines, urinals and cesspools, with in such area: nor shall the tax be leviable for any quarter or portion of quarter antecedent to the making of such provision.

(2) (a) The Board at the meeting may compound for any period not exceeding one year with the person liable to pay the tax on any railway premises or any premises used as a factory, dockyard, workshop, mazdur depot, school, college, hospital market, Court house or other similar place, for a certain sum to be paid by such person in lieu of the tax or, in the case of such premises or places may in lieu levying the tax on the annual value of the holding levy it at a certain amount per head, to be fixed by the Board at a meeting, on the number of persons living within or habitually resorting to such premises or places.

(b) The Board may, by a notice in writing, require the owner or occupier of any such premises or places to furnish within a time to be specified in the notice, a statement of the number of persons residing in or habitually resorting to, such premises or places.

(3) Subject as aforesaid in the- proceeding sub-section additional latrine tax under Section 212 shall be imposed only in the areas served by the closed sanitary water-flushed sewerage system.

(4). A rebate of not less than fifty per centum of the latrine-tax-on a holding shall be allowed if the holding is provided with sanitary type latrine and does not contain any service latrine.

## NOTES

### ASSAM (AMENDMENTS)

Section 72- The words " Less than fifty" in Sub-Section (4) were substituted vide, Assam Act No.II of 1966, published in the Gazette, dated 10-1-1966.

**73. Restriction regarding drainage tax,-**The imposition of a tax under Section 68, sub-section 1 (e), shall be subject to the following restrictions namely:

(a) that the tax shall be imposed only in case of places situated within an area for which a scheme for construction of a drainage system has been approved by the State Government;

(b) that in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for constructing extending, improving, or maintaining the system of drainage together with the amount required to meet the proportionate of the share of the cost of supervision and the collection of the tax; and

(c) that the tax shall not be leviable until a system of drainage shall have been made in the area to be so provided; not shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision or such a system of drainage.

**74. Special provision regarding tax on private market,-**The tax mentioned in section 68, sub-section (l) (f), shall be determined by the Board at a meeting with the approval of the State Government, according to the size and importance of such markets.

**75. Restriction regarding fire brigade and, anti-malarial fees:-** In fixing the rate of fees Under Section 68, sub-section, (1) (l) and (m), regard shall be had to the principle that the total net proceed of the fees shall not exceed the amount required for making, extending, maintaining and improving the fire brigade services of the anti-malarial and other social services for improvement of public health as the case may, be, or for making contributions to organization running such 'services together with the amount sufficient to meet the proportionate share of the supervision and collection and the repayment of interest or any loan incurred in connection with such services.

### TAXES UPON ANNUAL VALUE OF HOLDING

**76. Board to determine valuation of holding-** When it has been decided to impose any tax on the annual value of holding the assessor after making such enquiries as may be necessary shall determine the valuation of all holdings within the municipality as hereinafter provided and shall enter the same in a list called the valuation list which shall be in the prescribed form:

Provided that valuation other than general valuation may be made by the Board through such person as may be authorized by the Board in this behalf.

**77. Returns required for ascertaining annual value -**The assessor, in order to prepared the valuation list, may whenever he thinks fit, by notice required the owners or occupier of all holdings to furnish him, within fifteen days, with returns of the rent or annual value thereof and a description of the holdings in such detail as the Board may direct;

And the assessor, at any time between sunrise and sunset, may enter and inspect and measure any such holding:

Provided at least forty eight hours' previous notice of the intention to enter, inspect and measure any holding shall be given to the owner or occupier thereof, unless he waives his right to such notice.

**78. Penalty for default in furnishing return** -Whoever refuses or fails to furnish any such return for, the space of a fortnight from the day on which he has been required to do so, or knowingly furnishes a false return or description, shall be liable to a fine not exceeding twenty rupee, and to a further fine not exceeding five rupees for each day during which he omits to furnish a true and correct return; and whoever obstructs, hinders or prevents the assessor appointed by the Board from entering or inspecting or measuring any such holding shall be liable to a fine not exceeding two hundred rupees.

**79. Determination of annual value of holding-** The annual value of a holding shall be deemed to be the gross annual rent at which the holding may reasonably be expected to let.

(2) In the case of a holding with a building or buildings used or occupied for the residence by the owner himself, the annual value of such holding shall be deemed to be an amount which is less by twenty five per cent than the valuation fixed on the letting basis under sub-section (1) above.

(3) In the case of a holding containing building or buildings vested in Government the annual value shall be deemed to be an amount which may be equal to but not exceeding six per centum of the cost, of erection of the building or buildings in addition to a reasonable ground rent or the land comprised in the holding:

Provided that in estimating the annual value of a holding under this section, the value of any machinery and its foundation that maybe on such holding, shall not be taken into consideration.

Explanation-The "gross annual rent" shall not include the amount of municipal taxes when paid by the tenant.

**Amendment of" section 78 of Assam Act XV of 1975** - In section 78 of the principal Act, for the words "twenty rupees," and "two hundred rupees" "twenty rupees" and "one thousand rupees" respectively shall be substituted.

**80. Determination of rate of tax on holding.-** Subject to the provisions of this Act, the Board at a meeting to be held before the close of the year preceding the year to which the tax will apply shall determine the percentage on the valuation of holdings at which any tax on the annual value of holdings shall be levied, and the percentage so fixed shall remain in force until the Board at a meeting shall determine some other percentage at which the tax will be levied from the beginning of the next year:

Provided that, when this Act is first extended to any place the first tax shall be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Board at a meeting.

**81. Preparation of assessment register** -As soon as possible after the percentage at which the tax is to be levied shall have been determined under the preceding section, the Board shall cause to be prepared an assessment register which shall contain the following particulars, and any others which the Board may think proper to include-

- (a) number of the holding on the register with the name of the road, if any, in which the holding is situated;
- (b) annual value of the holding (as stated in the valuation; list)
- (c) names of owner and occupier;
- (d) amount of tax payable for the financial year;
- (e) amount of taxes payable separately under Section 68 (1), (a),(c) or (d) ;
- (f) amounts of quarterly installments; and
- (g) if the holding is exempted from assessment, a note to that effect.

**82. Power to assess consolidated tax for house and land on which it stands-**(l) If any house belongs to one owner and the land on which it stands at any adjacent land which is usually occupied therewith belong to another, the Board may value such house and land together, and may impose thereto one consolidated tax.

The total amount of the tax shall be payable by the owner of the house, who shall thereafter be entitles to deduct from the rent which he pays for the land such proportion of the tax so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

(3) In case of disputes, the Board shall determine what amount the owners of the house and of the land shall pay respectively.

#### REVISION OF VALUATION LIST AND ASSESSMENT REGISTER

**83. Reduction of valuation, revision of valuation and assessment and revision of valuation list and assessment register--** (l) The Board at a meeting may, at any time, direct an alteration in, Or amendment of the assessment register-

- (a) by entering therein the name of any person or any property which in its opinion sought to have been entered, or any property which has become liable to taxation after the preparation of the assessment register, or
- (b) by substituting therein within effect from the date of succession or transfer, as the case may be for the name of the owners of any holding the name of any other person who has succeeded by transfer or otherwise, to the ownership of the holding, or
- (c) by altering the valuation of or assessment on any holding which in its Opinion has been incorrectly valued or assessed, or
- (d) by re-valuing or re-assessing any holding the value of which has been increased by addition, or alterations to building, or
- (e) by reducing, upon the application of the owner the valuation of any holding which has been wholly or partly demolished or destroyed, or the value of which has demolished from any cause beyond the control of the owner, or
- (f) by correcting any clerical or arithmetical error.

(2) The Board shall give at least one month's notice to any person interested in any alteration which Board proposes to make under clause (a), (b), (c) or (d) of sub-section (1) and of the date on which the alteration will be made.

(3) Every alteration made under sub-section (1) in the assessment register shall be signed by the Chairman or Vice-Chairman.

**84. Notice to be given to Chairman of all transfers of title of persons liable to payment of tax-**(1) Whenever the title to any holding is transferred both the transferor and the transferee shall, for the purpose of Section 83 (1) (b), within three months after the execution of the instrument of transfer, or if no such instrument is executed, within three months after the transfer is effected, give notice in writing of such transfer to the Board.

(2) In the event of the death of the person in whom such title vests, the person to whom as heir or otherwise, the title of the deceased is transferred by descent or devise shall within one year from the death of the deceased, give notice in writing of such succession to the Board.

(3) Every person liable for the payment of taxes on any holding who transfers his title to or over such property, without giving notice of such transfer to the Board, as aforesaid, shall unless the Board at a meeting on the ground of hardship arising out of special circumstances, otherwise directs, continue to be liable for the payment of all such tax from time to time payable in respect of the said property until he gives such notice, or until the transfer shall have been recorded in the municipal books.

(4) The Board may levy a fee not exceeding one rupee for every such transfer of title to holding.

**84-A. Prohibition of registration in certain cases--**Where any deed or document required to be registered under the Indian Registration Act, 1980 (Central Act 16 of 1980) purports transfer the title to any holding falling within a municipality, no Registering Office shall register any such deed or document unless the party presenting the deed or document for registration produces a certificate from the Municipal Board to the effect that there is no arrears of any tax assessed under this Act, which is payable to the Board in respect of the holding.

## NOTES

### ASSAM (AMENDMENTS)

Section 84-A--This section was inserted vide Assam Act No XXIX of 1966, published in the Assam Gazette, dated 24.11.1966, to come into force at once.

**85. Revision of valuation list.**-(1) A new valuation list shall, unless otherwise ordered by the State Government, be prepared in the same manner as the original list, once in ever five years.

(2) Subject to any alteration or amendment made under Section- 83 and to the result of any. Application under Section-95 every valuation and assessment entered in the valuation list or the assessment register shall be valid from the date on which the list or register takes effect in the municipality.

**86. Appointment of assessor and power of State Government to direct the appointment of assessor.**- The Board at a meeting for the purpose of general valuation may, with the

approval of the State Government, appoint an assessor who is neither an employee nor a Commission the Board on such pay and with such establishment as it may determine.

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(2) Notwithstanding anything contained in Section 85, if at any time it appears to the State Government that the valuation in any municipality is insufficient, excessive or inequitable, the State Government may, by an order in writing, require the Board to revise the valuation or to show cause against revision within a specified time, and if the board fails to comply with the order or in the opinion of the State Government the cause shown is inadequate or the revised valuation also is insufficient, excessive or inequitable, the State Government may by an order in writing require the Board to appoint with the approval of the State Government an assessor for the municipality within a time and for a period to be specified in the order. The order shall fix the pay of the assessor and the cost of his establishment and the pay and cost shall be paid monthly by the Board.

**87. Revision of assessment register:** - Whenever the valuation list is revised or altered wholly or in part or a new percentage is fixed under Section 80 the assessment register also shall be revised and consequential changes made therein. "

**88. Effect of revision of assessment register.**-The first assessment register prepared for any municipality under the Act and any revision thereof or alteration therein made under the foregoing sections shall, subject to the provisions of Section 88 and 96, take effect from the beginning of the quarter following the publication of the notice, mentioned in Section 94.

#### DUTY ON TRANSFER OF PROPERTY

**89. Method of assessment of duty on transfers of property.**-In addition to the mutation for as provided in sub-section (4), Section 84, a duty on transfers of property shall be levied in the form of a surcharge on the duty imposed by the Indian Stamp Act, 1899(Act II of 18-9), as in force for the time being in the State of Assam on instruments of sale, gifts and mortgage with possession of immovable property situated within the limits of a municipality at a rate of one per cent of the amount of the consideration, the value of the property, or the amount secured by the mortgage, as the case may be.

**90. Provisions applicable on 'the introduction of transfer duty.** -

On the introduction of the transfer duty-

(a) Section 27 of the Indian Stamp Act, 1899 (Act II of 1899), shall be read as if it specifically required the particulars to, be set forth separately in respect of property situated within the limits of a municipality and outside such limits;

(b) Section 64 of the same Act shall be read as if it referred to the Municipal Board concerned as well as the Government.

**91. Power to make rules regarding assessment and collection of transfer duty-** The State Government may make rules not inconsistent with this Act for regulating the collection of the duty, the payment thereof to the Municipal Board concerned and the deduction of any expenses incurred by the Government in the collection thereof.

#### GENERAL PROVISIONS REGARDING ASSESSMENT

**92. Exemptions and remissions-** (1) The tax mentioned in Section 68, sub-section (1) (a) (b) (d), shall not be assessed or levied on any building or holding which is used exclusively as a

place of public worship, or on any holding which is duly registered as a public burial or burying ground under this Act.

(2) The Board at a meeting may exempt from assessment to the tax mentioned in Section 68, sub-section (1) (a), any holding used for the purposes of a public charity.

(3) The Board may, at a meeting, reduce the amount payable on account of any of the taxes mentioned in Section 68, sub-section (1) (a), (b), (c) and (d), or remit the same, on the ground of excessive hardship to the person liable to pay the same:

Provided that such reduction or remission shall not, unless renewed by the Board at a meeting have effect for more than one financial year.

**93. Power of assessor** - Assessor appointed by the Board under Section 86 shall exercise all the powers of valuation the same being vested in the Board, but shall hear or determine applications for review made under Section 95.

**94. Publication of notice of assessments-** (i) When the valuation list mentioned in Section 76 and the assessment register mentioned in Section 81 shall have been prepared or revised, the chairman shall sign the same and shall cause them to be deposited in the office of the Board and shall cause a notice in the prescribed form to be published in the manner prescribed.

(2) In all cases in which any property is for the first time assessed or the assessment is increased the Chairman shall also give notice thereof to the owner or occupier of the property.

**95. Application for review-**(i) Any person who is dissatisfied with the amount assessed upon him or with the valuation or assessment of any holding or who disputes his occupation of any holding or his liability to be assessed, may apply to the Board to review the amount of assessment or valuation or to exempt him from the assessment tax:

Provided that no application shall be entertained unless the applicant has paid all arrears of dues to the Board accrued up to the date of such application other than the sum which has been enhanced by the valuation or assessment against which review application has been filed.

(2) when an assessor has been appointed under Section 86, notice of every such application shall be given by the Board to the assessor.

**96. Procedure for review** -(i) Every application presented under Section 95 shall be heard and determined by a committee consisting of not more than five members or by an officer of Government not below such rank as the State Government may determine, whose services the Board obtains and to whom the Board at a meeting delegates the powers and functions of the committee in this behalf.

(2) The Chairman or the Vice- Chairman shall be one of the members of such Committee ex-officio and the other member shall be appointed from among the members by the Board at a meeting:

Provided that no members appointed shall take part in hearing or determining any application from the ward in which he resides, or in the case of an elected member, the ward which he represents but nothing in the proviso shall prevent any such members giving evidence which regards the matter under enquiry.



(3) No such application shall be heard or determined by the committee unless at least three members including the Chairman or the Vice-Chairman are present.

(4.) The Committee or the Officer of Government shall give notice to the applicant of the time place at which appreciation will be hard and after taking such evidence and making such enquiries as may be deemed necessary in the presence of the objector or his agent if he appears, pass such orders as are through fit in respect of such application.

(5) If the committee or the officer of Government order that at any valuation to which the application relates shall be reduced brief reasons for such reduction shall be recorded.

(6) The decision of the committee or of a majority of the member thereof or of the officer of Government in respect of any application referred to in this section shall be final.]

**97. Limitation of time for application for review-** Unless good cause shall be shown to the satisfaction of the aforesaid committee or officer of Government far extending the time allowed, and save as is otherwise expressly provided in this Act, no such application shall be received after the expiration of one month from the date of publication of the notice required by section 94, relating to the list of register containing the assessment, in respect of which the application is made, or after, the expiry of fifteen days from the date of service of the first notice of demand for payment at the rate in- respect of which the application is made, whichever period shall last expire:

Provided that, if the Board has served a notice under section 94 on any person no such application shall be received from him after expiration of fifteen days from the date of such service.

**98. Assessment to be questioned only under Act-** No objection shall be taken to any assessment or valuation in any other manner than in the Act provided.

**99. Tax not invalid for want of form** -No assessment of tax on property and no charge or demand of any tax made under authority of this Act shall invalid for error or defect of form, and it shall be enough in any valuation or assessment for the purpose if the property so valued or assessed is so described as to be generally known and it shall not be necessary to name the owner or occupier thereof.

## RECOVERY OF TAXES

**100. Recovery from occupier of tax due from non-resident owner-** If any tax payable under this Act by owner of any holding remains unpaid after the notice of demand has been duly service and such owner be not resident within the municipality or the place of abode of such owner be unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct, from the next and following payment of his rent the amount which may be so paid by or recovered from him:

Provided that no arrear of tax which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof.

Provided also that if any such holding is occupied by more than one person, the sum to be recovered from any one of such persons shall be proportionate to the value of the part of the holding in occupation of such persons.

**101. Recovery by owner of occupier's tax in certain cases-** If any holding shall be occupied by more than one tenant holding severally, it shall be lawful for the Board, to recover from the owner of such holding, any taxes payable under this Act by the occupier also of the holding.

**102. Recovery by owner of occupier's tax paid by owner-** whenever any tax shall be recovered from any owner of any holding under the provisions of the preceding section, it shall be lawful for such owner, if there shall be but one occupying tenant of such entire holding to recover from such tenant the entire amount of the tax which shall have been so paid by such owner, and, if there shall be one occupying tenant of a part of such holding or more than one occupying tenant of such holding then to recover from such tenant or each of such tenants such sum as shall bear to the entire amount of tax which may have been so recovered from such owner the same proportion as the value of the portion of such holding in the occupation of such tenant bears to the entire value of such holding, subject, however to the provisions of the next succeeding section.

**103. Method of recovery by owner-**Every owner who, under the provisions of the preceding section, may be entitled to recover any sum from any occupying tenant of any holding or of any portion thereof, shall have for the recovery of such sum all such and the same remedies, powers, rights and authorities, as if such sums were rent payable to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

**104. Taxes when payable-** (i) the amount due by any person on account of any tax on the annual value of holdings, shall be deemed to be the amount entered in the register, the notice relating to which is published under section 94 unless the amount entered in such register is subsequently altered as provided in this Act, in which case the amount to which the assessment is so altered shall be deemed to be the amount due.

(2) Such tax shall be payable in quarterly installments and every such installments shall be deemed to be due on the first day of the quarter in respect of which it is payable.

**105. Office hours for receipt of money-** (i) the Board shall, by notice to be posted up in their office, declare at what hours of each day (not being a Sunday or other recognized holyday) the office shall be open for the receipt of money and the transaction of business.

(2) Receipts to be given- For all sums, paid on account of any tax fee or other moneys due under this Act a receipt stating the amount and the tax, fee or other charge on account of which it is paid shall be given, signed by the tax collector or by some other officer authorized by the Board to grant such receipts.

**106. Bill and notice of demand-** (i) Within three months after any sum has become due on account of any tax, toll or fee, the Board shall cause to be presented to the person liable to the payment thereof a bill and a notice of demand for the said sum, which shall contain a statement of the period and of the tax, toll or fee on account of which the charge is made.

Provided that no charge shall be made in respect of the service of such bill or notice.

(2) Such bill and notice shall be signed by or stamped with a facsimile signature of the Chairman, Vice-Chairman or an Officer duly authorized in that behalf.

**107. Issue of process of attachment-**(1) If any person, after service upon him of such bill and notice, do not, within fifteen days of the service of such notice or from the date of any other made on application for review under section 96, pay the sum due, either to the Board at their office or to some person authorised by them to receive, the money, or show

to the Board sufficient cause for not paying the same, the amount of the arrear due, with costs according to the prescribed scale of fees, may at any time within six months after the date of service of the said notice, or of the other made on an application for review as aforesaid, be levied by attachment and sale of any movable property belonging to the defaulter, except plough, plough cattle, tool or implements of agriculture or trade and articles required for worship or prayer wherever found or of any or of any movable property belonging to any other persons, subject to the same exceptions, which may be found, within the holding in respect of which such defaulter is liable to such tax, toll or fee:

Provided that when the holding in respect of which the default is committed is a place of business, and the movable property attached is shown to the satisfaction of the Board to have been left there for repairs or safe custody in the ordinary course, of business, it shall be released.

Provided also that, if the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such attachment, or by reason of any payment he may make to avoid such attachment or any sale under the same.

(2) Penalty at the rate of three and one-eighth per cent shall be charged on the arrears with effect from the sixteenth day following the date of the service of notice under section 106 (1) or of the order made on the application for review under section 96.

**108. Attachment how to be made-** (1) Every warrant of attachment and sale under the preceding section shall be issued by the Board and shall be in the prescribed form. Attachment shall be made by actual seizure of movable property, and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

(2) when a warrant of attachment is issued it shall be not be discharged before it is executed except upon payment of the sum due together with one fourth of the costs referred to in section 107.

(3) Such officer shall make in the presence of witness an inventory of all movable property seized under the warrant, and shall give not less than ten day's previous notice of the sale, and of the time and place thereof by beat of drum, in the municipality or ward in which the property is situated, and by serving on the defaulter a notice in the prescribed form provided that, if the property is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent, at any time after the expiry of six hours from the seizure.

**109. Power of officer to break door-** the officer charged with the execution of the warrant may, under the special order of the Chairman or Vice-Chairman, between sunrise and sunset, break open any outer or inner door or window of a house in order to make the attachment, if he has reasonable ground for believing that such house contains any movable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made he cannot otherwise obtain admittance:

Provided that he shall not enter or break open the door of any room appropriated for the use of women, or residence of women, which by the usage of the country is considered private, without giving an opportunity and facilities for the retirement of the women.

**110. Sale how to be conducted** -(1) If the sum due be not paid with cost before the time fixed for the sale, or the warrant be not discharged or suspended by the Board, the movable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs.

(2) The surplus sale-proceeds, if any, shall be credited to the Municipal Fund and may be paid on demand to any person who establishes his right to the satisfaction of Board or in a Court of competent jurisdiction.

(3) The tax collector or other officer authorised in that behalf shall make a return of all such sale to the Board in the prescribed form.

**111. Certain person prohibited from purchasing at sales** -All Commissioners, officers and servants or of the Board, and all chowkidars constables and other officers or police are prohibited from purchasing any property at any such sale.

**112. Board to keep account of attachments and sales.**-The Board shall cause a regular account to be kept of all attachment and sales made for the recovery of taxes, toils and fees under this Act.

**113. Sale of property beyond limits of Municipality:-**If the is Board is unable to recover under section 110 the sum due with costs, the Magistrate may, on the application of the Board issue a warrant to any officer of his Court for the attachment and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the magistrate, or for the attachment and sale of any movable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction within the state of Assam, and such other Magistrate shall endorse the warrant to issued, and cause it to be executed, and, the amount, if levied to be remitted to the Magistrate issuing the warrant who shall remit the same to the Board.

**114. Attachment or sale not unlawful for want of form-** No attachment on sale made under this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any error, defect or want of form in the bill, notice, summons, warrant of attachment, inventory other proceeding relating thereto.

**115. Board may bring suits instead of distraining on failure of attachment-** Instead of proceeding by attachment and sale or in case of failure to realize thereby the whole or any part of any tax, the Board may sue the person liable to pay the same in any Court of competent jurisdiction.

**116. Liability of purchaser for vendor's share of tax-**the purchaser of any a holding or part of a holding, in respect of which any sum is due at the time of purchase on account of any tax under this Act, shall subject to provision of sub-section (3) of Section 84 be liable for the said sum.

#### LICENSE FEES ON CARTS, CARRIAGES AND ANIMALS

**117. License fee on carts, carriages and animals-** (1) when it has been determined that license fees on carts, carriages and animals shall be imposed under Section 68, sub-section (1), the Board at a meeting shall make an order that the owner of every cart, carriage and animal of the kind specified therein, which is kept or used with in the municipality shall take out a license and pay such fees as are fixed in the order to be published in the manner prescribed.

(2) The Board may at the approval of the State Government, determine the maximum number of cart and carriages, which may be licensed under sub-section (1)

(3) The order under sub-section (1) shall be published at least one month before the beginning of the half year in which it shall first take effect and shall specify the fees not exceeding such amounts as may be prescribed by rule, which shall be charged in respect of such licenses:

Provided that the Board may permit the owner of any such cart, carriage or animal which is casually brought within the municipality to keep or use the same within the municipality without a license for such period not exceeding 30 days in the half year as may be fixed by the Board.

(4) No license shall be required in respect of:

- (a) horses or ponies belonging to officers doing regimental duty at the rate of one animal for each officer;
- (b) carts, carriages or animals belonging to Government, or to the Board or to any local authority or for keeping which for the execution of their duty an allowance is made by any Government or by the Board or by any local authority to any their officers;
- (c) animals used by, or exclusively for the purposes of, any regiment;
- (d) horses or ponies used by police officers at the rate of not more than one for each officer;
- (e) carts, carriages or animals kept for sale by any bona fide dealer in such carriages or animals, and not used for any other purposes.

## NOTES

### ASSAM (AMENDMENTS)

Sec. 117-After sub-section (1), the present sub-section (2) was inserted by Assam Act No. XVII of 1962, published in the Assam Gazette, dated 31.7.1962 to come into force at once and the original sub-sections (2) and (3) were renumbered as presently sub-sections (3) and (4).

In the present sub-section (3), the words "The order under section (1) were substituted for the words "such order", vide the same Amendment Act of 1962.

**118. Fees so fixed to continue until altered-** any order of the Board imposing license fees under the preceding section shall continue in force until rescinded, and the fees shall be charged at the rates specified in the order published as afore said unless and until the Board at a meeting, held not less than one month before the end of the financial year, make and publish an order specifying and different fees which shall be charged for the ensuing financial year.

**119. Licenses how to be obtained-**In any municipality in which license fees have been imposed under Section 117, the owner of every cart, carriage and animal specified in the order under the afore said section shall, within the first month of each half year forward to the Board, a statement in writing, signed by him, containing description of the carts, carriages and animals for which he is bound to take out a license.

Such owner shall, at the same, time pay to the Board such sum as shall be payable by him for the current half year for the carts, carriage and animals specified in such statement,

according to the fees specified in any order for the time being in force under the two preceding sections.

**120. Proportionate fee on carts, carriages, etc., acquired during half year-**If any person acquires possession, at any time after the commencement of any half-year, of any cart, carriage of animal specified in the order under Section 117 in respect of which no license has been given for such half-year, he shall forward a statement as above required within one month of the date on which he may have acquitted possession thereof, and shall pay such amount of fee as shall bear the same proportion to the whole fee or the half-year as the un expire portion of the half-year bear to the half-year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

**121. On payment of fee, Board to give a license-**On receiving the amount of the fees due as aforesaid, the Board, or some persons authorized by them in that behalf, shall give to the person paying the same a license and a token of registration number for the several carriages and animals for the period in respect of which the amount is received.

Such license shall be for the current half-year.

**122. Cart, carriages, etc., liable to fee, although the owner the absent-**Whenever the owner of any cart, carriage or animal liable to pay the said fee is not resident within the limits of the municipality ton which the fee is due, the person in whose immediate possession the cart, carriage or animal is for the time being kept shall take out a license for the same.

**123. Penalty -** Whoever keep or is in possession of any cart, carriage or animal without the license required by any of the three preceding sections shall be liable to a fine not exceeding four times the amount payable by him in respect of such license, inclusive of the amount so payable.

**124. Board may compound with livery stable-keepers-** the Board, at their discretion, may compound on any period not exceeding one year, with livery stable keepers and other persons keeping carts, carriages or animals for hire, for a certain sum to be paid for the carts, carriages, or animals so keep by such person in lieu of the license specified in any order made by the Board under Section 117 and 118.

**125. List of licensed persons to be prepared-** The Board shall, from time to time, cause to be prepared and entered in a book, to be kept by them, and to be opened to the inspection of any person interested therein, list of persons to whom during the then current half-year a license has been given and of the carts, carriages and animals in respect of which they have paid the fees.

**126. Power to inspect stables, etc. and to summon persons liable to the payment of the fee, --**The Board, 'or any person authorized by them in that behalf, may at any time between sunrise and sunset enter and inspect any stable or coach-house, or any place wherein they may have been reasons to believe that there is any cart, carriages or animal liable to the license fee for which a license has not beer duly taken out.

And the Board may summon any person whom they have reasons to believe to be liable to the payment of any such fee or any servant of such person, and may examine such person or servant as to the number and description of the carts, carriages and animals in respect of which such person is liable to pay license fees.

**127. Refund of fee in certain cases-**On proof being given to the satisfaction of the Board that a cart, carriage or animal, for which a license has been taken out for any half-year, has

ceased to be use or kept for use, within the municipality during the course of such half-year, the Board shall order a refund of so much of the license fee for the half-year as shall bear the same proportion to the whole fee for the half-year as the period during which such cart, carriage or animal has not been so kept or used in the municipality bears to the half-year, but no such refund shall be allowed unless notice be given to the Board within one month of the time when such cart, carriage or animal ceased to be so kept or used, and except for special caused shown, the Board shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

127-A. License fee on boats.-(1) When it has been determined that license fees on boats shall be imposed under Section 68, sub-section(1) (o), the Board, at a meeting, shall make an order that the owner of every boat which is kept or used within the municipality shall take out a license in the form to be prescribed by the Board and pay such fees as are fixed in the order and cause such order to be published locality. The license taken out shall remain valid for one year after which it shall be renewed:

Provided that in no case the rate of license fee shall exceed the following without the prior approval of the State Government:-

- |  |                              |
|--|------------------------------|
| (a) Steamer or vessel propelled by stream, motor) electrical or other mechanical power including flat or tugs. | Rs. 20.00 (twenty) per annum |
| (b) Country boat with a capacity of more than 3,000 kilograms but less than 9,331 kilograms.                   | Rs. 10.00 (ten) per annum.   |
| Row boat, skiff or other like craft.   | Rs. 5.00 (five) per annum    |

(2) Whoever own or is in possession of any boat with out a valid license shall be punishable with a fine not exceeding One hundred rupees.

#### NOTES ASSAM (AMENDMENT)

Section 127-A-This section was inserted by Assam Act No. XXIX of 1966, Published in the Assam Gazette, dated 24-11-1966, to come into force at once.

#### REGISTRATION OF DOGS AND CATTLE

128. Registration and numbering of dogs and cattle -When it has been determined that fees on the registration of dogs or cattle shall be imposed under Section 63, sub-section (l) (h), the Board at a meeting shall make an order that every old, or cattle which is kept Within the municipality, shall be registered by the Board with the name and residence of the owner and shall bear the number of registration in such manner the said Board shall direct.

Such order shall be published at lease one month before the beginning of the half-year in which it shall first take effect and shall specify the fee, not exceeding such amounts as may be prescribed by rule which shall be paid for each registration.

## NOTES

### ASSAM (AMENDMENTS)

Section 128-The word "cattle" wherever occurring in this section was inserted vide Assam Act No. II of 1966.

129. **Fees so fixed to continue until altered.** --Any order of the Board ordering registration. Fees to be paid under the proceeding section shall continue in force until rescinded and the fees shall be charged I at the rates specified in the order published as aforesaid.

130. **Period of registration.**- The registration of dogs or cattle shall be made and the numbers assigned, yearly or half-yearly, upon such days as the Board shall notify.

## NOTES

### ASSAM (AMENDMENTS)

Section 130-The 'word "cattle" wherever occurring in this section was inserted vide Assam Act No. II of 1966.

131. **Proportionate payment of fee-** If any person acquires possessions, at any time after the commencement any period of registration, of any dogs or cattle which have not been registered for such period, he shall register the same within one month from the date on which he may have acquired Possession thereof, and shall pay such amount of fee as shall bear the same proportion to the whole fee for the Current period of registration as the unexpired portion of the current period of ~ registration bears to the whole of such period, and such fee shall be calculated from the date on which such person may have acquired ' possession as aforesaid.

## NOTES

### ASSAM (AMENDMENTS)

Section 131-In this section the word "cattle" wherever occurring was inserted vide Assam Act No. II of 1966.

132. **Transfer of ownership.** -When the ownership of any registered dog of cattle is transferred with any period of registration it shall be registered a new within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding twenty-five paise shall be paid for every such last mentioned registration.

## NOTES

### ASSAM (AMMENDMENT)

132-In this section the word "cattle was inserted and for the words 'four annas" the words 'twenty five paise" were substituted were Assam Act No. II of 1966.

133. **Penalty** -Whoever keeps, a dog or cattle not duly registered as required by any of three proceeding sections shall be liable to a find not exceeding four times the amount payable by him in respect of such registration, inclusive of the amount so payable.

## NOTES



## ASSAM (AMMENDMENTS)

Section 133-In this Section the word "cattle" was inserted vide Assam Act" No. II of 1966 published in the Assam Gazette, dated 10-1-66.

**134. Seizure and sale of unlicensed cart, carriage or animal-**(1) If any person owns or keeps any cart, carriage or animal herein before required to be licensed without a license, the board, or and person authorized by them in that behalf, may seize and detain such cart, carriage or, animal (provided the same be not employed at the lime of seizure in the conveyance of any passengers or goods); and all police officers are required, on the application of the Board, or of any servant of the Board duly authorlsed in that behalf, to assist in the said seizure.

(2) After such seizure the. Board shall forthwith issue a notice in writing that after the expiration of ten days they will sell such cart carriage or animal by auction at such place as they may state in the notice; and, if any license fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue such of notice, the Board may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(3) The surplus sale-proceeds, if any shall be credited to the municipal fund and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction:

Provided that, if at any time before the sale is concluded, the person whose cart, carriage of animal has been seized so all tender to the Board, or to the person authorised by them to sell the cart, carriage or animal the amount of all the expenses incurred and the registration fee payable by him, the Board shall forthwith release the cart, carriage or animal so seized.

(4) Notwithstanding anything contained in this section, the surplus or, the sale, proceeds of a cart, carriage of animal seized under this section may be devoted to the payment of any fine, imposed under the proceeding section; and any cart, carriage or animal which has been seized under this section may be sold for the realization of any such fine.

**135. Prohibition of double fees-**Nothing contained in this Act shall be deemed to authorised two or more local authorities to levy between them, more then one fee for the same period in respect of any cart, carriage or animal and in the event of any dispute arising as to which of several local authorities is to levy the fee or as to how the fee levied is to be apportioned between several local authorities, the question shall be referred to the State Government and its decision, shall be final, provided that, where one of the local authorities is a cantonment authority, the decision of the State Government shall be subject to the concurrence of the Central Government.

## TOLLS AND BRIDGES

**136. Power of Board to establish toll bars and levy tools** -The Board of a meeting, with the previous sanctioned of the State Government, may establish a toll-bar on any bridge within the municipality which has before or after the date of the commencement of this Act, been constructed or purchased out of the municipal fund, or to the cost of the constructed or purchase of which contribution has, before or after the said date, been made out of the

municipal fund and may levy tolls at such toll-bar on persons ,vehicles and animals passing over such bridge:

Provided as follows:

(1) No toll-bar shall be established or tolls levied otherwise than for the purpose of recovering-

(a) the expenses incurred by the board in constructing, purchasing contributing to or widening such bridge;

(b) interest on such expenses, at the rate of six per centum per annum;

(c) the capitalized value of the receipt in respect or any public ferry, the proceeds of which are under the order of the State Government placed at the disposal of the Board, will lose partially or completely owing to the construction of such bridge; and

(d) the capitalized value of the estimated cost to the Board of maintaining such bridge, and of renewing it if required, periodical renewal.

(2) No toll-bar shall be established, or tolls levied, on, or in, respect of any bridge, the cost or estimated cost of which at indicated in clauses (s), (c) and (d) of proviso (1) was or is less than two lakhs twenty-five thousand rupees.

**137. Lease of toll-bar-**The Board may grant a lease, for any period not exceeding three years of any toll-bar established under Section 136.

**138. Procedure where two or more local authorities have contributed towards cost of bridge-**When the Board with any other local authority having jointly constructed, purchased or contributed towards the cost of the construction or widening of a bridge, have received the sanction of the State Government to the establishment of a toll-bar the toll shall be levied or granted in lease by such local authority as the State Government may, in it other according sanction, direct and the proceeds or such tolls, or of the lease thereof, shall, be adjusted between the local authorities according to rules made in this behalf by the State Government, provided that where one of the local authorities concerned is a cantonment authority, the powers of the State Government under this section shall be exercisable only with the concurrence of the Central Government.

**139. Exemptions from payment of toll-** The following persons and things shall be exempted from payment of tolls at any toll-bar established under section 136, namely:

(a) Government Stores and persons in charge thereof;

(b) In areas declared as "Operational Areas" by the Government of India;

(i) stores, including animals and vehicles conveying such stores meant for the Defence Services personnel, supplied through the Defence Services Installations, e.g., military farms, officers shops, supply depots and canteens, etc., whether run by the Defence Department or through contractors and

(ii) the person in charge of such stores;

(c) police officers and other public officers and their servant traveling on duty. Commissioners of the Board and officer of the municipality and their servants so traveling, person in the custody of any of the officers aforesaid, property belonging to or in the

custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such property;

(d) conservancy carts and other vehicles and animals belonging to the Board and persons in charge thereof; and

(e) any other class of persons or things which may be exempted by order of the Board of State Government.

(2) Nothing in this section shall be deemed to affect the provisions of the Indian Tolls (Army and Air Force) Act, 1901 (Act II of 1901)

**140. Rates of tolls-**(1) When it has been determined that tolls shall be levied at any toll-bar established under Section 16, the Board shall, from time to time, make and publish an order specifying the rates at which the tolls shall be levied.

(2) A table of such tolls legible printed or written in English and the Vernacular of the district, shall be affixed in some conspicuous portion near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

(3, In details of compliance with sub-section (2), the toll-collector or the lessee of the toll-bar, as the case may be, shall be liable to a fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first day during which the default continues.

**141. Power to compound for toll-** The Board or the lessee of any toll-bar may compound with any person for a certain sum to be paid by such person for himself or for any vehicles or animals kept by him in lieu of the rates specified under Section 140.

**142. Power of toll-collector or lessee in case of refusal to pay toll-** any toll-collector or lessee of a toll-bar established under Section 136 may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

**143. Penalty for refusing to pay toll-** wherever having rendered himself liable to the payment of toll refuses to pay the toll, shall be liable to a fine which may extend to fifty rupees.

**144. Police officers to assist-**where resistance is offered to any person authorized under this Act to collect tolls, any police officer whom he may call to his aid shall be bound to assist him; and such police officer shall, for that purpose, have the same powers as he has been in the exercise of his ordinary police duties.

**145. Penalty for taking unauthorized toll-** when any person authorized to collect toll, realize any tolls higher than the tolls authorized under this Act, he shall be punishable with fine which may extend to fifty rupees and in default of payment, to imprisonment for a term which may extend to one month.

**146. Board to publish expenses of toll-hours-** (1) When a toll-bar has been established and tolls have been levied under Section 136 in respect of any bridge, the Board shall, at the end of each financial year, publish by causing to be affixed at their office, an abstract account showing-

(a) the amount of the expenses incurred by the Board in constructing, purchasing, contributing to or widening the bridge;

(b) the amount of interest which has accrued or is due on such expenses;

(c) the capitalized value of the receipts in respect of any public ferry which the Board will lose partially or completely owing to the construction of such bridge;

(d) the capitalized value of the estimated cost of maintaining the bridge, and where it requires periodical renewal, of removing its, and

(e) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) When such expenses, interest and capitalized value have been recovered as aforesaid, such toll-bar shall forthwith be removed and tolls no longer be levied on such bridge.

#### POUNDS

**147. Function in regard to pounds-** Every Municipal Board shall, in regard to the establishment, maintenance and management of pounds perform such function as may be transferred to it by notification under Section 31 of the Cattle Trespass Act 1871 (Act of 1871), and lease out pounds, when so transferred, according to rules framed under this Section.

#### MARKETS

**148. Rents tolls and fees-(l)** The Board at a meeting may use their own land or building or, purchase, take on lease or otherwise acquire any land or building for the purpose of establishing a municipal market or improving any existing municipal market.

(2) The Board at a meeting may levy rents, tolls and fees at such rates as it may think proper for the right to expose goods for sale in a municipal market and for the use of shops, stalls and standings therein and also may regulate such rates in respect of private markets or places used or declared by the Board as a market place by public notice in locality.

(3) The Board may grant a lease according to rules under this Section for a period not exceeding three years for the collection of rents, tolls and fees in municipal markets at the rates prescribed by the Board under sub-section (2).

(4) A lease of municipal market appointed under sub-section (3) may refuse to allow any person to expose goods for sale in the market or to use shops, stalls and standings therein until the proper rents tolls and fees have been paid.

(5) whoever having rendered himself liable to the payment of rents, tolls or fees refuse to pay the same shall be liable to a fine which may extend to fifty rupees and shall also be liable to be evicted from the place shops, stall or standing in the market used by him.

(6) When resistance is offered to any person authorized to collect rents, tolls or fees, any police officer whom he may call to his aid, shall be bound to assist him, and such police officer shall for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

(7) Whoever realizes rents, tolls or fees at rates higher than the rates fixed under sub-section (2) shall be liable to a fine not exceeding fifty rupees.

## NOTES

### ASSAM (AMENDMENT)

Section 148-In sub-section (5), the words “and shall also be ..... market used by him” were added by Assam Act No. XVII of 1962, published in the Assam Gazette, dated 31-7-1962, to come into force at once.

### RECOVERY OF MISCELLANEOUS DEMANDS

**149. Recovery of money due to the Board-**(1) All rents, tolls and fees and all costs, expenses or other moneys due under this Act to the Board may be recovered in the manner provided in sections 106 to 115, both inclusive.

(2) Where any sum is due on account of rent from a person to a Board in respect of land vested in, or entrusted to the management of the Board, the Board may apply to collector to recover any arrear of such rent as if it were arrear of land revenue. The procedure will not apply in the case of rents mentioned in sub-section (23) of Section 148 the realization of which will be governed by the provision contained in sub-section (1) of this section.

### SUPPLEMENTAL PROVISIONS

**150. Power to sell unclaimed holding for money due-** If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act and if the owner of such holding or his whereabouts are unknown or the ownership thereof is disputed or when the owner lives outside the municipality and has failed to pay on spite of service of demand notice, twice the Board may publish twice at an interval of three months, a notification of sale of such holding and after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit forthwith twenty five percent of the purchase money. The balance shall be paid within fifteen days of the date of sale, in default the money if any, so deposited shall be forfeited and the holding shall be resold, and the shortage, if any may be recovered by the Board from the defaulter as arrears of municipal tax in the manner provided in this Act, After deducting the amount due to the Board aforesaid, the surplus sale proceeds, if any, shall be credited to the municipal fund and may be paid on demand to any person who established his right to the satisfaction of such Board or in a court of competent jurisdiction.

Any person may pay the amount due, at any time before the completion of the sale and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

**151. Irrecoverable taxes, etc-** The Board may order to be struck of the books the amount of any tax or fees on other demand which may appear, to them to be irrecoverable.

## CHAPTER VI

### POWER FOR SANITARY AND OTHER PURPOSES

**152. Power to close a public road-** (1) the Board may close temporarily any public road, or part of a public road for the purpose of repairing such road, or for the purpose of

constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose; or divert, discontinue or close permanently, any such road;

Provided that the Board so closing any such road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road;

Provided also that the power to divert, discontinue or close permanently any road shall only be exercised by the Board at a meeting.

(2) Whenever, owing to such repairs or construction, or from any other cause, any such road or part of such road shall be in a state which is dangerous to passerby, the Board shall cause sufficient barriers or fence to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

(3) When any public road or part thereof is permanently closed, the Board at a meeting may sell or lease the site of so much of the road way as is no longer required, making due compensation to, or providing means of access for, any person who may suffer damage by such closing. In determining such compensation, allowance shall be made for any benefit accruing to the same premises or any adjacent premises belonging to the same owner from the construction or improvement of any other public road at or about the same time that the public road on account of which the compensation is paid, is closed. Provided that the Board cannot sell or otherwise dispose of the site if it is vested in the Board under Section 62 and is not of the nature specified at Section 63.

**153. Prohibition of use of public road by class of animals or vehicles-** (1) The Board may, by public notice prohibit or regulate the driving, riding or leading of animals or vehicles of any particular kind along any public road or part of any such road.

(2) any person who disobeys an order passed by the Board under the provisions of sub-section (1) shall be liable to a fine not exceeding twenty rupees.

154. [Deleted).

#### NOTES

#### ASSAM

Section 154-This section was omitted by the Assam Act No. 1 of 1953 published in the Assam Gazette, dated 7 January 1958 to come into force at once.

**155. Power to require repair of public roads and drains and to declare such roads and drains-**(1) When the Board consider that in any road or drain, not being a public road or drain whether or not previously leveled, paved, metalling, channeled, sewerred or repaired out of the municipal or other public funds, or in any part of such road or drain, within the municipality, it is necessary, for the public health, convenience or safety that any work should be done for the leveling, passing, metalling, flagging, channeling, draining, lighting or cleaning of the lands or buildings, fronting, adjoining or abutting upon such road or drain or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

(2) If such notice is not complied with during the wing time specified the Board may, if it thinks fit, execute the work mentioned or referred to therein, and may, if it thinks fit recover under the provisions of Section 149 the expenses incurred in doing so from the

owners in default according to the frontage of their respective lands or buildings and in such proportion as may be decided by the Board.

(3) After such works has been carried-out by such owners or, as provided in sub-section (2) by the Board at the expenses of such owners the road or drain or part thereof in which such work has been done may, with the consent of the owners be declared to be a public road or drain, and shall on such declaration vest in the Board.

**156. Permission to deposit movable property on or to excavate or enclose a public road or land-** The Board may grant permission to any person, for such period and on such terms as it may think fit to deposit any movable property on any public road or any land vested in the Board, or to make an excavation in any such road or any such land, or to enclose the whole or any part of any such road or of such land, and may charge such fees as it may fix for such permission:

Provided that such person undertakes to make due provision for the passage of the public and to erect sufficient fences to protect the public from injury, danger or annoyance, and to light such fences from sunset to sunrise sufficiently for such purpose.

**157. Boards to set up during repairs-** (1) Every person intending to build or take down any house, or to alter or repair the outward part of any house shall, if any public road will be obstructed or rendered inconvenient by means of such work, before beginning the same, cause sufficient hoards or fences to be put up in order to separate the house where such works are being carried on from the road, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the Board, during such time as the public safety or convenience requires and shall cause the same to be sufficiently lighted during the night.

Provided that no person shall put up such board or fence without the written permission of the Board, nor, shall be keep up the said board or fence for a time longer than allowed in the said written permission.

(2) Any person who contravenes the provision of sub- section (1) or who without written permission erects sets up any hoppling, scaffolding or fence whatsoever, or who, being permitted fails to put up such hoarding, scaffolding or fence or to continue the same standing, or to maintenance the same in good condition, or who does not while such hoarding or fence is standing keep the same sufficiently lighted during the night, or who does not remove the same within forty-eight hours when directed by the Board, shall be liable for every such offence, to a fine not exceeding ten rupees for every day during which the offence is continued.

**158. Penalty for encroachment on public road, etc. -** Any person who without the permission of the Board-

(a) encroaches upon any public road or house gully or upon any public drain, sewer, aqueduct, water-course or ghat by making any excavation or by erecting any wall, fence grill, post, project on or other obstruction or by depositing any movable property thereon, or.

(b) takes up or alters the payments on other material, fences or posts on any public road.

Shall for every such offence, be liable to a fine not exceeding two hundred rupees and to a further fine not exceeding twenty-five rupees for every day during which the encroachment continues.

**159. Removal of obstruction or encroachment in or on public road-**The Board may issued a notice requiring any person to removed any building which he may have built or any

fence, rail, post or other obstruction or encroachment which he may have erected, on any public road house gully, public drain, sewer, aqueduct, water-course ghat or any land vested in the board; and, if such person fails to comply with such requisition within forty eight hours of the receipt of the same, the Magistrate may, on the application of the board, order that such obstruction or encroachment be removed; and there upon the board may remove any such obstruction or encroachment and the expenses there by incurred shall be paid by the person who erected the same.

**160. Procedure when person who erected obstruction cannot be found-** (1) If the person who built or erected the said building, fence, rail, post or other obstruction or encroachment referred to in the proceeding section is not known or cannot be found, the Board may cause a notice to be posted in the neighbourhood of the said building, interested in the same to remove it, and it shall not be necessary to name any person in such requisition.

(2) If the said building, fence, rail, post or other obstruction or encroachment be not removed in compliance with the requisition contained in such notice within forty-eight hours of the posting of the same, the Magistrate may on the application of the Board, order that such obstruction or encroachment be removed; and thereupon the Board may remove any such obstruction or encroachment, and may recover the cost of such removal by sale of the materials so removed.

(3) The surplus sale-proceeds, if any, shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

**161. Projections from houses to be removed -**(1) The Board may issue a notice requiring the owner or occupier of any house to remove or alter any projection, obstruction or encroachment erected or placed against or in front, of such house, if the same overhangs the public roads or just into, or in any way projects or encroaches upon, or an obstruction to the safe and convenient passage along any public road or house-gully, or obstructs, or projects, or encroaches into or upon any drain, sewer, or aqueduct in any public road or into or upon any public water-course or ghat or any land vested in the Board.

(2) If such owner or occupier fails to comply with such requisition within forty-eight hours of the receipt of the same or within such further time as the Board may allow, the Magistrate may on the application of the Board, order that such projection, obstruction or, encroachment be removed or altered; and thereupon the Board may remove or alter such projections, obstruction or encroachment, and any reasonable expense incurred for the purposes of such removal or alteration shall be paid by the defaulting owner or occupier.

(3) If the expense 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.

(4) The expenses incurred for removal under Section 159 and sub-section (2) of this section shall unless paid by the owner or the occupier be recovered by sale of the materials so removed. If the sale, proceeds do not cover the expenses, the portion not so covered shall be realized, in case of Section 159 from the person who erected the same and in case of sub-section (2) of this section from the owner or the occupier, as arrears of municipal tax. The surplus of sale proceeds, if any, shall be credited to the municipal fund.



NOTES  
ASSAM (AMENDMENTS)

Section 161-In this section the sub-section (4) was inserted vide Assam Act No. II of 1966, published in the Assam Gazette, dated 10-1-1966.

**162. Power of District and Subdivisional Magistrate to remove encroachments-** Notwithstanding anything contained in Section 159 and 161, a District Magistrate or a Subdivisional Magistrate may within his jurisdiction, on being so empowered by the State Government, order any person responsible for any obstruction or encroachment or projection as specified in Sections 159 and 161 to remove or alter such obstruction or encroachment or projection within a period not less than forty-eight hours and on non-compliance with such order may take all necessary steps to remove or alter such obstruction or encroachment or projection and realize the expenses thereby incurred from the person concerned as fine in a Criminal Court:

Provided that in case the person or person responsible for such obstruction, encroachment or projection is/are not known or cannot be found the procedure laid down in Section 160 shall be followed.

**163. Effect of order made under Sections 159, 160, 161 or 162-** Every order made by a Magistrate under Sections 159, 160, 161 or 162 shall be deemed to be an order made by him in the discharge of his judicial duty and the Board shall be deemed to be persons bound to exercise such order within the meaning of the Judicial Officers' Protection Act, 1850 (Act XVIII of 1850).

**164. Power to regulate line of buildings on public roads and drains-** (1) Whenever a Board considers it expedient to define the general alignment of buildings on each either side of any existing or proposed public road or drain, it shall give public notice of its intention to do so.

(2) Every such notice shall specify a period within which objections will be received, and a copy of such notice shall be sent to every owner of premises abutting on such road or drain who is registered in respect of such premises on the books of the municipality; provided that accidental failure or omission to serve such notice on any owner shall not invalidate proceedings under this section.

(3) The Board shall consider all objections received within the specified period and may then pass a resolution defining the said alignment and the alignment so defined shall be called "the regular line" of the road or drain.

(4) Every order made under sub-section (3) shall be widely published by beat of drum in the locality and a copy thereof affixed to the notice board in the office of the municipality.

(5) Thereafter, it shall not be lawful for any person to erect, re-erect or alter a building or part of a building so as to project beyond the regular line of the road or drain unless he is authorized to do so by a sanction given under Section 174 or by a permission in writing under this section and the Board is hereby empowered to grant such permission.

(6) Any owner of land who is prevented by the provision of this section from erecting re-erecting or altering any building on any land may require the Board to make compensation for any damage which he may sustain by reason of such prevention and upon the payment of compensation in respect of any land situated within the regular line of the road or drain such land shall vest in the Board.

(7) The Board may by notice, require within a reasonable time the alteration or demolition of any building or part of a building erected, re-erected or altered in contravention of sub-section (5).

**165. Erection of Platforms-** (1) No platform shall be erected, re-erected or extended upon or over any public road or drain without the previous sanction of the Board.

(2) The owner of every platform, except platforms which used for giving such access to the houses as the Board may consider necessary, shall if the Board in a meeting so direct take out a license for keeping the platform. For every such license there shall be paid annually a fee to be fixed by the Board at a meeting.

(3) Every such license shall remain in force for one year and shall be renewable annually.

(4) Any platform erected, re-erected extended or maintained in contravention of the provisions of sub-section (1), (2) and (3) shall be deemed to be an "obstruction" for the purposes of Sections 159, 160 and 161.

**166. Fallen building, etc, obstructing public road or drain to be removed by owner-** Whenever any building or other erection, or any tree falls down and obstructs any public drain or encumbers any public road, the Board may remove such obstruction or encumbrance at the expense of the owner of the same or may require him to remove the same within such time as the Board shall seem fit.

**167. Cutting of public road, passage of water, etc.-** If any person, in order to provide for the passage of water, or for any other purpose, shall, without the consent of the Board, dig or cut any public road, he shall be liable for a fine not exceeding twenty five rupees, and in addition be bound to pay these expenses incurred in filling up any excavation made by him or on his behalf in any public road.

**168. Board may require land holders to trim hedges, etc-** The Board may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any public road or and to cut and trim any trees or bamboos thereon over hanging any public road, drain or tank, or any well used for drinking purposes or obstructing any public road or drain or causing or likely because damage to any public road or drain or any property of the Board or likely to cause damage to person using any public road or fouling or likely to foul the water of any well or tank.

**169. Penalty for disobeying requisition under Section 159, 161, 164, 166 or 168-** Whoever being the owner or occupier of any house or land within a municipality, fails to comply with a requisition issued by the Board under the provisions of Section 159, 161, 164, 166 or 168, shall be liable for every such default, to a penalty not exceeding fifty rupees and to a further penalty not exceeding ten rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

**170. Names of public roads and number of houses-** (1) The Board at a meeting may cause a name to be given to any public road and to be affixed in such place as it may think fit,

and may also cause a number to be affixed to every house, and in like manner may, from time to time, cause such names and numbers to be altered.

## BUILDINGS

**171. Prohibition of building without sanction-**(1) No person shall erect, materially alter, or re-erect or commence to erect, materially alter or re-erect any building without sanction of the Board.

Provided that in an area in respect of which an authority has been constituted under the Assam Town and Country Planning Act, 1959, the power of giving sanction to erect, materially alter or re-erect or commence to erect, materially alter or re-erect any building shall vest in that authority and the sanction given by that authority shall be deemed to be a sanction of the Board.

(2) Every person who intends to erect, materially alter or re-erect any building shall give notice in writing to the Board of such intention.

When byelaws have been framed under section 302, no notice under sub-section (2) shall be considered to be valid until notice is served under clause (iii) with such information as is necessary under clause (iv) of that section.

*Explanation* - an alteration in a building for the purposes of this section and of byelaws be deemed to be material if it-

- (a) affects or is likely to affect prejudicially the stability or safety of the building or the condition of the building in respect of drainage, ventilation, sanitation or hygiene; or
  - (b) increase or diminishes the height or area covered by, or the cubical capacity of the building, or of any room in the building.
- (4) In the municipalities where water works are maintained it shall be compulsory for persons erecting or re-erecting buildings costing Rs. 5,000 or more (excluding cost of land and of improvement of land,) to install sanitary latrines. The Board shall without sanctioned if the plan and specification of the building submitted with the notice do not contain provision for installation of sanitary latrines.

## NOTES ASSAM (AMENDMENTS)

*Section 171 - the proviso to the sub-section (1) was inserted vide Assam Act No. II of 1956, published in the Assam Gazette, dated 10-1-1966, and in sub-section (4) the figure and word "Rs. 5000" was also substituted by the same Amendment Act.*

**172. Special provision for cases where bye-laws have not been made under Section 302, clause (iv)** - In any case in which no bye-laws have been made under Section 302. Clause (iv), the Board may within fourteen days of the receipt of the notice required by Section 171. Sub-section (2), require a person who has given such notice to furnish, within one week of the receipt by him of the requisition, information on all or any of the matters as to the matters as to which bye-laws might have been made, and in such case the notice, shall not be valid until such information has been furnished.

**173. Non-observance of bye-laws** -The Board at a meeting may dispense with the servance of any or all of the bye-laws made under Section 302, clauses (iii) and (iv), in regard to the erection, material alteration or re-erection of any building or class of buildings specified by it.

**174. Powers of Board to sanction or refuse-**(l) Within one month after the receipt of the notice required by Section '171:, sub-section(2), or clause (iii) of Section 302, the Board may refuse to sanction the building or may sanction it either absolutely or subject to such modification as it may deem fit in respect all or any of the matters, specified in Section 302, clause (iv); and the person erecting, materially altering or re-erecting any such building as aforesaid' shall comply with the sanction of the Board as granted in every particular.

(2) Should the Board neglect or omit for one month after the receipt of a valid notice to make and deliver to the person who has given such notice an order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposed building Absolutely.

Explanation-The Board may refuse, to sanction the erection, material alteration or re-erection of any building either on the grounds affecting the particular building or in pursuance of a general scheme adopted by the Board at a meeting restricting the erection or re-erection of building or any class of buildings within specified limits for the prevention of over-crowding, or in the interest of the resident, within such limits or for any other public purpose. Permission) may also be refused in any case in which there is any dispute between the Board and the applicant as to the title of the land or which it is proposed to erect the building until such dispute is decided.

(3) In giving permission for the building it shall be obligatory for the Board to conform to the land use pattern and zoning plan prepared by or under the authority of the State Government.

(4) The Board shall prepare within a specified period, to be decided upon by the State Government, road classification and road offset line and in giving building or land use permission, the Board shall conform to the road classification and road offset line and shall carry out the planning directions given by the State Government.

Explanation-Road offset line means an uniform distance measured from the center of the road and prescribed on either side of the road as the line beyond which only construction of house, wall or other fixtures is permissible.

## NOTES

### ASSAM (AMENDMENTS)

Section 174- The sub-section (3) and (4), including the explanation were inserted vide Assam Act No. II of 1966, published in the Assam Gazette, dated 10-1-1996.

**175. Lapse of sanction-**A permission to re-erect, materially alter or re-erect a building granted under this Chapter or deemed to have been given by the Boards shall unless it is renewed on an application! Made to the Board for this purpose, continue only for one year after the date on which it is granted, unless the work has been commenced within that period and in any case shall not continue for a period longer than two years from the said date unless it is so renewed

**176. Penalty for building without or in contravention of sanction** - Whoever erects, materially alters or re-erects, or commences to erect, materially alter or re-erect any building without the previous sanction of the Board, or in contravention of any directions given by the Board granting sanction under Section 174, shall be liable to a fine not exceeding one hundred rupees for every such offence, and to a further fine not exceeding five rupees for each day during which the offence is continued after he has been convicted of such offence.

**177. Power of Board in case of disobedience** - (1) Should a building be began, materially alter or erected-

(a) without sanction as required by Section 171 (1); or

(b) without notice as required by Section 171 (2); or clause (iii) of Section 302; or

(c) when sanction has been refused; or

(d) in contravention of the terms of any sanction granted; or

(e) when the sanction has lapsed; or

(f) in contravention of any bye-laws made under Section 302, clause (v);

the Board may by notice to be delivered within a reasonable time, require the building to be altered or demolished as it may deem necessary, within the space of thirty days from the date of the service of such notice:

Provided that no such notice shall issue in respect of the contravention of any bye-law the observance of which has been dispensed with under Section 173:

Provided also that the Board at a meeting may instead of requiring the alteration or demolition of any such building accept by way of composition such sum as it may deem reasonable.

(2) Any person who fails to comply with a requisition issued by the Board under the provisions of sub-section (1)\* shall be liable to a fine not exceeding five hundred rupees and to a further fine not exceeding fifty rupees for everyday during which the person continues to make such default after service on him of such requisition, \*provided where such person continues to default or fails to make such alteration or demolition of the building after the imposition of the fine, the Magistrate may, on an application to be made in writing by the Board, order the alteration or demolition of the building within a period of 30 days and on non-compliance of such order, may authorize the Board to take all necessary steps to alter or demolish such building and realise the expenses thereby Incurred from the owners or occupiers of the building.

**178. Compensation for prohibition of erection or re-erection** - Subject to any other provision in this Act as regards compensation, no compensation shall be claimable by an owner for any damage which he may sustain in consequence to the prohibition of the erection of any building.

**179. Roofs and external walls not to be made of inflammable materials** -The Board at a meeting may, by written notice require any person who has made any external roof or wall with thatch, mats, leaves or other inflammable materials in contravention of a bye-law made under Section 302 to remove or alter such roof or wall within a period to be specified in the notice.

**180. Power to attach brackets for lamps**- The Board may attach or cause to be attached to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

**181. Building unfit for human habitation**-(1) Should a building, or a room in a building be in the opinion of the Board unfit for human habitation in consequence of the want of proper

means of drainage or ventilation or otherwise, the Board may, by notice, prohibit the owner or occupier thereof from using the building or room for human habitation or suffering it to be so used either absolutely or unless, within a time to be specified in the notice, the effects such alteration therein as is specified in the notice.

(2) Upon failure of a person to whom notice is issued under sub-section (1) to comply there with, the Board may require by further notice demolition of the building room.

(3) Any person who uses a building or room or suffers it to be used contrary to the provisions of sub-section (1) shall be liable, for every such offence to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

#### NOTE

\*Amended vide Meghalaya Municipal (Amendment') Act 1973 (Meghalaya Act 12 of 1973).

**182. Power to require cleansing or lime-washing of building-** (1) If it appears to the Board for sanitary reasons so to do, it may authorize an officer of the municipality to inspect a building after due notice to the owner or occupier, it may then by a written notice require the owner or occupier of any building to cause the same or any portion thereof to be lime washed or otherwise cleansed either externally or internally or both externally and internally.

(2) Any owner or occupier of building, who fails to comply with a requisition issued under the provisions of sub-section (1) shall be liable, for every such default to a penalty not exceeding twenty-five rupees and to a further penalty not exceeding five rupees for every day which the default is continued after the expiration of eight days from the date of service on him of such requisition.

**183. Fencing of building in a dangerous state-(I)** A Board may require by notice the owner or occupier of any land or any land or building.

(a) to demolish, secure or repair within eight days from the date of service of the notice in such manner as it deems necessary any building, or portion of a building, wall or other structure or anything affixed thereto which appears to it to be in a ruinous condition or dangerous to inmates, if any, passers-by or other property, or

(b) to repair, secure or enclose, within eight days from date of the notice, in such manner as it deems necessary any tank, well or excavation belonging to such owner or in the possession of such occupier which appears to the Board to be dangerous to persons by reason of its situation, want of repair or other such circumstances.

(2) Where it appears to the Board that immediate action is necessary for the purpose of preventing imminent danger to any person or property, it shall be the duty of the Board to take immediate action and recover the expense so incurred from the owner or occupier of the building or the owner or occupier of the land to which such building or other structure or anything is affixed.

**184. Board may require owner to pull down ruins-**Whenever is appears to the Board that any building by reason of abandonment of disputed ownership or other cause is untenanted or by reason of having fallen into ruins, affords facilities for the commission of a nuisance by disorderly persons or for the harbouring of snakes or other noxious animals, the Board may require the owner of such building or the owner of the land to which such building is

attached, to property secure the same, or to remove or level such ruins, as the case may require.

**185. Penalty for disobeying requisition under Section 183 or 184-** Any owner or occupier of a house or land who fails to comply with a requisition issued by the Board under the provisions of Section 183 or 184, shall be liable, for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding twenty rupees for every day during which the default is continued after the expiration of eight days from the date of service on him such requisition.

#### TANKS, WELLS, STREAMS, ETC.

**186. Provision for drinking, water, bathing places, etc-** (1) The Board may, by order published at such places as it may think fit set apart convenient wells, tanks, ports of rivers, streams, channels or, water-courses, not being private property, for the supply of water for drinking or for culinary purposes and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid;

and may similarly set apart a sufficient number of the same for the purpose of bathing;

and a sufficient number for washing animals and clothes or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

(2) The Board may, by an order published at such places as it may think fit prohibit in the private portion of any stream, channel or water-course used as a part of the public water supply, bathing, washing of clothes or animals, or any act likely to pollute the water in the public portion of such stream, channel or water-course.

**187. Prohibition by Board of use of unwholesome water-** If the Assistant Director of Public Health Civil Surgeon, District or Sub-Divisional Medical Officer of Health or Health Officer certifies that the water in any well, tank or water-course situated within a municipality is likely, if used for any purposes, to endanger or cause the spread of disease, the Board may, by public notice, prohibit the removal or use of such water during a period to be specified in such order; in the case of a private well or tank require the owner of, or person having control over it, to close it permanently or to fill it up with suitable materials.

**188. Disobeying order under Section 186 or 187-** Any person who disobeys an order passed by the Board under the provisions of Section 186 or 187 shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

#### DANGEROUS OR INSANITARY HOLDINGS AND OTHER PLACES

**189. Power to require owners to clear noxious vegetation-** The Board may, by notice, require the owner or occupier of any land within such time as the Board may fix to cut and remove any trees or bamboos or branches thereto, or eradicate and destroy lantana, eupatorium, or other vegetation or undergrowth which may appear to the Board to be insanitary, injurious to health or offensive to the neighbourhood or to be causing or likely to cause damage or destruction to any crop growing or to be grown, or to be obstructing or likely to obstruct the free passage of men or animals along a public road, of any boat or stream vessel along a public waterway.

**190. Powers to require owners to improve bad drainage-** Wherever any land, being a private property, or within any private enclosure, appears to the Board by want of drainage

to be in a state injurious to health or offensive to the neighbourhood, or by reason of inequalities for the commission or the owners and occupiers of such land, within fifteen days to drain such land or level such surface:

Provided that, if the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being property of the person who is required to drain his land or to pay compensation to any other person, the Board shall provide such land and pay such compensation.

**191. Power to require unwholesome tanks or private premises to be cleansed or drained-**(1) The Board may require the owner or occupier of any land within eight days or such longer period as the Board may fix either to reexcavate or at his opinion fill up with suitable material or to cleans any well, water-course, private tank or pool therein, and to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood:

Provided that if, for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, the Board shall provide such land and pay such compensation.

(2) If under the provisions of this Act the Board execute the work or such re-excavation or filling up with suitable material, it may retain possession of the tank or pool or the site of such tank or pool and turn the same to profitable account until the expenses thereby incurred shall have been realised.

**192. Wells tanks, etc., to be secured** -If any or pool well, tank or other excavation, whether on public or private ground, be for want of sufficient repairs or protection, dangerous to passers-by, the Board shall forthwith require by notice such Owner or occupier or such owners and occupiers within eight days properly to secure or protect such well, tank or other excavation; and if after the said period the work is not executed, the Board shall cause a temporary board offence to be put up for the protection of passers by and recover the expenses so incurred from the owner or the owners and occupiers of the land on which tanks, well or other excavation is situated.

**193. Penalty for disobeying requisition under Section 189, 190, 191 or 192-** Any owner or occupier of a house or land who fails to comply with a requisition issued by the Board under the provisions of Section 189, 190 or 192 shall be liable for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding twenty rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

**194. Power of State Government to prohibit cultivation, use of manure or irrigation injurious to health-** If the Assistant Director of Public Health, Civil Surgeon, District or Sub-divisional Medical Officer of Health or the Health Officer certifies that the cultivation of any description of crop, or the use of any kind of manure or the irrigation of land, in any specified manner-

- (a) in any place within the limit of the municipality is injurious or facilitates practices which are injurious, to the health of persons dwelling in the neighbourhood, or



(b) in any place within or without the limits of the municipality, is likely to contaminate the water supply of the municipality or otherwise renders it unfit for drinking purposes,

the State Government may, on receipt of an application from the Board, by public notice prohibit the cultivation of such crop, the use of such manure, or the use of the method irrigation so certified to be injurious, or impose such conditions with respect thereto as may prevent the injury:

Provided that, if the act prohibited has been practiced in the ordinary course of husbandry at any time during the five successive years preceding the date of the prohibition, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by such prohibition.

**195. Power to prohibit excavations-** (1) The Board at a meeting may, by a general order, prohibit in the whole or any part of the municipality the making of excavations for the purposes of taking of earth or stone therefrom, or for the purpose of storing rubbish or offensive matter therein and the digging of tanks or pits without special permission previously obtained from it.

(2) If any such excavation, tank or pit is made after the issue and publication of such order without such special permission, the Board may require the owners and occupiers of the land on which excavation, tank or pit made within two weeks to fill up such excavation and in case of failure may cause such excavation to be filled up and recover the cost thereof from the person so required.

(3) Any person who contravenes an order made under sub-section (1) shall be liable, for every such offence, to a fine not exceeding twenty-five rupees.

**196. Public latrines and urinals-** the Board may provide and maintain in sufficient number and in proper situation public latrines and urinals for the separate use each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

**197. Permission to construct latrines and urinals which are to be properly enclosed-** (1) No person shall construct a latrine or urinal without a written permission of the Board.

Every person constructing a latrine or urinal shall have such latrine or urinal shut out by a sufficient roof and wall or fence from the view of persons passing by or residing in the neighbourhood; and the Board may require any owner or occupier of land on which a latrine or urinal stands to cause the same to be shut out from view as aforesaid within fifteen days.

(2) Any person constructing a latrine or urinal and failing to have it shut out from view as required in sub-section (1), shall be liable to a fine not exceeding twenty rupees and a daily fine of one rupee until it shall have been shut out from view.

**198. Power to require latrine or urinal to be constructed-** (1) If the Board thinks that any latrine or urinal or additional or common latrine or urinal should be provided for any house or land within the limits of the municipality, the owners of such house or land shall, within fourteen days after notice given by the Board, or within such longer time as the Board may for special reasons allow, cause such latrine or urinal to be constructed in accordance with the requisition, and, if such latrine or urinal is not constructed to the satisfaction of the Board within such period, the Board may cause the same to be constructed, and the expenses incurred shall be recoverable from the owner.

(2) Any person failing to comply with the requisition within the time allowed under sub-section (1) shall be liable to a fine of not exceeding twenty-five rupees and a daily fine of one rupee during which the default is continued.

(3) The Board may, for the purposes of this section or for the purpose of levying the latrine tax at a rate per had under Section 72, sub-section (2) (a), by a notice in writing require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in or habitually resorting to such holding.

(4) Whoever, being the owner or occupier of any holding, fails to furnish such list within the time specified in such notice, after being required to furnish the same by the Board shall be liable to a fine not exceeding one hundred rupees.

**199. No latrine, etc., to be constructed in certain circumstances-** (1) No person shall, without a special permission of the Board, construct a latrine or urinal with a door or a trap door opening on to any public road or drain.

(2) No person shall, without the written permission of the Board construct or keep any latrine, urinal, cesspool, drain or other receptacle for sewage or other offensive matter within fifty feet of any public tank or water-course or a tank of water course which the inhabitants of any locality use, or any well.

(3) The Board may require any owner and occupier upon whose land any latrine or urinal such as is mentioned in sub-section (1) or any latrine, urinal, cess-pool, drain or other receptacle so situated as is mentioned in sub-section (2) exists, or may hereafter be constructed to remove the same within eight days.

(4) Any person who contravenes any provision of sub-section (1) and (2) shall be liable for every such offence to a fine not exceeding fifty rupees.

(5) Any person who fails to comply with an order under sub-section (3) shall be liable to a fine of fifty rupees and daily fine of five rupees during which the offence is continued.

**200. Inspection of latrines, etc.-**The Board, or any person authorised by it in that behalf may inspect all latrines urinals, cess-pools, drains and other receptacles for sewage or other offensive matter at any time between sunrise and sunset, after six hours' notice in writing to the occupier of premises in which such latrines, urinals, cess-pool, drains or receptacles are situated, and may if necessary cause the ground to be opened here if or he may think fit for the purpose of preventing or removing any nuisance arising from such latrines, urinals, cess-pools, drains or receptacles, and the expenses thereby incurred, if the Board so requires, shall be paid by the owner or occupier of such premises. The expense of causing the ground to be closed and made good as before shall be borne by the Board,

**201. Power to require owner or occupier to repair latrine, etc.-**The Board may require the owner or occupier, or the owner and occupier of any land, within fifteen days to repair and make efficient any latrine, urinal, cess-pool, drain ore receptacle for sewage or other offensive matter or to close any latrine, urinal, cess-pool or receptacle which is situated on such land.

**202. Penalty for not keeping latrine, etc., in proper order-** If the owner or occupier of any latrine, urinal, cess-pool, drain or other receptacles for sewage or other offensive matter neglects or refuses, after warning from the Board, to keep the same in a proper state of repair' and efficiency, he shall be liable to a penalty not exceeding fifty rupees and a daily fine not exceeding five rupees during which the offence is continued;

Provided that no person who pay a latrine tax shall be liable to punishment for non-compliance with the provision of this section where the default is exclusively due to the failure of the Board to perform its obligation under this Act.

**203. Power to alter any latrine, etc, made contrary to orders-** (1) If any latrine, urinal, cess-pool, drain or other receptacle for sewage or other offensive matter be defective or be constructed contrary to the directions of the Board, or contrary to the provisions of this Act or any bye-law passed under this Act; or if any person without the consent of the Board constructs re-builds or opens any latrine, urinal, cess-pool, drain or receptacle which has been ordered by it to be demolished or closed up or not to be made, the Board may cause such addition or alteration to be made in any such latrine, urinal, cess-pool, drain or receptacle as it thinks fit or may cause the same to be removed, and the expenses thereby shall be paid by the persons by whom such latrine, urinal, cess-pool, drain or receptacle was improperly constructed rebuilt or open.

(2) The person by whom such latrine, urinal, cess-pool, drain or receptacle is improperly constructed, rebuilt or opened shall also be liable to a fine not exceeding fifty rupees and a daily fine not exceeding five rupees during which the offence is continued.

**204. Power to demolish unauthorized drains leading into public sewer-** (1) If any person, without the written consent of Board first obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any sewer, drain, water-course road or land vested in the Board, the Board may cause such branch drain to be demolished, altered, re-made or otherwise dealt with as it shall think fit, and the expenses thereby incurred shall be paid by such person making or altering such branch drain.

(2) The person so making or altering such branch drain shall also be liable for every such offence to a fine not exceeding fifty rupees.

**205. Penalty for allowing water of any sewer, etc., to run on any public road-** Whoever causes or allows the water of any sink, sewer, latrine urinal, cess-pool, or any other offensive matter belonging to him or being in his land, to run or be thrown or put upon any public road, or causes or allow any offensive matter to run, drawn or be thrown into a surface, drain near any public road, shall be liable to a fine not exceeding twenty-five rupees and daily fine not exceeding five rupees during which the offence is continued.

**206. Power to require owner to drain land-** If any land, being within one hundred feet of a sewer, drain or other outlet into which such land may, in the opinion of the Board be drained, is not drained to the satisfaction of the Board, the Board may require the owner within one month to drain the said land into such sewer, drain or outlet.

**207. Penalty for disobeying requisition under Section 201 or 206-** Any person who fails to comply with a requisition issued by the Board under the provisions of Section 201 or 206 shall be liable, for every offence to a fine not exceeding twenty-five rupees and a further fine not exceeding five rupees for every day during which he shall continue to make such default after service on him of such requisition.

**208. Power to drain group or block of houses, etc., by a combined operation-** (1) If it appears to the Board at a meeting that a group or block of houses may be drained or improved more effectively, economically or advantageously in combination than separately and if a sewer, drain or other outlet already exists or is about to be constructed within one

hundred feet of any part of such group or block of houses, the Board may cause such group or block of houses to be so drained and improved .

and the expenses thereby incurred shall be recovered from the owners of such houses in such proportions as shall to the Board seem fit.

(2) Not less than one month before any such work is commenced, the Board shall give to each owner-

(a) a written notice of the nature of the proposed work;

(b) an estimate of the expenses to be incurred in respect thereof and on the promotion of such expenses payable by him.

#### CONTROL IN RESPECT OF PUBLIC HEALTH

**209. Public Health Administration-** The Director of Health Services may, from time to time as occasion requires, recommend for adoption, by the Municipal Board, such measures as may be necessary for improving the public health administration or for safeguarding the public health therein:

Provided that if on account of financial or other resources, any Municipal Board is unable to carry out such measures or if there is any difference of opinion between the Municipal Board and the Director the matter shall be referred to the State Government whose decision shall be final.

**210. Inspection by Public Health Department-**The District or the Sub-divisional Medical Officer of Health, as the case may be, shall regularly but not less than twice a year inspect the different areas of the municipalities in their jurisdiction and send copies of their recorded notes to the Municipal Board concerned and to the Director of Health Services. The Municipal Board shall consider the inspection notes at the next meeting of the Board and submit a report of the action taken or proposed to be taken to the State Government through the Director of Health Services who shall forward a copy of the report with his comments and suggestions to the State Government.

(2) The Assistant Director of Public Health shall also make inspection of the municipal areas as often as is possible and his inspection reports shall be dealt with in the same manner as stated in sub-section ( ).

#### REMOVAL OF SEWAGE OFFENSIVE MATTER AND RUBBISH

**211. Establishments for removal of sewage offensive matter and rubbish-** (1) The Board shall provide for the removal-

(a) of sewage, rubbish and offensive matter from all public latrines, urinals and drains and from all public roads, and allover property vested in the Board and

(b) in any municipality wherein a latrine-tax has been imposed under Section 68 (1) (d), sewage and offensive matter from all private latrines, urinals and cess-pools,

and for the disposal of such sewage, rubbish or offensive matter and for the cleansing of such latrines, urinals, drains and cess-pools, and shall maintain sufficient establishment, animals, carts, motor trucks and implements for the said purposes.

(2) Whenever an order such as is referred to in Section 214 shall have been published, no sweeper or other servant of the Board employed to move or deal with sewage, offensive matter or rubbish shall willfully absent himself from his duties without the permission of the Board, or unless he has given notice in writing not less than one month previously of his intention so to withdraw, shall withdraw from the employment of the Board without its permission.

(3) Any sweeper or other such person who, after the said publication, contravenes the provisions of sub-section (2), shall forfeit his licence and all salary which may be due to him and he shall also be liable to a fine not exceeding twenty rupees.

**212. Sewerage Scheme-** A Board may also introduce a sewerage scheme for removal of sewage by flushing with water through underground closed sewers. When a Board introduces such a scheme in its area the Board may where felt necessary, with the approval of the State Government, levy additional latrine and water taxes to meet the cost and maintenance of such scheme.

**213. Power to require removers sewage to take out licence** -The Board at a meeting may make an order requiring all persons employed in the removal of sewage, offensive matter and rubbish within the limits of the municipality or any part thereof, to take out licences, and to be servants of the Board for the purpose of removing sewage, offensive matter and rubbish from premises within the said limits.

**214. Removal of sewage, offensive matter and rubbish-**(1)The Board at a meeting may from time to time by an order published' in the prescribed manner appoint the hours within which sewage and offensive matter may be moved the manner in which the same shall be moved, as also the hours within which only every occupier of any house or land may place rubbish in a receptacle provided by the Board on or by the side of the public road.

(2) The Board may provide places convenient for the deposit of sewage and offensive matter and may require the occupiers of houses to cause the same to be deposited daily or at other stated intervals in such places and may remove the same at the expense of the occupiers from any house if the occupier thereof fails to do so.

(3) The Board may charge such fees as it may think fit in respect of the removal of such rubbish as is referred to in sub-section (1), with the consent of the occupiers of any house or land from such house or land or in respect of the removal from such public road of any rubbish which has accumulated in the exercise of a trade or business.

(4) Penalty for offence under this section-Any person who places or allows to place rubbish on a public road or in a receptacle provided by the Board under sub-section (2), shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

**215. Penalty on occupier for not removing filth, etc-**any occupier of a house on or near a public road who keeps or allows to be kept, for more than twenty-four hours or for more than such shorter time as may be appointed by the Board otherwise than in some proper receptacle, any bones, ashes, sewage or any noxious or offensive matter in or upon such house, or in any outhouse, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state or neglects to employ proper means to cleans the same shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

**216. Penalty for throwing offensive matter on Public roads, etc-**Any person who, without the permission of the Board, throws or put or permits his servants to throw or put, any sewage or offensive matter on any public road, or who throws or puts or permits his

servants to throw or put, any earth, rubbish, sewage or offensive matter into any sewer or drain belonging to the Board, or into any drain communicating therewith shall be liable for every such offence, to a fine not exceeding twenty-five rupees.

**217. Powers of servants of the Board-** All servants of the Board employed for the purposes mentioned in Section 211 may, within such hours as may be fixed by the Board, enter any premises or which the occupier or owner is liable to pay latrine tax and do all things necessary for the performance of their duties.

#### COMPOST MAKING

**218. Compost-** When the State government so requires, it shall be the duty of the Board to subject all offensive matter, rubbish and sewage to the process of making compost manure. For this purpose the Board at a meeting shall draw up a scheme for providing sufficient trenching grounds and taking other step as may be advised by the Agriculture Department of Government from time to time. The Local Officer of the Agriculture Department not below the rank of an Inspector, if required by the Board, may attend the meetings of the Board, when discussing this matter, to render such help as may be required by the Board in drawing the Scheme. The Board at a meeting may also set up an Advisory Committee consisting of such numbers of members of the Board as it may think fit and may also include in the said Committee any local Agriculture Officer of the status heretofore mentioned.

When the is required to undertake compost making, it shall be the duty of the Board to see that the entire collection of offensive matter, rubbish and sewage are disposed of in no other way than in the preparation of compost manure.

#### ABATEMENT OF NUISANCES

**219. Nuisance-** Without prejudice to the generality of the definition of the expression "Nuisance" contained in clause (30) of Section 3, the following shall be deemed specifically to be "nuisance" under this Act-

- (1) any premises in such a state as to be prejudicial to health;
- (2) any tank, pond, pool, ditch, gutter, water-course, water-trough latrine, cess-pool, drain or ashpit which is so foul or in such a state as to be prejudicial to health;
- (3) any animal kept in such a place or manner as to be prejudicial to health;
- (4) any accumulation or deposit of refuse or other matter which is prejudicial to health;
- (5) any factory, workshop or workplace, which is not provided with sufficient means of ventilation, or in which sufficient ventilation is not maintained, or which is not kept clean or not kept free from noxious effluvia, or which is so overcrowded while work is carried on as to be prejudicial to the health of those employed therein;
- (6) any fireplace or furnace which does not as far as practicable consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill factory, dyehouse, brewery, bake-house or gas work, or in any manufacturing or trade process whatsoever;
- (7) any chimney sending forth smoke in such quantity as to be a nuisance; and
- (8) any noise, vibration, dust, cinders, irritating small or offensive odour produced by a factory, workshop or workplace which is a nuisance to the neighbourhood.

**220. Inspection for removal of nuisance-** Every Municipal Board shall-

(a) cause it local area to be inspected frequently with a view to ascertain what nuisance exist therein calling for abatement; and

(b) serve the owner or occupier of the land on which the nuisance exist with a notice to remove the same within such time as the Board may fix.

**221. Notice to remove nuisance-** If the person on whom a notice has been served under the preceding section fails to comply with its requirements within the time specified therein if the nuisance although abated within such time is, in the opinion of the Board likely to recur, the Board may arrange for the execution of any work necessary to abate the nuisance or to prevent its recurrent, as the case may be, and may recover the cost from such person as it were a tax due to the Board.

**222. Complaint against nuisance-** Any person aggrieved by a nuisance in any area may give information of the same to the Board. Upon receipt of such information the Board shall make an inquiry and if satisfied of the existence of nuisance may proceed in the manner laid down in the two preceding sections.

#### PRIVATE MARKETS

**223. Power to prohibit use of unlicensed-** (1) The Board at a meeting may order that within such limits as it may fix, no land shall be used as a market otherwise than under a license to be granted by the Board. The license may be for one year and thereafter liable to renewal annually.

(2) On the issue of an order as in sub-section (1) the Board at a meeting may grant a license for the use of any land as a market:

Provided that the Board shall not-

(a) refuse a license for the maintenance of a market lawfully established on the date of such order coming into force, if application be made within six months from such date except on the ground that the place where the market is established fails to comply with any conditions prescribed by or made under this Act; or

(b) cancel, suspend or refuse to renew any license granted under such order for any cause other than the failure of the license to comply with the conditions of the license, or with any provisions prescribed by, or made under this Act.

**224. Penalty for using unlicensed market-** Whoever, being the owner or occupier of any land, willfully or negligently permits the same to be used as a market without a license under Section 223, shall be liable to a fine not exceeding five hundred rupees for every such offence, and to a further fine not exceeding two hundred rupees for each day during which the offence is continued after conviction of such offence.

**225. Power to close licensed places-** (1) A Magistrate, on the application of the Board, may order any land in respect of which a conviction shall have been obtained under the preceding section to be closed a market place, and thereupon may make order to prevent such land being so used.

(2) Every person who shall sell or expose for sale any article intended for food or drink or any live-stock or other merchandise on any land which shall have been so closed, shall be liable, for every such offence, to be fine not exceeding ten rupees.

**226. Markets slaughter-houses, etc, to be properly drained-** (1) Every owner, occupier or farmer of a market, or of any place for the sale of meat, poultry, fish or vegetables, or any slaughter-house, within the limits of a municipality, shall make or cause such drains to be made therein shall be considered sufficient by the Board, and if required to do so by the Board, shall cause all the floors and drains to be paved with stone or burnt brick, and cemented, and shall also cause a supply of water to be provided, sufficient for keeping such market, place or slaughter-house in a clean and wholesome state and shall also provide adequate ventilation, lighting of shops and stalls and passages and ways to or in such market.

(2) If any such owner, occupier or farmer, after notice in writing given to him by the Board that such market, place or slaughter-house is defective in any of the particulars specified in sub-section (1) and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

(3) If the owner, occupier or farmer of a market makes default as aforesaid, the Board may enter into possession of the market and execute such improvement mentioned in sub-section (1) as it deems fit, and may receive all rents, tolls and other dues in respect of the market and retain possession thereof for recovery of the sum expended by it on the works of improvement:

Provided that the Board shall vacate the market if it appears that the sum expended by it on the works of improvement has been realized; and that the surplus, if any, remaining after the payment of the expenses incurred shall be paid on demand to any person who establishes his right to the satisfaction of the Board or in a court of competent jurisdiction.

#### SALE OF FOOD

**227. Sale exposing for sale etc., of food-** Any person directly or indirectly selling, exposing for sale, hawking or manufacturing, storing or possessing for sale any adulterated food, shall be dealt with in accordance with the provisions of the Prevention of Food Adulteration Act, 1954 (Act 37 of 1954). For this purpose the Board shall appoint at least one Inspector for the areas under its jurisdiction and may authorize such other persons to exercise such of powers of an Inspector as may be prescribed by rules under the prevention of Food Adulteration Act, 1954 (Act 37 of 1954)

#### REGULATION OF FACTORIES, WORKSHOPS, OFFENSIVE TRADES, ETC.

**228. Factory, etc, not to be newly established without permission of the Board-** (1) No person shall newly establish in any premises within the municipality any factory, workshop or work-place in which it is intended to employ steam, water or other mechanical power or electrical power, without previous written permission of the Board which the Board may grant with prior approval of the District or the Sub-divisional Magistrate, as the case may be.

(2) The application for permission shall be accompanied by a plan of the factory, workshop, work place and sufficient particulars as regards the power, machinery and plant.



(3) The Board, shall, as soon as may be, after the receipt of the application-

(a) grant the permission applied for either absolutely or subject to such condition as it thinks fit to impose; or

(b) refuse permission if it is of opinion that the establishment of such factory, workshop, or work place in the proposed site, -

(i) would be objectionable by reason of the density of the population in the neighbourhood thereof, or

(ii) would be a nuisance to the inhabitants of the neighbourhood, or

(iii) for any other sufficient reason.

(4) Before granting approval to such permission, the District or the Sub-divisional Magistrate may obtain the opinion of the Chief Inspector of Factories and Civil Surgeon.

(2) The Board may suspend or cancel any permission granted under this section if it considers that there has been any breach in the conditions imposed.

(6) Any person who establishes a factory workshop or work place in contravention of sub-section (1) shall be liable to a fine not exceeding five hundred rupees and to a further fine not exceeding fifty rupees for every day during which the factory workshop or work place is maintained after he has been convicted of such offence.

(7) Factory dealt with in this section means a factory to which the provisions of the Factories Act, 1948 (Act LXIII of 1948) do not apply.

**229. Certain offensive and dangerous trades not to be established within the limits to be fixed by the Board without license-** (1) Within such local limits as may be fixed by the Board at a meeting, no place shall be used without license from the Board which shall be renewable annually, for any of the following purposes, namely: -

(a) meeting tallow;

(b) boiling offal or blood;

(c) skinning or disemboweling animal;

(d) the manufacture of bricks, pottery, tiles or lime in a kiln, panja or clamp or by any other similar method;

(e) as a soap-house, oil boiling house, dyeing house;

(f) as tannery, slaughter-house;

(g) as a manufactory or place of business from which the offensive or unwholesome odour may arise;

(h) as a yard or depot for hay, straw, bamboo, thatching grass, jute or other dangerously inflammable material for the purpose of any trade;

(i) any store-house for kerosene, petroleum, naphtha, coal-tar or any inflammable oil or spirit or wholesale stock of matches exceeding one hundred gross;

- (j) as a shop for the sale of meet;
- (k) as a place for the storage of rags or bones, or both;
- (l) tea stall;
- (m) sweetmeat stall;
- (n) hotel or eating house;
- (o) aerated water;
- (p) bakery, including biscuit factory.

(2) Such license shall not be withheld unless the Board has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the neighbourhood.

(3) The Board at a meeting may, subject to such restrictions, if any, as it may impose, extend the provisions of this section to yards or depots for trade in coal, coke, timber or wood.

(4) The grant of a license for the purposes mentioned in clause (i) of sub-section (1) shall be consistent with the provisions of the Indian Petroleum Act, 1899 (Act VIII of 1899), and no such license shall be granted unless the said provisions have complied with by the applicant for the license.

#### NOTES

Section 299- The Board is a statutory authority constituted under the Act. In refusing renewal of a license, under sub-section (2) of this section, it exercise a statutory power affecting the right of a citizen to carry on trade or business. When the Board directs a person to close down his established hotel or restaurant such an order certainly involves civil consequences. Even though the Board's order may be administrative in character, it has to be made consistently with the principles of natural justice, in as much as it involves civil consequences so far as the affected citizen is concerned.

**230. Cinemas, dramatic performances, circuses, etc-** (1) No place within the municipality shall be kept open for the purposes of regular gain by means of public cinematographic exhibition, dramatic performances, circuses, variety shows, or a place of public resort for similar recreations or amusements unless a license has been granted therefore by the Board at a meeting which license shall be annually renewable, and in accordance with such conditions as the Board, subject to rule, may think fit to impose:

Provided, firstly, that such conditions shall not be inconsistent with the terms of any license which may be required for such places under any other Act:

Provided, secondly, that this section shall not apply to private amateur performances or to performances held wholly for the benefit of a charity in any such place; and

Provided, thirdly, that notwithstanding the provision of sub-section (2) of Section 68 the imposition of a license fee exceeding rupees two hundred on any cinema house or other place of amusement as aforesaid shall require the approval of the State Government.

(2) No place within the municipality shall be used for the purposes of public cinematographic performances, circuses, variety shows, or as a place of public resort for similar recreations of amusements, otherwise than for the purpose of regular gain, unless a license has been granted for such purpose by the Board and in accordance with such conditions as the Board, subject to rule, may think fit to impose:

Provided, firstly, that such conditions shall not be inconsistent with the terms of any license which may be required for such place under any other Act:

Provided, secondly, that this sub-section shall not apply to private amateur performances or to performances held wholly for the benefit of a charity, in any such place, and

(3) If within a period of three months following the receipt of an application for license under sub-section (1) or (2) of this section the Board at a meeting or the Board, as the case may be, has not passed orders thereon.

either granting or refusing a license, it shall be deemed to have granted the license.

**231. Cancellation revocation, etc. of licenses-** (1) Subject to the provisions of section 233 any license granted under section 230 by the Board at a meeting, or the Board, as the case may be, may, at any time, be suspended or revoked by the authority granting the license, if any of the restrictions, limitations, or conditions attached to the license be evaded or infringed by the grantee, or if the grantee be convicted of a breach of any of the provisions of the Act or of any rule or bye-law made there under in any matter to which such license relates, or if the grantee has obtained the same by misrepresentation or fraud.

(2) When any such license is suspended or revoked, and until such order of suspension or revocation is cancelled, or when the period for which it was granted, or the period within which application for renewal should be made has expired, whichever expires later, the grantee shall for all purposes of this Act, or any rule or bye-law made under this Act, be deemed to be without a license.

**232. Publication of order of refusal, suspension, etc, of license-** Every order granting, refusing, suspending revoking, or modifying a license under Section 230 or Section 231, as the case may be, shall be in writing, shall state the ground on which is proceeds, shall be published on the notice board of the Board's office, and shall also be served on the owner of the premises concerned within fourteen days.

**233. Appeals under sections 230 and 231-** Any person aggrieved by an order granting, refusing, suspending or revoking a license under Section 230, or 231, as the case may be, may, notwithstanding anything contained elsewhere in this Act, appeal-

(a) to the State Government in the case of an order passed by the Board at a meeting;

(b) to the Deputy Commissioner in the case of an order passed by the Board;

Provided that no such appeal shall be entertained unless it is received within thirty days of the date of the order complained of.

The decision of the State Government, or the Deputy commissioner, as the case may be, shall be final and shall not be questioned in any Court.

**234. Power to order the use of slaughter houses and the carrying on of dangerous and offensive trade to be discontinued-** (1) If it be shown to the satisfaction of the Board at a meeting that any place licensed under Section 229 causes any nuisance or is injurious to the health of the neighbourhood, it may notwithstanding anything contained in the said section, give notice to the occupier to discontinue the use of such place within one month after the date of such notice:

Provided that such notice shall be given until the license shall have been given reasonable opportunity of showing cause against such notice and the Board shall refund so much of any fee levied in respect of such place under Section 68, sub-section (2) as may be proportionate to the unexpected portion of the year for which the license was granted.

(2) If any person, after the expiration of the time specified in a notice issued by the Board under the provisions of sub-section (1), uses or permits to be used the place specified in such notice in such a manner as to be a nuisance or injurious to the health of the neighbourhood, he shall be liable to a fine not exceeding two hundred rupees and to a further fine not exceeding forty rupees for each day during which the offence is continued after he has been convicted of such offence.

**235. Power to prohibit private kilns-** Within such local limit as may be fixed by the Board at a meeting, no place shall, without the permission of the Board be used for the manufacture of brick, pottery tiles or lime in a kiln, panja or clam or by any other similar method.

**236. Penalty for offences under Sections 229, 230 and 235-** Any person who-

(1) without a license uses any place for any of the purposes specified in Section 229 or uses any place for the manufacture of bricks, pottery tiles or lime in contravention of the provisions of Section 235; or

(2) being a holder of a license under Section 299 breaks any condition of such license; or

(3) uses any place for the purpose of public cinematographic exhibitions, dramatic performances, circuses or variety shows or as a place of public resort for similar recreation or amusements, in contravention of the provisions of Section 230;

shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees every day during which the offence is continued after he has been convicted of such offence.

#### INFECTIOUS AND CONTAGIOUS DISEASES

**237. Steps to be taken on out-break of infectious diseases-** In the event of the prevalence or threatened out-break of any infectious disease in any municipal area, or of any unusual mortality therein, the Municipal Board concerned shall provide such staff, medicines, appliances, equipments and other things as may, in the opinion of the State Government, be necessary for the treatment of such infectious disease and preventing it from spreading.

**238. Information to be given of infectious diseases-** Any person who-

(a) being a medical practitioner and being cognizant of the existence of any infectious or contagious diseases in any dwelling other than a public hospital, or

(b) being the owner or occupier of such dwelling and being cognizant of the existence of any such disease therein, or

(c) being the person in charge of or in attendance of any, person suffering from any such disease in such dwelling and being cognizant of the existence of the disease therein, or

fails to give information forthwith to such officer as the Board direct, or give false information, respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees.

**239. Removal to hospital of patients suffering from infectious diseases-** In any municipality when any person suffering from any infectious or contagious disease is found to be-

(a) without proper lodging or accommodation, or

(b) living in a serai or other public hostel, or

(c) living in a room or house which neither he nor any one, of whom he is dependent, either owns or pay rent for

the Board, by any person authorized by it in this behalf, may, on the advice of an Assistant Surgeon I, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

**240. Disinfections of buildings and articles-** (1) If the Board is of opinion that the cleansing or disinfecting of a building or any part thereof or of any article therein, which is likely to retain infection, will tend to prevent or check the spread of any disease, it may, by notice, require the owner or occupier to cleansed or disinfect the same in the manner and within the time prescribed in such notice.

**If-**

(a) within the time specified as aforesaid from the receipt of the notice the person on whom the notice is served fails to have the building or part thereof or the article disinfected as aforesaid within the time fixed in the notice, or

(b) the occupier or the owner, as the case may be, give his consent, the Board may, at the cost of such owner or occupier, cause the building or part thereof and articles to be cleansed and disinfected:

Provided that the Board may in its discretion pay the whole or nay part of such cost.

**241. Penalty for letting infected house-** Every person knowingly letting a house or other building or part of a house or building in which any person suffering from an infectious or contagious disease, had lived without having such house or other building or part thereof and all articles retain infection disinfected thereafter to the satisfaction of the Board therein liable to shall be liable to penalty not exceeding two hundred rupees.

For the purpose of this section a hotel or lodging house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging house.

**242. Provisions of places and appliances for disinfection-** The Board may-

(a) provide proper places, with all necessary attendants and apparatus for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection.

(b) cause conveyance, clothing or other articles bought for disinfection to be disinfected free of charge or subject to such charge as may be approved by it, and

(c) direct any clothing, bedding or other articles likely to retain infection to be disinfected or destroyed and shall give compensation for any article destroyed under this section.

**243. Act done by person suffering from certain diseases-** whoever, while suffering from an infectious, contagious or loathsome disease-

(a) makes or offers for sale any article or food or drink for human consumption or any medicine, drug or clothing, or,

(b) willfully touches any such articles, medicine, drug, or clothing when exposed for sale by orders, or

(c) takes any part in the business of washing or carrying soiled clothes, shall be punishable with fine which may extend to twenty rupees.

**244. Exposure of person suffering from infectious disease-** Any person who-

(a) while suffering from any infectious or contagious disease willfully exposes himself in any road, public places, shop, bazaar or any place used in common by persons other than members of the family or household to which such infected person belongs, or cause or suffers himself to be carried in a public conveyance, without proper precautions against spreading the said diseases, or

(b) being in charge of any person so suffering, so exposes such sufferer, or so carries or permits him to be carried in a public conveyance:

shall be punishable with fine which may extend to twenty rupees.

**245. Power of entry for purpose of preventing spread of diseases-** The Board may authorize an officer to enter, at any time between sunrise and sunset, after three hours' notice into any building or premises in which any infectious or contagious disease is reported or suspected to exist, for the purposes of inspecting such building or premises.

**246. Maintenance of conveyances by Board for certain purposes-** The Board may provide and maintain suitable conveyance for the free carriage of person suffering from any infectious or contagious disease or of dead bodies of person who have died from any such disease.

**247. Power to close market, tea stall etc-** (1) The Board may with a view to preventing the spread of any infectious or contagious disease, order that for a specified time, any market, tea stall or restaurant, hotel or lodging house within the municipality shall be closed, or forbid any person to attend such markets, tea stall or restaurant, hotel or lodging house.

(2) Such order shall be publicly notified in such a manner and at such places as the Board shall direct, and notice thereof shall be served on the owner, occupier or farmer of the market or the keeper of the hotel or lodging house, tea stall or restaurant.

(3) After complying with the notice, the owner, occupier, or farmer of the market or the keeper of the hotel or lodging house, tea stall or restaurant or any person interested may

appeal to the Deputy Commissioner, or where the Deputy Commissioner is the Chairman of the Municipality, to the Commissioner of Division, if he considers the notice to be unreasonable, and the order of the Deputy Commissioner or of the Commissioner of Division, as the case may be, shall be final.

(4) When an order has been notified under sub-section (2) and has not been set aside under sub-section (3), an owner, occupier or farmer of a market or the keeper of hotel or lodging house, tea stall or restaurant who neglects to close the market, hotel or lodging-house, tea stall or restaurant shall be liable to a fine which may extend to five hundred rupees; and any person who attends such market, hotel or lodging-house, tea stall or restaurant in contravention of the terms of the order shall be liable to a fine which may extend to fifty rupees.

**248. Power to close school-** (1) The Board may by notice, required the managing authority of any school situated within the municipality for a specified time with a view to preventing the spread of disease or any danger to health likely to arise from the condition of the school, either to close the school, or to exclude any scholars from attendance, and the managing authority shall comply with the notice.

(2) After complying with the notice, managing authority may appealed to the Deputy Commissioner or, where the Deputy Commissioner is the Chairman of the Municipality to the Commissioner of Division, if it considers the notice to be unreasonable, and the order of the Commissioner or the Commissioner of Division, as the case may be, shall be final.

(3) Any managing authority who fails to comply with the notice under sub-section (1) shall be liable to a fine which may extend to fifty rupees.

Explanation- Managing authority shall include Headmaster, Secretary or other person directly managing the school.

#### MOSQUITO CONTROL

**249. Eradication of Mosquitoes and prevention of their breeding-** It shall be the duty of the Municipal Boards to undertake Public Health work and also to formulate and execute schemes to eradicate mosquitoes and to prevent their breeding within the municipal areas.

#### EXTINCTION OF FIRE

**250. Establishment and maintenance of fire-brigade-** (1) For the prevention and extinction of fire, the Board at a meeting may resolved to establish and maintain a fire-brigade and to provide any implements, machinery, or means of communicating intelligence which the Board may think necessary for the efficient discharge of their duties by the brigade.

(2) The Board at a meeting may recognize and aid a volunteer fire brigade and provide for the guidance, training, discipline and conduct of the members thereof.

**251. Powers of Magistrate, Commissioner of Municipal Board, and other persons for suppression of fires-** (1) On the occasion of a fire in a municipality, any Magistrate, or any Commissioner of a Municipal Board, or the person in charge of a fire brigade maintained by the Board, and directing the operations in connection with the fire, or any police officer above the rank of constable, when so directed by the Magistrate or Commissioner, may-

(a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire, or for saving life or property.

(b) close any street or passage in or near which any fire is burning;

(c) for the purpose of extinguishing the fire or preventing its spread break into or pull down or cause to be broken into a pulled down or use for the passage of any house or other appliance, any premises;

(d) cause main and pipes to be shut off so as to give greater pressure of water in the place where the fire occurred;

(e) call on the person in charge of any fire engine to render such assistance as may be possible;

(f) generally take such measures as may appear necessary for the preservation of life or property.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) of this section in good faith.

(3) When the State Government pass an order to take over under its control the fire fighting services in a municipality, the Board shall make over the same to such authority, as the State Government may appoint in this behalf. When the fire fighting services are taken over by the State Government the concerning Board or any Commissioner thereof, as the case may be, shall cease to exercise any power under Section 250 and this section and no fee under Section 68 (1) (i) shall be levied with effect from the date from which the fire fighting organization of the Board is taken over by the State Government unless the State Government direct that the fee shall continue to be levied and the income derived there from shall be payable to the State Government after deducting reasonable connection charge as fixed by the State Government.

#### BURIAL AND BURNING GROUNDS AND THE DISPOSAL OF CORPSES

**252. Powers in respect of burial and burning places-** (1) The Board at a meeting may, from time to time out of the municipal fund provide fitting places to be used as burial or burning grounds either within or without the limits of the municipality.

(2) The Board may, by public notice, order any burial or burning ground situated within municipal limits or any municipal burial or burning ground outside such limits which is certified by the Civil Surgeon or Health Officer to be dangerous to the health of persons living in the neighbourhood, to be close, from a date to be specified in the notice, and shall, in such a case if no suitable place for burial or burning exist within a reasonable distance, provide a fitting place for the purpose.

(3) Should any person without the permission of the Board, bury or burn or cause, or permit, to be buried or burnt, any corpse at any place which is not a burial or burning ground or in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, shall be punishable with fine which may extend to fifty rupees.

(4) Private burial places in such burial grounds may be exempted from the notice, subjects to such conditions as the Board may impose in this behalf:



Provided that the limits of such burial places are sufficiently defined and that they shall only be used for the burial of members of the family of the owner thereof.

(5) No private burial or burning ground shall be made or formed within the municipality after the commencement of this Act, without the permission in writing of the Board.

**253. Burial of paupers-** The Board may, from time to time, out of the municipal fund provide for the burial or burning of paupers, free of charge within the limits of the municipality.

**254. Power to cause corpses to be burnt or buried according to the religious tenets of the deceased-** After the expiration of not less than twenty four hours from the death of any person, the Board may cause the corpse of such persons to be burnt and the expenses thereby incurred shall be recoverable as a debt due from the estate of such person. In every such case, the corpse shall be disposed of, so far as may be possible in manner consistent with the religious tenets of the deceased.

**255. Power to license fuel shops at burning grounds-** (1) The Board at a meeting may, from time to time, grant license to persons applying for the same, for the sale at burning grounds of fuel and other article used for the cremation of dead bodies and in case any such license is granted shall, from time to time, prescribe a scale of rates for the sale of such articles; and no person not so licensed shall within three hundred yards of any such burning grounds, sell or offer for sale any such fuel or other article.

(2) The Board may on good and sufficient cause, revoke or withdraw any such license as it may think fit, and any person to whom such license is granted, whose charges for the sale of any such article at any higher rate than the rate fixed, shall be liable to have his license cancelled and shall be also liable to a fine not exceeding fifty rupees.

#### DISORDERLY HOUSE AND PERSONS

**256. Powers over disorderly house and prostitutes-** (1) the Board at a meeting, may by one month notice in writing prohibit in any part of the municipality-

- (a) the keeping of brothel;
- (b) the residence of a public prostitute.

(2) Whoever contravenes an order notified under sub-section (1) shall be punishable with imprisonment for a term which may extend to eight days or with fine which may extend to fifty rupees and in the case of a continuing failure with an additional fine exceeding five rupees, for every day after the first in regard to which he or she is convicted of having persisted in the failure.

**257. Brothels-** On the complaints of the Board, or of three or more inhabitants of a municipality, that a house within the limits of the municipality is used as a brothel; or by disorderly persons of any description, to the annoyance of the inhabitants of the vicinity, or that any such house is used as a brothel in the neighbourhood of a cantonment or of an educational institution or hostel or of any place of worship, any Magistrate of the first class, having jurisdiction in the place where the house is situated, may summon the owner or tenant of the house and on being satisfied that the house is so used and that it is a source of annoyance to the neighbours or that it is in the neighbourhood of a cantonment or of an educational institution or hostel or of any place of worship, may order the owner or tenant to discontinue such use of it, and, if he fails to comply with such order within five days, may impose upon him a fine not exceeding twenty five rupees for every day thereafter that the house is so used.

## DOGS

258. **Token for dogs and disposal of mad and stray dogs-** (1) the Board may, by public notice require that every dog in respect of which a license fee has been paid and registered in the books of municipality, shall wear a collar to which shall be attached a token to be issued by the Board, and may from time to time, give notice that with effect from a date to be specified in the notice, every dogs found wandering within municipality without a collar bearing such a token will be liable to be destroyed or otherwise disposed of.

(2) The Board, by any person authorized by it in this behalf, may-

(i) destroy or cause to be destroyed or confine, or cause to be confined, for such period as the Board may direct any dog suffering from any loathsome disease or reasonably suspected to be suffering from rabies, or bitten by any dog or other animal suffering or suspected to be suffering from rabies;

(ii) confine, or cause to be confined any dog found wandering about roads or public places without a collar or other markets distinguishing it as private property and charge a fee for such detention, and destroy or otherwise dispose of any such dog if it is not claimed within one week and the fee paid;

(ijj) after a date specified in this behalf in a notice published under sub-section (1), destroy or cause to be destroyed or otherwise dispose of any dog found wandering about roads or public places without a collar bearing a token issued by the Board or other marks distinguishing it as private property.

(e) No damages shall be payable in respect of any dog confined, destroyed or otherwise disposed of under this section.

## EDUCATIONS

259. **Elementary Education:** (1) The Board shall be guided by the provisions contained in the Assam Elementary Education Act, 1962 (Assam Act XXX of 1962) and rules and orders thereunder in the discharge of their liability in respect of Elementary Education.

(2) Subject to as aforesaid, the Board may, with its own consent be charged by the State Government with, and made responsible for, the establishment, maintenance and management of any schools or class of schools other than basic schools, within the municipality. Subject to the approval of the State government the Board may make grants-in-aid to any schools, whether they are under public or private management.

## NOTES

### ASSAM (AMENDMENTS)

Section 259-The sub-section (I) was substituted vide Assam Act No. XIV of 1963, published in the Assam Gazette, dated the 4<sup>th</sup> May 1963 to come into force at once.

## MEDICAL

260. **Dispensaries, Hospitals asylums poor-houses and medical relief-** Subject to rule, the Board may-

(a) establish and maintain within the municipality, dispensaries, hospitals, chest clinics, asylums and places for the reception of the sick or destitute or contributes towards the cost of the establishment and maintenance of such institutions;

(b) with the previous sanction of the Commissioner of Division contribute such annual or other sum as may be agreed on towards the cost of the establishment or maintenance of any dispensary, hospital, asylum or place for the reception of the sick or destitute, which is situated outside the municipality, but is, or may be, ordinarily used by the inhabitants of the municipality;

(c) provide for the payment of allowances to medical practitioners for professional services rendered to the establishment employed by the Board;

(d) provide medicines or medical assistance for the poorer inhabitants of the municipality or take such measures as may appear to it to be necessary including the temporary employment of medical practitioners during the prevalence of diseases in the municipality;

(e) provide for the payment of expenses of any of the poorer inhabitants of the municipality for journeys to and from any inhabitants established in any part of India for the treatment of special diseases, and of their subsistence thereat, according to such scale as may be fixed by the Commissioner of Division.

#### MATERNITY AND CHILD WELFARE

**261. Maternity houses and child welfare centers, midwives for maternity cases and health visitors-** (1) The Board may establish and maintain within the Municipality, maternity Houses and Child Welfare Centers or may with the previous sanction of the State government contribute annual or other sum to any institutions doing maternity and child welfare works which are situated within the Municipality or outside the Municipality but are or may ordinarily used by the inhabitants of the Municipality.

(2) The Board at a meeting may provide (a) midwives for attendance in maternity cases, and (b) health visitors to visit and inspect any premises in the Municipality and to give advice to expectant mothers on their health and as to the proper nurture, care and management of young children and the promotion of hygiene.

#### VACCINATION AND INOCULATION

**262. Vaccination-**Every Municipal Board shall provide for the appointment, pay and management of vaccinators and inoculators and may provide for the promotion of free vaccination and inoculation in the municipal areas.

#### REGISTRATION OF BIRTHS AND DEATH

**263. Registration of births and deaths-**A Municipal Board, when required by the State Government, shall provide for the registration of births and deaths within its limits in accordance with the provisions of the Assam Births and Death Registration Act, 1935 (Act II of 1935).

#### INDUSTRIAL UNDERTAKING

**263-A. Industrial undertaking-** The Board may undertake industrial programmes sponsored or abided by the Khadi and Village Industries Commission or the State Khadi and Village Industries Board, and other Industries with prior approval of the State Government.

## NOTES

### ASSAM (AMENDMENTS)

Section 263-A- This section was inserted by the Assam Act No. II of 1966, published in the Assam Gazette, dated 10<sup>th</sup> January, 1966.

## CHAPTER VII

### WATER SUPPLY, LIGHTING AND DRAINAGE SYSTEMS

**264. Supply of drinking water-** (1) Every Municipal Board shall provide or arrange for the provision of a sufficient supply of drinking water for the inhabitants of the areas within its jurisdiction.

(2) The Board shall make adequate provision for securing-

(a) that the water supply is continuous throughout the year, and

(b) that the water supply is at all times pure and fit for human consumption.

(3) A Municipal Board shall also provide or arrange for the provision of sufficient supply of water for other domestic purposes or for non-domestic purposes.

**265. Satisfactory system of drainage-** (1) Every Municipal Board shall, so far as the fund at its disposal may permit, provide and maintain a sufficient and satisfactory system of public drains for the effectual drainage and its local area.

(2) If in the opinion of the State Government any area of the Municipality or part thereof should, for any special reason, be provided with a system of public drains or with other means of drainage, they may direct the Municipal Board to provide or execute, within such time as may be fixed by them in this behalf, such works as may be considered necessary by them.

(3) The Board shall at all time keep in good repair all drains cesspools and the like vested in or belonging to it.

### INTRODUCTION OF SCHEMES

**266. Sanction of scheme by State Government-** The State Government may, on the application, in accordance with rule, of any Municipal Board at a meeting, or of any such Board acting conjointly with any one or more of the local authorities specified in Section 4, sanction a scheme for water supply or for the introduction of a system of lighting by electricity or otherwise or for supply of gas or of a system of drainage or sewerage.

**267. Publication of scheme-** Before any scheme or a joint scheme for any of the purposes mentioned in Section 266 is sanctioned by the State Government there shall be published in the Official Gazette and locally the following particulars:

- (a) a general description of the scheme;
- (b) an estimate of the cost of carrying it out and its maintenance;
- (c) source from which the cost will be met; and
- (d) the amount of loan, if any, proposed to be taken.

**268. Scheme to be carried out by municipalities-** When a scheme has been sanctioned under Section 266, the Municipal Board or any of other local authorities concerned or a joint-committee constituted under Section 49, shall, if the tax on other moneys to be collected, received or recovered for or in respect of the supply of water or the lighting, drainage or sewerage system, be sufficient for the purpose, proceed to carry it out, or cause it to be carried out.

**269. State Government may appoint an officer to execute the works-** State government may order the works specified in any scheme as aforesaid, or any portion thereof be executed by an officer to be appointed by it, and may fix the remuneration of such officer; and may specify a period within which the work shall be completed and may extend such period from time to time as may be necessary.

#### GENERAL PROVISIONS RELATING TO THE LAYING AND CONNECTING OF PIPES, SEWERS AND THE LIKE

**270. Power of Board to lay or carry wires, pipes, drains, or sewers, through private land subject to payment of compensation for drainage sustained provided that no nuisance is created-**The Board may carry any wire, pipe, drain, sewer or channel of any kind for the purpose of providing or of carrying out and establishing, or maintaining a system of water supply, lighting, drainage or sewerage, through, across, under or over any road, place laid out as or intended for a road, and after giving reasonable notice in writing to the owner and occupier, into, through, across, under over or up the side of any or building whatsoever situated within the limits of the municipality, and for the purpose of introduction, distribution or outfall of water or for the removal or outfall of sewerage, without such limits and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such wire, pipe, drain, sewer or channel, as the case may be in an effective state for the purpose for which the same may be used or intended to be used:

Provided that no nuisance more than is necessarily caused by the proper execution of the work is created by any such operation; and

Provided, further, that reasonable compensation shall be paid to the owner or occupier or both for any damage at the time sustained by him or them and directly occasioned by the carrying out of any such operations.

**271. Provisions as to wires, pipes, drains or sewers laid or carried above surface of ground -**In the event of any wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over, or up the side of any building such wire, pipe, sewer drain, or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the full enjoyment of such

land or building and reasonable compensation shall be paid respect of any substantial interference with any such right to such enjoyment.

**272. Previous notice to be given-**Except as otherwise provided the Board shall cause not less than fourteen days notice in writing to be given to the owner or occupier before commencing any operation under Section 270.

**273. Power to permit connections with main-** (1) Subject to rule, the Board may, on the application of the owner or occupier of any premises, make, or cause or permit to be made, any connection to such premises from any wire, pipe, drain, sewer or channel constructed or maintained by or vested in the Board, on such terms as the Board at a meeting may from time to time determine.

(2) Any person who shall, without the permission of the Board, make or cause to be made, any such connection or flush, draw off, divert take or use water or gas from any works belonging to or under the control of the Board, or, divert or take water from any water or stream by which water-works belonging to, or under the control of the Board, are supplied, shall be liable to a fine not exceeding one hundred rupees.

**274. Power to make or require connections in certain cases-** In municipalities to which the provisions of this section may, at any time, by notification, be extended by the State Government, the Board may establish any connection from any drain or sewer to any premises, or may by notice require the owner or occupier of any such premises to establish any such connection, in such manner and within such time as the Board by notice in that behalf may prescribe, at the cost of such owner or occupier.

**275. Power to prescribe size of ferrules and to establish meters and the like-** The Board may prescribe the size of the ferrules to be used for the supply of gas and water, and may establish meters or other appliances for the purpose of testing the quantity or quality of any gas supplied to the premises of any person or to for the use of any person or business.

**276. Communication and connections to be made subject to inspection by and to the satisfaction of Board-**All work in connection with the ferrules, communication-pipes, connections meters, stand-pipes and all fittings thereon or connected therewith, leading from main or service wires, pipe drains, sewers or channels into any house or land, and the wires, pipes, fittings and works inside any such house or within the limits of any such land, shall in all cases be executed subject to the inspection and to the satisfaction of the Board.

**277. Connections may be made by Board's own agency-**The Board may require such ferrules, communication pipes, connections, meters, standpipes and fittings to be supplied and fitted by its own agency upon such terms as may be agreed upon between it and the person requiring the connection or subject to such charges as may be fixed by the Boards; and may require the amount necessary for the execution of such works to be paid or deposited before such works are executed.

**278. Power to enter premises-** (1) Any officer authorized in that behalf by the Board may, between the hours of seven in the forenoon, and five in the afternoon, enter into or any house or land the purpose of inspecting or repairing gas, water, or other installations and for taking readings of meters connection therewith.

(2) If such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination the Board may forthwith cut off the supply of gas or water, as the case may be, from such house or land;

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the Zenana residence or women, which by the custom of the country is considered private, unless a notice in writing of not less than four hours is given.

**279. Presumption as to correctness of water-** Whenever water or gas supplied under this chapter through a meter, it shall be presumed that the quantity or quality indicated by the meter has been consumed until the contrary is proved.

**280. Testing of meter-** (1) if the owner or occupier of any premises to which water or gas is supplied through a meter desires to have the meter tested, he may send a written application to the Board, and such application must be accompanied by a fee of five rupees.

(2) Upon receipt of any such application and fee, the Board shall forthwith cause such meter to be tested, at a time and place to be specified in a notice to be served upon such owner or occupier.

(3) If such meter is found, upon being so tested, to be incorrect by more than two per cent the said fee shall be returned to the person who sent it.

**281. Penalty for fraud in respect of meter-** (1) Any person who shall fraudulently-

(a) alter the index to any meter, or prevent any meter from duly registering the quality or quantity of water or gas supplied, or

(b) abstract or use water or gas before it has been registered by a meter set up for the purpose of testing the quantity or quality of the same, shall be liable to a fine not exceeding one hundred rupees.

(2) The existence of artificial means under the control of the consumer for causing any such alteration, prevention abstraction or use shall be evidence that the consumer has fraudulently affected the same.

**282. Penalty for injuring meter-** Any person who shall willfully or negligently injure or suffer to be injured any meter or any of the fittings of any meter shall be liable to a fine not exceeding one hundred rupees.

**283. Estimate and specification of works to be sent-** No works for establishing any such connection as is referred to in section 273, shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor: by the occupier without sending such, specification and estimate to the owner.

**284. Owner to bear the cost of keeping works in repair-** Except in the case of a special agreement to the contrary, the, owner of any premises shall bear the expense of keeping any such connection with such premises as is referred to in sections 273 and 274 and all works connected therewith in substantial repair and if he fails to do so the occupier may, after giving the owner three days notice in writing, himself have the repairs executed and deduct the expenses thereof from any rent which is due from him to the owner in respect of such premises:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the commencement of this Act.

## SPECIAL PROVISIONS RELATING TO WATER SUPPLY SYSTEMS

**285. Board to provide water supply,-** (1) In any municipality in respect of which a scheme for a supply of water has been sanctioned under section 66 and in which the imposition of a water tax has been sanctioned by State Government under section 68, sub-section (1) (b), the board shall provide a supply of water within the limits of the municipality for domestic purposes; and for this purpose it shall be lawful for it to cause such mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed, as shall be necessary for the supply of water in the chief public roads; and it may also erect in all such roads sufficient and convenient stand pipes or pumps for the use of the inhabitants of the municipality for domestic purposes.

(2) The Board may supply water for other than domestic purposes.

**286. Pressure at which water must be kept-** (1) The Board at meeting shall determine what pressure of water shall be maintained in its service pipes and mains, and during what hours such pressure shall be continued; and any order made under this section shall be published in such manner as the Board may direct, and shall not be altered except with the sanction of the Board at a meeting.

**287. Provision for water meter-** (1) The Board may provide a water meter and attach it to the communication pipe of any premises to which water is supplied by the Board, and whenever a water meter is provided the Board shall maintain it in efficient state.

(2) When any meter attached to the communication pipe of any premises is out of order or under repair the Board shall forthwith replace it by another meter.

(3) The expense of providing, attaching and replacing a meter under sub-sections (1) and (2) may, at the discretion of Board, be borne by the municipal fund or may be recovered wholly or in part from the person requiring the supply, or if the communication pipe has been laid down before the commencement of this Act, from the owner of the premises except in the case of a special agreement to the contrary between the owner and the occupier in one installment or more than one installment according as the Board thinks proper; and if the expense as aforesaid or any part of it is borne by the municipal fund, the Board may recover rent for the meter at such rate as may be fixed by it.

**288. House-holder entitled to certain supply of water for domestic use-** (1) the Board at a meeting may determine what quantity of water shall be supplied for domestic purposes to the occupier of any premises free of further charge for every rupee paid to the Board as water tax on account of such premises.

(2) Any water which may be used for domestic purposes over and above the quantity to which the occupier is entitled as aforesaid, and any water which may be used for other than domestic purposes, shall be paid for by him at such rate as the Board at a meeting may determine.

**289. Power to provide water for latrine-**It shall be at the option of the Board to provide water for all latrines and water closets, and it shall be lawful for it to require that all latrines and water closets supplied with water shall be provided with a cistern of such size and description as the Board shall direct, and all such cisterns shall be put up at the cost of the owner of the premises so supplied with water.



**290. Power to turn off water** (1) The Board may cause the water to be turned off from any premises which are supplied with water after giving notice in writing of not less than twenty-four hours-

(a) if the premises are unoccupied; or

(b) if the person liable to pay the water tax or any charge made under Section 287 (3) or 288 (2) neglects to pay the same; or

(c) if any pipe, works fittings or meters connected with the supply of water and being the property of the owner or occupier are found, on examination by any officer of the Board authorized in that behalf, to be out of repair to such an extent as to cause the waste of water of; or

(d) if the owner or occupier of the premises willfully or negligently contaminates, misuses or cause water of water;

and may recover from the owner or occupier of such premises, or from the person liable to pay the water tax or the charge, as the case may be, the expenses incurred for turning off the water:

Provided that the stopping cutting off of the supply of water shall not relieve any person from any penalties of liabilities which he may have incurred.

(2) When the water has been turned off under sub-section (1) (b) the Board shall restore the supply on payment of some for non-payment of which the water was turned off together with the expenses incurred in turning off the water or on the removal of the defects referred to in clause (c) and (d) of sub-section (1) for which the water was turned off.

**291. Penalty for causing waste of water-** (1) The occupier of any premises, in which water supplied by the Board under this chapter is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works fitting or meters for the supply of water shall be found to be out of repair to such an extent as to cause waste of water, shall be liable to a fine not exceeding twenty rupees.

(2) Any person otherwise causing waste of water supplied by the Board shall be liable to a fine not exceeding five rupees.

**292. Power to allow person outside the town to take water-** It shall be within the discretion of the Board to allow any person not residing within the limits of the municipality to take or be supplied with water for domestic use, on such terms as the Board at a meeting may from time to time determine;

and any person taking or causing to be taken for use, outside the limits of the municipality, water supplied by the Board without the permission of the Board, shall be liable, to fine not exceeding fifty rupees.

## CHAPTER VIII

### CONTROL

**293. Control by Commissioner, etc-** The Commissioner of Division, the Deputy Commissioner, the Sub-divisional Officer or any other officer specially appointed by the State Government by general or special order, may at all time-

(i) enter into and inspect, or cause any other person to enter into and inspect-

(a) any municipal office and affairs or, or

(b) any immovable property in the occupation of, or

(c) any work in progress under, or

(d) any institution under the control and administration of the Board, and

(ii) call for and inspect any book or document which may be for the purpose of this Act, in the possession or under the control of the Board.

#### NOTES

##### (ASSAM AMENDMENTS)

Section 291-This section was substituted by the Assam Act No. 11 of 1966 published in the Assam Gazette, dated 10-1-1966.

**294. Inspection of works and registers by Commissioners-**With the previous sanction of the Chairman any Commissioner of a Board may inspect any work, or institution, constructed or maintained, in whole or in part at the expense of the Board and any register, books, accounts or other documents belonging to, or in the possession of the Board.

**295. Inspector of Municipal works-** (1) The State Government may appoint an officer of the Government to be Inspector of Municipal Works for one or more municipalities.

(2) The Inspector of Municipal Works shall perform such duties and exercise such powers as may be assigned to him by rule.

(3) In particular and without prejudice to the powers referred to in sub-section (2) the Inspector of Municipal Works may at all time enter upon or into and inspect, or cause any other person to enter upon or into and inspect, any immovable property in the occupation or any works in progress, under the order of the Board of any municipality within his charge, and the Board shall furnish such statements, estimates and reports as he may require.

(4) A report of every inspection made under this section shall be prepared, and a copy thereof shall be forwarded to the Board.

(5) The Board within the charge of an inspector of Municipal Works shall, in all matters of professional detail, be guided by his report.

**296. Power to suspend action under the Act-**The State Government, the Commissioner of Division, the Deputy Commissioner, the Additional Deputy Commissioner or the Sub-divisional Officer in-charge of a subdivision may, by order in writing, suspend the execution of any resolution or order of the Board or prohibit the doing of any act which is about to be done or is being done, in pursuance of, or under cover of, this act, or in pursuance of any sanction or permission granted by the Board in the exercise of their powers under this act, if in its or his opinion, the resolution, order or act militates against the fundamental rights

conferred by Part III of the Constitution of India and the State Policy on the Directive principles laid down in Part IV of the Constitution of India is in excess of the powers conferred by law, or the execution of the resolution or order or the doing of the act, is likely to lead to a service breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

When the Commissioner of Division or the Deputy Commissioner, the Additional Deputy Commissioner or the Sub-divisional Officer in-charge of a Subdivision makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the State Government, which may thereupon rescind the order or direct that it continues in force with or without modification, permanently or for such period as it thinks fit.

## NOTES

### ASSAM (AMENDMENTS)

Section 296- In this section in both the first and second paragraphs after the words “ the Commissioners of Division”, for the words, “ or the Deputy Commissioner”, the words “ the Deputy Commissioner, the Additional Deputy commissioner or the Sub-divisional Officer in-charge of a Sub-division”, were substituted vide Assam Act No. XIV of 1963, published in the Assam Gazette, dated 4-5-1963 to come into force at once. The words “militates against the ..... Constitution of India were added by Assam Act No. II of 1966, published in the Assam Gazette, dated 10-1-1966.

**296-A. Control over proceeding of Municipal Boards-** (1) The State Government, the Commissioner of Division and the Deputy Commissioner shall see that the proceedings of the Municipal Boards are in conformity with law.

(2) The State Government may by order in writing, annual any proceedings which it considers not to be in conformity with the law and may do all things necessary to secure such conformity:

Provided that no such order shall be made without giving the Board and opportunity of expressing its views on the matter.

## NOTES

### ASSAM (AMENDMENTS)

Section 296-A.-This section was inserted by the Assam Municipal (Amendment) Act, 1962 (Assam Act XVI of 1962), published in the Assam Gazette, dated 10-1-1966.

**297. Powers of State Government in case of default, and of Deputy Commissioner in case of emergency, etc.**-(1) If at any time, on receipt of a complaint or information, it appears to the State Government that the Board have made default in performing any duty imposed on them by or under this or any other Act, the State Government by an order in writing, call upon the Board to perform the duty within such time as may be appointed by such order.

(2) If such duty is not performed within such period, the State Government may, after considering any representation which the Board may submit, either revoke or modify the order or appoint some, fit and proper person to perform the duty.

(3) If, in any case of emergency, the Deputy Commissioner, upon, the recommendation of the concerning technical adviser immediately, available in the district within which the municipality is situated, is of opinion that the immediate execution of any work or the immediate doing on any act which the Board, whether at a meeting or otherwise, are empowered to execute or do is necessary for the health or safety of the public, he may call upon the Board to execute the work within such time as he may appoint. If such work is not executed within such period he may appoint some fit and proper person to execute the work or do the act immediately.

The Deputy Commissioner shall forthwith report to the Commissioner of Division every case in which he uses the powers conferred on him by this sub-section whereupon the Commissioner of Division may pass such orders as he thinks fit.

(4) Where any person is appointed under sub-section (2) or sub-section (3), the State Government, or, subject to any order which may be passed by the Commissioner of Division under sub-section (3), the Deputy Commissioner with the prior approval with the Commissioner of Division may direct that the expense of performing the duty, executing the work or doing the act, together of reasonable remuneration, if any to the person so appointed, shall forthwith be paid by the Board.

(5) Where such expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense and remuneration or so much thereof as is possible from the balance, in priority to any or all other charges, and such person shall make payment accordingly:

Provided that the board may prefer an appeal to the State Government against the decision of the Commissioner of Division as regards assessment of expenses and remuneration as made under sub-section (4).

**298. Power to supersede or dissolve Board in case of incompetence default or abuse of powers** -If, in the opinion of the State Government any Board is not competent to perform, or persistently makes default in the performance of the duties imposed on the Board by or under this Act or other wise by law, or exceeds or abuses its powers, or in the event of failure on the part of the Board to provide such services as the State Government may by notification in the official Gazette, declare to be essential services, the State Government after giving the Municipal Board an opportunity for submitting an explanation in regard to the matter may by notification, stating the reason for so doing, declare such Board to be the incompetent, or in default or to have exceeded or abused its powers as the case may be, and supersede the Board for a period not exceeding one year at a time or dissolve the Board and order a fresh election as soon as possible:

Provided that nothing in this section shall be deemed to require the State Government to give a personal hearing to the Board before any order is passed under this section.

**299. Consequence of supercession:** (I) When an order of supercession or dissolution has been passed under the preceding section, the following consequences shall ensue:

(a) all the Commissioners of the Board shall as from the date of the order, vacate their offices as such Commissioners;

(b) all the powers and duties which under this Act may be exercised and performed by the Board, whether at a meeting or otherwise, shall, during the period of supercession or in case of dissolution till the new Commissioners and the Chairman are elected or nominated be exercised and performed by such person or persons as the State Government may direct:

(c) all property vested in such Board shall during the period of supersession or dissolutions, as the case may be, vest in the State Government.

(2) On the expiration of the period of supersession, specified in the order, the State Government may-

(i) extend the period of supersession for such further term as it may consider necessary, but not exceeding a period of one year at a time, or

(ii) reconstitute the Municipal Board by a fresh general election and the persons who vacated their offices under clause (a) and sub-section (1) shall not be deemed disqualified for election or appointment:

Provided that the State Government may at any time before the expiration of the period of supersession take action under clause (ii) of this sub-section.

## NOTES

### ASSAM (AMENDMENTS)

Section 299-Sub-section (1) of this section was substituted, vide Assam Act No. II of 1966 published in the Assam Gazette date 10-1-1966.

**300. Disputes-** (1) If any dispute, for the decision of which this Act does not otherwise, provide arises between the Boards of two or more municipalities constituted under this Act, or between the Board of two or more municipalities constituted under this Act, or between the Board of any such municipality and a cantonment authority, or any other local authority, the matter shall be referred-

(a) to the Deputy Commissioner, if the local authorities concerned are in the same district; or

(b) to the Commissioner of division concerned if the local authorities are in different districts.

(2) Save as provided in sub-section (4) the decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (a), the Deputy Commissioner is a member of one of the local authorities concerned, his functions under this section shall be discharged by the Commissioner of Division concerned.

(4) An appeal shall lie to the Commissioner of Division concerned against a decision of the Deputy Commissioner and to the State Government against a decision of the Commissioner of Division concerned.

## CHAPTER IX

### RULES AND BYE-LAW S

#### RULES

**301. Power of State Government to make rules-** (1) The State government may make rules for the purpose of carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers such rule may-

(i) determine the mode and time of election of Commissioners, the qualifications and disqualifications and registration of voters, qualifications of candidates, the acts to be deemed corrupt practices at elections and generally regulates all elections under this Act;

(ii) regulate the manner in which the minutes of proceedings of meetings of the Board shall be published;

(iii) prescribe the manner in which bye-law, notices orders and other documents directed to be published under the Act shall be published;

(iv) regulate the keeping checking and publication of accounts and the manner of periodical audit;

(v) provide for the retention of adequate working or closing balances;

(vi) provide for the preparation of plans and estimates for works to be partly or wholly constructed at the expense of the Board, and determine, according to the nature of the staff entertained by the Board, the persons by whom and the conditions subject to which such plans and estimates are to be sanctioned;

(vii) regulate the form and procedure to be followed in the preparation of budget estimates by the Board, and prescribe the authority by whom, and the conditions subject to which, such estimates may be sanctioned provided that such rules shall not empower such authority to refuse to sanction such estimates except on the following grounds:-

(1) that the minimum closing balance prescribed has not been maintained.

(2) that due provision has not been made for the purposes specified in Section 60 (1) (a), (b) and (c),

(3) that the provisions of the Act and the rules and any standing orders of the State Government have not been complied with,

(viii) regulate the preparation, submission and publication of returns statements and reports by the Board:

(ix) prescribed forms for any proceedings of the Board for which it considers that a form should be provided;

(x) prescribe the maximum fees which may be levied by the Board under Section 68, sub-section (1) (g) and (h);

(xi) prescribe the mode of ascertaining the capitalised value recoverable under clauses (c) and (d) of proviso (1) Section 136;

(xii) provide, in matters not specifically provided for in the Act, for the valuation of holdings and for the assessment, collection and refunds of taxes imposed under the Act;

(xiii) fix the fees payable upon distraints under this Act;

(xiv) prescribe the qualifications of candidates for employment by the Board and declare what circumstances shall be disqualification for continuance of such employment;

(xv) prescribe the division of Health Officers and Sanitary Inspectors into classes of grades according to their qualifications;

(xvi) prescribe the proportion of the pay and allowances of Government officers employed by the Board, which shall be borne by the Board, and provide for the control of such officers;

(xvii) regulate the conditions which may be imposed for the grant of licenses for places of public resort for recreations and amusement;

(xviii) prescribe the conditions subject to which the Board-

(a) may permit connections and communications to be made between private houses or premises and mains or service wires, pipes, drains, sewers and other channels established or maintained by the Board;

(b) may direct that such connections and communications shall be cut off;

(xix) prescribe method of preparation of compost manure and regulate the operation of compost manure schemes;

(xx) provide for the regulation, management and inspection of the working of systems of water supply, electricity, lighting, drainage or sewerage provided establish or maintained by or under the control and administration of any Municipal Board;

(xxi) generally provide for the guidance of the Board and officers of Government in all matters connected with the carrying out of the provision of this Act, and for setting their relations to one another:

Provided that rules under sub-clauses (xxiii) and (xx) shall not be inconsistent with those under the Indian Electricity Act of 1910 (as amended)

(3) In making rules under clause (i) of sub-section (2) the State Government may direct that a breach of any rule, so far as it prohibits corrupt practices at election, shall be punishable with a fine not exceeding five hundred rupees.

(4) All rules made under this section shall be subject to the condition or previous publication.

## BYE LAWS

**302. Power to make bye-laws-** The Board may, from time to time, at a meeting which shall have been convened expressly for the purpose, and of which due notice shall have been given, frame such bye-laws, as they deem fit, not being inconsistent with this Act, or with any other general or special la, for-

(i) regulating and preventing obstructions and encroachments and nuisance on or near public roads, or on or near pontoons, bridges, ghats, landing places, river banks or other places of public resort or on place near water works for the supply of drinking water;

(ii) prescribing a minimum width of wheel tyres or a minimum diameter and the maximum wheel tracks of wheels for different classes of carts and carriages kept or used within the municipality;

(iii) prescribing the manner in which notice of the intention to erect, re-erect or materially alter after a building shall be given to the Board;

(iv) requiring that with every such notice shall be furnished a site plan of the land on which it is intended to erect, re-erect or materially alter such building and a plan and specification, and in the case erection or re-erection of a building, an estimate also of the cost of construction (excluding cost of land and its improvement) of the building all such characters and with such details as the bye-law, may require in respect of all or any of the matter following, viz-

(a) free passage or way in front of the building;

(b) space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;

(c) provision and position of latrines, urinals, cess-pools or drains;

(d) level and width of foundation, level of lowest floor, and the stability of the structure; and

(e) the line of frontage with neighbouring buildings, if the building abuts on a public road;

(v) regulating in respect of the erection, re-erection material alterations of any building, within the municipality or part thereof-

(a) the materials and method of construction to be used for external and partition walls, roofs and floors;

(b) the materials and method of construction and position of fire-places, chimneys, latrines, urinals, cess-pools and drains;

(c) the height and slope for the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(d) the space to be left about the building to secure the free circulation of air and for the prevention of fire;

(e) the line of frontage, where the building abuts on a public road;

(f) the number and height of the storeys of which the building may consist;

(g) the means to be provided for access from the building in case of fire; and

(h) any other matter affecting the ventilation or sanitation of the buildings;

(vi) preventing the erection of building without adequate provisions being made for the laying out and location of roads;

(vii) regulating the level, means of drainage, alignment and width of roads constructed by private persons;



(viii) fixing and from time to time varying the number of person; who may occupy a building or part of a building, which is let in lodgings or which is situated within such congested areas as may be specified in the bye-law; or occupied by members of more than one family; and providing-

(a) for the registration and inspection of such buildings;

(b) for promoting cleanliness and ventilation in such buildings;

(c) for notice to be given and precautions to be taken in the case of any infections or contagious disease breaking out in such buildings;

(d) in the case of hotel, serai and lodging house-keepers and secretaries of residential clubs, for the maintenance of registers in such form as the Board may prescribe of visitors and lodgers; and;

(e) generally for the proper regulation of such buildings;

(ix) regulating the use of, and the prevention of nuisance in regard to public water-supply, bathing and washing places, streams, channels, tanks and wells;

(x) regulating either by rendering licenses necessary or otherwise, the washing of clothes by professional washermen, and fixing the places in which clothes may be so washed or in which they may not be washed;

(xi) prescribing the measures to be taken for the prevention of the breeding of mosquitoes in wells, tanks, pools, excavations, cisterns or other places or vessels containing or capable of containing water;

(xii) regulating the cutting of trees and bamboos within the municipality;

(xiii) defining the duties of persons employed in the removal of sewage within the municipality and required to take out license under Section 213;

(xiv) regulating the disposal of sewage, offensive matter, carcasses of animals and rubbish, and the construction and maintenance of latrines, urinals, cesspools, drains and sewers;

(xv) providing for the inspection and regulation of markets and for the preparation and exhibition of a price list thereat;

(xvi) regulating the hours and manner of transport \within the municipality of any specified articles of food or drink;

(xvii) fixing the places in which any specified article of food or drink may be sold or exposed for sale or the places in which it may not be sold or exposed for sale;

(xviii) regulating either by rendering licenses necessary or otherwise the import into the municipality for sale, of milk and butter;

(xix) regulating, either by rendering licenses ,~necessary or otherwise, or prohibiting for the purpose of preventing danger to the public health, the stalling or herding of horses, cattle, swine, donkeys, sheep or goats, geese, ducks and fowls;

(xx) providing for the inspection of milch cattle, and prescribing the measures to be taken on the occurrence amongst them of infectious or contagious diseases; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and

water-supply of dairies and cattle-sheds in the occupation of persons following the trade or dairymen or milk sellers;

(xxi) providing for the inspection and proper regulation of encamping grounds, pound, serais, bakeries and aerated water factories, ice factories, flour mills, oil mills, sweetmeat shops, factories, and other places in which mechanical or electrical power is employed, and slaughter houses;

(xxii) preventing nuisance affecting the public health, safety, or conveniences In places of public resort for purposes of recreation or amusement;

(xxiii) preventing nuisances affecting the public health, safety or conveniences;

(xxiv) providing for the guidance, discipline and conduct of the members of a volunteer fire-brigade recognized by the Board. ,

(xxv) controlling and regulating the use and management of burial and burning ground and the disposal of corpses;

(xxvi) providing for inspection of weights and measures ,used in markets within the municipality;

(xxvii) providing for the holding of fairs and industrial exhibitions within the municipality or under the control of the Board and for fixing and collecting the fees to be levied thereat;

(xxviii) fixing the conditions on which licenses under this Act are to be granted and may be suspended or revoked;

(xxix) preventing and removing and encroachments on any municipal lands including markets, drains, roads, etc.; and

(xxx)giving effect to the objects of this Act, and may by such bye-laws impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of fifty rupees for such offence, and, in case of a continuing offence, a further penalty not exceeding twenty rupees for each day after ,written notice of the offence from the Board :

Provided that no person shall be punishable for breach of any bye-law made under clause (xvii) of this section by reason of exposure for sale of any article in any premises which are at the time of the making of such bye-law used for such purpose until he has received from the Board six months' notice in writing to discontinue such exposure for sale in such premise.

**303. Additional powers to make bye-laws in hill municipalities-** (1) The Commissioners of a municipality wholly or in part situated in a hilly terrace, may at meeting in addition to such bye-laws as they may make under the preceding section, make bye-laws for regulating or prohibiting the cuttings or destroying of trees or shrubs or the making of excavations or removal of oil or quarrying where such regulation or prohibition appears to the Board to be necessary for any or all the following purposes-

(a) the maintenance of a water-supply;

(b) the preservation of the soil;

(c) the prevention of landslips;

(d) the formation of ravines or torrents;

(e) the projection of land against erosion or the deposit thereon of sand, gravel or stone;

(f) the protection of the beauty or general appearance of the municipality.

(2) The Board may, by any bye-law made under this section, declare that any person committing a breach or any such bye-laws, or failing to comply with any notice issued there under, shall be liable to a fine which may extend to fifty rupees and to a further fine which may extend to twenty rupees for each day after conviction during which the offence is continued.

**304. Conformation of bye-laws-** (1) The power to make bye-law under this Act shall be subject to the condition of previous publication.

(2) No such bye-law shall come into force until it has been confirmed by the State Government.

(3) The State Government may cancel their confirmation of any such bye-law and thereupon the bye-law shall cease to have effect.

**305. Publication of bye-laws-**Every bye-law shall, after confirmation, be published in the prescribed manner.

#### SUBSIDIARY RULES

**306. Power to make rules as to business and affairs-**(1) The Board at a meeting specially convened for the purpose may by subsidiary rules consistent with this Act and with any rules made there under by the State Government provide for-

(a) the time and place of their meeting and of the meetings of committees the business to be transacted at such meetings and the manner in which notice of such meetings shall be given;

(b) the conduct of proceeding as at such meetings, the method of voting the due record of all dissent and discussions, and the adjournment of such meetings;

(c) the custody of the common seal and the purposes for which it shall be used;

(d) the division of duties among the Commissioners of the Municipal Board, and the powers to be exercised by committees or Commissioners to whom particular duties are assigned;

(e) the persons by whom receipt shall be granted for money received under this Act;

(f) the duties, appointment, leave, fining, suspension and removal of municipal officers and servants;

(g) the appointment or election of the Chairman or Vice-Chairman of committees and the delegation of powers by the Board to committees;

(h) regulation of the expenditure of money for purpose provided for in the budget estimates;

(i) the nature and amount of security to be furnished different classes of officers or servants of the Board for the proper discharge of their duties; and

(j) other similar matter and may, by such rules annul, alter or add to all or any of the rules in the second Schedule.

(3) Rules made under this section consistent with the Act shall be subject to the sanction of the State Government and shall, if sanctioned be published in such manner as the State Government may direct and shall have the force of law.

(4) The rules in the Second Schedule shall have effect as if enacted in the body of this Act until annulled or altered by rules made under sub-section (1).

## CHAPTER X

### PROCEDURE

#### MUNICIPAL NOTICE

**307. How notice, etc., may be served-** (1) Every notice, bill, form, summons or notice: of demand under this Act may be served personally on or presented to the persons to whom the same is addressed;

or he left at his usual place of abode with some adult male member or servant of his family;

or if, it cannot be so served, presented or delivered, may be put on some conspicuous part of his place of above, or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended to be served or may be sent by post in a registered cover.

(2) Every such notice, bill, form, summons or notice of demand shall be signed by or bear a facsimile signature of the Chairman, Vice-Chairman or any other officer authorized by the Chairman in that behalf.

**308. Reasonable time for compliance to be fixed-**When any notice under this Act requires any act to be done for which no time is fixed by this Act, the Board shall fix a reasonable time for doing the same.

**309. Service of notice on owner or occupier of land -**When any notice is required to be given to the owner or to the occupier or the owner and the occupier of any land, such notice addressed to the Owner or occupier of both, as the case may require, may be served on the occupier of such land, or otherwise in the manner mentioned in Section 307.

Provided that when the owner and his place of abode are known to the Board or other authorities issuing the notice they shall, if such place of abode be within the limits of their' authority, cause such notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family; and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode, and such service shall be deemed to be good service of the notice:

Provided further that when the name of the owner or occupier or both is not known it shall be sufficient to designate him or them as the owners or the occupier of the land in respect of which the notice is served.

## ENFORCEMENT OF REQUISITIONS

**310. Procedure when owners or occupiers are required by Board to execute works-** Wherever it is provided in this Act that the Board, or the Board at a meeting may require the owners or the occupiers or, the owners and occupiers, of any land to execute any work or to do anything such requisition shall be made as far as possible, by a notice to be served as provided in Sections 307 and 309 on every owner or occupier who is required to execute such work or to do such thing; but if there be any doubts as to the persons who are owners or occupiers, such requisition may be made by a notice to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owner or the occupiers of any land to execute such work or to do such thing within a specified time, and in such notice it shall not be necessary to name the owners or occupiers.

Every such requisition as aforesaid shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition or to prefer an objection against such requisition as provided in the next succeeding section the Board will enter upon the land and cause the required work to be executed or the required thing to be done; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

**311. Persons required to execute any work may prefer objection to the Board-** Any person who is required by a requisition as aforesaid to execute any work or do anything may, instead of executing the work or doing the thing required prefer an objection in writing to the Board against such requisition within five days of the service of the notice of posting up of the notification containing the requisition or if the time within which he is required to comply with the requisition be less than five days, then within such less time.

Except as provided in the next succeeding section such objection shall be heard and disposed of by the Chairman or Vice-Chairman.

**312. Procedure if person objecting alleges that work will cost more than three hundred rupees-** If the objection shall allege that the cost of executing the work or of doing the thing required will exceed three hundred rupees such objection shall be heard and disposed of by the Board at a meeting, unless the Chairman or Vice-Chairman shall certify that such cost will not exceed three hundred rupees in which case the objection shall be heard and disposed of by the Chairman and Vice-Chairman.

Provided that in any case in which the Chairman or vice-chairman shall have certified his opinion as aforesaid, and the objection shall in consequence thereof have been heard and disposed of by the Chairman and Vice-Chairman, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the Board as the cost of executing the work or doing the thing required; whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required and in respect of paying the expenses thereof and the Board itself shall execute such work or do such thing and shall exercise all powers necessary thereof.

**313. Chairman, etc., to make order after hearing objection-** The chairman or Vice-Chairman, or the Board at a meeting as the case may be, shall, after hearing the objection and making any inquiry which they may deem necessary, record an order withdrawing, modifying, or making absolute the requisition against which the objection is preferred; and if such order does not withdraw the requisition it shall specify the time within which the

requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

**314. Order to be explained orally-** if the person making such objection be present at the office of the Board, the said order shall be explained to him orally, and such order cannot be so explained, notice of such order shall be served as provided in Section 307 on the person making the objection; and such explanation of, or service of, the notice of the said order shall be deemed a requisition duly made under this Act to execute the work or do the thing required.

**315. Power of Board on failure of persons to execute work--**If the person or persons required to execute the, work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to such thing, and thereafter diligently to execute the same to the satisfaction of the Board until it is completed, the Board or any person authorized by in that behalf, may after giving forty-eight hours notice of its intention by a notification to be posted upon or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required, and the expenses thereby incurred shall be paid by the owners or by the occupiers if such requisition was addressed to the owners or to the occupiers respectively, and by the owners and the occupiers if such requisition was addressed to the owners and the occupiers.

**316. Power to apportion expenses among owners and occupiers-**(1) Whenever any expenses incurred by the Board are to be paid by the owners of any land as provided in the preceding section, the board may, if there be more than one owner, apportion the said expenses among such of the owners as are known in such manner as to the Board may seem fit.

(2) Whenever any such expenses are to be paid by the occupiers of any land as provided in the preceding section the Board may, if there be more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as to the Board may seem fit.

**317. Apportionment among owners and occupiers -**Whenever any expenses incurred by the Board are to be paid by the owners and occupiers of any land, as provided in Section 315, the Board may apportion the said expenses among the said owners and occupiers or such of them are known in such manner as to the Board may seem fit.

**318. Occupiers may recover cost of works executed at his expense from owner-**Whenever any works or alterations and improvements, of which the Board is authorized by the Act to require the execution, are executed by the occupier on the requisition of the Board or are executed by the Board and the cost thereof is recovered from the occupier the cost thereof may, if the Board certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction.

**319. Power to enter upon possession houses so repaired-** In the Board, under the provisions of this Act shall have caused any repairs to be made to any house or other structure, and if such house or other structure be unoccupied, the Board may enter upon possession of the same, and may retain possession until the sum expended by it on the repairs be paid to it,

**320. Sale of materials of houses, etc., pulled down-** The materials of anything which shall have been pulled down or removed under the provisions of Section 310 may be sold by the

Board, and the proceeds of such sale may be applied, so far as the same will extend, to the payment of the expenses incurred.

The surplus sale proceeds, any shall be credited to the municipal fund and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

#### APPEALS

**321. Appeals from orders of Board-** (1) Any person aggrieved-

(a) by the refusal of the Board under Section 174 to sanction, the erection, re-erection or material alteration of any building, or

(b) by a notice from the Board under Section 155 requiring a road to be drained, levelled, paved, flagged, metalled or provided with proper means of lighting, or under Section, 177 requiring the alteration or demolition of a building, or

(c) by any order made by the Board under bye-law made under Section 302, clause (vi), or

(d) by any order made by the Board under the powers conferred upon it by Section 181 or 255,

may appeal within thirty days from the date of such refusal, notice or order to the Board and every such appeal shall be heard and determined by not less than three members of the Board who shall be appointed in that behalf by the Board at a meeting, and no such refusal, notice or order shall be liable to be called in question otherwise than by such an appeal.

(2) The appellate authority may, for sufficient cause extend the period allowed by sub-Section (1) of this section for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from, shall be final:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the Board have had reasonable opportunity of being heard.

**322. Appeals from orders refusing licenses-**Any person aggrieved by an order refusing a license or permission required under this' Act, may, notwithstanding anything contained elsewhere in this Act within thirty days from the date of refusal, appeal to the state Government or an officer authorized by the State Government in that behalf whose decision shall be final and shall not be questioned in any Court.

#### PROSECUTIONS

**323. Board may direct prosecution for public nuisance, etc:-** The Board may direct any prosecution for any public nuisance under the Indian Penal Code (XLV of 1860), and may order proceedings to be taken for the recovery of any penalties under this Act or rules or bye-laws made thereunder and for the punishment of any person offending against the same may order the expense of such prosecution or other proceedings to be paid out of the municipal fund.

**324. No prosecution for an offence under this Act to be instituted without consent of Board-**No prosecution for an offence under this Act or any rule or bye-law made in

pursuance thereof shall be instituted without the order or consent of the Board, and no such prosecution shall be instituted except within three months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be instituted within six months of date on which the commission or existence of the offence was first brought to the notice of Chairman of the Board:

Provided that the failure to take out any license under this Act shall be deemed to be continuing offence until the expiration of the period for which such license is required to be taken out.

**325. Police Officer to report offences and arrest persons refusing to give name and residence-**( ) All police officers shall give immediate information to the Board of the municipality of any offence committed against this Act or any rule or bye-law made in pursuance thereof. When any person, in the presence of the police officer, commits or is accused of committing any such offence, and refuses on demand of a police officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained and he shall within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

(2) Any servant of the Board in receipt of a salary of not less than thirty rupees per mensem, when empowered in that behalf, on the recommendation of the Board, by a general or special order of the District Magistrate, may exercise the powers of a police officer under this section.

#### SUITS

**326. No action to be brought against the Board or their officers until after one month's notice of cause of action-** (1) No suit or other legal proceeding shall be brought against any Board, or any of its officers, or any person acting under its direction for anything done under this Act or any rule or bye-law made there-under, until the expiration of one month next after notice in writing has been delivered or left at the office of such Board and also (if the suit is intended to be brought against any officer of the said Board or any person acting under its direction) at the place of abode of the person against whom such suit or proceeding is threatened to be brought stating the cause of suit or proceeding the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the suit;

and unless such notice be proved, the Court shall find for the defendant.

(2) Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

(3) If the Board or its officers or any person to whom any such notice is given, shall, before the suit is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

**327. Liability to pay expenses of fees may be contested in Civil Court-** Any owner or occupier land may contest his liability to pay any expenses or fee under this Chapter or under Chapter VI and VII or may contest the amount which he has been upon to pay in a Civil Court of competent jurisdiction:



Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount in the manner provided by Section 149.

**328. Dispute as to compensation payable by Board-** (1) Should a dispute arise the amount of compensation with the Board is required by this Act to pay, it shall be settled in such manner as the parties may agree, or, in default of agreement, by the Deputy Commissioner or any officer authorized by him in that behalf upon application made to him by the Board or the person claiming compensation.

(2) Any decision of the Deputy Commissioner or the officer as aforesaid awarding compensation shall be subject to a right of the applicant for compensation to require a reference to the District Judge in accordance with the procedure set forth in Section 18 of the Land Acquisition Act, 1984 (I of 1984)

(3) In cases in which compensation is claimed in respect of land the Deputy Commissioner or the officer as aforesaid and the District Judge shall, as far as may be, observe the procedure prescribed by the said Act for proceeding in respect of compensation for the acquisition of land acquired for public purposes.

## CHAPTER XI

### MISCELLANEOUS PROVISIONS

**329. Delegation of certain powers and functions of State Government-** (1) The powers and functions of the State Government specified in Sections 58, 65, 71 263 and 337 may be delegated by the State Government to the Commissioner of Division.

(2) In regard to powers or functions delegated to him under this section, the Commissioner of Division shall have the same authority as is given by this Act to the State Government and the delegation shall continue until revoked by the State Government.

(3) A delegation under this section may be of all or any of the powers and functions aforesaid, and may be made generally in regard to all the municipalities or it may be made particularly in regard to certain municipalities only.

(4) The delegation may be by official designation, and shall, in each case, be notified in the Gazette.

**330. Survey of municipalities-**The board at a meeting may order that a survey shall be made of the lands situated in the municipality and thereupon all the provisions of the Calcutta Survey Act, 1887 (I of 1887) shall, so far as may be practicable, apply and be extended to such municipality.

**331. Holder of license to produce it when required:** -Every person to whom a license has been granted under this Act shall, at all reasonable times, while such license shall remain in force, if so required by the authorities which granted the license or by any person authorized by them in that behalf, produce such license to the said authorities or to the person so authorized.

Whoever fails to produce his license when required to produce the same by any person authorized under this section to demand the production thereof, shall he liable to a fine not exceeding one hundred rupees.

**332. Suspension of revocation of licenses, etc.**-Any Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the bye-laws relating thereto made under this Act in addition to the fine which may be imposed on such person under this Act may suspend for any period not exceeding two months, any such license.

And the Board upon the conviction of any person for a second or other subsequent like offence may cancel his license.

**333. Penalty on officers, etc asking unauthorized fees**-If any person employed under this Act not being a public servant within the meaning of Section 21 of the Indian Penal Code (XLV of 1860) shall accept or obtain, or agree to accept or attempt to obtain, from any person for himself for any other person any gratification whatever, other than legal remuneration, as a reward for doing or for bearing to do any official act, or for showing or bearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering, or attempting to render, any service or disservice to any person within the Board or with any public servant or with any Government servant in the discharge of his official duties, he shall be punished with imprisonment either simple or rigorous, as provided in Section 53 of the Indian Penal Code (XLV of 186) for a term which may extend to three years, or with a fine not exceeding five hundred rupees, or with both.

## CHAPTER XII

### SMALL TOWNS

**334. Constitution of notified areas** -(1) the State government may, by notification, signify its intention to declare that with respect to some or all of the matters upon which a municipal fund may be expanded under Section 60, improved arrangements as required within a specified area, which nevertheless, it is not expedient to constitute as a municipality.

(2) A copy of the notification under sub-section (1) shall be published in such places as the State Government may, by general or special order direct.

(3) Should any inhabitant of the specified area aforesaid desire to object to the notification issued under sub-section (1), he may within six weeks from the date of its publication, submit his objection in writing to the State Government, through the Deputy Commissioner, and the State Government shall take, his objection into consideration.

(4) When six weeks from the date of publication have expired, and the State Government has considered and passed orders on such objections as may have been submitted to it, the State Government may, by notification, declare the specified area aforesaid or any portion thereof to be notified area to be termed as Small Town.

**335. Constitution of town committee**-(1) there shall be establish for each notified area a committee for the purposes of Section 336, sub-section (1) (b) and (c ), consisting of such number of members, as may be fixed by the State Government by rules who shall for the first term, be appointed and for the subsequent terms, elected except that not more than two members shall be appointed by the State Government to represent the Scheduled Castes, Scheduled Tribes or other socially and educationally Backward Classes residing within the small town.

(2) A committee established under this section shall be called a town committee.

(3) The State Government may appoint any person, whether a member of the town committee or not, to be its Chairman or Vice Chairman, or may authorize any town committee to elect its Chairman or Vice Chairman or both, and fix the term of office of member or Chairman or Vice Chairman of the town committee.

**336. Power of State Government to impose taxation and regulate expenditure of proceeds thereof and to extend provision of the Act to notified areas-** (1) The State government may-

(a) impose in any notified area any tax which could have been imposed therein if such area were a municipality;

Explanation- The words “ any tax “ in the above clause shall be deemed to include all fees, cases, rates.

(b) apply or adopt to the notified area for the assessment and recovery of any tax imposed under clause (a) any of the provisions of this Act, or of any rules for the time being in force, with respect to the assessment and recovery of any tax imposed under this Act;

(c) arrange for due expenditure of the proceeds of taxes imposed under clause (a) and of any other funds which may come to the hands of the town committee for the purposes of the notified area and for the preparation and maintenance of proper accounts; and in addition to or in lieu of, the exercise of any of the foregoing powers; and

(d) extend to any notified area the provisions of any section of this Act subject to such restriction and modification, if any, as the State Government may think fit, except the sections stated below which will automatically apply to the notified area:

3,4, 5, 6, 7, 9, 13, 14, 15,16, 17, 18, 19, 20, 21, 22,23,25, 26 27, 28, 29, 30, 34, (l), 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 50,51, 52, 54, 55, 56, 57, 58, 60, (1), 6 (2) [excepts clauses (XI), (XII), (XIII), (XV), (XVI), (XVII), (XXV), (XXVI), 61, 62 (1), 63, 64, 65, 66, 67, 68 (1) (a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (n), 68 (2), 68 (3), 68.A, 69, 70, 71, 72, 74, 76, 77, 78,79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102,103, 104, 105, !06, 107,108, 109, 110, 111, 112,113, 114, 115,116, 117, 118, 119, 120, 121, 122,123, 124,125,126, 127, 128, 129, 130,131,132, 133,134 135,136 137, 138,139, 140,141, 142,143,144, 145,146, 147, 148, 149, 150, 151, 263-A and the whole of Chapters VI, VII, VIII, IX and X.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in same manner in which the municipal fund of such notified area might be expended if the notified area were a municipality.

(3) For the purposes of any section of this Act which may be expended to a notified area, or which applies to the notified area automatically, the Town Committee constituted for such all area under section 335 shall be deemed to be a Municipal Board under this Act, the notified area to be a Municipality and the member to be a Commissioner.

## NOTES

### (ASSAM AMENDMENTS)

Section 336-In this section the clause (d) and sub-section (3) were substituted by Assam Act No. 11 of 1966, published in the Assam Gazette on 10th January 1966.

337. **Applications of funds of areas ceasing to be notified**-When by reason of any order canceling a notification under Section 334 any notified area cases to be notified the unexpended proceeds of any taxes levied therein under section 336 shall be applied for the benefit of the inhabitant of such area in such manner as the State Government may think fit.

Sch II]

ASSAM MUNICIPAL ACT, 1950

## SCHEDULES

### THE FIRST SCHEDULE

(See Section 33)

Municipality or Municipalities in which the Chairman shall be appointed by the State Government.

Shillong.

Tinsukia

### THE SECOND SCHEDULE

#### BUSINESS AND PROCEDURE AT FIRST MEETINGS

(See Section 306)

(1) The first meetings of a Municipal Board after a general election shall be held on such date as the Deputy Commissioner or Sub-divisional Officer, as the case may be, may fix.

Provided that-

(a) whenever he considers necessary, he may vary the original or any subsequent date so fixed; and (b) the date fixed for the meeting shall be notified in the Gazette as least 15 clear days before the meeting.

(2) The Deputy Commissioner or Sub-divisional Officer, as the case may be, shall cause copies of the notification fixing the date of the first meeting as required by rule (1) to be sent to the members at least seven days before the meeting is held.

(3) The Magistrate may appoint a member of the Board to preside at the meeting and may whenever he considers necessary vary the original or any subsequent order of appointment, provided always that the person appointed is not a candidate for the office of the Chairman.

(4) The President shall first make the oath (or affirmation) prescribed by Section 25 himself and then administer the oath (or affirmation) to the other members present whether there is a quorum or not.

(5) (i) The meeting shall thereupon proceed to elect, or request the State Government to appoint a Chairman:

Provided that the quorum required by Section 46 (v) is present.

(ii) If the quorum required by Section 46 (v) is not present or if the first meeting for any reason proves infructuous, the meeting shall stand adjourned to some future date to be appointed by the Magistrate, who shall cause at least three days' notice of the adjourned meeting to be given to the members; the members present at the adjourned meeting shall form a quorum whatever their number may be and shall be competent to proceed to elect a Chairman.

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[Sch III

(6) At any time before noon of the day preceding the date fixed for the meeting under rule (1) any member may nominate any other member, not being and officer of Government appointed under sub-section (2) of Section 11 of the Act, for election as Chairman, by delivering to the Magistrate any other Officer appointed by the Magistrate in this behalf a nomination paper signed by himself as proposer and by the third member as second and stating—

(a) the name of the member nominated, and

(b) that the proposer has ascertained that such person is willing to serve as Chairman if elected.

(7) If and when the meeting proceeds to select a Chairman the President shall read out to the Board the name of the members who have been duly nominated together with those of their proposers and seconders and if only one member has been so nominated, shall declare that member to be elected; if more than one member has been so nominated, the meeting shall proceed to elect a Chairman by ballot.

(8) Where more two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate vote obtained by the other candidate the candidate who has obtained the smallest number of votes shall be excluded from the election and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election until one candidate obtains more votes than the remaining candidate or than the aggregate votes of the remaining candidates as the case may be.

(9) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under rule (8) the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be the drawing of lots.

(10) In these rules "Magistrate" means-

(a) in the case of a municipality in a subdivision, the Sub-divisional Magistrate; and

(c) in other cases, the District Magistrate.

NOTES

(AMENDMENTS)

Second Schedule-In rule (1), the words " or the Sub-divisional Officer, as the case may be" and in rule (2) the words "or Sub-divisional Officer, as the case may be" were inserted by Assam Act No. II of 1966.

North Eastern Region Local Acts and Rules [Sch. [III

THE THIRD SCHEDULE

Form of Nomination

[See Section 41]

Whereas the meeting of the ..... Municipal Board\* / Town Committee is scheduled to be held on..... for the election of the Chairman of the Municipal Board/\* Town Committee, and whereas Vice-Chairman of the Municipal Board/ \* Town Committee is likely to be a candidate for the office of the Chairman and/ or\* has intimated in writing his inability to preside over the meeting.

I, therefore, nominate Shri/Shrimati ..... a Commissioner of the Municipal Board/\* Town Committee to preside over the said meeting.

In case the Vice-Chairman does not become a candidate for the office of the Chairman, or expresses willingness to preside over the meeting this nomination will automatically be inoperative.

Furthermore, in the event of Shri/Shrimati..... (the Commissioner nominated) becoming himself/herself a candidate for the office of the chairman, this nomination will automatically be inoperative.

Deputy Commissioner

\*Subdivisional Officer

\*Strike out which does not apply.

NOTES

(AMENDMENTS)

Third Schedule- this Schedule was inserted by Assam Act No. II of 1966, published in the Assam Gazette No. II of 1966







Legislative Assembly."

6. **Insertion of new section 15A.**— After section 15 of the principal Act, the following new section 15A shall be inserted, namely,—

"15A **Political Parties barred to contest election.**— No person shall be allowed to contest a municipal election on the ticket or the symbol of a political Party recognized by the Election Commission of India."

7. **Amendment of section 25.**— In section 25 of the Principal Act, in sub-section (1) between the words "Union of India" and "in the following form" occurring therein, the words "before a person appointed by the State Government for the purpose" shall be inserted.

8. **Amendment of section 26.**— In section 26 of the principal Act, in sub-section (2) for the words "the Commissioner of Division" occurring therein and thereafter wherever such words occurred in the principal Act, the words "State Government" shall respectively be substituted:

9. **Amendment of Section 28.**— In section 28 of the principal Act, in sub-section (2), for the words "not less than half of the whole number of", the words "a majority of elected", shall be substituted.

10. **Amendment of section 32.**— After section 32 of the principal Act, a new proviso shall be added, namely,—

"Provided that if the electorate in any municipality fails within the prescribed time to elect at least one-third of the total number of Ward Commissioners to be elected, the State Government may, at its discretion, declare such election null and void and order fresh election covering all the wards and no revision of electoral roll shall be required for any such second election ordered under this section."

11. **Amendment of Section 33.**—For section 33 of the principal Act, the following shall be substituted, namely,—

"33. **Appointment or election of Chairman and Vice-Chairman.**—(1) At the first meeting of the Board, which shall be called by the State Government as soon as may be after the general election, the elected commissioners shall elect a Chairman and a Vice Chairman of the Board from among themselves.

(2) If the elected commissioners fail to elect a Chairman or a Vice Chairman, the State Government may appoint a Chairman or a Vice Chairman, as the case may be, from amongst the elected commissioners."

12. **Amendment of section 34.**—For section 34 of the principal Act, the following shall be substituted, namely,—

"34. Except as otherwise provided in this Act, every Chairman and every Vice Chairman shall take office immediately after his election or appointment, as the case may be, and shall remain in office until the election or appointment of the Chairman after the next general election."

13. **Amendment of section 41.**—In section 41 of the principal Act, in the Proviso to sub-section (1), for the words "officer of the Government", the word "commissioner" shall be substituted.

14. **Amendment of section 45.**—The proviso to section 45 of the principal Act shall be omitted.

L. M. SANGMA,  
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Law Department