VOLUME 8

Allied Acts, Rules & Administration

Municipal Act · Lokayukta · Merged States · village offices abolition · societies · irrigation · disaster response

08

COMPILED BY

Upendra Luha, OAS

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About this volume

This volume brings together the Acts and the Government of Odisha orders, circulars, notifications and resolutions on allied State Acts and Rules, and disaster response that are published on odisharevenuelaws.com. Each document is reproduced as issued, in its original form. Use the Contents page or the PDF bookmarks to jump to any document. Page numbers at the foot of each page run continuously through the volume. This is a compilation for ready reference only; for official purposes, please rely on the notified text and the latest orders of the Government.

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ORISSA ACT IV OF 1950

THE ORISSA MERGED STATES' (LAWS) ACT, 1950

[*Received the assent of the Governor on the 26th February 1959, first published in an extraordinary issue of the* Orissa Gazette, *dated the 3rd March 1950*]

AN ACT TO EXTEND CERTAIN ACTS AND REGULATIONS TO CERTAIN AREAS ADMINISTERED AS PART OF THE PROVINCE OF ORISSA

WHEREAS by orders under section 290-A of the Government of India Act, 1935, provision has been made for the administration of certain areas as if they form part of the Province of Orissa ;

AND WHEREAS it is expedient to provide that certain laws should be extended to, and by virtue of such extension, be in force in the said areas ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Orissa Merged States' (Laws) Act, 1950.

Commencement.

2. It shall come into force at once.

Definition.

3. The expressions 'absorbing Province', 'merged State' and 'law' shall have the same meaning as in the States' Merger (Governors' Provinces) Order, 1949.

Extension of laws.

4. All the Acts and Regulations specified in the Schedule are hereby extended to, and shall be in force, in the areas merged in the absorbing Province of Orissa and now administered as part thereof and so much of any of the said Acts and Regulations as relates to matters with respect to which the Provincial Legislature has power to make laws, subject to such modifications or amendments as set forth in the said Schedule, is hereby extended to and shall be in force in all such areas hereinafter referred to as the merged States.

Repeal of corresponding laws.

5. If immediately before the commencement of this Act there is in force in any of the merged States an Act, Regulation or other law corresponding to an Act or Regulation specified in the Schedule, whether by virtue of an Order under the Extra-Provincial Jurisdiction Act, 1947, applying that Act or Regulation or by virtue of any other legislative power, such corresponding laws shall, upon the commencement of this Act cease to have effect to the extent to which the law relates to matters with respect to which the Provincial Legislature has power to make laws. XLVII of 1947.

Savings.

6. (1) The repeal by section 5 of this Act, of any corresponding law in force in the merged States immediately before the commencement of this Act, shall not affect—

(*a*) the previous operation of any such law, or

(*b*) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or

(*c*) any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the provisions of sub-sections (1) and (3), anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, rule, regulation, form, bye-law or scheme framed, certificate, patent, permit or licence granted or registration effected, under such corresponding law shall be deemed to have been done or taken under the corresponding provision of the Act or Regulation as now extended to, and in force in the merged States and shall continue in force accordingly unless and until superseded by anything done or any action taken under the said Act or Regulation.

(3) All rules, notifications, orders, bye-laws and regulations made or issued under any of the Acts or Regulations specified in the Schedule whether before or after the date of this Act, in exercise of the powers conferred by or under any such Act or Regulation shall, unless they have been applied immediately before the commencement of this Act, apply to the merged States in the same manner as they applied to the Province of Orissa before the merger, subject to such modifications not affecting the substance as may be necessary.

Modification of Tenancy Laws in force in the merged States.

7. Notwithstanding anything contained in the tenancy laws of the merged States as continued in force by virtue of article 4 of the States Merger (Governor's Provinces) Order, 1949—

(*a*) all suits and proceedings between landlord and tenant as such shall be instituted and tried in revenue courts.

Explanation— In this clause the expression 'landlord' shall mean a person immediately under whom a tenant holds land, and the expression 'tenant' shall mean a person who holds land under another person and is or, but for a special contract, would be liable to pay rent for that land to that person ;

(*b*) an occupancy tenant shall be entitled—

(*i*) to freely transfer his holding subject to the restriction that no transfer of a holding from a member of an aboriginal tribe to a member of a non-aboriginal tribe shall be valid unless such transfer is made with the previous permission of the Subdivisional Magistrate concerned ;

(*ii*) to have full right over all kinds of trees standing on his holding;

(*iii*) to use the land comprised in the holding in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy ;

(*iv*) to the benefit of the presumption by any Court that the rent for the time being payable by him is fair and equitable until the contrary is proved.

Explanation—(*i*) An 'occupancy tenant' means a tenant or a raiyat having occupancy right in his holding under the tenancy laws continued in force in the merged States;

(*ii*) an 'aboriginal tribe' means any tribe that may from time to time be notified as such by the Provincial Government

(*c*) where a rent of an occupancy tenant is payable in cash it shall not be liable to be enhanced except in accordance with the tenancy laws continued in force in the merged State concerned;

(*d*) an occupancy tenant shall not be liable to eviction from his holding except in execution of a decree for ejectment passed on the ground that—

(*i*) he has used the land comprised in his holding in a manner which renders it unfit for the purposes of the tenancy; or

(*ii*) he has broken a condition consistent with the provisions of the tenancy laws in force in the merged State concerned and on breach of which he is under the terms of contract between himself and his landlord, liable to be ejected;

(*e*) the interest of an occupancy tenant in his holding shall on his death pass by inheritance or survivorship in accordance with his personal law;

(*f*) a "Sukhbasi" shall be entitled to the rights of an occupancy tenant over his homestead notwithstanding any law or custom to the contrary;

Explanation—A "Sukhbasi" means any person holding only homestead whether or not recorded in the settlements paper as "Ghar", "Bari" or "Gharbari" or a person who is granted land by the Thekadar or by a competent revenue officer for the purpose of using it as homestead;

(*g*) when land is held as service tenure, either under the Ruler or any member of his family the liability of the holder of such tenure to render service for the use and occupation thereof shall cease, and he shall, on payment of such rent as may be assessed by the Provincial Government as fair and equitable, acquire occupancy right therein;

(*h*) when a person holds khamar, nij-jote or any other private lands of a Ruler, which has been recognised as such by the Provincial Government, he shall not be liable to ejectment but shall be liable to pay such fair and equitable rent as may be fixed by any competent authority appointed in this behalf by the Revenue Commissioner or the Commissioner, Northern Division, as the case may be and thereupon he shall acquire right of occupancy in respect of such lands:

Omitted by O. Act XXXI of 51

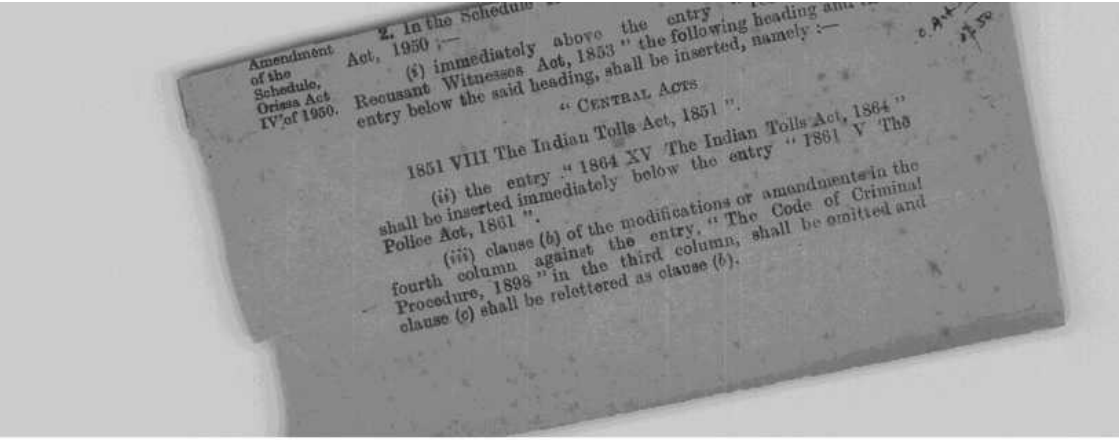
Provided that such liability of the holder of any service tenure shall not cease and no occupancy right shall accrue to him therein if, on the application of the Ruler the Provincial Government direct that the holder shall continue to render such service.

Powes of Courts and authorities for porposes of facilitating application of laws

8. For the purpose of facilitating the application in any of the merged States of any Act or Regulation specified in the Schedule, any Court or other authority may construe any such Act or Regulation with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court or other authority.

Repeal

9. The Orissa Merged States' (Laws) Ordinance, 1949, is hereby repealed. Orissa Ordinance No. IV of 1949.



Amendment of the Schedule, Orissa Act IV of 1950.

2. In the Schedule [illegible] Act, 1950 ;—

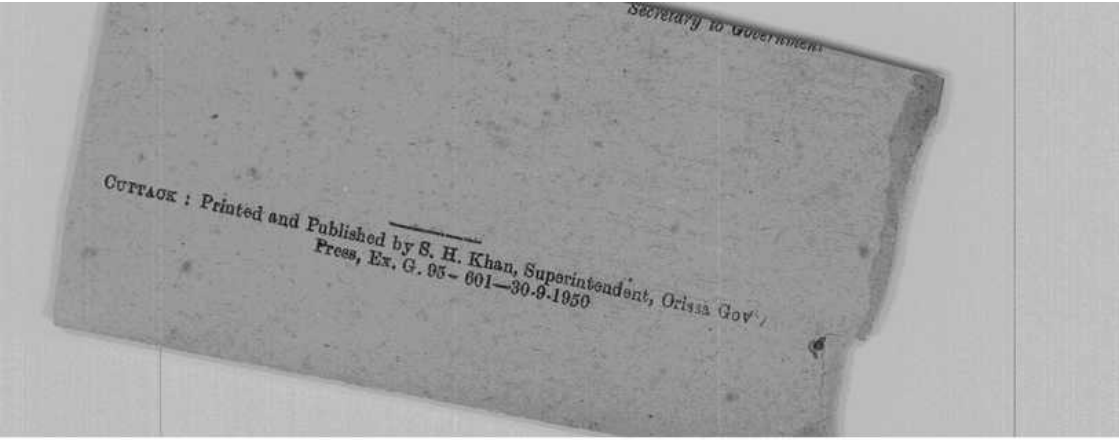
(i) immediately above the entry [illegible] Recusant Witnesses Act, 1853 " the following heading and entry below the said heading, shall be inserted, namely :—

" CENTRAL ACTS

1851 VIII The Indian Tolls Act, 1851 ".

(ii) the entry " 1864 XV The Indian Tolls Act, 1864 " shall be inserted immediately below the entry " 1861 V The Police Act, 1861 ".

(iii) clause (b) of the modifications or amendments in the fourth column against the entry, " The Code of Criminal Procedure, 1898 " in the third column, shall be omitted and clause (c) shall be relettered as clause (b).


Secretary to Government.

CUTTACK : Printed and Published by S. H. Khan, Superintendent, Orissa Govt. Press, Ex. G. 95—601—30-9-1950

SCHEDULE

Year	Number	Short title	Modification or amendment
1853	XIX	The Recusant Witnesses Act, 1853.	
1859	IX	The Forfeiture Act, 1859	
1861	V	The Police Act, 1861 ..	(a) To section 8 the following proviso shall be added, namely :— "Provided that every police officer appointed to the Police force in any merged State prior to the 31st December 1947 or 1948 and continued in service after that date shall, till the 1st March 1948 or 1949 be deemed to be a police officer for the purposes of this Act, but after the latter date he shall cease to be a police officer unless he is enrolled under this section". (b) In section 46— sub-section (1) and the first fourteen words of sub-section (2) shall be omitted.
1867	XXII	The Sarais Act, 1867	
1870	VII	The Court Fees Act, 1870	(a) As subsequently amended in its application to the Province of Orissa. (b) Omit the second and third paragraphs of section 1 and section 1-A. (c) For the words "appropriate Government" wherever they occur the words "Provincial Government" shall be substituted.
1870	VIII	The Female Infanticide Prevention Act, 1870.	Omit section 7.
1871	I	The Cattle Trespass Act, 1871.	In section 6 for "Provincial Government" substitute "Magistrate of the district".

Year	Number	Short title	Modification or amendment
1879	VI	The Elephants' Preservation Act, 1879.	Omit the second and third paragraphs of section 1.
1879	XVIII	The Legal Practitioner's Act, 1879.	(*a*) Omit the third paragraph of section 1. (*b*) As amended by the Orissa Act VI of 1938. (*c*) For the words "the Chief Controlling Revenue Authority" wherever they occur the words "the Commissioner, Northern Division or the Revenue Commissioner as the case may be" shall be substituted. (*d*) After section 41 the following new section shall be inserted, namely :— "42. *Savings*.—Until other provisions are made by or under this Act— (1) all persons enrolled Advocates in the Register of any High Court in the merged States shall be deemed to be Advocates for the purposes of this Act ; (2) all persons enrolled as pleaders under the authority of such a High Court and such other persons who were in the list of pleaders in any of the merged States on the 31st December 1947 or 1948 as the case may be and are found fit to continue to practise as such by the High Court of Orissa for such period or periods as it considers necessary subject to such terms and conditions as may be imposed in that behalf by the said High Court shall be deemed to be pleaders for the purposes of this Act ; and

Year	Number	Short title	Modification or amendment
			(3) all persons who have passed the Mukhtarship examination held under the authority of the High Court of Patna or Calcutta or the Mukhtarship examination conducted by a Board constituted in any of the merged States and were practising as Mukhtars as also all persons who were in the list of Mukhtars in any of the merged States on the 31st December 1947 or 1948 as the case may be and are found fit to continue to practise as such by the High Court of Orissa for such period or periods as it considers necessary, subject to such terms and conditions as may be imposed in that behalf by the said High Court, shall be deemed to be Mukhtars for the purposes of this Act."
1883	XIX	The Land Improvement Loans Act, 1883.	(*a*) Omit sub-section (2) of section 1. (*b*) In section 3 after the words "a district" the words "the District Magistrate" shall be inserted.
1884	XII	The Agriculturists' Loans Act, 1884.	(*a*) Omit sub-section (2) of section 1. (*b*) As amended by Orissa Act VI of 1937.
1887	XII	The Bengal, Agra and Assam Civil Courts Act, 1887.	(*a*) For section 2, the following section shall be substituted, namely :— "2. *Savings*—(1) All Courts (whether known as Courts of Munsifs or Subordinate Judges or by any such expression) other than the Courts of the Subordinate Judge with unlimited pecuniary jurisdiction or the Additional Judge or the District Judge constituted appointments, nominations, rules and orders made

Year	Number	Short title	Modification or amendment
			jurisdiction and powers conferred and lists published under any enactment for the time being in force in any merged State relating to Civil Court shall be deemed to have been respectively constituted, made, conferred and published under this Act. (2) Any enactment or instrument referring to any law relating to Civil Courts which was repealed either partially or wholly by the application of this Act shall be construed as referring to this Act or to the corresponding provisions thereof."
1899	X	The Govt management of Private Estate Act, 1892	
Inc. by Act XV of 50 1894	I	The Land Acquisition Act, 1894.	Omit sub-sections (2) and (3) of section 1.
1897	VIII	The Reformatory Schools Act, 1897.	..
1897	XIV	The Indian Short Titles Act, 1897.	..
1898	V	The Code of Criminal Procedure, 1898.	(a) In section 30 after the words "and Assam" the words "in the merged States" shall be inserted. (b) To section 268, the following proviso shall be added, namely :— "Provided that a Court of Session may at its discretion direct that any trial before that Court shall be without jury or without the aid of assessors if the offence took place in the merged States where prior to the 1st January 1948 or 1st January 1949 as the case may be, there was no trial by jury or with the aid of assessors." omitted Orissa Act XVI of 50 (c) In sub-section (1) of section 503 after the words "such attendants and" the words "if such witness resides in any Province of India or in any area to which this Code has been applied" shall be inserted.

Year	Number	Short title	Modifications or amendment
1899	II	The Indian Stamp Act, 1899.	As subsequently amended in its application to the Province of Orissa.
1899	XIII	The Glanders and Farcy Act, 1899.	In section 10 after the word "Inspector" the words "the Officer-in-charge of a police-station" shall be inserted.
1912	VIII	The Wild Birds and Animals Protection Act 1912.	..
1927	XVI	The Indian Forest Act, 1927.	Omit sub-section (2) and (3) of section 1.
1937	XVIII	The Hindu Women's Rights to Property Act, 1937.	As subsequently amended in its application to the Province of Orissa.
1939	IV	The Motor Vehicles Act, 1939.	1. In section 2— (a) the following new clauses shall be inserted, namely :— (19-A) "merged States" means those States which have been specified in the Schedule VI of the States Merger (Governors' Provinces) Order, 1949. (29-A) "merged States Transport Service" means a service in which a merged State has entire financial interest, or any other Transport Service in which the said State may have partial financial interest, and in such a case the Provincial Government shall declare such service as merged State Transport Service for the purpose of this Act. (b) In clause (20) after the words "the Regional Transport Authority", the words "or District Magistrate or Subdivisional Magistrate as the case may be" shall be inserted. (a) In section 44—the provisos to sub-section (1) of section 44 shall be omitted.

omit by Act XVI of 50

Year	Number	Short title	Modification or amendment
			(*b*) To sub-section (2) the following proviso shall be added, namely :— "Provided that if the Provincial Government so requires a Provincial Transport Authority or a Regional Transport Authority may consist of a single official."
			3. In sub-section (1) of section 47, and in section 55 after clause (*f*) the following clauses shall be inserted, namely :—
			"(*g*) Other conditions being equal, in the interest of proper co-ordination of transport facilities, the expediency of giving due consideration to a merged State Transport Service ;
			(*h*) The necessity for preventing unhealthy competition in any route or routes or area on which the merged State Transport Service may ply ; "
			4. In section 57—
			(*a*) in sub-section (2) after the words "shall be made" the following words shall be inserted, namely :—
			"in the case of merged State Transport Service not less than two weeks and in other cases".
			(*b*) In sub-section (3) after the word "date" the words "not being less than ten days in the case of an application by the merged State Transport Service and in other cases" shall be inserted.
			(*c*) In sub-section (5) after the words "making the representation", the words "and any District or Subdivisional Magistrate as the case may be if he desires to be heard", shall be inserted.

Year	Number	Short title	Modification or amendment
			5. Section 58—For the existing section the following section shall be substituted, namely :—
			"58 (1) A permit other than a temporary permit issued under section 62 shall normally be effective without renewal for such period, not less than three years and not more than five years, as the Regional Transport Authority may specify in the permit :
			"Provided that if the Regional Transport Authority is satisfied that an existing or a prospective merged State Transport Service can or is going to be extended to any route or area on the permit within a period of three years from the date on which the permit is to be effective, the permit shall be for such shorter period as the Regional Transport Authority may consider suitable in order to avoid conflict with the prospective extension of such merged State Transport Service.
			(2) All permits and all authorisations that may be treated as permits under any existing law or custom having the force of law in any merged State shall lapse to the extent that any of the provisions of such permit or authorisation is contrary to the provisions of this Act and the rest shall not continue in force beyond the 30th September 1948, unless extended by the Regional Transport Authority having authority in the area, before the said date and if so extended, shall continue only for such period as may be specified by the Regional Transport Authority subject to such conditions as are consistent with the provisions of this Act and as may be prescribed by the Regional Transport Authority:

Year	Number	Short title	Modification or amendment
			Provided that no order under this sub-section extending any permit or authorisation which is *abinitio* void under the existing laws in the merged State shall be made :
			Provided further that the Regional Transport Authority shall in no case extend an exi ting permit or authorisation beyond a total period of three years from the date of its issue.
			(3) A permit may be renewed on an application made and disposed of as if it were an application for a permit :
			Provided that other conditions being equal an application for renewal shall be given preference over new applications for permits by parties other than a merged State Transport Service.
			6. Section 62—For the opening paragraph of section 62 the following shall be substituted, namely :—
			" Without following the procedure laid down in section 57, a Regional Transport Authority or a District or Subdivisional Magistrate as the case may be, may grant permits authorising the use of a transport vehicle temporarily for a limited period not exceeding four months in the case of permits by a Regional Transport Authority and not exceeding ten days in the case of permits by the District Magistrate or Subdivisional Officers as the case may be."
			7. Section 133—Delete sub-section (3).

Year	Number	Short title	Modification or amendment
		PROVINCIAL ACTS	
		Bengal	
1855	XXXII	The Bengal Embankment Act, 1855.	As subsequently amended in its application to the Province of Orissa.
1867	II	The Bengal Public Gambling Act, 1867.	
1873	IV	The Bengal Births and Deaths Registration Act, 1873.	
1875	V	The Bengal Survey Act 1875	Ins. by O. Act XV of 52
1882	II	The Bengal Embankment Act, 1882.	
1885	I	The Bengal Ferries Act, 1885.	
		Bihar and Orissa	
1914	IV	The Bihar and Orissa Public Demands Recovery Act, 1914.	
1915	II	The Bihar and Orissa Excise Act, 1915.	As subsequently amended in its application to the Province of Orissa.
1920	II	The Bihar and Orissa Places of Pilgrimage Act, 1920.	
1920	IV	B & O Mining Settlement Act, 1920.	O. Act XVI of 50
1922	VII	The Bihar and Orissa Municipal Act, 1922.	As subsequently amended in its application to the Province of Orissa.
1923	VI	The Bihar and Orissa State-aid to Industries Act, 1923.	Ditto
1926	I	The Bihar and Orissa Musalman Wakf (Amendment) Act, 1926.	
1930	II	The Bihar and Orissa Motor Vehicles Taxation Act, 1930.	As subsequently amended in its application to the Province of Orissa.
1935	VI	The Bihar and Orissa Co-operative Societies Act, 1935.	Ditto

Year	Number	Short title	Modification or amendment
		Orissa	
1937	I	The Orissa General Clauses Act, 1937.	
1937	III	The Orissa Ministers' Salaries Act, 1937.	As subsequently amended
1937	IV	The Orissa Legislative Assembly Speaker's and Deputy Speaker's Salaries Act, 1937.	As subsequently amended
1938	II	The Orissa Legislative Assembly Members' Salaries and Allowances Act, 1938.	As subsequently amended
1938	III	The Orissa Co-operative Land Mortgage Bank Act, 1938.	As subsequently amended
1938	V	The Orissa Small Holders Relief Act, 1938.	
1938	VII	The Orissa Nurses and Midwives Registration Act, 1938.	As subsequently amended
1938	X	The Orissa Prevention of Adulteration and Control of Sale of Food Act, 1938.	
1939	II	The Opium (Orissa Amendment) Act, 1939.	
1939	III	The Orissa Money-Lenders Act, 1939.	As subsequently amended
1939	IV	The Orissa Hindu Religious Endowments Act, 1939.	As subsequently amended
1939	VII	The Orissa Prohibition Act, 1939.	
1943	VII	The Orissa Weights and Measures Act, 1943.	
1943	XIII	The Utkal University Act, 1943.	As subsequently amended

Year	Number	Short title	Modification or amendment
1947	XIV	The Orissa Sales Tax Act, 1947.	
1947	XVI	The Orissa Opium Smoking Act, 1947.	
1947	XXIV	The Orissa Agricultural Income-tax Act, 1947.	
1947	XXVI	The Orissa Court of Wards Act, 1947.	(1) - Ins. by O. Act X
1947	XXXIII	The Orissa Land Encroachment Act, 1947.	(2) Section 2—For clause (a) the following clause shall be substituted, namely :— "(a) Land acquired under the provisions of the Land Acquisition Act, 1894, or acquired otherwise for the purposes of Government or any Local authority or a Railway Company while such land remains as the property of Government, Local authority or Railway Company as the case may be ". (3) For clause (c) the following clause shall be substituted, namely :— " (c) Land belonging to or recorded as belonging to Government or any Local authority which is used for any public purpose as road, canal, irrigational tank; drinking water reservoir or embankment or which is required for repair or maintenance of such road, canal, irrigational tank, drinking water reservoir or embankment while such land continues to be so used or required ". (4) For clause (d) the following clause shall be substituted, namely :— " (d) Communal lands used or recorded as Gochar, Rakhit, Smasan, Sarbasadharan and forest in the record-of-rights prepared under any law for the time being in force in the merged State ".

Year	Number	Short title	Modification or amendment
1944	V	Hindu Women's Right to Property (Extension to Agricultural Land in Orissa) Act, 1944.	
1946	V	The Orissa Entertainments Tax Act, 1946.	As subsequently amended
1946	VI	The Orissa Drugs Advertisements Control Act, 1946.	
1946	VII	The Orissa Military Police Act, 1946.	
1946	IX	The Orissa Motor Spirit (Taxation on Sales) Act, 1946.	
1946	XI	The Orissa Removal of Civil Disabilities Act, 1946.	
1947	I	The Orissa Essential Articles Control and Requisitioning (Temporary Powers) Act, 1947.	
1947	V	The Orissa House Rent Control Act, 1947.	As subsequently amended
1947	VIII	The Orissa Preservation of Private Forests Act, 1947.	For section 3 the following section shall be substituted, namely :— "It shall come into force in such areas, and from such date as the Provincial Government may by notification, from time to time direct ".
1947	XI	The Orissa Temple Entry Authorization and Indemnity Act, 1947.	For sub-section (3) of section 1 the following sub-section shall be substituted, namely :— " (3) Section 1 shall come into force at once and the remaining sections shall come into force in such areas and on such date or dates as the Provincial Government, may, by notification appoint ".

Year	Number	Short title	Modification or amendment
			(4) In the proviso to section 3, for the words " Orissa Tenancy Act, 1913 " the words " Tenancy Law in force in the area " shall be substituted.
1947	XXXVI	The Orissa Motor Vehicles (Regulation of Stage Carriage and Public Carrier's Services) Act, 1947.	
1948	I	The Orissa Communal, Forest and Private Lands (Prohibition of Alienation) Act, 1948.	
1948	III	The Orissa Tenants Protection Act, 1948.	As subsequently amended
1948	IV	The Orissa Maintenance of Public Order Act, 1948.	As subsequently amended
1948	V	The Orissa Local Fund Audit Act, 1948.	
1948	VIII	The Orissa Revenue Commissioner's (Regulation of Functions) Act, 1948.	
1948	X	The Orissa Compulsory Labour Act, 1948.	For sub-section (3) of section 1 the following sub-section shall be substituted, namely :— "(3) It shall come into force on such date as the Provincial Government may, by notification, direct".
1948	XI	The Orissa Temple Entry Authorization Act, 1948.	
1948	XV	The Orissa Grama Panchayats Act, 1948.	
1948	XVIII	The Orissa Development of Industries, Irrigation, Agriculture, Capital Construction and Resettlement of Displaced Persons (Land Acquisition) Act, 1948	

Year	Number	Short title	Modification or amendment
1948	XIX	The Land Acquisition (Orissa Amendment) Act, 1948.	
1949	I	The O. Motorvehicles (amdt) Act, 1949	
1949	IV	The Orissa Local Authorities Census Expenses Contribution Act, 1949.	
1949	VII	The Orissa Muhammadan Marriages and Divorces Registration Act, 1949.	
1949	VIII	The Orissa Animal Contagious Diseases Act, 1949.	
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1936	II	The Orissa Medical Regulation, 1936.	
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1937	XII	The Orissa Famine Relief Fund Regulation, 1937.	
1942	I	The Indian Post Office (Orissa Amendment) Regulation, 1942.	
1948	I	The Orissa Debt Bondage Abolition Regulation, 1948.	

The Orissa Hereditary Village Offices (Abolition) Act, 1962

Act 12 of 1962

Keyword(s):
Emoluments, Hereditary Village Office, Holder of a Hereditary Office

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ORISSA ACT 12 OF 1962

THE ORISSA HEREDITARY VILLAGE OFFICES (ABOLITION) ACT, 1962

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SCHEDULE

ORISSA ACT 12 OF 1962

[1][THE ORISSA HEREDITARY VILLAGE OFFICES (ABOLITION) ACT, 1962]

[*Received the assent of the Governor on the 3rd May 1962, first published in an extraordinary issue of the* Orissa Gazette, *dated the 12th May 1962*]

AN ACT TO ABOLISH HEREDITARY VILLAGE OFFICES IN THE STATE OF ORISSA

WHEREAS it is expedient in the public interest to abolish hereditary village offices and the emoluments appertaining thereto in the State of Orissa ;

It is hereby enacted by the Legislature of the State of Orissa in the Thirteenth Year of the Republic of of India as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Orissa Hereditary Village Offices (Abolition) Act, 1962.

(*2*) It extends to the whole of the State of Orissa.

(*3*) It shall come into force[2] on such date as the State Government may, by notification, appoint in that behalf.

Definitions

2. In this Act, unless the context otherwise requires—

(*a*) "appointed date" means the date appointed under sub-section (*3*) of section 1 ;

(*b*) "emoluments" means money salaries and all other kinds of payment or allowance by way of remuneration granted or continued in respect of, or annexed to, any hereditary village office ;

(*c*) "hereditary village office" means any office in the district of Ganjam known as village accountant, head of village or village

1. For the Statement of Objects and Reasons, *See Orissa Gazette extraordinary*, dated the 9th April 1962.

2. Came into force with effect from the 1st February 1963 vide Notification No. 6392-L. R.-210/62-R., dated the 29th January 1963 published in *Orissa Gazette* Extraordinary dated the 29th January 1963, (No. 68).

watchman under the Madras Proprietary Estates' Village Service Act, 1894 or any office in the said district known as village munsif, karnam, vetti or talayari under the Madras Hereditary Village Offices Act, 1895 ; Madras Act 2 of 1894. Madras Act 3 of 1895.

(*d*) "holder of a hereditary village office" means a person holding a hereditary village office permanently or officiating in a permanent vacancy after a selection in accordance with the procedure in force immediately before the appointed date ;

(*e*) "Prescribed" means prescribed by rules made under this Act.

Abolition of hereditary village offices together with incidents thereof.

3. Notwithstanding anything in any law or in any decree or order of court, with effect from and on the appointed date—

(*1*) all hereditary village offices shall be deemed to have been abolished ;

(*2*) all incidents (including the right to hold office and to receive emoluments attached thereto, the right, if any, to customary fees or perquisites in money or in kind and the liability to render service) appertaining to the said village offices shall be deemed to have been extinguished.

Power of Collector to decide whether a person was the holder of a hereditary village office and appeal therefrom.

4. (*1*) If any question arises as to whether a person was, immediately before the appointed date, the holder of a hereditary village office, the Collector shall, after giving the parties affected an opportunity to be heard and after holding an enquiry, decide the question.

(2) Any person aggrieved by the decision of the Collector under sub-section (*1*) may, within sixty days of such decision, prefer an appeal to the Board of Revenue, and the decision of the Board of Revenue on such appeal shall be final.

(Secs. 5-6)

Relief to holders of village offices abolished under the Act.

5. The holders of hereditary village offices shall, on the abolition of the offices under section 3, be either—

(*i*) appointed in suitable posts under the State Government in accordance with such rules as may be prescribed ; or

(*ii*) paid by way of solatium a gratuity equivalent to three times the monthly emoluments together with three-fourths of such emoluments for each completed year of service.

Submission of records etc., and consequences of non-submission.

6. (*1*) It shall be the duty of every holder of a hereditary village office—

(*a*) to deliver all records maintained by him in the capacity of such holder ; and

(*b*) to settle all accounts appertaining to his office.

(*2*) Any person who fails to comply with the provisions of any of the clauses of sub-section (*1*) within thirty days from the appointed date or such further period as the Collector may allow, shall be punishable on conviction with fine which may extend to two hundred rupees and in the case of a continuing failure with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after the conviction for the first such failure.

(*3*) Without prejudice to the provisions of sub-section (*2*) any failure as specified therein shall, on an order specifically made in that behalf by the Collector, debar the holder of such office from claiming any right to any of the benefits under section 5 :

Provided that no such order shall be made without giving the person affected a reasonable opportunity of being heard.

(*4*) The Collector may for the purpose of recovering the records specified in clause (*a*) of sub-section (*1*) issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under Chapter VII of the Code of Criminal Procedure, 1898. 5 of 1898

Power to take evidence on oath, etc.

7. The Collector and the Board of Revenue shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:— 5 of 1908

(*a*) summoning and enforcing the attendance of witnesses and examining them on oath ;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavit ; and

(*d*) such other matters as may be prescribed.

Enquiries and proceedings to be judicial proceedings.

8. All enquiries and proceedings before the Collector or the Board of Revenue under this Act, shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860.

Power to make rules.

9. (*1*) The State Government may make rules * to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the procedure to be followed by the Collector in determining questions as to whether a person was the holder of a hereditary village office or not ;

(*b*) the procedure relating to appeals before the Board of Revenue ;

(*c*) the qualifications and other conditions for appointment of holders of hereditary village offices in suitable posts under the State Government ;

(*d*) the form of application for the grant of gratuity under section 5, the time within which and the authority to which such applications shall be made and appeal from orders on such applications ;

* For rules see Notification No. 6396-Re.-139/62-R., dated the 29th January 1963 published in *Orissa Gazette*, Extraordinary, dated 29th January 1963. (No. 69).

(*e*) any other matter which has to be, or may be prescribed under this Act.

(*3*) All rules made under this section shall be laid before the Legislative Assembly as soon as possible after they are made for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the Assembly may make during the said period.

Repeal

10. With effect from the appointed date the enactments specified in the Schedule shall, in so far as they relate to any hereditary village office or to the holders thereof, stand repealed.

Power to remove difficulties.

11. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, make such provision or give such directions not inconsistent with the provisions of this Act as may appear to them to be necessary or expedient for the removal of the difficulty, and the order of the State Government, in such cases, shall be final.

SCHEDULE

(*See section* 10)

Number and year	Short title
1	2
1. Madras Regulation XI of 1816.	The Madras Village-Police Regulation, 1816
2. Madras Regulation IV of 1821	The Madras Village-Police Regulation, 1821.
3. Madras Act 2 of 1894	The Madras Proprietary Estates' Village Service Act, 1894.
4. Madras Act 3 of 1895	The Madras Hereditary Villages Offices Act, 1895.

The Orissa Merged Territories (Village Offices Abolition) Act, 1963

Act 10 of 1963

Keyword(s):
Bhogra Lands, Emolument, Former State, Gountia, Gounti-Raiyati, Grama Sasan, Right of Occupancy, Village Office

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ORISSA ACT 10 OF 1963

THE ORISSA MERGED TERRITORIES (VILLAGE OFFICES ABOLITION) ACT, 1962

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ORISSA ACT 10 OF 1963

[1][THE ORISSA MERGED TERRITORIES (VILLAGE OFFICES ABOLITION) ACT, 1962]

[*Received the assent of the President on the 23rd May 1963, first published in an extraordinary issue of the* Orissa Gazette, *dated the 4th June, 1963*]

AN ACT TO ABOLISH CERTAIN VILLAGE OFFICES IN THE STATE OF ORISSA

Whereas it is expedient in the public interest to abolish certain Village Offices in the merged territories of the State of Orissa and to provide for matters incidental thereto in the manner hereinfter appearing ;

Be it enacted by the Legislature of the State of Orissa in the Fourteenth year of the Republic of India, as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Orissa Merged Territories (Village Offices Abolition) Act, 1963.

(*2*) It extends to the whole of the State of Orissa and shall apply to the merged territories of each of the former States specified in column 1 of the Schedule.

(*3*) It shall come into force on such date[2] as the State Government may, by notification, appoint in that behalf and different dates may be so appointed in respect of different areas.

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1. For the Statement of Objects and Reasons, *see Orissa Gazette* Extraordinary, dated the 11th September 1962 (No. 462) and for Report of Select Committee, *see ibid*, dated the 7th February 1963 (No. 83).

2. Came into force with effect from—

(*i*) The 1st April 1965 in the Merged Territories of the former States of Daspalla, Khandpara, Mayurbhanj and Nayagarh, *see* Notification. No. 21496—E. A.-I-N.D.-5/65-R., dated the 31st March 1965, Published in *Orissa Gazette*, Extraordinary, dated the 31st March 1965(No. 419);

(*ii*) The 1st May 1965 in the Merged Territories of the former States of Bamra and Rairakhol, *see* Notification. No. 24210—E. A. I. (N. D.) 5/65-R., dated the 22nd April 1965, published in *Orissa Gazette*, Extraordinary dated the 23rd April 1965 (No. 557-A);

(*iii*) The 1st April 1966 in the Merged Territories comprised in the districts of Boudh, Dhenkanal and Sundargarh, *see* Notification. No. 20335 E. A.-I-C.-D.-41/66-R., dated the 31st March 1966, published in *Orissa Gazette*, Extraordinary, dated the 31st March 1966 (No. 340-B); and

(*iv*) The 1st April 1967 in the Merged Territories comprised in the district of Keonjhar, see Notification. No. 16333—E.A.-I-C.D-81/67-R., dated the 31st March 1967, published in *Orissa Gazette*, Extraordinary, dated the 1st April 1967 (No. 336).

(*Sec. 2*)

Definitions

2. In this Act unless the context otherwise requires—

(*a*) "appointed date" in relation to any area means the date appointed in respect of such area by a notification under sub-section (*3*) of section 1;

(*b*) "Bhogra lands" in relation to any village office means lands by whatever name described or locally known, whether or not recorded as such in the settlement papers, held as emolument in respect of such office;

(*c*) "Collector" includes any officer, not being below the rank of an Additional District Magistrate appointed by the State Government to perform all or any of the functions of a Collector under this Act;

(*d*) "emolument" in relation to any village office means salary, cash payment, commission, use or enjoyment of lands held and all kinds of privileges and benefits in respect of or annexed to such office in lieu of remuneration for the performance of the duty appertaining thereto and includes right to fees or perquisites in money or in kind, whether at fixed times or otherwise as incidental to such office;

(*e*) "former State" means a Merged State within the meaning of the States Merger (Governor's Provinces) Order, 1949;

(*f*) "Gountia" includes Gountia with protected status;

(*g*) "Gounti-raiyati lands" means land recorded as such in the settlement papers in the merged territories of the former State of Bamra;

(*h*) "Grama Sasan" means the Grama Sasan constituted under the provisions of the Orissa Grama Panchayats Act, 1948; Orissa Act 15 of 1948.

(*Sec. 3*)

(*i*) "right of occupancy" shall have the same meaning as has been assigned to it in the Orissa Merged States' (Laws) Act, 1950 in respect of an occupancy tenant; Orissa Act 4 of 1950.

(*j*) "Village Office" in relation to any of the merged territories specified in column 1 of the Schedule shall mean the office shown in column 2 of the said Schedule in respect of such merged territories; and

(*k*) words and expressions used in this Act but not defined shall have the same meaning as assigned to them in the relevant law, rule, order, usage, settlement, sanad or other grant relating to the Village Offices in the corresponding merged territories.

Abolition of Village Offices and consequences thereof.

3. Notwithstanding anything in any law, usage, settlement, grant, sanad or order or in any judgment, decree or order of a Court, with effect from and on the appointed date—

(*a*) the Village Offices, if any, within the respective territories shall be deemed to have been abolished;

(*b*) all the incidents of the service tenures relating to such offices shall be deemed to have been extinguished;

(*c*) all settlements, sanads, and all grants in pursuance of which such tenures were being held immediately before the appointed date shall be deemed to have been cancelled;

(*d*) the rights of the holders of such offices to receive any emolument shall be deemed to have been terminated;

(*e*) all rights to hold office and any liability to render service appertaining to such office shall stand extinguished;

(*f*) all Bhogra lands shall stand resumed and vested absolutely in the State Government free from all encumbrances ; and

(*g*) the holder of any Village Office shall cease to have the right to hold all other lands which he would not have continued to hold except by virtue of or as incidental to his office.

(*Secs. 4-5*)

Collector to decide, if a person is the holder of a Village Office.

4. (*1*) If any question arises as to whether a person was immediately before the appointed date the holder of any Village Office the Collector shall after giving the person affected an opportunity of being heard and after holding an enquiry decide the question.

(*2*) Any person aggrieved by the decision of the Collector under sub-section (*1*) may within thirty days of such decision prefer an appeal to the Board of Revenue and the decision of the Board on such appeal subject to the provisions of sub-section (*3*) of section 13 shall be final.

Settlement of Bhogra lands.

5. (*1*) All Bhogra lands resumed under the provisions of this Act shall subject to the provisions of sub-section (*2*) be settled with rights of occupancy therein on a fair and equitable rent with the holder of the Village Office or with him and all those other persons, if any, who may be in the enjoyment of the land or any part thereof as his co-sharer or as tenants under him or under such co-sharer to the extent that each such person was in separate and actual cultivating possession of the same immediately before the appointed date:

[1][Provided that no water reservoir, whether known as tank, munda, bandha, kata or by any other name whatsoever, which forms part of such bhogra land and which was being used for the purposes of irrigation or for any communal purpose, shall be settled with the holder of the village office or with any other person as aforesaid.]

(*2*) The total area of such land in possession of each such person shall be subject to a reservation of a certain fraction thereof in favour of the Grama Sasan within whose limits the land is situate and the extent of such reservation shall be determined in the following manner, namely :—

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1. Inserted by the Orissa Merged Territories (Village Offices Abolition) Amendment Act, 1976 (Or. Act 33 of 1976), s. 2.

Land in possession	Extent of reservation
For the first 10 acres ..	Nil
For the next 20 acres ..	5 per cent
For the next 70 acres ..	10 per cent
For the next 100 acres ..	30 per cent
For the remaining ..	40 per cent:

Provided that the area reserved shall, as far as practicable, be in compact block or blocks of one acre or more.

De-reservation of lands.

[1][5-A. The State Government shall, at any time, if it is necessary in the public interest, de-reserve any land reserved in favour of any Grama Sasan under section 5, and on such de-reservation the land shall vest in the State Government free from all encumbrances.]

Divesting of water reservoirs already settled.

[2][5-B. Nothwithstanding any judgment, decree or order of any Court, Tribunal or other authority, the settlement of any water reservoir of the description mentioned in the proviso to sub-section (*1*) of section 5 made under that section prior to the date of commencement of the Orissa Merged Territories (Village Offices Abolition) Amendment Act, 1976, shall be of no effect whatsoever; and all such water reservoirs shall, for all intents and purposes, be deemed to have vested absolutely in the State Government free from all encumbrances.]

Settlement of Gountiraiyati lands.

6. All Gounti-raiyati lands shall be settled with rights of occupancy therein on a fair and equitable rent with the Gountia or, as the case may be, with him and all those other persons who may be in the enjoyment of the land or any part thereof as his co-sharers or as tenants under him or under such co-sharer to the extent that each such person was in separate and actual cultivating possession of the same immediately before the appointed date.

1. Inserted by the Orissa Merged Territories (Village Offices Abolition) Amendment Act, 1975 (Or. Act 26 of 1975), s. 2.
2. Inserted by the Orissa Merged Territories (Village Offices Abolition) Amendment Act, 1976 (Or. Act 33 of 1976), s. 3.

(*Secs. 7-8*)

Settlement of abandoned and surrendered holdings and waste lands.

7. (*1*) All abandoned and surrendered holdings in the possession of the holder of a Village Office and all waste lands reclaimed by him from and after the 1st day of January 1949 shall be, so far as may be practicable, settled with the previous holders or their heirs, or with landless persons and small-holders of land in the prescribed manner.

(*2*) All waste lands reclaimed prior to the said date shall be settled with the holder of a Village Office with rights of occupancy therein on a fair and equitable rent.

(*3*) Notwithstanding anything to the contrary in sub-sections (*1*) and (*2*) in the territories of the former State of Pal-Lahara, waste lands reclaimed by the Sarbarakar prior to the first day of January 1942 shall be settled in the manner specified in sub-section (*2*) and waste lands reclaimed on and after the said date in the manner specified in sub-section (*1*).

Employment of certain Village Officers in State service and payment of solatium.

8. The Village Officer shall, on abolition of the office, if there are no Bhogra lands to be settled with him, be paid by way of solatium a lump sum grant of fifteen times the annual commission received by him during the year immediately prior to the appointed date :

Provided that no such solatium shall be payable, if such officer on his application has been appointed before the expiry of a period of six months from the appointed date to any suitable post under the State Government in accordance with such rules as may be prescribed :

Provided further that where a Gountia in the former State of Bamra holds any Gounti-raiyati lands immediately before the appointed date—

(*a*) no solatium shall be payable, if the market value of such lands is not less than fifteen times the annual commission ; and

(*Sec. 9*)

(*b*) in any other case the solatium shall be equal to the amount by which fifteen times such commission exceeds the said market value:

[1][Provided also that where the annual commission received by any Village Officer during the year immediately prior to the appointed date has been affected as a result of remission of rent or revenue payable in respect of that year or as a result of suspension of realisation of such rent or revenue, the solatium under this section shall be calculated on the annual commission received by the Village Officer during the year next preceding the appointed date the rent in respect of which year has not been so affected.]

Submission of records and delivery of possession of land.

9. (*1*) It shall be the duty of every Village Officer in the prescribed manner—

(*a*) to deliver all records maintained by him before the appointed date in respect of the land or village held by him in relation to his office;

(*b*) to render all accounts appertaining to his office in respect of dues payable by and to him; and

(*c*) to deliver to the State Government possession of all abandoned and surrendered holdings and all lands to which they have no right to a settlement by or under the provisions of this Act.

(*2*) Whoever without sufficient cause fails to comply with the provisions of any of the clauses of sub-section (*1*) within thirty days from the date of service of a notice in that behalf or such further period as the Collector may allow, shall be punishable on conviction with fine which may extend to two

1. Inserted by the Orissa Merged Territories (Village Offices Abolition) (Amendment) Act, 1967 (Or. Act 26 of 1967), s. 2.

hundred rupees and in the case of continuing failure with an additional fine which may extend to ten rupees for every day during which such failure continues after the conviction for the first such failure.

(*3*) The Collector may for the purpose of recovering the records specified in clause (*a*) of sub-section (*1*) issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under Chapter VII of the Code of Criminal Procedure, 1898. 5 of 1898

Determination of question, if the abolition amounts to acquisition.

10. (*1*) If any person is aggrieved by the provisions of this Act on the ground that it provides for the acquisition of property by the State, such person may apply to the Collector for the determination of the question and compensation, if any, within a period of three months from the appointed date.

(*2*) The Collector shall after holding an inquiry and giving all parties interested an opportunity of being heard determine the right to and the amount of such compensation, if any, as may be payable so far as may be in accordance with the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894: 1 of 1894

Provided that in determining the compensation the Collector shall take into account the value of the interest acquired by such person as a result of the settlement, if any, in accordance with the provisions of sections 5,6 and 7.

(*3*) Any amount paid as compensation in respect of any land settled under sections 5,6 and 7 with any person other than the holder of the Village Office shall be realised by the State Government from such person and all such amounts shall be recoverable as arrears of land revenue.

(*4*) Any person aggrieved by the decision of the Collector under sub-section (*2*) may within thirty days of such decision prefer an appeal to the Board of Revenue and the decision of Board on such appeal shall subject to the provisions of sub-section (*3*) of section 13 be final.

Settlement to be free of premium.

11. In giving effect to the provisions of sections 5,6 and 7 no premium shall be charged for the settlement of lands and the rent, if any, assessed and in force immediately before the appointed date shall in the absence of any proof to the contrary be deemed to be the fair and equitable rent.

Procedure to be followed in proceedings.

12. The State Government may, by rules made in that behalf, specify either generally or in relation to any particular area the time within which, the authorities by whom and the manner in which proceedings in respect of matters under sections 5,6 and 7 including matters preliminary, incidental or ancillary thereto shall be commenced, heard and disposed of.

Appeal and revision.

13. (*1*) Save as otherwise expressly provided in this Act any person aggrieved by any order passed under this Act or the rules made thereunder, may prefer an appeal within thirty days from the date of the order before the Collector; and if the original order is passed by the Collector before the Board of Revenue.

(*2*) Any person aggrieved by an order passed in appeal not being an appeal before the Board of Revenue, may within thirty days from the date of the order prefer an appeal both on questions of fact and law before the Board of Revenue, who may after calling for the records and giving the parties an opportunity of being heard pass such orders confirming; modifying or reversing the order in question according as the Board deems proper.

(*3*) Any person aggrieved by an order passed by the Board of Revenue in an appeal—

(*a*) under any of the provisions of this Act other than sub-section (4) of section 10 may, within sixty days from the date of such order, file an application for revison on a question of law before the High Court; and

(*b*) under sub-section (4) of section 10 may, within sixty days from the date of such order, file an appeal before the High Court,

and subject to the decision of the High Court the orders passed by the Board of Revenue shall be final.

Application of Limitation Act, 1908.

9 of 1908

14. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908 shall be applicable to the filing of appeals and applications for revision under this Act.

(*Secs.15-16*)

Authorities to exercise certain powers of Civil Court.

15. (*1*) The collector, Board of Revenue and the other authorities specified under sections 12 and 13 shall for the purposes of this Act have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit in respect of— 5 of 1908

(*a*) summoning and enforcing the attendance of witnesses and examining them on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavit; and

(*d*) such other matters as may be prescribed.

(2) All enquiries and proceedings before the aforesaid authorities under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860

Power to make rules.

16. (*1*) The State Government may, after previous publication, make rules * to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the procedure to be followed by the Collector, the Board of Revenue and other authorities while proceeding under any of the provisions of this Act;

(*b*) the qulifications and other conditions for the appointment of the holders of Village Offices in suitable posts under Government;

(*c*) all other matters which under the provisions of this Act are required to be or may be prescribed.

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* For rules, see Notification No. 57418-Ten. (Legis.)-5/63-R., dated the 5th October 1963, published in *Orissa Gazette*, dated the 18th October 1963, pt. III, p. 1927.

(*Sec. 17*)

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the State Legislature may make during the said period.

Power to remove doubts and difficulties.

17. If any doubt or difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act or the rules made thereunder, which appears to them necessary for purposes of removing the doubt or difficulty.

SCHEDULE

(*See* sections 1 and 2)

Name of the former States	Name of the Village Officers
(1)	(2)
1. Athmallik ..	Sarbarakar [1][Dangua Dakua]
2. Brmara ..	Gountia [1][Khuntkati Gountia Shikmi Gountia Gouni Gountia]
3. Baramba ..	Sarbarakar [1][Sardar Dakua Tandakar]
4. Boudh ..	Sarbarakar [1][Pradhan Makaddam]
4-A. ..	[1][Khuntkati Ganju Thika Ganju]
5. Bonai ..	Gountia [1][Naik Gadnaik Makaddam]
6. Daspalla ..	Sarabarakar [1][Dalai Paik Sardar Dangua]
7. Dhenkanal ..	Sarabarakar [1][Dakua]
8. Gangpur ..	Gountia Sikimi Gountia Head Ganju Ganju Sub-Ganju [1][Pradhan Dakua Tandakar]
9. Hindol ..	Sarabarakar [1][Pradhan]

1. Inserted by the Orissa Merged Territories (Village Offices Abolition) (Amendment) Act, 1964 (Or. Act 17 of 1964)S. 2.

(*Sch.-contd.*)

10. Keonjhar	..	Pradhan
		Pradhan
		Garhnaik
		Dakua
		[1][Pradhan Garhtia Shikmi Gountia Gouni Gountia]
11. Khandpara	..	Sarbarakar
		[1][Makaddam Gadanaik Bera Pradhan]
12. Mayurbhanj	..	Pradhan
		Chhatia
		[1][Collection Moharir]
13. Narsinghpur	..	Sarabarakar
14. Nayagarh	..	Sarbarakar
		Mallik
15. Pal-Lahara	..	Sarbarakar
16. Rairakhol	..	Gountia
17. Sonepur	..	Gountia
		Pattidar
		Sub-Pattidar
		Gartia
		Birtia
18. Talcher		Sarbarakar
19. Tigiria		Sarbarakar

1. Inserted by the Orissa Merged Territories (Village Offices Abolition) (Amendment) Act, 1964 (Or. Act 17 of 1964), s. 2.

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ORISSA ACT 3 OF 1964

THE ORISSA OFFICES OF VILLAGE POLICE (ABOLITION) ACT, 1964

[*Received the assent of the Governor on the 28th March 1964, first published in an extraordinary issue of the* Orissa Gazette, *dated the 28th March 1964*]

AN ACT TO ABOLISH THE OFFICES OF VILLAGE POLICE IN THE STATE OF ORISSA

BE it enacted by the Legislature of the State of Orissa in the Fifteenth Year of the Republic of India, as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Orissa Offices of Village Police (Abolition) Act, 1964.

(2) It shall extend to the whole of the State of Orissa.

(3) It shall come into force at once.

Definitions

2. In this Act unless the context otherwise requires—

(*a*) "appointed date" in relation to any Village Police means such date as the State Government may appoint in that behalf and different dates may be so appointed in respect of different Village Police in different areas ;

(*b*) "Collector" includes any officer not being below the rank of an Additional District Magistrate appointed by the State Government to perform all or any of the functions of a Collector under this Act ;

(*c*) "emolument" in relation to any Village Police Officer means salary, payment in cash or in kind or in both, commission,

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For Bill, see *Orissa Gazette* extraordinary, dated the 25th February 1964 (No. 352).

use or enjoyment of lands held and all kinds of privileges and benefits in respect of or annexed to such office in lieu of remuneration for the performance of the duty appertaining thereto ;

(*d*) "Grama Sasan" means the Grama Sasan constituted under the provisions of the Orissa Grama Panchayats Act, 1948 ; Orissa Act 15 of 1948.

(*e*) "Jagir lands" in relation to any office of Village Police means lands by whatever name described or locally known, whether or not recorded as such in the settlement papers, held as emolument in respect of such office ;

(*f*) "prescribed" means prescribed by rules made by the State Government under this Act ;

(*g*) "Village Police" means a Chaukidar, Mahanayak, Dafadar, Jhankar or Kalo under any system of Village Police administration and includes all Village Police Officers of such designation as the State Government may, from time to time notify.

Abolition of offices of Village Police.

3. (1) Notwithstanding anything in any other law or in any rule, order, custom, usage or practice having the force of law or in any contract, sanad or grant or in any judgment, decree or order of a Court, with effect from and on the appointed date—

(*a*) all offices of Village Police shall be deemed to have been abolished ;

(*b*) the rights of the holders of the said offices to receive any emolument shall be deemed to have been terminated ;

(*c*) all rights to hold office and any liability to render service appertaining to such office shall stand extinguished ;

(*d*) all rights, privileges and obligations of any person holding the office of a Village Police in respect of the exercise, performance or discharge of all powers, functions and duties of any kind whatsoever attached to such office or in relation thereto shall stand extinguished ; and

(*e*) all Jagir lands shall stand resumed and vested absolutely in the State Government free from all encumbrances :

Provided that any person being a Jhankar or Kalo who, in accordance with any local law, custom, usage or practice, was immediately before the appointed date discharging duties of a Village Priest attached to the office of such Jhankar or Kalo, shall continue to hold fifty per centum of the Jagir lands, if any, for so long as he continues to discharge the said duties.

(2) Where Village Police Officers with emoluments consisting of cash remuneration only have been served with notices from the District Magistrate in any area purporting to terminate the services of such officers and providing for conferment of benefits specified in sub-section (6) of section 4, the provisions of this Act shall have effect in relation to offices of such Village Police as fully and effectively as if this Act with modifications specified in sub-section (3) had been in force at all material times and the said notices had been issued under this Act.

(3) The modifications referred to in sub-section (2) shall be the following, namely :—

(*a*) "appointed date" shall be read and construed—

(*i*) for purposes of sub-section (1) and sections 4, 6 and 11 as the first day of August 1963; and

(*ii*) for purposes of section 5 as the date on which rules are made in relation to matters covered by sub-section (1) of the said section;

(*b*) benefits conferred under sub-section (6) of section 4 shall be read and construed as the benefits specified in the said notices.

Settlement of lands and solatium.

4. (1) All Jagir lands resumed under the provisions of this Act shall, subject to the provisions of sub-section (2), be settled with rights of occupancy therein on a fair and equitable rent to be determined in the prescribed manner, with the Village Police Officer or with him and all those other persons, if any, who may be holding the land or any part thereof as his co-sharers or as tenants in pursuance of any local custom, usage or practice under him or under such

co-sharer to the extent that each such person was in separate and actual cultivating possession of the same immediately before the appointed date.

(2) The total area of such land in possession of each such person shall be subject to a reservation of a certain fraction thereof in favour of the Grama Sasan within whose limits the land is situate and the extent of such reservation shall be determined in the following manner, namely :—

Land in possession	Extent of reservation
Less than 10 acres ..	Nil
10 acres or above but less than 33 acres.	5 per cent
33 acres or above but less than 100 acres.	10 per cent
100 acres or above but less than 200 acres.	20 per cent
200 acres and above ..	30 per cent.

(3) The rent determined under sub-section (1) shall be payable with effect from the appointed date and the rent for the period prior to such determination shall be recoverable within three years therefrom.

(4) All persons entitled to the settlement of Jagir lands under sub-section (1) shall, in the prescribed manner and within the prescribed period, file claims before the prescribed authority and on failure of filing such claim the person concerned shall be debarred from claiming any right under this section.

(5) Any person with whom lands are settled under sub-section (1) shall on payment of such fees as may be prescribed, be entitled to a Patta containing the prescribed particulars.

(6) Where the emolument in relation to any Village Police Officer consists only of remuneration in cash, such officer shall, as soon as may be after the appointed date, be entitled to be paid as solatium a sum equivalent to the total emolument for the period of twelve months immediately preceding the said date and to the settlement of one acre of cultivable land with rights of occupancy therein, on a fair and equitable rent to be determined in the prescribed manner.

Submission of records.

5. (1) It shall be the duty of every Village Police Officer in the prescribed manner to deliver all records maintained by him in respect of his office.

(2) Whoever fails to comply with the provisions of sub-section (1) within thirty days from the appointed date or such further period as the Collector may allow, shall be punishable on conviction with fine which may extend to two hundred rupees and in the case of continuing failure with an additional fine which may extend to ten rupees for every day during which such failure continues after the conviction for the first such failure.

(3) The Collector may for the purpose of recovering the records specified in sub-section (1) issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under Chapter VII of the Code of Criminal Procedure, 1898. 5 of 1898

Settlement to be free of premium.

6. No premium shall be charged for the settlement of lands under section 4 and the rent, if any, assessed and in force immediately before the appointed date shall in the absence of any proof to the contrary be deemed to be the fair and equitable rent.

Procedure to be followed in proceedings.

7. The State Government may, by rules made in that behalf, specify either generally or in relation to any particular area the time within which, the authorities by whom and the manner in which proceedings in respect of matters under section 4 including matters preliminary, incidental or ancillary thereto shall be commenced, heard and disposed of.

Appeal and revision and bar of jurisdiction of Civil Courts.

8. (1) Save as otherwise expressly provided in this Act any person aggrieved by any order passed under this Act or the rules made thereunder by any Officer below the rank of a Collector, may prefer an appeal within thirty days from the date of the order before the Collector.

(2) Any person aggrieved by any order passed by the Collector under this Act or the rules made thereunder may, within thirty days from the date of the order, file an application for revision before the Board of Revenue, who may, after calling for the records and giving the parties an opportunity of being heard, pass such orders confirming, modifying or reversing the order in question according as the Board deems proper.

(3) Subject to the provisions of the preceding sub-sections all orders passed under this Act shall be final.

(4) No Civil Court shall have jurisdiction to entertain any suit or proceeding so far as it relates to any matter which any officer or other competent authority is empowered by or under this Act to decide.

Authorities to exercise certain powers of Civil Court.

9. (1) The Collector, Board of Revenue and the other authorities prescribed in accordance with section 7 shall, for the purposes of this Act have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 when trying a suit in respect of— 5 of 1908

(*a*) summoning and enforcing the attendance of witnesses and examining them on oath ;

(*b*) requiring the discovery and production of documents ;

(*c*) receiving evidence on affidavit ; and

(*d*) such other matters as may be prescribed.

(2) All enquiries and proceedings under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. 45 of 1860

Power to make rules

* **10.** (1) The State Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the procedure to be followed by the Collector, the Board of Revenue and other authorities while proceeding under any of the provisions of this Act ; and

(*b*) all other matters which under the provisions of this Act are required to be or may be prescribed.

(3) All rules made under this Act shall, as soon as may be after they are made, be laid before the State Legislature for a total period of fourteen days which may be comprised in one or more sessions and shall be subject to such modifications as the State Legislature may make during the said period.

* For the rules *see Orissa Gazette* extraordinary, dated the 31st July 1964.

Effect on corresponding laws.

11. With effect from the appointed date the provisions of any other law or rule, regulation or order having the force of law shall, in so far as they relate to any Village Police, stand repealed and any custom, usage, practice, contract, sanad or grant shall, in so far as the same is repugnant to the provisions of this Act, stand annulled.

Power to remove doubts and difficulties.

12. If any doubt or difficulty arises in giving effect to the provisions of this Act the State Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act or the rules made thereunder, which appears to them necessary for purposes of removing the doubt or difficulty.

Repeal and Savings.

13. (1) The Orissa Offices of Village Police (Abolition) Ordinance, 1963 is hereby repealed. Orissa Ordinance No. 2 of 1963.

(2) Notwithstanding such repeal anything done, any action taken, any rules or orders made or any notice or notification issued in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done, taken, made or issued in exercise of the powers conferred by or under this Act, as if this Act had commenced on the 2nd day of December 1963.

The Odisha Gazette
EXTRAORDINARY
PUBLISHED BY AUTHORITY

THE ORISSA MUNICIPAL ACT, 1950

[1](Orissa Act 23 of 1950)

An Act to Consolidate and amend the law relating to Municipalities in the State of Orissa;

WHEREAS it is expedient to consolidate and amend the law relating to Municipalities in the State of Orissa; it is hereby enacted as follow :

CHAPTER - I
PRELIMINARY

1. Short title, extent [2][, commencement and application] :– (1) This Act may be called [1][*the Orissa Municipal Act, 1950]*

(2) It shall extend to the whole of the State of Orissa.

(3) It shall come into force [2]in such area or areas on such date or dates as the State Government may appoint from time to time.

(4) Notwithstanding anything contained in sub-section (3) it shall not take effect in any Cantonment or part of a Cantonment.

(5) Any notification, order or rule and any appointment to an office, may be made or election held under this Act, after it shall have received the assent of the Government and shall take effect on this Act coming into force.

[3][(6) Nothing in this Act shall apply to the Scheduled Areas referred to in clause (1) of Article 244 of the Constitution.]

1. Legislative Papers - For statement of Objects and Reasons *see Orissa Gazette*, Extraordinary, dated 25.03.1950, for Report of Select Committee see ibid, dated the 29.07.1950. pp. 1-20 and for Proceedings in the Assembly, *see* proceedings of the Orissa Legislative Assembly, 1950, Vol. XII, p. 1361-1362; assented to on 11.11.1950.
2. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Inserted by the Orissa Act 11 of 1994 w.e.f. 31.05.1994.

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2st Proof-Dt. 11.09.2008

2. Enactments [1]repealed and amended :– On and from the date this Act comes into force in any local area or areas the enactments specified in Schedule I and Schedule II so far as they are in force in the State of Orissa, shall be repealed to the extent mentioned in the third column of Schedule I and be amended to the extent and in the manner mentioned in the third column of Schedule II.

But this repeal shall not receive any office, authority or thing abolished by such enactment or affect the validity of anything which has been done or suffered or any right, obligation or liability which has accrued before the commencement of this Act.

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

[2][(1) ***'Assembly Constituency'*** shall have the same meaning as has been assigned to it in the Representation of the People Act, 1950(43 of 1950);]

[2][(1-a)] ***'building'*** includes a house, outhouse, stable, latrine, shed, hut, wall (other than a boundary wall not exceeding ten feet in height) and any other such structure, whether of masonry, brick, wood, mud,metal or any othe material whatsoever'

(2) ***'building line'*** means a line which is in rear of the road alignment and to which the main wall of a building, abutting on a road, may lawfully extend;

(3) ***'carriage'*** means any wheeled vehicle with springs or other appliances acting as springs,which is used for conveyance of human beings and includes any kind of bicycle, tricycle,rickshaw, cycle-rickshaw, but does not include a motor vehicle within the meaning of the Motor Vehicle Act, 1939(IV of 1939);

(4) ***'cart'*** means a vehicle ordinarily drawn by animals and not ordinarily used for the conveyance of human beings;

(5) ***'conservancy'*** means the removal and disposal of sewage, offensive matter and rubbish;

(6) ***'company'*** means a company formed and registered under [3][the Companies Act, 1956 (1 of 1956)] or an existing company as defied in the said Act and includes any farm or association carrying on business in the State of Orissa whether incorporated or not whether its principal place of business is situated in the said State or not;

(7) ***'compound'*** means land whether enclosed or not, which is the appurtenance of a building or the common appurtenance of several buildings;

[4][(7-a) ***'Director'*** means the Director of Municipal Administration appointed under Section 393-A];

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1. (a) It came into force on the following areas on the 16.04.1951 - vide notification NO. 3001-L.S.G., dated the 16.04.1951, published in the Orissa Gazette-Extraordinary of the even date.
   Areas- Cuttack, Jajpur, Bhawanipatna, Puri, Berhampur, Talcher, Balasore, Paralakhemundi, Dhenkanal, Sambalpur, Baripada, Keonjhar, Kendrapara, Bolangir, Deogarh, Sonepur and Sundargarh.
   (b) It came into force in Bargarh and Jeypore on the 28.08.1951- Vide notification No. 5117-L.S.G., dated 28.08.1951, published in the Orissa Gazette, Pt. III. pp. 1094-95
2. Clause (1) is renumbered as clause (1-a) and before clause (1-a) as so renumbered clause (i) is inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968. Note- The Orissa Municipal (Amendment) Act, 1968 (Orissa Act 16 of 1968) came into force w.e.f. 01.08.1968- Vide Notification No. 13258 - Spl. 36/68 (Part II)-U.D., dated 31.07.1968-Orissa Gazette Extraordinary, dated 31.07.1968 (858).
3. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
4. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

(8) ***'drain'*** includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying of sewage, offensive matter, rain-water or sub-soil water;

[1][(8-a) ***'Election Commission'*** means the State Election Commission consisting of a State Election Commissioner appointed by the Governor under Article 243-K of the Constitution];

(9) ***'filth'*** includes sewage, night-soil, dung,dirt, putrid and putrefying substance and all offensive matter;

[1][(9-a) ***'Finance Commission'*** means the Finance Commission consituted by the Governor under Article 243-I of the Constitution.]

(10) ***'Food'*** includes every article used for food or drink by man, other than, drugs or water and any article which ordinarily enters into or is used in the composition or perparation of human food, and includes ice, flavouring matters and condiments;

(11) ***'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 apart and parcel of the site or premises of a dwelling-house manufactory, ware-house or place of trade or business, such holdings shall be deemed to be one holding for the proposes of the Act.

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

(12) ***'house-gully'*** means a passage or strip of land, constructed set apart or utilised for the purpose of serving as a drain or affording access to a latrine, urninal, cesspool or other receptacle for filthy or polluted matter to municipal servants, or to persons employed in the cleansing thereof or in the removal of such matter therefrom and includes the air-space above such passage or land;

(13) ***'house'*** means a building fit for human occupation whether as a residence or otherwise, having a separate principal entrance from the common way and includes any shop, workshop or ware-house;

(14) ***'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, which the Municipality may declare to be a hut for purpose of this Act;

(15) ***'latrine'*** includes privy, water-closet and urinal;

[2][(15-A) ***'Local Fund Service'*** means the Local Fund Service constituted under Section 81;]

(16) ***'the magistrate of the district'*** means the District Magistrate and includes any Magistrate suboridnate to the District Magistrate to whom he may delegate all or any of his powers under this Act;

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1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Inserted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazetted, Extraordinary, No. 566, Dt. 26.04.2002

(17) ***'market'*** includes any place where persons daily or periodically assemble for the sale of meat, butter, ghee, fish, fruit, vegetable or livestock;

[1][(17-a) ***'Municipal area'*** means the territorial area of a Municipality;]

[1][(17-b)'***Municipality'*** means a Notified Area Council or a Municipality or a Municipal Corporation;]

(18) ***'nuisance'*** includes any act, omission, place or thing which causes or is, likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

(19) ***'occupier'*** includes any person for the time being paying or liable to pay to the owner the rent or any portion of the land or building or part of the same in respect of which the word is used;

(20) ***'owner'*** includes–

(a) the person for the time being, receiving or entitled to receive whether on his own account, or as agent, guardian, manager or receiver for another person on for any religious or charitable purpose, the rent or profits of the property in connection with which the word is used; and

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

(21) ***'Offensive matter'*** means dirt, dung, putrid or putrefying substances, and filth of any kind not included in the term 'filth'

[1][(21-a) ***'Panchayat'*** means a Grama Panchayat as defined in the Orissa Grama Panchayats Act 1964 (Orissa Act 1 of 1965), or a Panchayat Samiti as defined in the Orissa Panchayat Samiti Act, 1959(Orissa Act 7 of 1960) or a Zilla Parishad as defined in the Orissa Zilla Parishad Act, 1991(Orissa Act 17 of 1991); and]

(22) ***'Part of a building'*** includes any wall, underground room or passage, verandah, fixed platform, plinth, staircase or door step attached to or within the compound of an existing building or constructed on ground which is to be the site or compound of a projected building;

(23) ***'Platform'*** means any structure which is placed on or covers or projects over any road or any open drain;

[1][(23-a) ***'Population'*** means the population as ascertained at the last preceding census of which of the relevent figures have been published;]

(24) ***'Prescribed'*** means prescribed by rules made under this Act;

(25) ***'Private market'*** means a market other than a public market;

(26) ***'Public market'*** means all markets which are acquired, constructed, repaired or maintained out of the Municipal Fund consituted under Section 114;

(27) ***'Private road'*** means any street, road, square, court, alley, passage or riding path which is not a 'public road' but does not includes a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises;

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1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(28) ***'Public health'*** includes water supply, conservancy, drainage and any other measure for the improvement of the sanitation and prevention of public nuisance;

(29) ***'Public road'*** means by street, road, square, court, alley, passage or riding path over which the public have a right of way, whether a thoroughfare or not, and includes–

(a) the roadway over any public bridge or causeway;

(b) the footway attached to any such road, public bridge or causeway;and

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

(30) ***'Public water courses, spring wells and tanks'*** include those used by the public to such and extent as to give a prescriptive right to such use;

(31) ***'reconstruction of a building'*** includes–

(a) the erection wholly or partially of a building after more than one half of its cubical contents has been taken down or burnt down, or has fallen down whether at one time or not;

(b) the re-erection wholly or partially of any building of which an outer wall has been taken down or has burnt down or has fallen down to,or within ten feet of the ground adjoining the lowest storey of the building, and of any frame building which has so far been taken down or burnt down or has fallen down as to leave only the framework of the lowest storey;

(c) the conversion into a dwelling-house or a place of public worship of any building not originally constructed for human habitation of for public worship, as the case may be, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only or the conversion of a dwelling-house into a factory;

(d) the re-conversion into a dwelilng-house or place of public worship or a factory or any building which has been discontinued as, or appropriated for any purpose other than a dwellling-house or of a place of public worship or a factory, as the case may be;

(32) ***'residence'*** - ***' reside'–*** a person is deemed to have his 'residence' or to 'reside' in any house if he sometimes uses any portion thereof as a sleeping apartment;and a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling in which he resides if he is at liberty to return to such house at any time and has not abandoned his intention of returning;

(33) ***'rubbish'*** means dust, ashes, broken bricks, mortar, broken glass and refuse of any kind which is not 'filth'

(34) ***'Scavenger'*** means a person employed in collecting or removing filth, in cleansing drains or slaughter-houses or in driving carts used for the removal of filth;

(35) ***'road-alignment'*** means a line dividing the lands comprised in and forming part of a road from the adjoining land;

(36) ***'water-courses'*** includes any river, stream or channel whether natural or artificial;

(37) '***year'*** means the financial year.

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1 to 67. [* * *]

[1][68. General amendments–

In the principal Act, for the expressions–

(a) ***'municipality'*** and ***'municipalities'*** wherever they occur conveying the meaning of an area or areas, as the case may be, the expressions ***'municipal area'*** and ***'municipal areas'*** shall respectively be substituted;

(b) ***'council*** and ***'councils'*** wherever they occur, the expressions, '***municipality'*** and '***municipalities'*** shall respectively be substituted;and

(c) ***'municipal council'*** and ***'municipal councils'*** wherever they occur, the expressions, '***municipality'*** and ***'municipalities'*** shall respectively be substituted;

(d) ***'Chairman'*** and ***'Vice-Charman'*** wherever they occur, the expressions, ***'Chairperson'*** and ***'Vice-Chairperson'*** shall respectively be substitued.]

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1. Section 68 of the Orissa Municipal (Amendment) Act, 11 of 1994, w.e.f. 31.05.1994 is given here.

CHAPTER - II

CONSTITUTION OF MUNICIPALITIES

[1][**4. Constitution of municipality–** (1) There shall be constituted by the State Government–

(a) a Notified Area Council for every transitional area;

(b) a Municipality for every smaller urban area; and

(c) a Municipal Corporation for every larger urban area,

in accordance with the provisions of this Act;

Provided that no such Municipality or Corporation shall be constituted in any urban area or part thereof which the governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by notification, specify to be an industrial township.

(2) In this section, 'a transitional area' a smaller urban area' or 'a larger urban area' means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he may deem fit, specify by notification under clause (2) of Article 243 (Q) of the Constitution.

[2][***Provided that*** before publication of the notification under this sub-section, the State Government shall publish in the prescribed manner a draft of such notification inviting objections and suggestions from all persons likely to be affected thereby within such period as may be prescribed, and shall consider the objections and suggestions, if any, as may be received on the said draft.]

Explanation– For the purposes of this section,–

(a) Save as may otherwise be deemed fit by the Governor, a population of not less than ten thousand, twenty-five thousand and three lakhs respectively, may be taken as sufficient population for the purpose of specifying respectively a transitional area', a smaller urban area' and' a larger urban area'.

(b) the factors relating to density of population, percentage of employment in non-agricultural activities, generation of revenue for local administration, economic importance and such other factors for the purpose of specifying 'a transitional area', 'a smaller urban area' and 'a larger urban area' shall be such as the Governor may from time to time, determine.

(3) Notwithstanding anything contained in this section.-

(a) the territorial area of every Notified Area Council and that of every Municipality constituted prior to, and existing at, the commencement of

1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Inserted by Orissa Act 10 of 1994, w.e.f. 19.05.1997

the Orissa Municipal (Amendment) Act, 1994 shall respectively be deemed to be a transitional area and a smaller urban area within the meaning of sub-section (2) of Section 4;and

(b) every Notified Area Council (including it Chairperson and Vice-Chairperson) and every Municipality (including Chairperson, Vice-Chairperson and Additional Vice-Chairperson), continuing in office at the commencement of the Orissa Municipal (Amendment) Act, 1994 shall continue till the expiration of the term as provided in sub-section (1) of Section 41 as it stood prior to such commencement unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly.

(4) When any transitional area or smaller urban area within the meaning of sub-section (2), is subsequently specified to be-

(a) a smaller urban area in the case of a transitional area; or

(b) a larger urban area in the case of a smaller urban area, then notwithstanding anything contained in this Act,-

(i) the Notified Area Council for the existing transitional area shall be deemed to be the Municipality for the smaller urban area so subsequently specified;

(ii) the Municipality for the existing smaller urban area shall be deemed to be the Municipal Corporation for the larger urban area so subsequently specified;

(iii) the Chairperson, Vice-Chairperson and other members of the existing Notified Area Council or Municipality shall be deemed to be Chairperson, Vice-Chairperson and other members of the deemed Municipality or as the case may be, of the deemed Municipal Corporation;

(iv) all the assets and liabilities of the existing Notified Area Council shall develope upon the deemed Municipality or, as the case may be, that of the existing Municipality shall develope upon the deemed Municipal Corporation;

(v) the provisions of this Act and of the rules, bye-laws, notification or orders made thereunder which were in force throughout such transitional area, or as the case may be, the municipality shall apply to the territorial of such deemed Municipality or, as the case may be, deemed Municipal Corporation;

(vi) the proceeding commenced, if any, for reconstitution of the exiting Notified Area Council or, as the case may be, existing Municipality shall continue as if such proceedings were commenced in relation to the deemed Municipality or, as the case may be deemed Municipal Corporation.]

[1][**5. Application of Act and subsidiary orders in areas included within a municipality :–** When any local area is included in a municipality by a notification referred to in sub-section (2) or Section 4, all the provisions of this Act and of the rules, bye-laws, notifications or orders made thereunder which, immediately before such inclusion, were in force throughout such municipality shall be deemed to apply to such local area, unless it is otherwise directed in and by the said notification.]

[1][**6. Continuance of Act and subsidiary orders in municipalities formed by division :–** When any municipality is divided into two or more such areas by a notification referred to in sub-section (2) of Section 4 then, notwithstanding anything contained in this Act, all the provisions of this Act and of the rules, bye-laws, notifications or orders made thereunder which, immediately before such division, were in force in any part of the original municipality shall be deemed to be in force in the same part of the Municipalities formed by such division, unless it is otherwise directed in and by the said notification.]

7. Abolition of Municipalities– (1) The [1][Governor] may by notification abolish any municipality to which this Act applies :

Provided that–

(a) The [1][Governor] shall, before they issue such notification communicate to the municipality the grounds on which they propose to do so, fix a reasonable period for the municipality to show cause against the proposal and consider it explanations and objections, if any;

(b) the notification shall contain a statement of the 1[Governor's] reasons.

(2) From such date, as may be specified in such notification this Act and all notifications, rules, bye-laws, regulations, orders, directions and powers issued, made or conferred under this Act, shall cease to apply to the area previously comprised in the municipality; the balance of the municipal fund and all other property vested in the municipality shall vest in the State Government and the liabilities of the municipality shall be transferred to the State Government.

(3) All property vested in the State Government under sub-section (2) shall be applied under the orders of the State Government, to discharge the liabilities imposed on the State Government by that sub-section or for the promotion of the safety, health, welfare, and convenience of the inhabitants of the area previously comprised in the municipality.

[1][**8. Compositions of Municipalities :–** Every Municipality shall be composed of the following Councillors, namely–

(a) one Councillor elected directly from every ward within the municipality;

(b) a person having special knowledge or experience in municipal administration as may be nominated by the State Government:

Provided that the Councillor so nominated shall not have the right to vote at any meeting of the Municipality but shall have the right to attend every meeting thereof except the meetings convened under Sections 47, 49 and 54][;

1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

[1][(c) Every Member of the House of the people and of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area and every member of the Council of State registered as elector within the Municipal area:

Provided that no such member shall have the right to attend any meeting of the Municipality convened under Sections 47,49 or 54:

Provided further that where any such member is unable to attend any meeting of the Municipality (except as aforesaid) for any reason, he may authorise a person to attend such meeting as his representative but, in no case, the representative so authorised shall have the right to vote at such meeting.]

9. Incorporation of Municipality :– [2][Every Municipality] shall be a body corporate by the name of the municipality by reference to which it is known, shall have perpetual succession and a common seal, and subject to any restriction and qualification imposed by or under this or any other enactment shall have power to acquire and hold property, both movable and immovable, and subject to any rules prescribed to transfer any such property held by it, to enter into contracts and to do all other things necessary proper or expedient for the purposes of this Act and may sue and be sued in its corporate name.

[2][**10. Manner of election of Councillors :–** (1) The election of Councillors specified in clause (a) of Section 8 shall be held in the prescribed manner:

Provided that where such election is contested on political party basis, the candidates contesting such election shall use their respective party symbols.

Explanation– For the purposes of this section,–

(a) *'candidates*' means candidates duly sponsored by respective political parties;

(b) *'Party Symbol'* means the symbol allotted to a particular political party under the Election Symbols (Reservation and allotment) Order, 1968; and

(c) '*Political Party'* means a 'National Party' or, as the case may be, a 'State Party' within the meaning of paragraph 7 of the Order referred to in clause (b).

(2) the names of the elected Councillors shall be published by the Election Commission in the Gazette.]

[2][**11. Reservation of seats for Scheduled Castes, Scheduled Tribes, Women and backward class of citizens :–** (1) There shall be reserved, by the [3][District Magistrate], seats in every Municipality for the Scheduled Castes and the Scheduled Tribes and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality

1. Semi-colon is substituted for full stop at the end of proviso to clause (b) and clause (c) is insterted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.
2. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Substituted by the Orissa Act 19 of 1995 w.e.f. 19.10.1995.

as the population of the Scheduled Castes in the concerned Municipality or of the Scheduled Tribes in that area bears to the total population of that area and such seats shall be allotted by rotation to different wards in a municipality :

Provided that where the population of the Scheduled Castes or, as the case may be, the Scheduled Tribes in a municipality is not sufficient for reservation of any seat, one seat for the Scheduled Castes or, as the case may be, one seat for the Scheduled Tribes shall be reserved in that municipality.

(2) As nearly as may be, but not less than, one-third of the total number of seats reserved under sub-section (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes:

Provided that Where only two seats are served for the Scheduled Castes or, as the case may be, the Scheduled Tribes, one of the two seats shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

[1][(3) As nearly as may be, but not less than, twenty-seven percentum of the total number of seats to be filled up by direct election in every Municipality shall also be reserved in favour of backward class of citizens as referred to in clause (6) of Article 243-T of the Constitution.]

1[(3-A) As nearly as may be, one-third of the total number of seats reserved under sub-section (3) shall be reserved for women belonging to the backward class of citizens:

Provided that where only two seats are reserved for the backward class of citizens one of the two seats shall be reserved for women belonging to the backward class of citizens.]

(4) As nearly as may be, but not less than, one-third (including the number of seats reserved for women belonging to the Scheduled Castes 1[the Scheduled Tribes and the backward class of citizens]of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats shall be allotted by rotation to different wards in a municipality.

(5) Where a particular ward is reserved for the Scheduled Castes or the Scheduled Tribes or the backward class of citizens, or for women whether or not belonging to the Scheduled Castes or the Scheduled Tribes, and no eligible candidate is available or comes forward to contest the election in relation to that ward, the State Government shall nominate a person who is otherwise eligible to contest such election, as the Councillor for the ward.

(6) The procedure regarding reservation of seats for the purposes of sub-sections (1),(2), (3) and (4) shall be such as may be prescribed.

(7) The reservation of seats under sub-sections (1) and (2) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.]

11-A. [2]**[* * *]**

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1. Substituted by the Orissa Act 19 of 1995, w.e.f. 19.10.1995.
2. Section 11-A is omitted and substituted in Chapter III for Section 12 by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

CHAPTER - III

ELECTION AND ELECTION PETITION

[1][**11-A. Superintendence, direction and control of the elections to vest in the Election Commission :–** The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of ,all Elections to Municipalities shall be vested in the Election Commission.]

[2][**11-B. Election Officer, Polling Officer etc. deemed to be on deputation to Election Commission :–** Any officers and employees of the State Government, made available to the Election Commission pursuant to Clause (3) of Articles 243-K of the Constitution for the discharge of the functions conferred on the Election Commission by clause (1) of that Article, when appointed by the Election Commission as the Election Officer, Polling Officer or any other Officer, or otherwise designated for the time being, for the conduct of any election under this Act, shall be deemed to be on deputation to the Election Commission for the period commencing on the date of notification calling for such election and ending with the date of declaration of the result of such election and, accordingly, such officers and employees shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.]

[1][**12. General Election of Councillors and formation of wards :–** (1) A general election of the Councillors specified in clause (a) of Section 8 shall be completed–

(a) for the purpose of constituting a new Municipality, as soon as may be, but not later than six months, after the publication of the notification referred to in sub-section (2) of Section 4;

(b) for the purpose of reconstituting a Municipality, before the expiry of period of five years from the date appointed for its first meeting referred to in clause (a) of sub-section (2) of Section 47:

[3][* * *]

(c) [3][* * *]

(2) For the purpose of election under sub-section (1), the State Government shall, by one or more notifications published on such date or dates as may be recommended by the Election Commission, call upon all wards in the municipality to elect Councillors in accordance with the provisions of this Act and of the rules and orders made thereunder.

[4][(3) For the purpose of election of Councillors to a Municipality, the District, Magistrate shall, in the case of a new Municipality, of his own motion and, in the case of Municipality already in existence at the time the notification is made, after consulting the concerned Municipality, by notification–]

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1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Inserted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.
3. Proviso & clause (c) omitted by the Orissa Act 8 of 1996, w.e.f. 21.04.1996.
4. Substituted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.

(a) divide the Municipal area into wards;

(b) determine, subject to other provisions of this Act, the wards in which the seats reserved under Section 11 shall be set assigned;

Provided that–

(i) in dividing a [1][Municipal area] into wards, equitable distribution of population among the various wards and the compactness of area forming each ward shall be taken into consideration; and

(ii) the number of wards in any municipality shall not be less than eleven and more than forty.

[2][***Provided further that*** notwithstanding anything contained in this section, if any person is aggrieved by the decision as to the division of the Municipal area into wards or the assignment of wards, as referred in clauses(a) and (b), he may prefer an appeal to the State Government within fifteen days from the date of publication of then notification which shall be disposed of by the appellate authority within thirty days from the date of its filling, after giving the person concerned opportunity of being heard, and the decision of the appellate authority shall be final.]

[3][(3-A) (a) The District Magistrate shall, before making the notification under sub-section (3), publish in the prescribed manner a draft thereof containing a statement showing the number of wards into which the municipality shall be divided, the extent of each ward and the wards in which the seats reserved under Section 11 shall be set assigned, with a notice inviting objections and suggestions from all persons interested within the prescribed period.

(b) The District Magistrate shall consider the objections and suggestions so received and, for that purpose, he may make such further enquiry as he may consider necessary.]

(4) All the electors of a ward shall, irrespective of their community, be entitled to vote at an election in respect of that ward.

(5) When a new ward is formed or when an existing ward is abolished, the State Government shall, after consulting the Municipality concerned, determine-

(a) the ward which each Councillor then in the Municipality shall be deemed to represent; and

(b) the ward or wards in which election shall be held to fill up the vacancies if any, in the Municipality.]

[4]**[13. Electoral Roll :–** (1) Except as otherwise provided in this Act or the rules made thereunder all persons registered by virtue of the Representation of the People Act, 1950 (43 of 1950), in so much of the electoral roll for any Assembly Constituency

1. Substituted by the Orissa Act 19 of 1995, w.e.f. 19.10.1995
2. Inserted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.
3. Inserted by the Orissa Act 19 of 1995, w.e.f. 19.10.1995.
4. Substituted by the Orissa Act 16 of 1968 w.e.f. 01.08.1968.

for the time being in force so relates to the Municipality shall be entitled to cast their votes at an election to the Municipality and the said portion of the roll shall be deemed to be the electoral roll of the Municipality.

(2) So much of the electoral of the Municipality as relates to the area comprised within a ward thereof shall be embodied in a register to be maintained for the ward and such register shall be deemed to be the electoral roll of the ward for the purposes of this Act.

(3) The manner of splitting up of the electoral roll for the purpose of preparation of the aforesaid register, the manner of revision of such register from time to time and the officer or authority by whom such spliting up or revision is to be carried out shall be as may be prescribed.

[1][(4) Nothing in this section shall debar the Election Commission to adopt, or provide for, any other mode for preparation of electoral rolls for the purpose of elections to Municipalities.]

14. Electors :– (1) [2][* * *]

[2][(2)] No person who is not for the time being on the electoral roll of the ward shall be entitled to vote at an election in respect of the ward.

15. [3][**Removal of name from electoral roll.**]– (1) [3][* * *]

(2) If any person is convicted of an offence, under Chapter IX-A of the Indian Penal Code (XLV of 1860), punishable with imprisonment for a term exceeding six months, his, name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the conviction or if not on the electoral roll, shall not be so registered for a like period:

Provided that that Governor may direct that the name of any person to whom this sub-section applies shall be registered on the electoral roll:

Provided further that convictions for offences of a political character shall not operate as a disqualification under this sub-section.

16. Disqualification of candidates for election– (1) No person shall be qualified for election [3][as [4](* * *) a Councillor of a Municipalilty] if such person–

(i) is not included in the electoral roll of the Municipality; or

[5][(ii) is less than [6](twenty-one years) of age; or].

(iii) is unable to read and write either English, Hindi or the language of the State; or

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1. Inserted by the Orissa Act 19 of 1995, w.e.f. 19.10.1995.
2. Section 14 was renumbered as sub-section (2) after inserting sub-section (1) by the Orissa Act 22 of 1978, w.e.f. 26.07.1978; and subsequently sub-section (1) is omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Substituted by the Orissa Act 5 of 1990, w.e.f. 20.04.1990.
4. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
5. Inserted by the Orissa Act 2 of 1992, w.e.f. 22.11.1991.
6. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(iv) has been adjudged by a competent court to be of unsound mind or is [1](* * *) a leprosy or a tuberculosis patient; or

(v) is an undischarged insolvent or being a discharged insolvent has not obtained from the court a certificate that insolvency was caused by misfortune without misconduct on his part; or

(vi) is in arrear or any dues payable to the Municipality without sufficient cause shown to the satisfaction of the Election Officer, for a period of one year immediately preceding the year in which the election is held; or

(vii) is a person against whom an order of surcharge for wilful negligence or misconduct has either been certified for payment or confirmed in case of an appeal in respect of any money or property of a Municipality, under the provisions of the Orissa Local Fund Audit Act, 1948 (V of 1948) or a person against whom a decree has been passed under Section 375;or

(viii) is interested in a subsisting contract, either directly or indirectly made with or any work being done for the Municipality, except as a shareholder in a registered joint-stock company or co-operative society constituted under the laws for the time being in force:

Provided that a person shall not be deemed to have any interest in such contract or work by reason only of his having a share or interest in-

(a) any lease, sale or purchase of immovable property or any agreement for the same; or

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

(c) any newspaper in which any advertisement relating to the affairs of the Municipality is or may be inserted; or

(d) the sale to the Municipality of any articles in which he regularly trades or the purchase from the Municipality of any article to a value in either case, not exceeding fifteen hundred rupees in the aggregate in any year during the period of the contract or work; or

(ix) is employed as a paid legal practitioner on behalf of the Municipality or as legal practitoner against the Municipality; or

(x) is an officer or servant holding office under the Municipality or an Honorary Magistrate with jurisdiction over any part of the area of the Municipality; or

[2][(xi) is a Government servant either whole-time or part-time or has been dismissed from Government service for corruption or disloyalty to the State, unless a period of five years has elapsed since his dismissal:]

Provided that if any question arises, either before or after an election, whether any person is or is not disqualified under this clause, the question shall be referred to the State Government whose decision shall be final; or

1. Omitted by "a deaf-mute", by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published on Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.
2. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

(xii) has been sentenced by a Criminal Court to transportation or to imprisonment for a period of more than six months for any offence, other than an offence of a political character, or an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned) so long as he is undergoing the sentence and for three years from the date of the expiration of the sentence:

Provided that, notwithstanding anything contained above, the Governor may direct that such sentence shall not operate as a disqualification and upon such a direction being given or if and when the sentence is superseded on appeal or revision, he shall be restored to office for such portion of the period for which he was elected, as may remain unexpired at the date if such restoration and any person elected to fill the vacancy in the interim shall, on such restoration vacate office; or

(xiii) has been convicted or found to have been guilty of any offence of corrupt or illegal practice relating to elections, which has been declared, by the State Government, under prescribed rules, to be an offence or practice entailing disqualification of membership unless such period has elapsed as may be prescribed [1][in that behalf; or]

[2][(xiv) is disqualified by or under any law for the time being in force for the purpose of election to the Legislature of the State; or]

[2][(xv) is disqualified by or under any law made by the Legislature of the State;or]

[2][(xvi) has more than one spouse living; or]

[2][(xvii) has more than two children:]

Provided that the disqualification under clause (xvii) shall not apply to person who has more than two children on the date of commencement of the Orissa Municipal (Amendment) Act, 1994, or, as the case may be, within a period of one year of such commencement, unless he begets an additional child after the said period of one year; and]

[3][(xviii) has given appointment to any person in contravention of the provisons of this Act and the rules made thereunder, during his tenure in the Municipality immediately preceding the election;]

[3][(xix) has been removed under Section 53 during the term of his office as the Chairperson or the Vice-Chairperson of the Municipality immediately preceding the election.]

(2) Subject to the provisions of Section 38, where a person, who becomes disqualified by virtue of clause (xii) of sub-section (1), is at the date of the disqualification [4][[5][* * *] a Councillor, his seat shall, notwithstanding anything contained in this section,

1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Inserted by ibid.
3. Inserted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.
4. Substituted by the Orissa Act 22 of 1978, w.e.f. 26.07.1978.
5. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

not become vacant by reason of the disqualification until three months have lapsed from the date thereof or if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence until that appeal or petition is disposed of but during any period during which his [1][Councillorship] is preserved under this sub-section, he shall not sit or vote in the Municipalilty.

17. Disqualification of [2][* * *] Councillor :– Subject to the provisions of Section 38 [2][* * *] a Councillor shall cease to hold his office, if he–

(a) subject to the proviso to clause (xii) of sub-section (1) of Section 16, is sentenced by Criminal Court to such punishment and for such offence, as is described in that clause; or

(b) becomes of unsound mind, [3](* * *) a leprosy or a tuberculosis patient; or

(c) applies to be adjudicated, or is adjudicated an insolvent; or

(d) subject to the proviso to clause (viii) of sub-section (1) of Section 16, acquires any interest in any subsisting contract, either directly or indirectly, made with or work being done for, the Municipality except as a share holder in a registered joint-stock company or a co-operative society, constituted under the laws for the time being in force; or

(e) is employed as a paid legal practitioner on behalf of the Municipality or accepts employment as a legal practitioner against the Municipality; or]

[4][(e-1) has failed to pay any arrears of municipal dues within six months from the date of service of a notice demanding payment of the same; or]

(f) is appointed as an officer or servant under Municipality or as an Honorary Magistrate with jurisdiction over any part of the Municipality; or

(g) is a salaried Government servant either whole-time or part time:

Provided that if any question arises, whether any person is or is not disqualified under this clause the question shall be referred to the State Government, whose decisions shall be final; or

(h) ceases to be resident within the Municipality; or

[5][(i) [6][In the case of a Councillor] absents himself from four consecutive meetings without obtaining previous permission from the Chairperson or without an excuse sufficient in the opinion of the Municipality:]

Provided that no meeting from which a Councillor absents himself shall be counted against him under this clause if due notice of that meeting was not given to him;

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1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Omitted "a deaf-mute", by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary No. 566, dt. 26.04.2002.
4. Inserted by the Orissa Act, 16 of 1968, w.e.f. 01.08.1968.
5. Substituted by the Orissa Act 22 of 1978, w.e.f. 26.07.1978.
6. Inserted by the Orissa Act 5 of 1990, w.e.f. 20.04.1990.

Explanation :– Emergent or special meeting shall not be deemed to be meetings within the meeting of this clause; or

(j) has been convicted or found to have been guilty of any offence of corrupt or illegal practice relating to elections, which has been declared by State Government under prescribed rules, to be an offence or practice entailing disqualification for Councillorship, unless such period has elapsed as may be prescribed in that behalf.

[1][(k) incurs any of the disqualifications specified in clauses (xiv) to (xvii) of sub-section (1) of Section 16.]

[2]**[17-A. Limitation on election expenditure and accounts thereof :–** (1) No candidate for an election as a Councillor to a Municipality shall, either by himself or through any person authorised by him, incur expenditure in connection with such election an amount exceeding twenty-five thousand rupees:

Provided that the Election Commission may, by notification from time to time and in consultation with the State Government, enhance the limit of such expenditure up to fifty thousand rupees.

(2) For the purposes of this section, every candidate referred to in sub-section(1) shall maintain, or cause to be maintained, a true and separate account of all expenditure incurred or authorised by him in connection with the election between the date on which he has been nominated as a candidate and the date of declaration of the result of the election.

(3) Any person who contravenes any of the provisions of this sections shall be deemed to have committed corrupt practice within the meaning of Section 28.

(4) The account shall contain such particulars as may be notified by the Election Commission.

(5) Within one month from the date of declaration of the result of the election, every candidate, either personally or through his agent, shall lodge, or cause to be lodged, with the Election Commission the account of the election expenditure, maintained under sub-section (2).]

18. Power to question election by petition :– (1) [3][The election of any person [4][* * *] as a Councillor] may be questioned by election petition on the ground–

(a) that such person committed, during or in respect of the election proceedings, a corrupt practice as defined in Section 28; or

(b) that such person was declared to be elected by reason of the improper rejection or admission of one or more votes, or for any other reason was not duly elected by a majority or lawful votes; or

(c) that such person though enrolled as an elector was disqualified for election under the provisions of Sections, 15,16 and 29

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1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Inserted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.
3. Substituted by the Orissa Act 22 of 1978, w.e.f. 26.07.1978.
4. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(2) [1][The election of any person [2](* * *) as a Councillor] shall not be questioned–

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

(b) on the ground that any non-compliance with this Act or any rule or of any mistake in the forms required thereby or of any error, irregularity or informality on the part of the officer or officers charged with carrying out the provisions of this Act or any rules, unless such non-compliance mistake, error, irregularity or informality has materially affected the result of the election.

19. Form and presentation of petition :– (1) The petition shall be presented before the District Judge together with a deposit of two hundred rupees as security for costs within fifteen days, after the day on which the result of the election was announced and shall specify the ground or grounds on which the election of the opposite party is questioned and shall contain a summary of the circumstances alleged to justify the election being questioned on such grounds.

(2) The petition may be presented by any candidate in whose favour votes have been recorded and who claims to be declared elected in place of the person whose election is questioned, or by twenty-five or more electors of the ward.

(3) A person whose election is questioned and when the petition states than any other candidate shall be declared elected in place of such person, every unsuccessful candidate, who has polled more votes than such candidate, shall be made opposite-party to the petition.

20. Right of candidates whose election is questioned :– Every opposite-party may give evidence to prove that any person in respect of whom a claim is made that such person be declared elected in his place or in priority to him should not be declared so elected in the same manner as if he had presented a petition against the election of such person.

21. Tribunal :– (1) An election petition shall be heard by the District Judge within whose jurisdiction the municipality situated

(2) Such District Judge (hereinafter referred to as 'Tribunal') shall be deemed to exercise jurisdiction as persona designate and not acting in the capacity of a Judge of a Civil Court.

22. Procedure :– Except so far as may be otherwise provided by this Act or by rule, the procedure provided in the Code of Civil Procedure, 1908(V of 1908), in regard to suit, shall so far as it is not inconsistent with this Act or any rule, and so far as it can be made applicable, be followed in the hearing of election petitions:

Provided that–

(a) any two or more election petitions relating to the election of the same persons may be heard together,

(b) the Tribunal shall not be required to record or to have recorded the evidence in full but shall make a memorandum of the evidence sufficient in its opinion for the purpose of deciding the case;

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1. Substituted by the Orissa Act 22 of 1978, w.e.f. 26.07.1978.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(c) the Tribunal may, at any stage of the proceedings require the petitioner to give further security for the payment of all cost incurred or is likely to be incurred by any opposite-party and is within the time fixed by it or within such further time, as it may allow such security is not furnished, may dismiss the petition;

(d) the Tribunal for the purpose of deciding any issue, shall only be bound to require the production of, or to receive so much evidence, oral or documentary, as it considers necessary;

(e) there shall be no appeal either on a question of law or fact, and no application in revision against or in respect of the decision of the Tribunal;

(f) the Tribunal may review its decision on any point on the application of any person, considering himself aggrieved thereby if the application is presented within one month from the date of decision.

23. Power of the Tribunal :– (1) Unless it is otherwise prescribed, the Tribunal shall have the same powers and privileges as the Judge of Civil Court, and may for the purpose of serving any notice or issue of any process or doing any other such thing, be entitled to employ, with the consent of the Magistrate of the district, any peon or other officer or clerk, attached to the Court of the Magistrate of the district.

(2) An order for costs, or an order for the realisation of security bond for costs, passed by the Tribunal may be sent by that Tribunal for execution to the Collector of a district within which the municipality concerned is situated and an order so sent shall be executed by the Collector in the same manner as if it was an order passed by the Collector under the Tenancy Law in force in the district or part of the district, as the case may be.

24. Finding of Tribunal Court :– (1) if the Tribunal, after making such inquiry, as it deems necessary finds in respect of any person, whose election is called in question by a petition that his election was valid, it shall dismiss the petition as against such person and may award cost at its discretion.

(2) If the tribunal finds that the election of any person was invalid, it shall either–

(a) declare a casual vacancy to have been created; or

(b) declare another candidate to have been duly elected, whichever course appears, in the particular circumstances of the case, the more appropriate, and in either case, may award costs as its discretion.

(3) In the event of the Tribunal declaring a casual vacancy to have been created, it shall direct the Magistrate of the district or other authority prescribed in this behalf to take proceedings for filling the vacancy.

25. Avoidance of election proceedings :– Notwithstanding anything contained in the preceding sections, if the Tribunal, in the course of the hearing of an election petition, is of opinion, that the evidence discloses–

(i) that corrupt practices have prevailed at the election proceedings in question to such an extent as to render it advisable to set aside the whole proceedings; or

(ii) the result of election has been materially affected by any non-compliance with this Act or any rules made thereunder or by any mistake in the forms

required thereby 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 thereunder; or

(iii) the result of election has been materially affected by improper acceptance or refusal of a candidate's nomination;

It shall set aside the whole proceedings and pass an order to this effect and shall direct the Magistrate of the district or other authority prescribed in this behalf to take measures for holding fresh election proceedings and if the election is set aside for any cause which is the result of acts of a candidate or his agent, may declare that candidate to be disqualified for the purpose of such fresh election.

Explanation :– In this section the expression' the election proceeding in question' and' the whole proceedings' shall mean all proceedings (inclusive of nomination and declaration of election) taken in respect of a single Poll in any municipality.

26. Disqualification for corrupt practices :– The Tribunal may declare any candidate, found to have committed any corrupt practice under the preceding section, to be incapable for any period not exceeding five years of being elected as a member of the municipality or of being appointed or retained in any office or place in the gift, disposal, pay or service of the municipality.

Provided that a disqualification under this section may be removed by an order of the Governor in this behalf.

27. Saving of acts done by a Councillor before his election is set aside :– Where a candidate, who has been elected to be [1][* * *] a Councillor of a municipality, is declared by the Tribunal not to have been duly elected, acts done by him in execution of the office, before the time when the decision is certified to the municipality, shall not be invalidated by reason of that declaration.

28. Corrupt practices :– A person shall be deemed to have committed a corrupt practice who directly or indirectly by himself or by any other person–

(a) induces, or attempts to induce by fraud, intentional misrepresentation, coercion or threat of injury, any voter to give or to refrain from giving a vote in favour of any candidate;

(b) with a view to including any voter to give or to refrain from giving a vote in favour of any candidate or in consideration of any voter having voted or refrained from voting for any candidate, offers or gives any money or valuable consideration or any place or employment or holds out any promise of individual advantage or profit to any person including a promise of spiritual salvation;

(c) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or of spiritual censure with a view to influence him in any way in connection with the election;

(d) employs, instigates or threatens any form of social boycott of any voter or candidate or of any one in whom such voter or candidate is interested;

1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

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

(f) makes or promises to make any payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote or hires, employs, borrows or uses for the purpose of election any boat, vehicle or animal usually kept for letting on hire or for convenience of the passengers by hire except for carrying himself or his agents and messengers:

Provided that nothing contained in this clause shall prevent a conveyance being hired by a voter or several voters at their joint cost for the purpose of conveying him or them to or from the poll;

(g) offers any money or valuable consideration to any person to include him to withdraw from being a candidate at an election or being a candidate accepts any money or valuable consideration so offered;

(h) abates (within the meaning of the Indian Penal Code XLV of 1860, the doing of any of the acts specified in clauses (a), (b),(c),(d),(e), (f),and (g).

Explanation–

(i) 'A promise of individual advantage or profit to a person includes a promise for the benefit of the person himself or of any one in whom he is interested, but does not include a promise to further propose or to vote for or against any particular municipal measure or work;

(ii) No agent, clerk, messenger or other person, who may in accordance with prescribed rules, be employed for remuneration by a candidate at an election shall, by reason of such employment alone, be deemed to come within the provisions of this section;

(iii) A corrupt practice shall be deemed to have been committed by a candidate if it has been committed with his knowledge or consent or by a person who is acting under the general or special authority of such candidate with reference to the election;

(iv) Every person, who is guilty of a corrupt practice at, or in connection with an elections held under the provisions of this Act, shall be punishable with imprisonment which may extend to six months or with fine or with both.

29. Person convicted of election offences disqualified for voting and for being elected :– Every person, convicted of an offence punishable under this Chapter or under Chapter IX-A of Indian Penal Code (XLV of 1860), shall be disqualified from voting or from being elected in any election to which this Act applies or from holding [1][the office of [2][* * *] a Councillor] of a municipality for a period of [3][four years] from the date of his conviction or for such shorter period as the Court may, by order, determine.

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1. Substituted by the Orissa Act 22 of 1978, w.e.f. 26.07.1978.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

30. Offences in respect of electoral rolls :– (1) Every person who by claiming a qualification which he knows that he does not possess to vote at a municipal election or by using false documents or by a false declaration or by any other deceitful means, procures or attempts to procure, the improper entry of the name whether of himself or of any other person in the electoral roll or the improper omission of any name therefrom shall be punishable with imprisonment which may extend to three months or with fine or with both.

(2) Every municipal officer or servant or polling officer [1][or any other officer, whether designated as Election Officer or otherwise, engaged in or associated with the work of preparation of electoral rolls pursuant to Section 13 of this Act], who wilfully makes or procures or attempts to make or procure any improper entry in the electoral roll or any improper omission therefrom, shall be punishable with imprisonment which may extend to six months or with fine or with both.

31. Falsifying result of election :– Every person who in the course of electoral operations, falsifies or attempts to falsify the record and election by removing, destroying, altering or fabricating nomination papers voting papers or by any other act or by any omission shall be punishable with imprisonment which may extend to one year or with fine or with both.

32. Fraudulent voting and personation :– (1) Every person, who applies for a ballot paper at an election, having already voted once at the same election and in any electoral ward on knowing that his name is not included in the electoral roll shall be punishable with imprisonment which may extend to six months or with fine or with both.

(2) Every person, who applies for a ballot paper in the name of any other person, living or dead or of fictitious person, shall be punishable with the punishment provided in sub-section (1).

33. Infringement of secrecy of election :– Every polling officer, clerk or other person, in attendance at the polling station who, except for some purpose authorised by law, communicates to any person any information, showing directly or indirectly for which candidate any voter has voted, and every person, who by improper means procures any such information, shall be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.

34. Offences by Polling Officer :– Every Polling Officer, who permits a person to vote, knowing that such person is not entitled to vote, or who prevents a person from voting, knowing that such person is entitled to vote, shall be punishable with imprisonment which may extend to six months or with fine or with both.

35. Procedure before Magistrate :– No Magistrate, other than a Magistrate of the first class, shall take cognizance of any offence punishable under Sections 28, 30, 31, 32, 33 and 34 nor shall any Magistrate take cognizance of such–

(a) except on the complaint of a person whose name is on the electoral roll;

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1. Inserted by the Orissa Act 6 of 2002 , w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.

(b) unless such complaint has been made within fourteen days of the date of the declaration of the result of any election to which the offence relates or within seven days of the date on which the offence is alleged to have been committed; and

(c) except in the date of an offence punishable under Sections 31,33 and 34 unless the person complaining shall have deposited fifty rupees.

The deposit mentioned in clause (c) shall be refunded to the complaint, if the complaint is found to be true or if for any other reason, the Magistrate so directs.

36. [1][* * *]

37. Bar to interference by Courts in election matters :– No election of a [2][3](* * *) Councillor shall be called in question in any court except under the procedure provided by this Act and the Rules, if any, made thereunder and no orders passed by the Tribunal in any proceeding under this chapter for hearing of an election petition shall be called in question in any Court and no Court shall grant an injunction–

(i) to postpone an election of a [2][3](* * *) Councillor] or

(ii) to prohibit a person declared to have been duly elected under this Act, from taking part in the proceedings of the municipality of which he has been elected a [2][3](* * *) Councillor] or

(iii) to prohibit a [2][3](* * *) Councillor] formally elected to a municipality from entering upon his duties.

[4][**37-A. Protection of action taken in good faith :–** No suit, prosecution or other legal proceeding shall lie against the Election Commission or any person acting under the direction of the Election Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this Chapter or of any order made thereunder or in respect of the tendering of any opinion by the Election Commission to the Governor or in respect of the publication, by or under the authority of the Election Commission, of any such opinion, or any paper or proceedings.]

38. District Judge to decide question of disqualification of Councillors–

(1) Whenever it is alleged that any person, who has been elected as [2][3](* * *) Councillor] is disqualified under Section 16 or 17 and such person does not admit the allegation or whenever any [2][3](* * *) Councillor] himself is in doubt whether or not he has become disqualified for office under Section 16 or 17, such [2][3](* * *) Councillor] or any other Councillor may, and the Chairperson at the request of the Council, shall apply to the District Judge of the district in which the municipality is situated.

(2) The said judge after making such inquiry as he deems necessary shall determine whether or not such person is disqualified under Section 16 or 17 and his decision shall be final.

(3) Pending such decision, the [2][3](* * *) Councillor] shall be entitled to act as if he were not disqualified.

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1. Omitted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by the Orissa Act 22 of 1978, w.e.f. 26.07.1978.
3. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
4. Inserted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.

CHAPTER - IV

REMOVAL, RESIGNATION AND TERM OF COUNCILLORS

[1][**38-A. Removal of Councillor by Government : –** (1) Without prejudice to the provisions contained in the foregoing section, the State Government may remove any [2][[3](* * *) Councillor,] if they are satisfied that he has become subject to any of the disqualifications specified in Section17:

Provided that no order for removal shall be made without giving the [2][[3](* * *) Councillor] an opportunity of showing cause against the proposed removal.

Provided further that no such order shall be made in cases where an application in respect of the said [2][[3](* * *) Councillor] made under Section 38 on the same ground as aforesaid, is pending or where any such application having been made has been finally disposed of under the said section.

(2) Any [2][[3](* * *) Councillor] against whom an order of removal is made under sub-section (1) may, within thirty days of such order, prefer an appeal before the District Judge of the district in which the Municipality is situate.]

39. Publication of names :– The name of Councillors [4][of every municipality including its Chairperson and Vice-Chairperson] shall be published in the Gazette.

40. No Councillor to receive remuneration :– No Councillor shall receive or be paid from the funds at the disposal of or under the control of such municipality any salary or other remuneration for services rendered by him in any capacity whatsoever but shall be allowed travelling allowance as prescribed:

Provided that the Chairperson [4][and Vice-Chairperson] may receive such monthly allowance as may be prescribed:

[5]***[Provided further that*** the Councillors, Chairperson and Vice-Chairperson may receive such sitting allowance as may be prescribed.]

41. Term of office of [3][* * *] **Councillors :–** [4][(1) Save as otherwise provided in this Act,–

(i) a Councillor whether elected at a general election, or nominated, to a Municipality shall hold office for five years from the date appointed for the first meeting of the Municipality as referred to in clause (a) of sub-section (2) of Section 47;

(ii) a Councillor elected at a by-election or elected or nominated against a casual vacancy in a Municipality shall hold office for the unexpired period of the term of office of the Councillor in whose place he has been so elected or, as the case may be, nominated.

(2) An outgoing Councillor, if otherwise qualified, shall be eligible for reelection.

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1. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by the Orissa Act 22 of 1978, w.e.f. 26.07.1978.
3. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
4. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
5. Inserted by the Orissa Act 20 of 1986, w.e.f. 21.11.1986.

(3) Whenever the number of Councillors of an existing Municipality is increased as a result of increase in the number of wards thereof, the Additional Councillor or Councillors elected for the purpose shall, save as otherwise provided, continue till the expiry of the term of office of the other Councillors of the Municipality as provided in sub-section (1).]

42. Procedure when no Councillor is elected at an election :– (1) If at a general election or by-election to a municipality [1][referred to in] Section 41 no Councillor is elected, a fresh election shall be held by such authority on such date and in such manner as amy be prescribed in that behalf.

(2) If at such fresh election no Councillor is elected, the State Government shall [1][nominate] a person or persons to fill the vacancy.

(3) The term of office of a Councillor elected or [1][nominated] under this section shall expire at the time at which it would have expired if he would have been elected [2][* * *] at the general election or by-election, as the case may be.

[1][**43. Resignation of Councillor :–** (1) A Councillor not being the Chairperson or Vice-Chairperson, may resign his office by writing under his hand addressed.–

(a) if he is an elected Councillor, to the Chairperson who shall place the letter or resignation before the Municipality at its next meeting of which notice shall be given to the Councillor; and

(b) if he is a nominated Councillor, to the State Government.

(2) On the resignation being accepted–

(a) by the Municipality, in the case of an elected Councillor; and

(b) by the State Government, in the case of a nominated Councillor,

the Councillor shall cease to hold office with effect from the succeeding date of such acceptance:

Provided that the Councillor may, at any time before the acceptance of the resignation, withdraw the same by writing under his hand.]

[1][**44. Vacation of office by Councillor :–** A Councillor of a Municipality shall be deemed to have vacated his office on the expiry of his term of office as, or on his otherwise ceasing to be, a Councillor of that Municipality or on being elected or nominated as a Councillor of any other Municipality.]

45. Casual Vacancies :– If a Councillor [3][,elected or nominated] ceases to be a Councillor of a municipality by reason of his death, resignation, removal or otherwise the vacancy so caused shall be filled by [1][election or nomination, as the case may be] of another Councillor in the manner prescribed.

46. Power to leave casual vacancies unfilled in certain areas :– (1) Where a vacancy occurs in the office of a Councillor by reason of death, resignation, removal or otherwise and the term of office of that Councillor would in the ordinary course of events, have terminated within six months of the occurrence of the vacancy, the State Government may direct that the vacancy be left unfilled until the next general election.

(2) [2][* * *]

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1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Omitted by *ibid.*
3. Inserted by *Ibid*.

CHAPTER - V

ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON

[1][**47. Election of Chairperson and Vice-Chairperson :–** (1) Every Municipality shall have a Chairperson and a Vice-Chairperson.

(2) The Councillors of the Municipality specified in clause (a) of Section 8 shall,–

(a) at the first meeting of the Municipality, which shall be convened soon after the publication of their names under sub-section (2) of Section 10, elect in the prescribed manner a Chairperson from among them;

(b) at a subsequent meeting, which shall be specially convened for the purpose at the instance of the Chairperson so elected as soon as may be, but not later than thirty days, after the date of election of the Chairperson, elect a Vice-Chairperson of the Municipality from among them:

Provided that where the Office of the Chairperson of a Municipality is not reserved under sub-section (3) for women or where the Chairperson elected under this Act is not a woman, the office of the Vice-Chairperson of the Municipality shall be reserved for women.

(3) Notwithstanding anything to the contrary in sub-section (1)–

(a) offices of Chairperson in the Municipalities shall be reserved for the Scheduled Castes and the Scheduled Tribes and the number of offices so reserved for the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of such offices as the population of the Scheduled Castes and the Scheduled Tribes, respectively [2][in the Municipalities of the State bears to the total population of such Municipalities];

(b) as nearly as may be one-third of the total number of seats reserved under clause (a) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes; and

(c) as nearly as may be one-third (including the number of offices reserved for women belonging to the Scheduled Castes [3][, the Scheduled Tribes and the Backward Class of citizens]) of the total number of offices of Chairperson in the Municipalities shall be reserved for women; and

[3][(d) as nearly as may be, but not less than, twenty-seven percentum of the offices of Chairpersons of Municipalities shall also be reserved in favour of Backward Class of citizens as referred to in clause (6) of Article 243-T of the Constitution; and

1. Substituted for Sections 47 & 47-A by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Substituted by the Orissa Act 15 of 1996, w.e.f. 18.10.1996.
3. Substituted by the Orissa Act 19 of 1995, w.e.f. 19.10.1995

(e) as nearly as may be, one-third of the total number of seats reserved under clause (d) shall be reserved for women belonging to the backward class of citizens.]

(4) Reservation of offices of Chairperson under sub-section (3) shall be made by the State Government by rotation among different Municipalities in the prescribed manner and shall be published in the Gazette:

[1][***Provided that*** the procedure provided in sub-section (3-A) of Section 12 relating to reservation of seats in the Municipalities for the Scheduled Castes, Scheduled Tribes, Backward Class of citizens and women shall, as far as may be, applicable for the purpose of reservation of offices of Chairpersons to be made by the State Government under this sub-section.]

(5) The reservation of offices of Chairpersons (other than the reservation for women and backward class of citizens) under sub-section (3) shall cease to have effect on the expiration of the period specified in Article 334 of the Constitution.

(6) if at an election under sub-section [2][(2)]–

(a) no Chairperson is elected, a fresh election shall be held within thirty days from the date of the first election; or

(b) no Vice-Chairperson is elected, a fresh election shall be held within thirty days from the date of the first election.

[3][(7) If at the subsequent election held under sub-section (6) no Chairperson or Vice-Chairperson, as the case may be, is elected, the State Government shall nominate a person who is otherwise eligible to hold-the office, to fill up the office, and the person so nominated shall, subject to other provisions of this Act, hold office till the expiry of five years from the date appointed for the first meeting referred to in clause (a) of sub-section (2) of Section 47.]]

[4]**[48. Vacation of office by Chairperson and Vice-Chairperson :–** The Chairperson or the Vice-Chairperson of a Municipality shall be deemed to have vacated his office–

(a) on the expiry of his term of office as, or on his otherwise ceasing to be a Councillor of that Municipality; or

(b) on his election or nomination as a Councillor of any other Municipality.]

[5]**[49. Filling up casual vacancies :–** On a vacancy occurring in the Office of the Chairperson [4][or Vice-Chairperson of a municipality] by reason of death, resignation, removal or otherwise, it shall be filled up by election as soon as may be after the occurrence of the vacancy in the prescribed manner:

[6]**[* * *]**

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1. Added by the Orissa Act 19 of 1995, w.e.f. 19.10.1995.
2. Substituted by ibid.
3. Substituted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.
4. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
5. Substituted by the Orissa Act 5 of 1990, w.e.f. 20.04.1990.
6. First proviso Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

[1][*Provided* [2][* * *] that where a vacancy occurs in the office of the Vice-Chairperson which was held by a woman, such vacancy shall be filled up by a woman, unless the [3][Chairperson] continuing in the office as such is a woman.]

49-A. [4][* * *]

50. [5][* * *]

51. Grant of leave to Chairperson or Vice-Chairperson :– The municipality may grant leave of absence to its Chairperson or Vice-Chairperson for any period not exceeding three months in any one year.

[6][**52. Resignation of Chairperson or Vice-Chairperson :–** (1) A nominated Chairperson or Vice-Chairperson of a Municipality may resign his office by writing under his hand addressed to the State Government and, on such resignation being accepted, shall be deemed to have vacated his office.

(2) An elected Chairperson may resign his office by writing, under his hand addressed to the Municipality.

(3) An elected Vice-Chairperson may resign his office by writing under his hand addressed to the Chairperson of the Municipality who shall forthwith lay the letter of resignation before the Municipality.

(4) On a resignation under sub-section (2) or (3) being accepted by the Municipality, the Chairperson or, as the case may be, the Vice-Chairperson shall be deemed to have vacated his office.

(5) A resignation tendered under this section may, at any time before its acceptance, be withdrawn by the person tendering the same by writing.]

[7][**53 Removal of Chairperson or Vice-Chairperson :–** (1) If at any time during the term of office of a Chairperson or a Vice-chairperson it comes to the notice of the State Government that such Chairperson or Vice-chairperson wilfully omits or refuses to carry out, or disobeys the provision of this Act or any rules, bye-laws, regulations or lawful orders issued thereunder, they may cause an enquiry to be made by the Director [8][or the District Magistrate or by an officer not below the rank of a Deputy Secretary of the State Government, as the Government may, by notification direct.]

(2) On receipt of the report from the enquiring officer the State Government shall give an opportunity to the concerned Chair-person or Vice-Chairperson to submit his explanation within a period of three weeks through the enquiring officer.

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1. Inserted by the Orissa Act 23 of 1992, w.e.f. 27.04.1992.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Substituted by the Orissa Act 5 of 1990, w.e.f. 20.04.1990.
4. Omitted 'Failure of election of Chairperson of Vice-Chairperson' by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.
5. Omitted 'Status of appointed Chairpersn or Vice-Chairperson' by the Orissa Act 5 of 1990, w.e.f. 20.04.1990.
6. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
7. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
8. Substituted 'or by an officer not bellow the rank of a District Magistrate' by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.

(3) The State Government, after considering the report and the explanation together with the comments, if any, of the enquiring officer, and on being satisfied that the Chairperson or the Vice-Chairperson has failed to discharge the duties of his office or has acted illegally or in contravention of any of the provisions of this Act or any rules, regulations or bye-laws, shall by notification issued, as far as practicable within six weeks from the date of receipt of the explanation, remove the Chairperson or, as the case may be, the Vice-Chairperson.]

[1][**54. Vote of no-confidence against Chairperson or Vice-Chairperson :–** (1) Where at a meeting of the Municipality specially convened by the District Magistrate in that behalf a resolution is passed, supported by not less than two-thirds of the total number of Councillors recording want of confidence in the Chairperson or Vice-Chairperson the resolution along with the records of the proceedings at such meetings shall forthwith be forwarded to the State Government who shall publish the same in the Gazette and with effect from the date of passing of the resolution the person holding the office of Chairperson or Vice-Chairperson, as the case may be, shall be deemed to have vacated such office. In the event of both Chairperson and Vice-Chairperson vacating office the District Magistrate or his nominee shall discharge the responsibilities of the Chairperson till a new Chairperson is elected.

[2][***Provided that*** no such resolution recording want of confidence in the Chairperson or the Vice-Chairperson–

(i) shall be passed within two years from the date of his election or nomination, as the case may be; and

(ii) shall be moved more than once during a calender year.]

(2) In convening a meeting under sub-section (1) and in the conduct of business at such meeting the procedure shall be in accordance with the rules, made under this act, subject however to the following provisions, namely–

(a) no such meeting shall be convened except on a requisition signed by at least one-third of the total number of Councillors along with a copy of the resolution proposed to be moved at the meeting;

(b) the requisition shall be addressed to the District Magistrate.

(c) the District Magistrate shall, within ten days of receipt of such requisition, fix the date, hour and place of such meeting and give notice of the same to all the Councillors holding office on the date of such notice along, with a copy of the requisition and of the proposed resolution, at least three clear days before the date so fixed;

(d) the District Magistrate or if he is unable to attend, any Gazetted Officer above the rank to which the Executive Officer of the Municipality belongs who is specially authorised by him in that behalf shall preside over, conduct and regulate the proceedings of the meeting;

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1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.

(e) the voting at all such meetings shall be by secret ballot;

(f) no such meeting shall stand adjourned to a subsequent date and no item of business other than the resolution for recording want of confidence in the Chairperson or Vice-Caparison as the case may be, shall be taken up for consideration at the meeting;

(g) if the number of Councillors present at the meeting is less than two-thirds of the total number of Councillors the resolution shall stand annulled.

(h) if the resolution is passed at the meeting supported by the requisite number of Councillors as specified in sub-section (1) the Presiding Officer shall immediately forward the same in original along with the records of the proceedings to the State Government who shall forthwith publish the resolution in accordance with the provisions of sub-section (1);and

(i) Where any Gazetted Officer presides at the meeting he shall, without prejudice to the provisions of clause (h) also send a copy of the resolution along with a copy of the proceedings to the District Magistrate for information and such action as may be necessary.]

[1][**55. Appointment during leave vacancy :–** If the Chairperson or the Vice-Chairperson avails himself of leave under Section 51, the State Government shall fill up the vacancy by appointing a person who is otherwise eligible to hold the office and the person so appointed shall hold the office during the period of leave.]

56. Proceedings not to be invalidated by casual vacancies :– No act of a municipality shall be deemed to be invalid only by reason of the existence of a casual vacancy in such municipality.

57. Civil Court not to grant temporary injunctions in certain cases :– No Civil Court shall, in the course of any suit, grant any temporary injunction or make any interim order–

(a) restraining any person from exercising the powers of performing the functions or duties of a member, Chairperson, Vice-Chairperson, [2][* * *] officer or servant of a municipality or of a committee or subcommittee of a municipality on the ground that such person has not been duly elected or appointed as such member, Chairperson, Vice-Chairperson, [2][* * *] officer or servant; or

(b) restraining any person or persons or any such municipality or committee or sub-committee of a municipality from holding any election, or from holding any election in any particular manner.

57-A. [3]**[* * *]**

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1. Substituted by the Orissa Act 22 of 1978, w.e.f. 20.07.1978.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Omitted Section 57-A and inserted under Chapter V-A by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

CHAPTER - V-A
WARDSCOMMITTEE

[1][**57-A. Constitution of Wards Committee :–** (1) In every municipality having a population of three lakhs or more, there shall be constituted by the Municipality a Wards Committee for each ward.

(2) The Wards Committee shall be composed of the following members, namely:

(a) the Councillor representing the ward who shall be President thereof;

(b) an elector of the Ward to be nominated by the Chairperson of the Municipality; and

(c) the Executive Office or any other official of the Municipality as may be authorised by the Executive Officer.]

[1][**57-B. Powers and responsibility of Wards Committee :–** (1) It shall be the responsibility of the Wards Committee to take all possible measures, subject to the provisions of this Act and overall control of the Municipality or public health, sanitation, street lighting and conservancy in the Ward, for protection of the environment and promotion of ecological aspects of the Ward and/or such other matters as may be entrusted by the Municipality.

(2) The Wards Committee shall have powers to recommend to the Municipality the measures needed for the purposes mentioned in subsection (1).]

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CHAPTER - VI
COMMITTEES

58. Committees :– (1) The municipality may appoint committees to assist them in the discharge of the duties devolving upon them under this Act, within the whole or any portion of the municipality, in regard to all or any of the following subjects, namely:

(a) finance,

(b) public health, hospitals and dispensaries,

(c) public works,

(d) education, and

(e) any other special subject relating to the purposes of this Act:

Provided that in a municipality in which provision is or has been made for the supply of pipped water, a Water-works Committee shall be constituted, as hereinafter provided, to assist the Municipality in the discharge of the duties devolving upon it under this Act in respect of such supply.

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1. Chapter V-A along with Sections 57-A & 57-B inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(2) The Councillors at a meeting may delegate to any such Committee any of their powers and duties or withdrawal or any of the powers and duties so delegated and also may, from time to time, refer to them for enquiry and report or for opinion such subjects relating to the powers and duties of Councillors, as the Councillors at a meeting may think fit.

(3) Each such Committee shall perform the duties and exercise the powers assigned or delegated to it by this Act or any other enactment, for the time being in force, or the rules made thereunder and be liable to all the obligations imposed by this Act on Councillors in respect of such duties and powers.

(4) All the proceedings of any such committee shall be subject to confirmation with or without modification by the municipality unless the municipality in delegating such powers and duties direct that the decision of the Committee shall be final.

59. Constitution of Committees :– (1) A Committee shall consist of not less than three not more than six Councillors and of any person who is not a Councillor but who may in the opinion of the Councillors, possess special qualification for serving on such Committee:

Provided that the number of persons appointed on any Committee, who are not Councillors, shall not exceed one-third of the total number of the Councillors of such Committee:

Provided further that Chairpersons or the Vice-Chairpersons [1][* * *] shall be the President of each Committee.

(2) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of Councillors shall be applicable so far as may be to such members except members appointed ex officio.

(3) All questions regarding the removal or resignation of members of Committee shall be settled by the municipality.

60. Exercise and discharge of powers and duties by the Water-works Committee :– Without prejudice to any powers and duties that may be delegated to it under sub-section (2) of Section 58, the following powers and duties shall be exercised and discharged by the Water-works Committee-

(a) the power to inspect the water-works and the wholes system of supply of piped water in the municipality and to depute any of the members of the said Committee to make such inspection;

Explanation :– The power to inspect shall be deemed to include the power to enter into or on any house or land for the purpose of making the inspection, subject to the conditions and restrictions imposed by Section 414 on officers authorised thereunder;

(b) the power to call from the municipal officers concerned any reports, papers and accounts relating to the water-works and the supply of piped water in the municipality including the collection of water-taxes therein; and

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1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(c) the duty of examining the reports, papers and accounts, referred to in clause (b), of superintending all matters connected with the maintenance and improvement of the water-works and the supply of piped water in the municipality and of making, when necessary, recommendations to the municipality.

61. Appointment of joint Committee :– (1) A Municipality may, and if so required by the State Government shall join with one or more other local authority or authorities in constituting out of their respective bodies a joint Committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible.

(2) A joint Committee may include persons who are not members of the local authorities concerned but who may in their opinion possess special qualification or special interest for serving on such Committee:

Provided that the number of such persons shall not exceed one-third of the total number of members of the Joint Committee.

(3) The constitution of a joint Committee shall be by means of regulations which shall not, except in the cases referred to in sub-sections (6) and (7), have effect unless assented to by each of the local authorities concerned.

(4) The regulations shall determine–

(a) the total number of members of the joint Committee;

(b) the number who shall be Councillors of the local authorities concerned and the number who may be outsiders;

(c) the persons who shall be members of the joint Committee or the manner in which they shall be elected or appointed;

(d) the persons who shall be President of the Joint Committee or the manner in which he shall be elected or appointed;

(e) the term of office of members and President;

(f) the powers; being powers exercisable by one or more of the local authorities concerned, which may be exercised by the joint Committee; and

(g) the procedure of the joint Committee.

(5) Regulations made under sub-sections (3) and (4) may be varied or revoked provided that all the local authorities concerned assent to such variation or revocation.

(6) if the State Government take action under sub-section (1) they may issue such directions as, they think necessary or desirable in respect of all or any of the matters, referred to in sub-sections (3) and (4).

(7) if any difference of opinion arises between the Local authorities concerned under any of the foregoing provisions of this section, it shall be referred to the State Government whose decision shall be final and shall not be questioned in any Court.

62.State Municipality's Union :– (1) The municipalities in the State may combine to form an association to be called the State Municipality's Union:

Provided that no such association shall be formed unless more than half the number of municipalities in the State severally pass a resolution signifying their intention to become members.

(2) The functions of the Union formed under sub-section (1) shall be to examine problems of common interest to the municipalities, to advise the municipalities on the improvement of municipal administration and to perform such other functions as the State Government may, from time to time prescribe.

(3) The following matters shall be regulated by rules made by the State Government, namely–

(a) the constitution and aims and objects of the Union;

(b) the amount and the method of contribution by the municipalities to the Union;

(c) the management and control of finances of the Union; [1][and]

(d) [2][* * *]

(e) generally such other incidental matters as may be necessary for the purpose of this section.

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[3]CHAPTER - VI-A

DISTRICT PLANNING COMMITTEE

[3]**[62-A. Committee for district planning :–** (1) There shall be constituted at the level of every district a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) A District Planning Committee shall consist of twenty members as follows:

(a) sixteen members to be elected in the prescribed manner by, and from amongst, the elected members of the Zilla Parishad and the elected Councillors of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district; and

(b) four members to be nominated by the State Government as follows:

(i) a Minister in the Council of Ministers of the State, who shall be the Chairperson;

(ii) the Collector of the district, who shall be the Vice-Chairperson;

(iii) the Chairperson of the Zilla Parishad in the district; and

(iv) the Chairperson of a Municipality in the district;

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1. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Omitted by ibid.
3. Inserted Chapter VI-A along with Section 62-A & 62-B by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

Provided that–

(a) if the Chairperson of the Zilla Parishad in the district is elected as a member of the Committee under clause (a); or

(b) where there is only one Municipality in a district and the Chairperson of such Municipality is elected as a member of the Committee under the said clause,

some other person may be nominated by the State Government.

Explanation– For the purposes of this section,–

(a) *'Zilla Parishad' means a* Zilla Parishad constituted under the Orissa Zilla Parishad Act, 1991(Orissa Act 17 of 1991);

(b) *'rural areas'* means the territorial areas of Panchayats; and

(c) *'urban areas'* means the territorial areas of Municipalities.

(3) Notwithstanding anything contained in this section the State Government may nominate any official or non-official as special invitee to attend the meetings of the District Planning Committee without any right to vote at any such meeting.

(4) The Chief Executive Officer of the Zilla Parishad shall be the Secretary of the District Planning Committee.

(5) The term of office of the members of the District Planning Committee, the conduct of business at the meetings thereof and such other matters including filling up of casual vacancies in the said Committee shall be such as may be prescribed.

(6) No act of a District Planning Committee shall be deemed to be invalid only by reason of the existence of a casual vacancy therein.]

[1][**62-B. Functions of the District Planning Committee :–** (1) Every District Planning Committee shall, in preparing the draft development Plan–

(a) have regard to–

(i) matters of common interest between the Panchyats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(2) The Chairperson of every District Planning Committee shall forward the Development Plan, as recommended by such Committee, to the State Government.

(3) Without prejudice to the generality of the foregoing provisions, a District Planning Committee shall have such other functions as the State Government may, by notification from time to time, assign.]

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1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994

CHAPTER - VII
CONDUCT OF BUSINESS

63. Ordinary Meetings :– The Councillors shall meet for the transaction of business at their office or at some other convenient place, [1][within the Municipal area] at least once in every month, and as often as a meeting shall be called by the Chairperson or in his absence, by the Vice-Chairperson [2][* * *]

64. Meeting or requisition by Councillors :– (1) The Chairperson or in his absence the Vice-Chairperson [2][* * *] shall call a special meeting on a requisition signed by not less than one- third of the total number of Councillors.

(2) if the Chairperson or the Vice-Chairperson 2[* * *] fails to call a special meeting to be held within ten days from the date of receipt of such requisition the meeting may be called on five day's notice by the persons who signed the requisitions.

65. President at a meeting :– Except as otherwise provided in this Act, the Chairperson shall preside at every meeting of the municipality. In the absence of Chairperson [3][the Vice-Chairperson or in the absence of both Chairperson and Vice-Chairperson] a Councillor elected at the meeting shall preside.

66. Functions of the President of the meeting :– (1) The President of a meeting (hereinafter referred to as the President shall preserve order and shall decide all points of order arising at or in connection with meetings. The decision of the President on any point of order shall, save as is otherwise expressly provided in this Act, be final.

(2) Any Councillor may, at any time, submit a point of order for the decision of the President but in doing so shall confine himself to stating and explaining the point.

(3) The President, after having called the attention of the Councillors to the conduct of a member, who persists in irrelevance or tedious repetition, either of his own arguments used by other Councillors in debate shall direct him to discontinue his speech.

(4) The President may direct any member, whose conduct in his opinion grossly disorderly, to withdraw immediately from the meeting and any Councillor as ordered to withdraw shall do so forthwith and all shall absent himself for the remainder of the days meeting.

(5) The President may in the case of grave disorder arising in the meeting suspend its sitting for a time to be named by him.

67. Councillor when to abstain from taking part in discussion and voting :– (1) No Councillor of a municipality or member of a Committee thereof shall vote on or take part in the discussion of any questions, coming up for consideration at a meeting of the municipality or Committee, if the question is one in which apart from its general application to the public, he has any direct or indirect pecuniary interest by himself or his partner.

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1. Inserted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Substituted by *ibid.*

(2) The President, either on his own motion or in the motion of any Councillor present, may prohibit any Councillor from voting or taking part in the discussion of any matter, in which he believes such Councillor to have such interest or he may require such Councillor to absent himself during the discussion.

(3) Such Councillor may challenge the decision of the President, who shall thereupon put the question to the meeting. The decision of the meeting, shall be final.

(4) If the President is believed by any Councillor present at the meeting to have any such pecuniary interest in any matter under discussion, the President may, if motion to that effect be carried, be required to absent himself from the meeting during such discussion.

(5) The Councillor concerned shall not be entitled to vote on the question referred to in sub-section (3) and the President shall not be entitled to vote on the motion referred to in sub-section (4).

68. No acts of municipality to be invalidated by infirmity :– No act of a Municipality or of a Committee thereof or by any person acting as President, Chairperson, Vice-chairperson [1][* * *] or Councillor of such Municipality or member of such Committee shall be deemed to be invalid by reason only of a defect in the establishment of such Council or Committee, or on the ground that the President, Chairperson, Vice-chairperson [1][* * *] or any Councillor of such Municipality or member of such Committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity in his election or appointment or by reason of such act having been done during the period of any vacancy in the office of Chairperson, Vice-chairperson [1][* * *] or Councillor of such municipality or member of such Committee.

69. Decision of question and casting vote :– (1) All question which may come before the Municipality or a Committee shall be decided by a majority of votes, save as is otherwise provided in this Act.

(2) In case of equality of votes the President of the meeting shall have a seconder casting vote.

70. Quorum and adjournment for want thereof :– (1) No business shall be transacted at any meeting of the Municipality, unless such meeting has been called by the Chairperson or Vice-Chairperson [1][* * *] or under Section 64 by persons signing a requisition and unless a quorum be present.

(2) A quorum shall be in any municipality in which the Councillors are not more than fifteen, five; and in any other municipality a number being not less than one-third of the entire number of Councillors:

> ***Provided that*** in cases where the whole number of Councillors is not evenly divisible by 3, the one-third shall be ascertained by taking the number of next above the whole number, which is evenly be divisible by 3 as the number to be divided.

(3) If at the time appointed for a meeting, or within half an hour thereafter quorum is not present, the meeting shall stand adjourned to some future day to be

1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994

appointed by the President and three days notice of such adjourned meeting shall be given. The Councillors present at such adjourned meeting shall form quorum whatever their number may be.

(4) No business shall be transacted at any meeting of any Committee, unless such meeting has been called by the Chairperson of the Committee, and unless a quorum is present. The quorum shall in any committee be a number being not less than three.

71. Record and publication of the proceedings :– (1) Minutes of the proceedings at each meeting of a Municipality or Committee shall be drawn up and recorded in the Oriya language in a book to be kept for the purpose, and shall be signed by the President and shall be published in such manner as the State Government may from time to time direct, and shall at all reasonable times and without charge, be open to the inspection of any person resident within or owing or holding land within the jurisdiction of such municipality.

[1][(2) A copy of every resolution passed by municipality at a meeting shall, within three days from the date of the meeting, be forwarded to –

(a) the Magistrate of the district;

(b) each of the Councillors of the municipality; and

(c) the State Government or to such officer or authority appointed by the State Government for the purpose of inspecting or superintending the operation of the municipality.

(3) The minute book shall be kept in the custody of the Executive Officer and shall not be taken out of the municipal office except when called for by any Court of law or by the District Magistrate:

Provided that if Chairperson, Vice-Chairperson [2][* * *] or any Councillor desires to inspect the minute book in the municipal office the Executive Officer shall produce the same before him.]

72. Powers to make regulations as to business and affairs :– Every Municipality subject to the control and approval of the State Government, shall make regulations as to –

(a) the time and place of its meetings, the business to be transacted at meetings and the manner in which notice of meetings shall be given;

(b) preserving order and the conduct of proceedings at the meetings the due record of all dissents and discussions and the adjournment of meetings and the powers which the President may exercise for the purpose of enforcing his decision on points of order.

(c) the custody of the common seal and the purposes for which it shall be used;

(d) the division of duties amongst its members and constitution and procedure of committees;

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1. Substituted by the Orissa Act, 16 of 1968, w.e.f. 01.08.1968.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994

(e) delegation of powers, duties or functions of the municipality and the powers to be exercised by the Chairperson or Vice-Chairperson [1][* * *] or Councillors or Officers or Servants of the Municipality or Government servants or by Committees or its President or any one or more of their members;

(f) the person by whom receipts shall be granted for money received under this Act;

(g) the duties, appointment of the officers and servants of the municipality; and

(h) other similar matters;

Provided that all regulations made under this section and all orders repealing or altering any such regulation, shall be considered by the municipality at a meeting specially convened for the purpose and be subject to the approval of not less than two-thirds of the number of Councillors present at the meeting.

All such regulations as aforesaid shall be published in the Gazette and in such other manner as the State Government may direct; and so far as they are consistent with any rules made by the State Government under this Act, shall upon such publication have the force of law.

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CHAPTER - VIII
ESTABLISMENT UNDER MUNICIPALITY

73. Municipality may determine its establishment :– (1) Every municipality may, with the previous sanction of the State Government and subject to the provisions of this Act and the rules made thereunder, from time to time, determine the officers and servants required to be employed by it or by any joint Committee, constituted under Section 61 or by any Committee of the municipality and shall fix or alter the number, designation, grades, salaries, fees and allowances payable to such officers and servants.

(2) Notwithstanding anything contained in sub-section (1), the municipality may, in the case of an emergency, make provisions for temporary employment under it of an officer or servant for a period not exceeding [2][forty four days]:

[3][***Provided that*** the qualification for employment and the salary and allowances in respect of such officer or servant shall not be different from those prescribed in respect of officers or servants of similar cadre:

Provided further that the creation of any post for the purpose of this sub-section shall immediately be communicated to the State Government].

(3) The qualification of candidates for an employment shall be such as may be prescribed.

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1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Substituted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.
3. Inserted by *ibdi*.

[1][**73-A. Penalties :–** (1) Where any holder of an elective office or any officer or authority makes any appointment, or causes any appointment to be made, in contravention of the provisions of this Act,–

(a) it shall be deemed in the case of the holder of an elective office that he has abused his position or power and accordingly the State Government shall initiate proceedings for his removal; and

(b) in the case of an officer or authority, it shall be deemed that he is guilty of misconduct and the competent authority shall initiate action under the relevant disciplinary rules,

and such holder of elective office of the officer or authority, as the case may be, shall be punishable with imprisonment for a term which shall not be less than six months but which may extent up to two years and also with fine which shall not be less than five thousand rupees and which may extend up to ten thousand rupees.

(2) In addition to taking action under sub-section (1), the pay and allowances paid to the Person whose appointment is in contravention of the provisions of this Act shall be deemed to be an illegal payment and a loss to the Municipality and the same shall be recoverable by surcharging it under the Orissa Local Fund Audit Act, 1948 (Orissa Act 5 of 1948), against such holder of elective office, officer or authority who makes such appointment.

(3) No court shall take congnizance of an offence punishable under sub-section (1) except with the previous sanction of the State Government.]

[2][**73-B.Bar for regularisation of services :–** No person who is appointed on a temporary basis under sub-section (2) of Section 73 and is continuing as such at the commencement of the Orissa Municipal (Amendment) Act, 1997 shall have or shall be deemed ever to have a right to claim for regularisation of his services on any ground whatsoever and the services of such person shall be liable to be terminated at any time without any notice and without assigning any reason thereof:

Provided that in case of workmen falling within the scope of Section 25-F of the industrial Disputes Act, 1947 (14 of 1947), one month's wages and such compensation as would be payable under the said section shall be paid in case of termination of services]

[2][**73-C. Abatement of claims :–** Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the claims for regular appointment of all persons appointed on a temporary basis under sub-section (2) of Section 73 shall stand abated and, accordingly–

(a) no suit or other proceeding shall be instituted, maintained or continued in any court, tribunal or other authority by the temporary appointees against the Municipality or any person or authority whatsoever for the regularisation of the services;

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1. Substituted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.
2. Inserted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.

(b) no court shall enforce any decree or order directing the regularisation of the services of such persons; and

(c) all proceedings pending in any court or tribunal claiming the regulation of services of such persons shall abate.]

[1][**73-D. Irregular appointments to be voidable :–** Any appointment made by a Municipality without the previous sanction of the State Government as required by sub-section (1) of Section 73 shall be treated as voidable.]

74. Executive Officer, Engineer and Health Officer :– (1) Every Municipality shall have–

(a) an Executive Officer;

(b) an Engineer; and

(c) a Health Officer;

who shall be servant of the State Government, appointed [2][by the State Government] to the Municipality, [3][on such conditions as may be prescribed; and their work shall be subject to the general powers of supervision of the Chairperson.]

[4][* * *]

[5][***Provided that*** the State Government may appoint a member of the Orissa Local Fund Service constituted under the Orissa Local Fund Service Rules, 1975 as an Executive Officer or as an Engineer on such conditions as may be prescribed:

Provided further that if any Municipality is unable to maintain a whole time Engineer or a whole time Health Officer, any officer of the Public Works or Public Health Engineering Department or the Health Department, as the case may be, may be appointed by the State Government as part-time Engineer or part-time Health Officer of the Municipality on such terms as may be prescribed :]

Provided further that when an officer of the Public Works or Public Health Department is appointed to exercise powers and discharge functions under this Act, such of the powers and functions as are provided under chapters VIII, XIV and XV shall be exercised by the Executive Officer after consultation with such officer or officers as so appointed.

[6][(1-a) The State Government may, on the recommendation of the Municipality, appoint an Additional or Assistant Executive Officer 4(and an Additional Engineer.)]

(1-b) [7][* * *]

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1. Inserted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary, No. 566, dt. 26.04.2002.
2. Inserted by the Orissa Act 20 of 1986, w.e.f. 21.11.1986.
3. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
4. Proviso omitted by ibid.
5. Substituted by the Orissa Act 20 of 1986, w.e.f. 21.11.1986.
6. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
7. Deleted by the Orissa Act 5 of 1988, w.e.f. 17.12.1987.

(2) The State Government may, in case of emergency, direct–

(i) that the municipality shall appoint such number of additional subordinate staff, as State Government consider necessary, and if the municipality fails to appoint such additional staff, within a period to be fixed by State Government, the State Government, may appoint such number of staff and realise, the cost thereof, either in whole or in part, from the municipality; and

(ii) that the municipality shall pay such travelling allowance to such officer or officers, as admissible under the rules for the time being in force.

75. Scale of establishment and appointment and dismissal of officers and servants :– Subject to the scale of establishment under Section 73 1[the] Selection Committee consisting of the Chairperson and a Councillor of the municipality elected for this purpose and the Executive Officer, the Engineer or the Health Officer as the case may be, shall have power to select such persons as they may think fit from time to time such persons shall thereupon be appointed by the Chairperson:

[1][***Provided that*** in the case of selection of teachers [2][* * *] the concerned District Inspector of Schools shall also be a member of the Selection Committee:

Provided further that the Executive Officer, the Engineer and the Health Officer shall, subject to the approval of the Chairperson, have power to make appointment in respect of such posts as may be prescribed.]

76. Power to punish municipal officers or servants :– Subject to the provisions of this Act, or any rules thereunder and to such control as may be prescribed, the Chairperson of a municipalilty may censure, fine with hold promotion, reduce, suspend, remove or dismiss any officer or servant of the municipality in its service, except the Engineer, the Health Officer and the Executive Officer for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct:

[1][***Provided that –***

(1) a mere order of suspension shall not be declared or construed as a punishment;

(2) during the period of suspension the person suspended shall be entitle to such subsistence allowance as is admissible to an employee of the State Government of similar rank;

(3) the Executive Officer, the Engineer and the Health Officer shall have power to suspend, fine or otherwise punish or dismiss or discharge any employee appointed by them and all actions taken in exercise of the said power shall be intimated to the Chairperson.]

[1]**[77. Appeal against order of punishment :–** (1) An appeal against any order passed under Section 76 shall lie, if such order was passed by–

(a) the Executive Officer, Engineer or Health Officer, to the Municipality; and

1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Omitted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.

(b) the Chairperson to the State Government.

(2) An appeal under this section shall be preferred and disposed of in such manner as may be prescribed.]

[1][**77-A. Procedure relating to disciplinary action :–** The Procedure laid down in the Orissa Civil Services (Classification, Control and Appeal) Rules, 1962, in so far as they are not inconsistent with this Act, shall mutatis mutandis apply to the officers and servants of every Municipality on whom the Chairperson of the Municipality is empowered under Section 76 to impose punishments.]

78. Power to grant leave to officers and servants of a municipality :– (1) The Chairperson may grant leave to all officers and servants of municipality appointed by him.

(2) The Executive Officer, the Engineer and the Health Officer shall have power to grant leave to the servants of the municipality appointed by them.

79. Grants of gratuities and allowances to establishments :– The municipality at a meeting may, from time to time, in accordance with regulation made under Section 84–

(i) grant gratuities, allowances or annuities out of the Provident Fund or Annuity Fund to any of is officers or servants, as it may think fit;

(ii) grant gratuity to any member of the family of any of its officers or servants who has died from diseases or injury contracted in the discharge of a duty which was attended with extraordinary bodily risk.

80. Government servants employed by municipality :– The municipality shall not, without the assent of the State Government dispense with the service of any servant whose services are lent or transferred by the State Government to the municipality.

Provided that the municipality may move the State Government to take such action as they deem necessary.

81. Power of State Government to create a Local Fund Service :– (1) Notwithstanding anything contained in this Act [2][but subject to the provisions of Sections 81-A, 81-B and 81-C], [3][* * *] the State Government may by notification, constitute any class of officers or servants of municipalities [3][* * *] into a Local Fund Service for the State of Orissa :

Provided that no notification shall be issued under this sub-section unless [3][* * *] the municipalities concerned have been consulted in respect thereof.

[4][(2) The State Government shall, subject to the provisions of Section 392, have power to make rules to regulate the classification, methods of recruitment, conditions of service, pay and allowances, discipline and conduct of the officers and servants belonging to the Local Fund Service and such rules may vest jurisdiction in

1. Inserted by the Orissa Act 2 of 1992, w.e.f. 22.11.1991.
2. Inserted by the Orissa Act 23 of 1972, w.e.f. 30.12.1972.
3. Omitted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
4. Substituted by the Orissa Act 23 of 1972, w.e.f. 30.12.1972.

relation to such service in the State Government or in such other authority or authorities as may be prescribed therein :

Provided that the terms and conditions of service prescribed under such rules in respect of the officers and servants who, on the constitution of the Local Fund Service have been absorbed therein, shall not in any way be less favourable than the terms and conditions which were applicable to them immediately prior to such constitution.]

[1][(3) The State Government shall have power to transfer any officer or servant of the Local Fund Service working under a municipality to the service of any other municipality.]

(4) The State Government shall have a power to issue such general or special directions as they may think necessary for the purpose of giving due effect to transfer made under sub-section (3).

[2]**[81-A. Exercise of option by officers and servants of municipalities :–** (1) Before the constitution of the Local Fund Service, the State Government or, if empowered in that behalf, the concerned municipality, shall furnish detailed information in respect of the conditions of service prescribed for such Service to every officer or servant belonging to any class in respect of which such Service is to be constituted with a notice requiring him to exercise his option, within such period, not being less than thirty days, as may be specified therein, for not being absorbed in such Service.

(2) Any such officer or servant who fails to exercise his option within the aforesaid period shall be deemed to have opted for being absorbed in the Service.

(3) Where any such officer or servant exercise his option for not being absorbed in such Service within the said period, his services shall stand terminated with effect from the date of constitution of the Service.]

[2]**[81-B. Municipality bound to employ and pay the dues of members of the Local Fund Service :–** [3][Whenever any officer or servant belonging to the Local Fund Service is transferred or posted to a Municipality, the Executive Officer of the Municipality from which he is transferred shall be bound to relieve him as per orders of the State Government and the Executive Officer of the Municipality to which he is so transferred or posted shall be bound to accept his joining report forthwith, employ him in the service of Municipality and pay all amounts due to him on account of his pay, allowances and other dues from out of the Municipal Fund.]]

[2]**[81-C. Consequences of termination of service :–** (1) Where the services of any person have been terminated under sub-section (3) of Section 81-A, he shall, without prejudice to his claims to any leave, provided fund, gratuity or other benefits, if any, as an officer or servant of a municipality to which he may be entitled on his retirement or termination of service had the Local Fund Service not been constituted, be paid by the municipality under which he last served an amount determined in the following manner–

1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Inserted by the Orissa Act 23 of 1972, w.e.f. 30.12.1972.
3. Substituted by the Orissa Act 6 of 2002, w.e.f. 26.04.2002, published in Orissa Gazette, Extraordinary No. 566, dt. 26.04.2002.

			Amount to be paid
1.	In the case of a permanent employee–		
	(a)	Where the continuous service rendered by him by the date of termination exceeds ten years.	Pay for the remaining period of service or for six months, whichever is less.
	(b)	Where such services does not exceed ten years	Pay for the remaining period of service or for three months, whichever is less.
2.	In the case of a temporary employee		Pay for one month.

Explanation– For the purpose of this sub-section, 'pay' shall include dearness allowance and other ad hoc additions to pay by way of interim relief that may be admissible.

(2) For the purposes for calculating gratuity, if any, payable to any permanent employee whose services have terminated under sub-section (3) of Section 81-A, the period of qualifying service of such employee shall be increased by the period calculated on the basis provided hereunder–

		Period to be added
1	Where the period of actual qualifying service does not exceed five years.	One year
2.	Where such period exceeds five years but does not exceed ten years.	Two years
3	Where such period exceeds ten years but does not exceed fifteen years.	Three years.
4.	Where such period exceeds fifteen years	Four Years.]

[1][**81-D. Governments power to issue orders during the period of transition :–** The State Government may, as in their opinion the expediency of the circumstances requires, by general or special order, provide for any matter necessary, ancillary or incidental to the constitution and working of the Local Fund Service for which this Act makes no provision or makes insufficient provision :

Provided that no such order shall be issued after the expiry of two years from the date of constitution of the Local Fund Service.]

82. Prohibition of having share or interest in contract for employment under municipality :– (1) No person shall be eligible for employment as an officer or servant of a municipality if he had, directly or indirectly by himself or his partner or employer or employee, any share or interest in any contract or employment with , by, or on behalf of, the municipality or was dismissed or discharged for misconduct of inefficiency either from Government service or from the service of a local authority.

1. Inserted by the Orissa Act 23 of 1972, w.e.f. 30.12.1972.

(2) If any officer or servant or a municipality acquires directly or indirectly as aforesaid, any such share or interest, otherwise than as such officer or servant he shall cease to be such officer or servant of the municipality and his office shall become vacant from the date from which he is removed from office by the authority which appointed him, and he shall also be liable to be punished with fine which may extend to two hundred and fifty rupees.

(3) Notwithstanding anything contained in sub-sections (1) and (2), no person shall be deemed to have share or interest by reason only–

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

(i) a contract entered into between the municipality, and any registered joint stock company or co-operative society of which such person in a member or shareholder, or

(ii) any lease or purchase of land or agreement for the same; or

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

(iv) any newspaper in which any advertisement relating to the affairs of the municipality is inserted;

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

83. [1]**[* * *]**

84. Power of municipality to frame regulation regarding establishment :– Subject to the provisions of this Act and of any rules made thereunder, the municipality at a meeting, specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the Councillors present at such meeting shall have voted, may subject to the approval of the State Government, make regulations in respect of officers and servant on its staff of–

(a) fixing the grades and scales of salaries, fees and allowances;

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

(c) laying down educational or other qualifications;

(d) regulating the grant of leave, leave allowances, acting allowances and travelling allowances;

(e) [2][* * *]

(f) fixing the rates at which and conditions under which pensionary contributions shall be paid;

(g) establishing and maintaining Provident Funds or Annuity Funds and making contributions thereto compulsory, and for supplementing such contribution out of the Municipal Fund for the payment of moneys out of such Provident Fund;

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1. State Governemnt's power to declare Municipal Officer to be public servants–repeated by the Orissa Municipal (Amendment) Act, 1952 (Orissa Act XII of 1953) s.5.
2. Deleted by the Orissa Act 5 of 1988, w.e.f. 17.12.1987.

(h) regulating conduct; and

(i) generally laying down conditions of services and method of recruitment of officers and servants of the municipality;

Provided that –

(i) the amount of any leave, leave allowances, travelling allowances, pension or gratuity, provided for in such regulations, shall in no case, without the special sanction of the State Government, exceed what could be admissible in the case of State Government servants of similar standing and status; and

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

85. Conditions of service of State Government servants employed by municipality :– (1) The State Government may, on the application of any municipalilty place at its disposal the services of any Government servant employed in connection with the affairs of the State, to be employed by it for the purposes of this Act. Such officer shall be on foreign service conditions and the municipality shall bear the salary, which such officer may be entitled to receive under the rules of the branch of the Government service to which he belongs and shall also make any contribution towards the pension and leave allowances of such servant which may be required by conditions of his service under the State Government to be made by him or on his behalf.

(2) The municipality shall also pay such special allowance or fixed travelling allowance to such offices as may be determined by the State Government.

(3) If such officer does any work for the State Government or for any public or private body, the State Government or the public or private body, as the case may be, shall contribute to the municipality so much of the salary and allowances of such officer or servant as the State Government may consider to be an equivalent for such work.

(4) [1][* * *]

(5) Government servants employed by municipality shall be entitled to leave and other privileges in accordance with the rules applicable to the department to which they belong.

86. Notice to be given by scavenger of intention to withdraw from service :– (1) No scavenger, or any other servant of the municipality employed to remove or deal with filth, offensive matter on the rubbish shall without the permission of the municipality, withdraw from the duties unless he gives to the Executive Officer in writing six weeks' previous notice stating his intention so to withdraw and he shall not withdraw within fourteen days of giving such notice.

(2) Any scavenger or other such person who contravenes the provisions of sub-section (1) shall be liable to rigorous imprisonment for a period which may extend to

1. Deleted by the Orissa Act 5 of 1988, w.e.f. 17.12.1987.

one month or to fine not exceeding fifty rupees or both and shall forfeit all salary which may be due to him for that period.

(3) The State Government may direct that on and from a specified future date the provisions of sub-sections (1) and (2) shall apply also to any other specified class of servants of the municipality whose functions intimately concern the public health or safety.

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CHAPTER - IX
FUNCTIONS OF THE MUNICIPALITY AND ITS EXECUTIVE

87. Executive power vested in Executive Officer :– (1) The Resolutions of a municipality shall be carried into effect by the Executive Officer in whom the executive Power of the municipality shall be vested.

[1][(1-a) Unless the Director otherwise directs the Executive Officer shall have power to supervise the work of the Health Officer and the Engineer.]

(2) It shall not be lawful for the Executive Officer to exercise any power which this Act expressly declares shall be exercised by the Chairperson or the municipality, unless such power is delegated to him by either of them under Section 92 or 96 or rules framed thereunder.

88. Emergency powers of Executive Officer :– The Executive Officer may, in cases of emergency direct, with the previous approval of the Chairperson, or in his absence of the Vice-Chairperson, [2][* * *] the execution of any work or the doing of any act which requires the sanction of the municipality 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 expenses of executing such work or doing such act shall be paid from the Municipal Fund :

Provided that–

(a) he shall not act under this section in contravention of any order of the municipality prohibiting the execution of any particular work or the doing of any particular act, and

(b) he shall report the action taken under the section and the reasons therefor to the municipality at its next meeting.

89. Exercise of Chairperson's functions by Vice-Chairperson during vacancy in office :– [3][A Vice-Chairperson] shall–

1. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Substituted by ibid.

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

(b) at any time perform any duty and exercise when occasion arises; any power delegated to him by the Chairperson under Section 90:

Provided that the Chairperson shall have power to control and revise the exercise or discharge of any of the powers and functions by the Vice-Chairperson [1][* * *]:

Provided further that the Vice-Chairperson, [1][* * *] exercising powers and performing duties, during the vacancy of the office of Chairperson or incapacity, or temporary absence of the Chairperson, shall be responsible to the municipality for exercising such powers and performing such duties.

90. Delegation and devolution of function by Chairperson :– The Chairperson may by in order in writing, delegate any of his powers and functions to the Vice-Chairperson [1][* * *] and may withdraw or modify any of such powers and functions at any time by an order similarly made:

Provided that he shall not delegate any of the powers and functions which the municipality expressly forbids him to delegate:

Provided further that nothing done by the Vice-Chairperson 1[* * *] with express or implied consent of the Chairperson, shall be invalid for want of such an order.

[2]**[91. Delegation of Chairperson's functions in favour of individual Councillors :–** During the vacancy of the office of Vice-Chairperson or incapacity or temporary absence of Vice-Chairperson, the Chairperson may, by an order in writing, delegate any of his functions to any Councilor of the Municipality till the Vice-Chairperson resumes office or a new Vice-Chairperson is elected, as the case may be:

Provided that–

(a) every order made under this section shall be communicated to the Municipality at the next meeting;

(b) no delegation under this section shall be made for any period exceeding, in the aggregate, ninety days in any year without the special sanction of the Municipality.]

92. Delegation of powers :– Subject to any restriction that the municipality may impose, the Chairperson may by an order in writing delegate any of his functions to any officer or servant of the municipality or to any officer or servant of Government and may in like manner withdraw or modify the same.

93. Exercise of delegated functions subject to Chairperson's control and revision :– The exercise of powers or discharge of any functions delegated under Sections 90,91 and 92 shall be subject to such restrictions, limitations and conditions

1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Substituted by *ibid.*

as may be laid down by the Chairperson and shall also be subject to his control and revision:

Provided that the Vice-Chairperson [1][* * *] or any Councillor exercising powers or discharging functions, delegated under Section 90 or 91, shall be responsible to the municipality for all acts done under the powers and functions delegated to him.

94. Rights of individual Councillor :– (1) The general control and supervision of a municipality and the superintendence over the officers and servants of such municipality shall vest in the municipality.

(2) Any Councillor may call the attention of the Chairperson to any negligence in the execution of the municipality's work to any waste of municipality's property or to the needs of any locality within the municipality and may suggest any improvements which may appear desirable.

(3) Every Councillor shall have right to move resolution and to interpolate the Chairperson on matters, connected with the administration of the municipality subject to such regulations, as may be framed by the municipality.

(4) Every Councillor shall have access during office hours to the records of the municipality after giving due notice to the Chairperson:

Provided that the Chairperson may for reasons given in writing forbid such access.

95. Powers of municipality to be exercised by resolution :– The powers, duties and functions of a municipality may be exercised and shall be performed or discharged by resolution passed at a meeting of the municipality and not otherwise.

96. Delegation of powers by municipality :– (1) With the exception of power, duty or function to be prescribed or reserved or assigned to a Chairperson under this Act, a municipality may delegate to the Chairperson or Executive Officer any of the powers, duties or functions conferred or imposed or assigned to a municipality under this Act:

Provided that the powers to frame regulations or bye-laws shall not be delegated by the municipality under any circumstances whatsoever.

(2) Except as provided in sub-section (3), a municipality shall not itself exercise, perform or discharge or interfere in the exercise, performance or discharge of any power, duty or function which it has delegated under sub-section (1).

(3) The delegation by municipality under sub-section (1) of any power, duty or function may be made subject to the condition that all or any orders made in pursuance of such delegation shall be subject to the right of appeal to or revision by the municipality within a specified period.

97. Power of Executive Officer :– The Executive Officer of a municipality shall have the following powers, namely–

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1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(a) power to receive, recover and credit to the Municipal Funds any sum due or tendered to the municipality;

(b) the powers expressly conferred on the Executive Officer by this Act and the powers to do all things necessary for the exercise of these powers;

(c) the power to grant, refuse, suspend or withdraw all licences except licences for markets; and

(d) any other power that has been delegated to the Executive Officer under the provisions of this Act.

98. Appeal from the order of Executive Officer :– (1) No appeal shall lie from any order passed by the Executive Officer in exercise of the powers conferred upon him by Section 97, unless–

(a) the order is an order against which an appeal lies under this Act or any rule or bye-law thereunder; or

(b) the order is an order passed in respect of a licence and provision is made for appeal therefrom by any bye-law; or

(c) the order is an order passed in respect of any power, duty or function which has been delegated by Chairperson to the Executive Officer and which has been made subject to the right of appeal.

(2) Where an appeal lies, it shall be filed within fifteen days of the communication of the order or of the date on which the order is, under the provisions of this Act, deemed to have been communicated.

(3) Where an appeal is filed within such period–

(a) it shall be disposed of by the Chairperson in such manner as it seem expedient and the Chairperson may confirm modify or set aside the order; and

(b) the order shall remain suspended until the appeal is decided:

Provided that an appeal from an order under clause (b) of sub-section (1) shall be heard in the manner prescribed.

99. Delegation of power by Executive Officer :– (1) The Executive Officer of a municipality with the sanction of the Chairperson may delegate by general or special order to a servant of the municipality to exercise under this control any power conferred on or delegated to him under this Act.

(2) An order by the Executive Officer under sub-section (1) may specify any condition and impose any restriction in respect of the exercise of any power.

(3) Any order passed by an officer or servant of the municipality in exercise of a power conferred on him under sub-section (1) shall be liable to rescission or revision by the officer who conferred the power.

100. Power of municipality to require reports, from officers :– (1) A municipality or any Committee of a municipality may require from the Executive Officer and through him from any of its officers–

(a) any return, statement, estimate, statistics or plan or other information, regarding any matter appertaining to the administration of the municipality;

(b) a report or explanation on any such matter; and

(c) a copy of any record, correspondence plan or other document which is in his possession or under his control in his official capacity or which is recorded or filed in his office of any servant subordinate to him.

(2) Every officer, when so directed by the Executive Officer, shall comply without any unreasonable delay.

(3) The Executive Officer shall comply with every requisition for any document unless in the case of such requisition by a Committee he is of opinion that immediate compliance thereof will be prejudicial to the interest of the municipality or of the public in which case he shall refer such requisition to the Chairperson whose decision shall be final.

101. Officers may take part in discussions :– [1][(1)] [1][* * *] the Engineer, the Health Officer or the District-Inspector of Schools or any prescribed officer with the permission of the Chairperson or by virtue of a resolution passed in this behalf at a meeting of the municipality or of a committee thereof, may make a statement in regard to a subject under discussion, but shall not vote upon or purpose a resolution at such meeting.

[2][(2) It shall be the duty of the Executive Officer to attend all the meetings of the municipality and to take part in the discussions at such meetings, but he shall not vote upon, or propose, a resolution at any such meeting.

(3) in the case of a meeting of any Committee of the Municipality, the Executive Officer may, with the permission of the Chairperson or by virtue of a resolution passed in that behalf at a meeting of such Committee, make a statement in regard to a subject under discussion but shall not vote upon, or propose, a resolution at such meeting.]

102. Executive Officer's power of enquiry and inspection :– The Executive Officer of a municipality, or any person authorised by him in this behalf, may enter into or any building or land, with or without assistants or workmen, in order to make any inquiry, inspection, test, examination, survey, measurement or valuation or to execute any other work which is authorised by the provisions of this Act or of any rule, regulation, bye-law or order made under it, or which it is necessary for any of the purposes of this Act or in pursuance of any of the said provisions to make or execute:

Provided that–

(a) except when it is otherwise expressly provided in this Act no such entry shall be made between sunset and sunrise;

(b) except when it is otherwise expressly provided in this Act no dwelling house, and no part of a public building used as a dwelling place, shall be so entered without the consent of the occupier thereof, unless the said

1. Section 101 renumbered as sub-section (1) and the words 'The Executive Officer' omitted by the Orissa Act 2 of 1992, w.e.f. 22.11.1991.
2. Inserted by the Orissa Act 2 of 1992, w.e.f. 22.11.1991.

occupier has been served with at least three hours, previous notice of the intention to make such entry;

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

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

103. Inspection and stamping of weights and measures :– The Executive Officer of a municipality or any person authorised by him in this behalf may examine and test the weights and measures used in markets and shops in the municipality with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Indian Penal Code, XLV of 1860.

[1][103-A. Powers of municipality to give direction :– Notwithstanding anything contained in this Act, on and after the commencement of the Orissa Municipal (Amendment) Act, 1994,–

(a) the exercise of any power of performance or any function by the Chairperson, Vice-Chairperson, the Executive Officer or any other officer under this Act shall be subject to the direction, if any, as may be given by the Municipality in that behalf; and

(b) all orders decisions of the Chairperson or the Vice-Chairperson of a Municipality under the provisions of this Act shall be carried into effect by the Executive Officer of the Municipality and none else.]

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CHAPTER - X
BUDGET

104. Presentation and sanction of budgets :– At least two months before the close of year, the Chairperson of a municipality shall present before the municipality a complete account of its probable receipts and expenditure for the following financial year together with the actuals of the current year.

105. Particulars to be included in the budget :– (1) The budget estimate shall contain such particulars as may be prescribed.

(2) In such estimate the municipality shall among other things–

(a) provide for the payment as they fall due of all instalments of principal and interest for which the municipality may be liable in respect of loans contracted by it;

1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(b) make adequate and suitable provision for such services as may be required for the several duties imposed by this Act;

(c) provide for the minimum closing balance as prescribed under Section 112.

106. Publication of budget estimates :– (1) After the budget is present before the municipality under Section 104, copies of the budget estimate and translation thereof in the Oriya language shall be forthwith lodged in the office of the municipality.

(2) During fourteen days after the said copies and translation have been so lodged in the said office of which due notice shall be published in the manner prescribed, they shall be open to inspection of the votes of the municipality at all reasonable times.

(3) Any written suggestions which may be deposited in the office of the municipality, shall be laid before the municipality for consideration at the next meeting.

107. Sanction of budget estimate :– (1) After the expiration of the said fourteen days and after such revision, as may appear requisite, the municipality shall sanction the estimate.

(2) Copies of the estimate as sanctioned, shall be submitted forthwith and not later than such dates as may be prescribed, to the State Government through such authority as the State Government may direct.

108. Examination of the budget :– The State Government, or such authority, as the Government may empower in this behalf, shall examine the budget with a view to seeing that–

(a) the estimate of income is reasonable and proper;

(b) provision has been made for the minimum closing balance and minimum expenditure prescribed under Section 112;

(c) provision has been made for the payment of any sums which the municipality may be liable to pay as instalments of the principal and interest upon loans raised by it under Section 111 for the purpose of this Act and for the formation of a sinking fund;

(d) provision has been made for the expenditure of any grants given by Government for a specific purpose for such purpose.

109. Power of State Government as to budget estimate :– The State Government shall if they find the budget estimate defective, erroneous or improper in respect of any of the particulars specified in the preceding sections return it to the municipality for such alterations and modifications as the State Government may deem necessary, and the municipality shall make such alterations and modifications in the budget estimate and re-submit it within a period of one month from the date of its receipt to the State Government for approval. If the municipality fails to comply with the above, the State Government shall make such alteration in the budget as they consider necessary and the budget thus altered shall be the budget of the municipality.

[1][**109-A. Procedure to be followed where the budget is not sanctioned :–** (1) If for any reason the budget is not sanctioned before the date prescribed under sub-

1. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

section (1) of Section 107 the District Magistrate shall call for the budget from the Executive Officer and sanction the same with such modifications as he considers necessary.

(2) The District Magistrate shall thereafter submit the budget to the State, Government and it shall thereupon be examined as provided in Section 108.

(3) The State Government may, if they find the budget estimate defective, erroneous or improper in respect of any of the particulars specified in Section 108, make such alteration in the budget as they consider necessary and the budget thus altered shall be the budget of the municipality.]

110. How details of the budget estimate may be altered :– (1) When a budget estimate has been finally approved by the State Government, the municipality shall not incur expenditure under any of the heads of the budget estimate in excess of the amount provided under that head without making provision for such excess by variation and alteration of the budget and if the variation and alteration affects any orders of Government, passed under the last preceding section or any provision made in accordance with clauses (b),(c) and (d) of Section 108, it shall obtain the approval of the State Government thereto.

(2) As soon as may be after the first day of October, a revised budget for the year shall be framed and such revised budget shall be subject to all the provisions applicable to a budget under Section 105,106,107, 108 and 109 of this Act.

111. Municipality may raise loans and may from sinking fund :– It shall be lawful for a municipality subject to the provisions 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 purpose of carrying out any of the provisions of this Act and to guarantee repayment of principal and the payment of interest on such loans and to form a sinking fund:

Provided that no loans shall be raised for the purpose of constructing and maintaining a tramway under the provisions of Section 413, unless it is authorised by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than tow-thirds of the Councillors have voted.

112. The State Government to prescribe minimum closing balance :– The State Government may prescribe–

(a) the minimum closing balance to be maintained by a municipality;

(b) the minimum expenditure to be incurred by a Municipality on Public Works, Medical and Public Health;

(c) the Statements, accounts and reports to be submitted to the State Government.

113. Appointment of auditors :– The provisions of the Orissa Local Fund Audit Act, 1948 (Orissa Act 5 of 1948), shall apply in regard Orissa to the audit of the funds under the control and management of the municipality or any of its Committees.

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CHAPTER - XI
MUNICIPAL FUND

114. Municipal Fund :– There shall be constituted for each municipality a fund to be called the Municipal Fund and there shall be placed to the credit thereof –

(a) all sums received by or on behalf on the municipality under this Act or otherwise;

(b) all fines realised on conviction under the provisions of this Act or the Rules or bye-laws made thereunder; or under any other Act or Rules in which provisions is made for the credit of such fines to the Municipal Fund;

(c) all sums received on account of fines and unclaimed sale proceeds under the provisions of the Cattle Trespass Act, 1871(1 of 1871), all or any part of proceeds of the public ferries, fines and compensation received under the provisions of the Northern India Ferries Act, 1878(17 of 1878), and the Bengal Ferries Act, 1885 (Bengal Act 1 of 1885), and all money received under the Canals and Public Ferries Act, 1880(Madras Act 1 of 1880), which are received within the municipality and are payable to the municipality under the said provisions of the said Act; and

(d) the balance, if any, standing at the credit of the Municipal Fund at the commencement of this Act.

115. Custody of the Municipal Fund :– Unless the State Government otherwise direct all sums received on account of the Municipal Fund shall be paid into a Government treasury, or into any bank or branch bank used as a Government treasury in or near to the municipality and shall be credited to an account to be called the account of the municipality to which they belong:

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

116. Priority of payments on account of trust, loans and establishment :– Except as is otherwise provided in this Act, the municipality shall set apart and apply annually out of the Municipal Fund–

(a) firstly, such sum as may be required for the repayment of an the payment of interest on any loan incurred under the provisions of the Local Authorities Loans Act 1914 (IX of 1914);

(b) secondly, the liabilities and obligations arising from a trust legally imposed upon or accepted by the municipality;

(c) thirdly, such sum as they are by this Act required to provide for payment of the salaries and allowances of their own establishment including such contributions as are referred to in Section 85.

117. Purposes to which Municipal Fund is applicable :– (1) Subject to the charges specified in Section 116 and subject to the payment of other sums, charges and

cost necessary for carrying this Act into effect or duly directed or sanctioned, for payment from the Municipal Fund by or under any of the provisions of this Act, other than the provisions of this section or under any other enactment for the time being in force, the municipality may apply the Municipal Fund to any of the following purposes within the municipality, that is to say–

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

(ii) the watering and cleaning of roads;

(iii) the lighting of public roads and provision, purchase, exploitation and maintenance of electric, gas or other undertakings, for lighting public and private roads, places and buildings;

(iv) water-supply;

(v) conservancy and drainage, including out-fall works and sewage disposal;

(vi) disposal of night-soil by the conversion of the same into compost manure;

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

(viii) the planting and preservation of trees on roads and public places;

(ix) the construction, and maintenance and improvement of offices and other buildings under the control of the municipality or required for municipal purposes;

(x) the construction and maintenance of model dwelling houses for the working classes and for the poorer classes and encouragement of co-operative building societies by loans;

(xi) construction and maintenance of homes for disabled and homeless paupers;

(xii) maintenance of public monuments;

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

(xiv) the training of teachers and the establishment of scholarships;

(xv) the construction, establishment, maintenance and improvement of hospitals, dispensaries, sanatoria, leprosy asuylums, lunatic asylums, orphanages, rescue houses, maternity houses, child welfare centres, sarais, poor houses and dharmasalas either wholly or by means of grants-in-aid;

(xvi) the employment of vaccinators and the promotion of vaccination;

(xvii) the training and employment of health officers, sanitary inspectors, medical practitioners, compunders, nurses, health visitors, matrons, dhais, and midwives;

(xviii) the prevention of the spread of dangerous diseases;

(xix) regulating and abating offensive or dangerous trades and removing noxious vegetation;

(xx) the registration of birth, deaths and marriages;

(xxi) the payment of the expenses of indigent inhabitants of the municipality for journeys to and from any hospital, established in any part of India, for the treatment of special diseases, and of their subsistence and proper clothing there at, according to such scale as may be fixed by the municipality;

(xxii) payment of contribution for the treatment at recognised sanatorium for the Municipal employees suffering from leprosy and tuberculosis;

(xxiii) the improvement of the breed of cattle;

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

(xxv) all acts and things which are necessary for carrying out the purposes of the prevention of cruelty to animals;

(xxvi) the construction, establishment, maintenance and improvement of municipal markets or cart-stands or slaughter-houses or the taking of markets or slaughter-houses on lease;

(xxvii) the construction, establishment, maintenance and improvement of municipal dairy farms, grazing grounds and milk depots and all acts and things that may be necessary for the increase and improvement of the supply of milk and milk products;

(xxviii) the establishment and maintenance of public places for the disposal of the dead;

(xxix) the provision and maintenance of and assistance to public libraries, reading rooms, art galleries, gymnasia or other institutions connected with the diffusion of mental any physical culture or technical instruction;

(xxx) the establishment and maintenance of a fire brigade;

(xxxi) the holding of fairs and industrial sanitary and health exhibitions and cattle shows;

(xxxii) the taking of a census for the purposes of the municipality;

(xxxiii) the survey of buildings and lands and the preparation and maintenance from time to time of survey maps and plans and of other records relating to survey marks;

(xxxiv) the giving of relief and the establishment of relief works, in time of famine, scarcity or any natural calamity.

(xxxv) the disposal of unclaimed corpses and the burial or cremation of paupers, and the payment of contributions to charitable institutions for assisting in such disposal, burial or cremation;

(xxxvi) provision and regulation of standard weights, scales and measures and public weighing places;

(xxxvii) the re-excavation and repair of private tanks, wells and other sources of water-supply on such terms and conditions as the municipality may deem proper;

(xxxviii) contributions to the Union of Municipalities [1][* * *]

[2](xxxix) the payment of expenses of the Chairperson, Vice-Chairperson [3][* * *] Councillor any officer of servant of the municipality in attending any conference or meeting or for any other purpose in the interest of local authorities concerned; and]

[4][(xi)] all acts and things which are necessary for carrying out the purposes of this Act or which are likely to promote the safety, health, welfare or convenience of the inhabitants of the municipality, expenditure whereon may be declared by the municipality [5][* * *] to be an appropriate charge on the Municipal Fund;

[6][***Provided that*** where any such act or thing involves an expenditure of more than [7][five thousand rupees] the Municipality shall obtain the sanction of the State Government before making a declaration under the clause.]

(2) The municipality may do all things not being inconsistent with this Act, which may be necessary to carry out the purposes of this section.

(3) Nothing in this section shall affect anything contained in any obligation of the municipality arising from a trust legally imposed upon or accepted by them.

[8][**117-A. Restriction against incurring expenditure not provided for in the budget :–** Unless provision has been made in that behalf in the municipal budget as approved by the State Government no expenditure shall be incurred by the municipality without prior approval of the Director.]

118. Power of municipality to incur expenditure beyond the limits of the municipality :– Notwithstanding anything contained in Section 117, the municipalities at a meeting may, with the sanction of the State Government;

(a) incur expenditure beyond the limits of the municipality–

(i) in the acquisition of land; or

(ii) in the construction, maintenance or repair of works for the purpose of obtaining a supply of water or of lighting required for the inhabitants of the municipality, or for establishing places for the disposal of the dead or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits or for drainage works or for dairy farms and grazing grounds or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said municipality; or

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1. The word "and" omitted by the Orissa Municipal (Amendment) Act, 1952 (Orissa Act 12 of 1953), s. 6(a).
2. Inserted by ibid.
3. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
4. Renumbered by the Orissa Act 12 of 1953, s. 6(b).
5. Omitted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
6. Added by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
7. Substituted by the Orissa Act 2 of 1992, w.e.f. 22.11.1991.
8. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

(b) make a contribution towards expenditure incurred by the municipality or any other municipality or incurred out of any public funds for any of the purposes mentioned in Section 117, or for measures affecting the health, comfort or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality or towards the salary of any officer under any other authority whose services are employed by them; or

(c) create scholarships tenable outside the limit of the municipality;

Provided that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for the municipalities when with such sanction as aforesaid they have constructed works beyond the limits of the said municipality for the supply of water or lighting or for drainage as aforesaid–

(i) to supply or extent to or for the benefit of any person or buildings or lands in any place whether such place is or is not within the limits of the said municipality and quantity of water or of gas or electric current not required for the purposes of this Act within the said municipality or the advantages afforded by the system of such drainage work on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the municipality and such person or the owner or occupier of such buildings or lands, or

(ii) to incur any expenditure on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes or other works necessary for the purpose of such supply or for the extension of such advantages.

119. Objects not provided for by this Act :– The State Government or any local authority may, at any time with the consent of the municipality transfer to them the management of any institution or the execution of any work, not provided for by this Act and it shall thereupon be lawful for the municipality, to undertake the management of such institution or the execution of such works;

Provided that in every such case the funds necessary for such management or execution shall be placed at its disposal by the State Government or by the local authority concerned.

120. Restriction on the application of moneys received for certain purposes :– Notwithstanding anything contained in Section 117,–

(1) all moneys collected, received or recovered by the municipality whether as taxes, fines or otherwise or for the execution of works for or in any respect relating to–

(i) the water-supply,

(ii) the lighting system,

(iii) the cleansing of private and public latrines, urinals and cesspools and the provision and maintenance-of public latrines and urinals, and

(iv) the drainage or sewerage system,

shall after deduction of such proportionate share of the cost of collection and supervision as the municipality may fix be applied in defraying the expenses respectively–

(a) of making , extending or maintaining the water-supply,

(b) of making, extending or maintaining the lighting system,

(c) of cleaning private and public latrines, urinals and cesspools and of providing, extending or maintaining public latrines and urinals and

(d) or making, extending or maintaining the drainage or sewerage system, and in repaying or paying interest on debts incurred in connection with the said purposes respectively:

Provided that in any area in which a sewerage system has been established under Chapter XIV and a drainage tax has been imposed, all moneys referred to in clause (1) relating to sub-clauses (iii) and (iv) shall be applied to the objects described in sub-clauses (c) and (d).

(2) money with has been received by the municipality for any specific object shall not be expended on any other object.

[1][**120-A. Review of finance :–** (1) It shall be the duty of the Finance Commission to review the financial position of Municipalities and to make recommendations to the Governor as to–

(a) the principles which would govern-

(i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to , or appropriated by , the Municipalities; and

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(b) the measures needed to improve the financial position of the Municipalities; and

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the Finance Commission under sub-section (1) together with an explanatory memorandum as to the action taken thereon to be laid before the Legislative Assembly.]

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1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

CHAPTER - XII

PROPERTY

121. Property of the municipality :– All property within the municipality of the nature hereinafter in this section specified other than private property or property maintained by Government or any other local authority shall vest in and belong to the municipality and shall, with all other property of whatever nature or kind which may become vested in municipality 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, culverts, trees, erections, materials, implements and other works or thins provided for such roads;

(b) all public channels, water course, springs, tanks, ghats, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or erected at the cost of the municipality or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also any adjacent land appertaining to any such tanks;

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

(d) all filth, rubbish and offensive matter collected by the municipality under this Act; or

(e) all public lamps, lamp posts and apparatus connected therewith or appertaining thereto; and

(f) all buildings or other works constructed by municipality from the Municipal Fund and all lands, buildings, or other property, transferred to the municipality by the State Government or acquired by gift, purchase or otherwise for local public purposes.

122. Power to exclude road, bridge or drain from Act :– The State Government may, from time to time , by notification exclude from the operation of this Act or any specified section of this Act, any such public road, bridge, sewer, drain, drainage works, tunnels, culvert, rest-sheds and bunglows and may also modify and cancel such notification:

Provided that if the cost of the construction of the works shall have been paid from the Municipal Fund, such work shall not be excluded from the operation of this Act or of any specified section of this Act without the consent of the municipality.

123. Government may place other property under municipality :– It shall be lawful for the State Government from time to time to direct that any road, bridge, channel, building or other property, movable or immovable, which is vested in the State Government for the purpose of the State and which is situated within a municipality shall, with the consent of the municipality and subject to such exceptions and conditions as the State Government may make and impose, be placed under the control and

administration of the municipality for the purposes of this Act and thereupon such road, bridge, channel, building or other property shall under the control and administration of the municipality subjects to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.

124. Transfer of certain public institution to municipality :– (1) Any hospital, dispensary, [1][* * *] rest-house, ghat or market within a municipality, 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, may, by order of the State Government duly published on the spot and in the Gazette, be vested in the municipality and thereupon all endowments or funds belonging thereto shall be transferred to and vested in such municipality as trustee for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer and the municipality shall not utilise the property as vested for any purpose other than that for which it was originally meant without previous sanction of State Government:

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 in the Oriya language.

(2) If the municipality, within one month after publication of the notice under sub-section (1), object to the transfer to itself of any hospital, dispensary, [1][* * *] 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 municipality may agree to accept.

125. Immovable property required by the municipality may be acquired under Land Acquisition Act, 1894 :– When any immovable property is required for the purposes of this Act, or for the recoupment of the cost of carrying out any such purposes, the State Government may, at the request of the municipality, proceed to acquire it under the provisions of the Land Acquisition Act, 1894 (1 of 1894), and on payment of the compensation awarded under that Act and of any other charges incurred in acquiring, it, and said property shall vest in the municipality.

126. Municipality may with the consent of owner take over and repair works :– A municipality may agree with the person in whom the property in any road, bridge, tank, ghat, well, channel or drain is vested to take over the property therein, and after such agreement, may declare by notice in writing put up thereon or near thereto, that such road, bridge, tank, ghat, well, channel or drain has been transferred to the municipality. Thereupon the property therein shall be vested in the municipality and such road, bridge, tank, ghat, well, channel or drain shall henceforth be repaired and maintained out of the Municipal Fund.

127. Power to purchase lease or sell lands :– Subject to any restrictions imposed by or under this Act of rules prescribed, a municipality may subject to the previous sanction of State Government, purchase or take on lease any land for the purpose of this Act and may transfer, by sale, mortgage, lease, gift, exchange or otherwise, any

1. Inserted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.

property vested in it, not being the property vested in it, or held by it on trust, the terms of which are inconsistent with the right so to transfer.

[1][***Provided that*** the Municipality may transfer by lease any property vested in it, not being the property vested in it, or held by it, on trust, for a period not exceeding three years including the period of renewal without the previous sanction of the State Government or any other authority, and for a period not exceeding six years including the period of renewal with the previous sanction of the Collector.]

128. Limitation of power to accept property in trust :– A municipality, may, accept, trust, relating exclusively to the furtherance of any purpose to which its funds may be applied.

129. Government's power to add to function of municipality :– The State Government may with the consent of a municipality, make over to the municipality, subject to such conditions, as may be agreed upon, the management of any institution or the execution or maintenance of any work or the exercise of any power or the performance of any duty, not provided for in this Act.

130. Execution of contract :– (1) Subject to any prescribed rules the Executive Office may enter into and perform contracts necessary for the purposes of this Act on behalf of the municipality.

(2) Every contract made by the Executive Officer, shall be subject to the previous sanction by the municipality and shall be sealed with the common seal of the municipality.

(3) Unless so executed, such contract shall not be binding on the municipality.

(4) The State Government shall have power to make rules as to the manner or submission and opening of tenders and their acceptance and such rules shall be binding on the municipality and its officers and servants.

CHAPTER - XIII
MUNICIPAL TAXATION

Imposition of taxes

131. Power to impose taxes :– (1) The municipality may from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given subject to the provisions of this Act [2][* * *] imposes within the limits of the municipality the following taxes and fees or any of them–

(a) a tax on holdings situated within the municipality assessed on their annual value;

(b) a latrine tax on the annual value or holdings;

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1. Inserted by the Orissa Act 20 of 1986, w.e.f. 21.11.1986.
2. Omitted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.

(c) a water tax on the annual value of holdings;

(d) a lighting tax on the annual value of holdings;

(e) a drainage tax on the annual value of holdings;

(f) a tax on carriages, carts, horses and other animals named in the Third Schedule;

(g) a tax on profession, art and callings as may be prescribed;

(h) a poll tax subject to such maximum and minimum rates, as may be prescribed, on animals, carts and carriages other than motor vehicles, carrying goods or passengers and entering the municipality where a festival or fair is held and notified by the municipality for the purposes;

(i) a fee on registration of dogs;

(j) a fee on vessels moored within the limits of the municipality at ghats or landing places constructed and maintained by the municipality;

(k) any other tax which the municipality is empowered to impose under any law for the time being in force;

(kk) [1][* * *]

(l) any other fee for services rendered by the municipality under the Act for the health, safety and convenience of residents:

[2][***Provided that*** no such imposition as are referred to in [3][clause (kk)] shall be made without the sanction of the State Government.]

(2) (a) Notwithstanding anything contained in sub-section (1) and saves as otherwise provided in clause (b) the municipality shall in the case of lands which are not exclusively for agricultural purpose and are not occupied by or adjacent and appurtenant to buildings, levy the taxes mentioned in clauses (a), (b),(c),(d) and (e) of sub-section (I) at such percentages of the capital value of such lands or at such rates with reference to the extent of such lands as it may fix:

Provided that such percentages or rates shall not exceed the maximum, if any, fixed by the State Government and that the capital value of such lands shall be determined in such manner as may be prescribed.

(b) in the case of railway lands, situated within a municipality which are not used exclusively for agricultural purposes and are not occupied by or adjacent and appurtenant to, buildings, the municipality shall levy these taxes on the annual value of such lands, and the State Government shall have power to make rules regarding the manner in which, the person or persons by whom and the intervals at which, the annual value of such lands shall be estimated or revised, and they may also by such rules restrict or modify the application of the provisions contained in this chapter.

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1. Replaced 'an control on goods brought within the limits of a municipality for consumption, use or sale therein;' by Section 41 of the Orissa Entry Tax Atc, 1999, w.e.f. 20.09.1999.
2. Inserted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.
3. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

[1][3) (a) The municipality may, in the case of lands used exclusively for agricultural purposes, levy the tax mentioned in clause (a) of sub-section (1) at such proportion as it may fix on the annual value of such lands.]

(b) if such lands be occupied by tenants, the municipality shall levy the taxes in equal shares, from the land-holder and the tenant respectively.

[2]**[131-A. Government's power to abolish, suspend [3][reduce or increase] the rate of any tax or fee :–** (1) if the State Government, either on their own motion or on the representation made by inhabitants of any municipality, are satisfied that the imposition of any tax or fee referred to in Section 131 or the rate at which such imposition is made is likely to cause hardship to the inhabitants of the municipality, they may, after consulting the concerned municipality by order–

(a) abolish such tax or fee;

(b) suspend such imposition for such period, not being more than two years, as may be specified in the order; or

(c) fix such lower rate as they deem fit.

(2) Upon an order being made under sub-section (1) in respect of any tax or fee, such tax or fee shall be abolished, suspended or as the case may be, levied at the lower rate as aforesaid with effect from such date as may be specified in the order.

(3) Any tax or fee, which is abolished under this section or for which a lower rate is fixed thereunder, shall not be reimposed or as the case may be imposed at a higher rate without the previous sanction of the State Government.

(4) Any tax or fee the imposition of which is suspended under this section may after expiry of the period of suspension, be reimposed by the municipality at such rate as it may determine.]

[4][(5) Where the State Government are satisfied that the rate at which the imposition of any tax or fee referred to in Section 131 is abnormally low they may increase such rate after consulting the concerned Municipality in the matter:

Provided that in no case the rate of any tax or fee, after such increase, shall exceed the maximum limit provided therefor in this Act.]

[5]**[131-B.Liability of Government buildings to certain taxes :–** (1) The State Government shall, in respect of buildings belonging to them, be liable to the payment of the taxes specified in clauses (a), (b), (c), (d) and (e) of sub-section (1) of Section 131:

Provided that the tax referred to in the said clause (a) shall not be levied in respect of any such building which is used for the purposes of –

(a) any court or of any police-station or fire station;

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1. Substituted by the Orissa Municipal (Amendment) Act, 1952 (Orissa Act XII of 1953), Section 7.
2. Substituted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968; which was inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
3. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
4. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
5. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

(b) any Government office not being an office of a commercial nature; or

(c) any educational, medical, public health or cultural institution:

Provided further that if any portion of any such building as is referred to in the preceding proviso is used for residential purposes the aforesaid exemption shall not be applicable in respect of such portion.

(2) if any dispute arises as to whether any such building shall be subject to payment of tax as aforesaid the matter shall be referred to the State Government whose decision thereon shall be final.]

132. Restriction on imposition of the tax on holdings :– (1) The tax on holdings shall not be imposed at a rate exceeding ten percentum on the annual value of holdings.

(2) Any holding which is used exclusively as a place of public worship, or religious assemblage, or as Dharmasala, Sarai, Choultry, or as a mortuary, or which is duly registered as a public burial or burning ground, shall be exempted from the tax on holdings.

(3) The State Government may, on the recommendation of the municipality, exempt any holding or part of a holding which is used exclusively for any charitable purpose.

(4) Where the aggregate annual value of all the holdings held by any one owner within a municipality does not exceed [1][sixty rupees] the tax on holdings shall not be imposed on any of the holdings of the said owner:

[2][***Provided that,*** having regard to the annual income and the financial position of any municipality the State Government may, either suo motu or on the recommendation of the concerned municipality, make such alteration in the aforesaid limit of exemption as they deem fit, so however that the limit so altered shall in no case be less than thirty rupees or more than ninety rupees.]

[3][(5) If any building remains vacant for a period of ninety consecutive days or more, the owner of the building shall, if he has given the Executive Officer notice of the occurrence of such vacancy in the prescribed manner, be entitled to a remission on account of holding tax by an amount which shall be proportionate to the period of vacancy as aforesaid :

Provided that if the building is re-occupied the owner shall being it to the notice of the Executive Officer in writing within seven days from the date of such re-occupation falling which the Executive Officer may realise from the owner a sum not exceeding fifty percentum of the amount liable to be remitted on account of the vacancy.]

133. Restrictions on the impositions of the water and lighting taxes :– (1) The imposition of a water tax or of a lighting tax shall be subject to the following restrictions, namely :

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1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Added by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.
3. Added by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

[1][(a) where the municipality–

(i) distributes water by means of water carts or other like agency or provides water-supply by means of wells, tanks or other reservoirs; or

(ii) [2][provides acetylene lamps or any other means of lighting .]

the municipality may impose water tax or lighting tax, as the case may be, under such conditions and limitations as may be prescribed;]

(b) that the tax shall not be imposed [3][* * *] 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 municipality from the nearest stand-pipe or other supply of water available to the public;

(c) that the rate on the annual value of holdings at which the tax may be imposed shall not exceed ten percentum in the case of the water tax or five per centum in the case of the lighting tax;

(d) that in fixing the rate, at which the tax is to be imposed, regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water or lighting, as the case may be, supplied from the works under special contract or otherwise shall not exceed the amount required for making, extending or maintaining 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 payment of and payment or interest on any loan incurred in connection with any such supply of system;

(e) that the tax shall not be leviable until a supply of water has been provided in the area to be supplied or until the lamps in the area to be lighted have been lighted, as the case may be nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such water supply or lighting.

(f) [4][* * *]

(2) Nothing in this section shall prevent the municipality from making any special arrangement consistent with this Act for a supply of water or electric current or gas to persons residing beyond the radius fixed by the municipality.

(3) With the sanction of the State Government, the amount of the water tax may vary with the distance of holding 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 the case of other premises.

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1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.
3. The words 'on land, used exclusively for purpose of agriculture or' omitted by the Orissa Municipal (Amendment) Act, 1952 (Orissa Act XII of 1952).
4. Omitted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

134. Restrictions on the imposition of a latrine tax :– The imposition of the latrine tax shall be subject to the following restrictions, namely–

(a) that the tax shall be imposed only on holdings containing dwelling house, latrines, urinals or cesspools, and on holdings containing shops or places of business, in which in the opinion of the municipality a latrine, urinal or cesspool is required;

(b) [1][* * *]

(c) that in fixing the rate at which the tax is to be levied, regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for cleansing private and public latrines, urinals and cesspools and for providing, extending or maintaining public latrines and urinals, together with the amount required to meet the proportionate share of the cost of supervision and collection and the repayment of and payment of interest on any loan incurred in connection with this purpose;

(d) that the tax shall not be leviable in any area until the municipality have made provision for the cleansing of private latrines, urinals and cesspools within such area, nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the making of such provision;

(e) that the tax on any holding the valuation of which does not exceed twenty-five rupees, shall not be more than two rupees per annum and that the rate of the tax on any other holding shall not exceed ten percentum:

[2][[***Provided that*** in respect of holdings wherein provision has been made for septic tank latrine or any other type of water sealed latrine the aforesaid tax shall not be imposed at a rate exceeding such percentage, not being more than twenty-five percentum, of the tax as may be fixed by the municipality.]

135. Restriction on the imposition of a drainage tax :– (1) Save as is herein otherwise provided, the drainage tax shall be subject to the following restrictions, namely–

(a) [1][* * *]

(b) [1][* * *]

(c) that the rate on the annual value of holding at which the tax may be imposed shall not without the previous sanction of the State Government exceed ten percentum;

(d) that in fixing the rate at which the tax is to be imposed, regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for making, extending or maintaining the drainage or sewerage system and in any area in which a sewerage system has been established, the amount required for the cleansing of private and public latrines, urinals and cesspools and public water closets and the provision and maintenance of public latrines, urinals and water closets together with

1. Omitted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by *ibid.*

an amount sufficient to meet the proportionate share of the cost of supervision and collection and the repayment of capital and payment of interest on any loan incurred in connection with any such drainage or sewerage system; and

(e) that the tax shall be leviable in any area until a drainage or sewerage system has been established within such area nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the establishment of such system;

(f) [1][* * *]

(2) Nothing in this section shall prevent the municipality from making any special arrangement consistent with this Act for the extension of a drainage or sewerage system to holding situated beyond the radius fixed by the municipality.

(3) [1][* * *]

[2][**135-A. Exemption from service taxes :–** (1) All holdings which are used exclusively for agricultural purpose shall be exempted from imposition of taxes referred to in clauses (b) to (e) of sub-section (1) of Section 131.

(2) Where the municipality is satisfied that the owner of occupier of any holding, other than those mentioned in sub-section (1), has made sufficient arrangement at his own cost for any of the services for which tax is leviable under any of the clauses aforesaid it may, with the prior sanction of the Director, exempt such holding from imposition of the tax in respect of such service.]

136. Compounding of latrine tax :– (1) The municipality may compound for any period not exceeding one year, with the person liable to pay the latrine tax on any railway premises or on or any premises used as a factory, dockyard, workshop, labour-depot, school, hospital, market, court-house, jail, reformatory, lunatic asylum or other similar places 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 of levying the tax on the annual value of the holding, levy it at a rate per head to be fixed by the municipality on the number of persons living within or habitually resorting to such premises or places.

(2) The municipality may by a notice in writing require the owner or occupier of any such place 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 place.

(3) Any owner or occupier of such place who fails to furnish such statement within the time specified in such notice after being required to furnish the same by the municipality shall be liable to a fine not exceeding one hundred rupees.

Assessment of taxes on annual value of holdings

137. Annual value of holding :– (1) The annual value of a holding shall be deemed to be the gross annual rental, at which the holding may reasonably be expected to let, less a deduction, in case of buildings, only, [3][fifteen per cent] of such annual rent

1. Omitted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by *ibid.*
3. Substituted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.

and the said deduction shall be in lieu of all allowance of repairs or in any other account whatsoever.

(2) if there be on the holding a building or buildings, the actual cost of erection of which can be ascertained or estimated and which is or are not intended for letting or for the residence of the owner himself, the annual value of such holding shall be deemed to be an amount which may be equal to , but not exceed, seven and a half per centum on such cost in addition to a reasonable ground rent for the land comprised in the holding.

[1][* * *].

(3) The value of any machinery or furniture which may be on a holding shall not be taken into consideration in estimating the annual value of such holding under this section.

138. Power of municipality to decide questions arising out of the definition of holdings :– For the purposes of and subject to clause (11) of Section 3–

(a) if a question arises whether any property is included within one holding the decision thereof shall rest with the municipality;

(b) the municipality at a meeting shall decide in regard to holdings in general or to any class of holdings in particular what tests shall be applied for determining whether properties within the municipality are held under one title or agreement.

139. Assessment in case of land or building sub-divided into separate shares :– If during the currency of any period, prescribed by sub-section (1) of Section 146 the ownership of any land or building or portion thereof is sub-divided into separate shares, the municipality may on the application of any of the co-owners, after giving the other co-owners an opportunity to be heard, divide the assessment of such land, building or portion thereof in the following manner, namely–

(i) if, ownership be subdivided into two or more shares without separate allotments, or if, as the result of such sub-division, there is a separate allotment of such land, building or portion into two or more separate portions which are not entirely independent the municipality may, if it thinks fit, apportion the assessment among the share-holders according to the value of their respective shares without assigning any separate number;

(ii) if, as the result of such sub-division, there are separate allotments of such building or portion and if such allotments are made entirely independent and capable of separate enjoyment but not in conformity with the provisions of this Act or any rules or bye-laws made thereunder, relating to buildings, the municipality, may, if it thinks fit, assess such portions separately after assigning to them separate numbers;

Provided that by such separate assessment the total assessment for the entire premises shall not be increased;

(iii) if such separated portions of such land, building or portion are or are made entirely independent and capable of separate enjoyment in conformity with

1. Replealed by the Orissa Municipal (Amendment) Act, 1952 (Orissa Act XII of 1953), Section 11.

the provisions of this Act or of any rules or bye-laws made thereunder relating to buildings, the municipality shall assess each portion separately by assigning a separate number thereto:

Provided that by such separate assessment the total assessment for the entire premises shall not be increased:

Provided further that such apportionments or separation of the numbers and assessment as the case may be, shall remain in force and the rate shall be levied accordingly until the expiration of said period.

140. Assessment in case of land or building being amalgamated :– If any land or building, bearing two or more municipal numbers or portions thereof be amalgamated into one or more new premises, the municipality shall assess them on amalgamation after assigning to them one or more numbers, as the case may be.

Provided that no assessment on amalgamations of premises shall be made by the municipality, unless there is a cause for the revaluation of any such premises, except on an application being made to it by the owner or owners thereof, in which case such assessment, if made shall remain in force for the unexpired period of valuation:

Provided further that total assessment on amalgamation shall not be greater than the sum of the previous assessments of the several premises amalgamated.

141. Taxes by whom payable :– Except as otherwise provided in this Act, any tax which is assessed on the annual value of holding shall be payable by the owner of holding.

[1][**142. Establishment of Valuation Organisation and appointment of valuation officers :–** (1) The State Government shall establish a Valuation Organisation consisting of such number of officers and other employees as they consider necessary.

(2) The State Government may, by notification–

(a) appoint such number of officers of the Valuation Organisation as they think fit to be Valuation Officers for the purposes of this Act; and

(b) define the municpalities within each such officer shall exercise jurisdiction.

(3) The Valuation Organisation and the officers and employees thereof shall be subject to the control of the Director.

(4) The Valuation Officers shall exercise such powers and perform such duties have been conferred or imposed upon them by or under the provisions of this Act.

(5) Every municipality shall pay the State Government such amount towards its contribution for maintenance of the Valuation Organisation as may be determined by the State Government.

(6) The principles according to which the amount of contribution is to be determined shall be as may be prescribed.]

1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968

[1][**143. Preparation of valuation list :–** (1) In respect of municipalities newly constituted and in respect to existing municipalities where the annual value of holdings has not been determined, the Valuation Officer, shall, [2][after making an inquiry in the prescribed manner.] determine the annual value of all holdings within the municipality and shall prepare a valuation list containing such particulars as may be prescribed.

(2) The Valuation Officer shall thereupon forward a copy of the list so prepared to the municipality for its views and shall also publish the list in the prescribed manner inviting objections from persons interested to be filled before the Executive Officer within sixty days from the date of such publication.

(3) All objections received by the Executive Officer within the aforesaid period together with the views, if any, of the municipality expressed within the said period shall be forwarded to the Valuation Officer by the Executive Officer.

(4) After receipt of all such objections and views and after giving the person interested an opportunity of being heard, the Valuation Officer shall consider the objections and views and after making such alternations in the list as he deems necessary publish the list in the prescribed manner.

(5) The valuation officer in order to prepare the valuation list, may, whenever he thinks fit by notice require the owners or occupiers of all holdings to furnish him with returns of the rent or annual value thereof and a description of the holding containing such particulars as the valuation officer may direct and the valuation officer or any person authorised by him in writing in that behalf may, at any time, between sunrise and sunset, enter, inspect, and measure any such holding after having given forty-eight hours previous notice of his intention to the occupier thereof.]

[1][**143-A. Executive Officer to perform duties of valuation officer during interim period.–**

The Executive Officer of the Municipality shall, until the appointment of a Valuation Officer thereof, exercise the powers and perform the duties of the Valuation Officer in respect of that Municipality.]

144. Determination of rate of tax on holdings :– Subject to the provisions of [1][Sections 132 to 135] the Municipality at a meeting to be held before the close of the year next preceding the year to which any tax which is assessed on the annual value of holdings will apply, shall determine the percentage on the valuation of holdings at which the tax shall be, levied and the percentage so fixed, shall remain in force until the order of the municipality determining such percentage shall be rescinded and until the municipality at a meeting shall determine some other percentage on the valuation of holdings at which the tax will be levied from the beginning of the next year:

[3][***Provided that–***

(a) where the Municipality fails to determine such percentage on the valuation of holdings at which the tax shall be levied, the maximum percentage on

1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.
3. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

the annual value of holdings as provided under this Act for the imposition of the tax shall be deemed to the percentage determined by the Municipalities; and

(b) when this Act is first extended to any place, the first tax may be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Municipality.]

145. Preparation of assessment list :– As soon as possible after the percentage at which the tax is to be levied for the next year has been determined under the last preceding section, the Executive Officer shall cause to be prepared an assessment list, which shall contain the following particulars and any others which the Executive Officer may think proper to include–

(a) the name of the road in which the holding is situated:
(b) the number of the holding on the register;
(c) description of the holding;
(d) the annual value of the holding.
(e) the name of the owner;
(f) the amount of tax payable for the year;
(g) the amount of quarterly instalment; and
(h) if the holding is exempted from assessment, a note to that effect.

[1][**146. Revision and duration of list :–** (1) Unless otherwise directed by the State Government, new valuation and assessment lists shall ordinarily be prepared once in every five years, so far as may be, in the same manner as in the case of newly constituted municipalities and the said period of fives year shall be computed from the first day of the year in which the existing lists take effect.

(2) Subject to any alteration or amendment made under Section 147 and to the result of any appeal made under Section 153 every valuation and assessment entered in a valuation or assessment list shall take effect–

(a) in cases where the assessment list is completed within the period of five years as aforesaid, from the first day of the year immediately following that period;

(b) in cases where such list is completed after the expiry of the said period, from the first day of the quarter immediately following the completion of the list; and

(c) in cases where such list is prepared in pursuance of a direction issued by the State Government under sub-section (1), from the first day of the quarter immediately following the completion of the list,

and shall remain in force until the date on which the valuation and assessment entered in the new lists prepared subsequently under this section take effect.]

147. Amendment and alteration of list :– (1) The Executive Officer may, at any time alter or amend the assessment list in any of the following ways–

1. Substituted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.

(a) by entering therein the name of any person or any property which ought to have been entered or any property which has become liable to taxation after the publication of the assessment list under Section 152;

(b) by substituting therein for the name of the owner of any holding the name of any other person who has succeeded by transfer or otherwise to the ownership of the holding;

(c) altering the valuation of or assessment on, any holding which has been incorrectly valued or assessed by reason of fraud, misrepresentation or mistake;

(d) by revaluing or reassessing any holding the value of which has been increased by additions or alterations to buildings;

(e) where the percentage on the annual value at which any tax is to be levied has been altered by the municipality under the provisions of Section 144 by making a corresponding alteration in the amount of tax payable in each case;

(f) by reducing upon the result of the appeal of the owner the valuation of any holding which has been wholly or partly demolished or destroyed the value of which has been diminished from any cause beyond the control of the owner the operation of which could not have been prevented with due precaution; and

(g) by correcting any clerical or arithmetical error.

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

(3) The provisions of Sections 153,154,155 and 156 applicable to objections, shall, so far as may be, apply to any objection made in pursuance of a notice issued under sub-section (2) and to any appeal made under clause (f) of sub-section (1).

(4) Every alteration made under sub-section (1) shall be signed by the Executive Officer, and subject to the result of an appeal made under Section 153, shall take effect from the date on which the next instalment falls due but the Executive Officer, by such alteration, shall not be deemed to have made a new or revised assessment list.

[1][***Provided that*** any alteration which is made under clauses (a), (c), or (d) of sub-section (1) shall take effect from the beginning of the quarter next following the quarter in which –

(i) the property become liable to taxation; or

(ii) the incorrect valuation or assessment was made; or

(iii) the value of the holding was increased by additions or alterations, as the case may be, and all taxes leviable for any period preceding the alteration of the assessment list shall be deemed to have become due on the first day of the quarter next following the date on which the alteration was signed by the Executive Officer.]

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1. Added by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.

148. Notice to Executive Officer of transfer of title to holding :– (1) Whenever the title to any holding is transferred, both the transfer and the transferee shall, 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 Executive Officer.

(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 transfer to the Executive Officer.

(3) Every person primarily liable for the payment of taxes on any land or building who transfers his title to or over such property, without giving notice of such transfer to the Executive Officer, as aforesaid, shall, unless the municipality on grounds of hardship arising out of special circumstances otherwise directs, in addition to any other liability which he incurs through such neglect continue liable for the payment of all such rates 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) Nothing in this section shall be held to diminish the liability of the transferee for the said taxes or to affect the prior claim of the municipality for the recovery of the taxes due thereupon and the municipality may revise the assessment list as against the transferee with effect from the date on which they are satisfied that the transfer was made.

(5) The municipality shall levy a fee not exceeding one rupee for every such transfer of title to holding or such-division of holding.

149. Power to assess upon house consolidated tax for house and on which it stands :– (1) If any house belongs to one owner and the land on which it stands and any adjacent land which is usually occupied therewith, belongs to another the [1][Valuation Officer] may value such house and land together, and may impose thereon one consolidated tax.

(2) The total amount of the tax shall be payable by the owner of the house who shall thereafter be entitled 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.

150. Power of municipality in cases of excessive hardship :– Whenever from the circumstances of the case, the levy of a tax on any holding in the municipality would cause hardship to the person liable to pay the same, the municipality may reduce the amount payable on account of such holding or may remit the same;

Provided that such reduction or remission shall not, unless renewed by the municipality, have effect for more than one year.

151. [2][* * *]

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1. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Replealed 'Remission or refund on account of vacant holding'. by the Orissa Municipal (Amendment) Act, 1952 (Orissa Act XII of 1953).

152. Publication of notice of assessment :– (1) When the assessment list, mentioned in Section 145, has been prepared or revised, the Executive Officer shall sign the same and shall give public notice by beat of drum and by placards posted up in conspicuous places throughout the municipality of the place where the said list may be inspected.

(2) The Executive Officer shall, also in all cases in which may property is for the first time assessed or the assessment is increased, give notice thereof to the owner or occupier of the property, if known.

153 Appeal against taxation :– (1) 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 prefer an appeal to the district Magistrate or to such other officer, as may empowered by the State Government in this behalf.

(2) No such appeal shall be preferred, after one month from the date of the publication or the notice required under sub-section (1) of Section 152, or the service of the notice required under sub-section (2) of the said section, or after the expiration of one month from the date of service of the first notice of demand for payment at the rate in respect of which the appeal is preferred, whichever period shall last expire:

[1][* * *]

[2][(3) The municipality may, if it is dissatisfied with the valuation or assessment of any holding, prefer an appeal to the authority mentioned in sub-section (1) within one month from the date of publication of the notice required under sub-section (1) of Section 152.

(4) No such appeal shall be disposed of without giving the appellant and -

(a) the municipality where the appeal is filed by any person under sub-section (1); or

(b) the owner of the holding where the appeal is filed by the municipality, an opportunity of being hear.]

154. Reference to High Court :– (1) If, during the hearing of an appeal under Section 153, a question as to the liability to , or the principle of assessment of , a tax arises on which the officer hearing the appeal entertains reasonable doubt, he may, either of his own motion, or on the application of the person interested, draw up a statement of the facts of the case and the point on which doubt is entertained and refer the statement with his own opinion for the decision of the High Court.

(2) On reference being made under sub-section (1), the subsequent proceeding in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in Order XLVI of the First Schedule of the Code of Civil Procedure, 1908 (V of 1908), or such other rules as are made by the High Court under Section 122 of the said Code.

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1. Omitted by the Orissa Municipal (Amendment) Act, 1952, (Orissa Act XII of 1953), Section 14.
2. Added by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.

155. Costs :– (1) In every appeal the costs shall be in the discretion of the officer deciding the appeal.

(2) Costs awarded under this section shall be recoverable by the municipality in the manner provided in Section 162.

(3) If the municipality fails to pay costs awarded to an appellant within ten days after the date of the communication to the said Municipality of the order for payment thereof, the officer awarding the costs, may order the persons, having the custody of the balance of the Municipal Fund, to pay the amount.

156. Bar of suits :– (1) No objection shall be taken to any assessment or valuation nor shall the liability of a person to be assessed or taxed be questioned in any other manner or by any other authority than is provided in this Act.

(2) The order of the appellate authority confirming, setting aside or modifying an order in respect of assessment or valuation or liability to assessment or taxation, shall [1][contain the grounds and] be final and binding:

Provided that it shall be lawful for the appellate authority, upon application or his own motion, to review any order passed by him in appeal by a further order passed within three months from the date of his original order.

157. Payment of rate how affected by objections of valuation :– (1) When an objection to an assessment or valuation has been made under Section 153, the tax shall, pending the final determination of the objection, be paid on the revised assessment or valuation.

(2) if, when the objection has been finally determined, the revised assessment or valuation is altered, then–

(a) any sum paid in excess shall be refunded or allowed to be set off against any present or future demand of the municipality under this Act; and

(b) any deficiency shall be deemed to be an arrear of tax and recoverable as such.

Recovery of taxes

158. Office hours for payment of taxes :– By notification to be posted up in their office, the municipality shall declare at which hours of each day (not being a Sunday or other recognised holiday) the office shall be open for the receipt of money and the transaction of business.

159. Tax payable in advance :– (1) 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 lists, the notice relating to which is published under Section 152, unless the amount entered in such lists is subsequently altered as provided in this Act, in which case the amount to which the assessment or rating is so altered shall be deemed to be the amount due.

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

1. Inserted by the Orissa Act 20 of 1968, w.e.f. 27.09.1968.

[1][**159-A. Grant of rebate :–** (1) The Municipality may by resolution, provide for grant of rebate in respect of the tax due for any quarter at such percentage not exceeding ten where such tax is paid within thirty days and not exceeding five where it is paid within sixty days from the date on which it became due, as the Municipality may determine.

(2) The Municipality may in like manner, provide for grant of rebate in respect of the tax due for any year at such percentage not exceeding twenty where such tax is paid on or before the 30th April of the year and not exceeding ten where it is paid on or before the 31th May of that year, as the Municipality may determine.]

160. Receipts to be given :– For all sums paid on account of any tax under this Act, a receipt stating the amount and the tax on account of which it is paid, shall be given signed by the tax-collector or by some other officer authorised by the Executive Officer to grant such receipts.

161. Notice of demand to be presented :– (1) If the sum due on account of any tax is not paid within 1[sixty-one days] from the date on which it became due, the Executive Officer shall cause to be served on the person liable to pay the same a notice in the prescribed form:

Provided that–

(a) no notice shall be served more than six months after any sum has become due; and

(b) no charge shall be made in respect of the service of such notice.

(2) Such notice shall be signed by the Executive Officer or an officer authorised in that behalf, and shall be served by a person authorised to receive payment.

162. Levy by distress on failure to pay tax :– If any person after service upon him of such notice does not, within fifteen days of the service of such notice or from the date of any order made in an appeal under Section 153, pay the sum due either to the Executive Officer at his office or to some person authorised by him to receive the money, or show to the Executive Officer 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 order made in an appeal as aforesaid, be levied by distress and sale of any movable property belonging to the defaulter (except ploughs, plough-cattle, tools or implements of agriculture or trade and articles required for worship or prayer) wherever found, or of any movable property belonging to any other person (subject to the same exceptions) which may be found within the holding in respect of which such defaulter is liable to such tax:

Provided that when the holding in respect of which the default is committed is place of business and the movable property distrained is shown to the satisfaction of the Executive Officer to have been left there for repairs on safe custody in the ordinary course of business, shall be released:

Provided further that if the said property or any part thereof belongs to any person other than the defaulter, the defaulter shall be liable to indemnity the owner thereof for any damage he may sustain by reason of such distress, or by

1. Substituted by the Orissa Act 21 of 1979, w.e.f. 24.07.1979.

reason of any payment he may make to avoid such distress or any sale under the same.

163. Distress how to be made :– (1) Every warrant of distress and sale under the last preceding section shall be issued by the Executive Officer and shall be in the prescribed form.

(2) When a warrant of distress is issued it shall not be discharged before it is executed upon payment of the sum due together with one-fourth of the costs referred to in Section 162.

(3) Distress 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.

(4) Such officer shall make in the presence of the witnesses a list of all movable property seized under the warrant, and shall give not less than ten days 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 from :

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.

164. Officer may break open door :– The officer, charged with the execution of the warrant, may under the special order of the Executive Officer between sunrise and sunset, break open any outer or inner door or window of a house in order to make the distress if he has reasonable grounds 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 residence of woman which by the usage of the country is considered private, except, after three hours' notice and opportunity given for the retirement of the women.

165. Sale how to be conducted :– (1) If the sum due be not paid with costs before the time fixed for the sale or the warrant be not discharged or suspended by the Executive Officer, the movable property seized or a sufficient portion thereof 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 the Executive Officer or in a Court of competent jurisdiction.

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

166. Sale of property beyond limits of municipality– If no sufficient movable property belonging to a defaulter, or being upon the premises in respect of which he is assessed, can be found within the municpality, the Magistrate of the District may, on

the application of the Executive Officer, issue his warrant to an officer of his court for the distress and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate of the District, or for the distress and sale of any movable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction in the state of Orissa and such other Magistrate shall endorse the warrant so 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 Executive Officer.

167. Executive Officer to keep account of distress and sales :– The Executive Officer shall cause a regular account to be kept of all distress levied and sales made for the recovery of taxes under this Act.

168. Recovery of arrears of tax as arrears of land revenue :– Any arrear of tax, due from any person in respect of which a notice of demand has been served under sub-section (1) of Section 161, other than an arrear due on the first day of the quarter immediately preceding, shall be recoverable as an arrear of land revenue.

169. Recovery of arrear of tax as an arrear of land revenue after failure to realise the same by distress and sale :– (1) The Executive Officer of any municipality may at any time apply to the Collector of the district for the recovery of the whole or any part of any arrear of tax which he has failed to realise by distress and sale, together with costs and fees according to the prescribed scale.

(2) if the Collector of the district is satisfied that the Executive Officer has so failed to realise the whole or any part of any tax and that the application has been submitted not more than one month after such failure, he shall allow the application and shall thereupon published in the prescribed manner and for the prescribed period, a list of the arrears of taxes in respect of which the application has been allowed.

(3) After such publication of the list any arrears of tax included therein shall be treated as an arrear of land revenue payable to the municipality.

170. Municipality may bring suits instead of distraining of or on failure of distress :– Instead of proceeding by distress and sale or in case of failure to realise thereby the whole or any part of any tax, the municipality may sue the person liable to pay the same in any court of competent jurisdiction.

171. Irrecoverable taxes :– The municipality may write off any tax, fee or other amount whatsoever due to it from a person not exceeding five hundred rupees which may appear to it to be irrecoverable.

Provided that where the amount exceeds five hundred rupees, the sanction of State Government shall be obtained.

172. Certain persons prohibited from purchasing at sales :– The Councillors, officers and servants of the municipality and constables and other officers of Police Department are prohibited from purchasing any property at any such sale.

173. Recovery from occupier of tax due from non-resident owner and deduction from rent :– If the sum due from the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner is not resident within

the municipality, or the place of abode of such owner is unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct from the next and following payments 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 further that If any such holding is occupied in severality by more than one person the sum recovered from any one such person shall not exceed such amount as shall bear to the total sum due the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of the holding.

174. Liability of purchaser for vender's share of tax :– The purchaser of any 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 (2) of Section 148 be liable for the said sum.

175. Tax to be a charge on holdings :– The sum, due on account of any tax under this Act from any person in respect of any holding, shall, subject to the prior payment of the land revenue, (if any), be a first charge upon the said holding.

Tax on carriages, carts, horses and other animals

176. Tax on carriages, carts, horses and other animals :– (1) When it has been determined that a tax on carriages, carts, horses and other animals specified in the Third Schedule shall be imposed, the municipality shall make an order that the owner of every carriage, cart, horse and every other animal of the kind specified in the said Scheduled, which is kept or used in the ordinary course of business within the municipality or which is let out for hire within or without the municipality and is used in the ordinary course or business within it shall pay the tax in respect of such carriage, cart, horse or other animal and shall cause such order to be published in the manner prescribed.

Explanation :– 'Used in ordinary course of business' means used on business in the average thrice a week.

(2) Such order shall be published at least one month before the beginning of the [1][year] in which such tax will first take effect, and shall specify at what rates, not exceeding the rates given in the said scheduled, such tax shall be levied.

(3) Such tax shall not be imposed on–

(a) carriage carts and animals belonging to the municipality;

(b) [2][* * *];or

(c) carriages, carts or animals kept for sale by any bona fide dealer in such carriage, carts of animals and not used for any other purpose.

177. Half-yearly statement of liability and payment of tax :– (1) In any

1. Substituted by the Orissa Act 20 of 1986, w.e.f. 21.11.1986.
2. Deleted by the Orissa Act 20 of 1986, w.e.f. 21.11.1986.

municipality in which a tax has been imposed under Section 176, the owner of every carriage, cart, horse and other animal specified in the Third Schedule shall, within the first month of each half-year, forward to the Executive Officer a statement in writing, signed by him, containing a description of the carriages, carts, horses and other animals liable to the tax for which he is bound to take out a licence.

(2) Such owner shall, at the same time, pay to the Executive Officer such sum as shall be payable by him for the current half-year for the carriages, carts, horses and other animals specified in such statement according to the rates specified in any order for the time being in force under Section 176.

178. Proportionate tax on carriage acquired during the half-year :– If any person acquires possession, at any time after the commencement of any half-year, of any carriage, cart, horse or other animal specified in the Third Schedule in respect of which no licence 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 acquired posssession thereof, and shall pay such amount of the tax as shall bear the same proportion to the whole tax for the half-year as the unexpired portion of the half-year bears to the half-year and such amount shall be calculated from the date of which such person may have acquired possession as aforesaid.

179. Grant of licence on payment of tax :– (1) On receiving the amount of the tax due as aforesaid, the Executive Officer, or some person authorised by him in that behalf, shall give to the person paying the same a licence for the several carriage, carts, horses and other animals for the period in respect of which the amount is received.

(2) Such licence shall be for the current year or half-year as the municipality deems fit.

(3) A municipal number shall be affixed to every cart or carriage at a conspicuous place so as to be distinctly visible.

180. Liability in the absence of owner :– Whenever the owner of any carriage, cart, horse or other animal liable to pay the said tax is not resident within the limits of the municipality to which the tax is due, the person in whose immediate possession the carriage, cart, horse or other animal is for the time being kept, shall take out a licence for the same.

181. Prohibition to keep carriage, without licence :– No person shall keep or be in possession of any carriage, cart or horse or other animal without the licence required under the Act:

Provided that no carriage or cart, which has not been brought into use or which is so damaged as in the opinion of the Executive Officer to be unfit for use shall be liable to the tax.

182. Composition with livery stable-keeper :– The municipality at its discretion may compound for any period, not exceeding one year, with livery stable-keepers and other persons keeping carriages, carts or animals for hire, for a certain sum to be paid for the carriages, carts or animals so kept by such persons in lieu of the tax at the rates specified in any order made by the municipality under Section 176.

183. Preparation of list of persons licensed :– The Executive Officer shall, from time to time, cause to be prepared and entered in a book to be kept by him and to be open to the inspection of any person interested therein, a list of the persons to whom during the then current half-year, a licence has been given and of the carriages, carts, horses and other animals in respect of which they have paid the tax.

184. Power to inspect stable and to summon persons liable for the payment of the tax :– (1) The Executive Officer or any person authorised by him in that behalf may, at any time, between sunrise and sunset, enter and inspect any stable or coach house or any place wherein he may have reason to believe that there is any carriage, cart, horse or other animals liable to the tax for which a licence has not been duly taken out.

(2) The Executive Officer may summon any person, whom he has reason to believe to be liable to the payment of any such tax, or any servant of such person and may examine such person or servant as to the number and description of the carriages, carts, horses and other animals in respect of which such person is liable to be taxed.

185. Transfer of ownership :– When the ownership of any licensed carriage or cart is transferred within any period of licence, it shall be licensed 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 four annas shall be paid for every such last mentioned licence.

186. Seizure or carriage of cart not bearing numbers :– (1) If a municipal number is not affixed to a carriage or cart in pursuance of Section 179, the Executive Officer may at any time seize and detain the carriage or cart and the animal, if any, by which it is drawn:

Provided that no carriage or cart [1][other than bicycle] shall be seized or detained when actually employed in the conveyance or any passenger of goods.

(2) If the carriage or cart of animal seized be not claimed, and the tax due thereon paid within fifteen days from the date of seizure, the Executive Officer may direct that the carriage, cart or animal shall be sold in public auction and the proceeds of the sale applied to the payment of–

(i) the tax, if any, due on the vehicle or animal sold;

(ii) such penalty not exceeding the amount of the tax as the Executive Officer may direct; and

(iii) a sum of one rupee on account of charges incurred in connection with the seizure, detention and sale.

(3) If the owner of the carriage, cart or animal or other person entitled thereto claims the same, within fifteen days from the date of seizure or at any time before the sale, it shall be returned to him on payment of –

(i) the tax due thereon;

(ii) such penalty not exceeding the amount of the tax as the Executive Officer may direct;

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1. Inserted by the Orissa Municipal (Amendment) Act. 1952 (Orissa Act XII of 1953) s. 15.

(iii) a sum of eight annas on account of charges incurred in connection with the seizure and detention; and

(iv) feeding charges in case of animals.

187. Refund of tax in certain cases :– On proof being given to the satisfaction of the Executive Officer that a carriage, cart, horse or other animal for which a licence has been taken out for any half-year has ceased to be kept or to be used within the municipality during the course of such half-year, the Executive Officer shall order a refund of so much of the tax for the half-year, as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, cart, horse or other animal has not been kept or used in the municipality bears to the half-year, but no such refund shall be allowed unless notice be given to the Executive Officer within one month of the time when such keeping or use of such carriage, cart, horse or other animal ceased and except for special cause shown, the Executive Officer shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

188. Prohibition of double tax :– Nothing in Section 176 to 185 shall be deemed to authorise the levy of more than one tax for the same period in respect of any carriage, cart, horse and other animal which is kept or used in more than one municipality 1[or any other local authority.]

In such cases the tax shall be levied by the Executive Officer of the Municipality [1][or any other local authority] within the jurisdiction of which the carriage, cart, horse or other animal is kept.

[2]**[188-A. Exemption from and compounding of octroi :–** (1) The State Government after consultation with the municipality may, by notification, exempt–

(a) any class of commodities; or

(b) any new industry established within the municipality,

from levy of octroi:

Provided that in cases coming under clause (b) the exemption shall be for such period, not exceeding five years from the date the industry first goes into production, as may be fixed by the State Government.

(2) The State Government may on their own motion or on application made in that behalf and after consulting the municipality revise the rate of octroi.

(3) The municipality may, in such circumstances and subject to such conditions as may be prescribed, permit any person to compound the octroi payable by him by paying in lieu thereof a lump sum amount to be determined in the prescribed manner.]

189. Profession tax :– (1) if the Municipality by a resolution determines that a profession tax shall be levied, then as from the date of notification of such determination–

1. Inserted by the Orissa Municipal (Second Amendment) Act, 1951 (Orissa Act XXX of 1951).
2. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

(i) every company, firm, association or Hindu undivided family transacting business in the municipality for not less than sixty days in the aggregate in any half-year-, and

(ii) every individual who in any half-year-

(a) exercises a profession, art or calling or transacts any business or holds any appointment, public or private, either within the municipality or without it, but at the same time residing therefor not less than sixty days in the aggregate, or

(b) is in receipt of any [1][* * *] income from investments residing in the municipality for not less than sixty days in the aggregate.

shall pay to the municipality a half-yearly tax at such rates as may be prescribed, subject to the maximum of one hundred and twenty-five rupees per year.

Provided that no profession tax shall be payable as hereinbefore provided when the [2][total annual income] does not exceed three thousand and six hundred rupees:

Provided further that in levying the profession tax the total income from all sources shall be taken into account.

(2) If a company, firm, association, Hindu undivided family or individual proves that it or he has paid the sum due on account of the profession tax levied under this Act [1][* * *] for the same half-year to any municipality [1][* * *] in the State of Orissa, such company, firm, association, Hindu undivided family or individual shall not be liable by reason merely of change of place of business, exercise of profession, art or calling, appointment or residence to pay to any other municipality [1][* * *] more than the difference between such sum and the amount to which it or he is otherwise liable for half-year under this Act [1][* * *]

(3) Nothing contained in this section shall be deemed to render a person, who resides within the local limits of one local authority and exercise his profession, art or calling or transacts business or holds any appointment within the limits of any other local authority or authorities, liable to profession tax for more than the higher of the amounts of the tax leviable by any of the local authorities. In such a case the State Government shall apportion the tax between the local authorities in such a manner as they may deem fit and the decision of the State Government shall be final.

190. Liability of members of firms, associations and Hindu undivided families to profession tax :– The profession tax leviable from a firm, association or Hindu undivided family may be levied from any adult member of the firm, association or family.

191. Liability of servants or agents to profession tax :– (1) If a company, firm, association or individual employs a servant or agent to represent it or him for the purpose of transacting business in a municipality, such company, firm, association or

1. Omitted by the Orissa Act, 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

individual shall be deemed to transact business in the municipality, and such servant or agent shall be liable for the profession tax in respect of the business of such company, firm, association or individual, whether or not such servant or agent has power to make binding contracts on behalf of such company, firm, association or individual.

(2) Where one company, firm, association or individual is the agent of another company, firm, association or individual, the former company, firm, association or individual shall not be liable separately to the profession tax on the same income as that of the principal.

192. Service of notice of failure of payment of tax :– If the profession tax due from any company, firm, association, Hindu undivided family or individual is not paid, the Executive Officer shall cause a notice to be served on such company, firm, association, Hindu undivided family or individual to pay it within fifteen days of the date of such service.

193 Statements, returns to be confidential :– All statements made, returns furnished or accounts or documents produced, in connection with the assessment of profession tax by any company, firm, association, Hindu undivided family or individual, shall be treated as confidential and copies thereof shall not be granted to the public.

194. Requisition on owner or occupier to furnish list of individual liable to tax :– The Executive Officer, may by notice, require the owner or occupier of any building or land and every Secretary or Manager of a hotel, boarding or lodging house, club or residential chambers, to furnish within a specified time a list in writing containing the names of each individual, occupying such building, land, hotel, boarding or lodging house, club or residential chambers and specifying the profession, art, calling or appointment of every such individual and the rent, if any, paid by him and the period of such occupation.

195. Requisition on employers or their representatives to furnish list :– The Executive Officer may, by notice, require any employer or the head or Secretary or Manager of any public or private office, hotel, boarding house or club or of a firm or company–

(a) to furnish within a specified time a list in writing of the names of all persons employed by such employer or by such office, hotel, boarding house, club, firm or company as officers, servants, agents, suppliers or contractors with a statement of the salary or income of such employed persons, and

(b) to furnish particulars in regard to any company of which such employer, head, secretary or manager, as the case may be, is the agent.

[1][**195-A. Appeal against levy of profession tax :–** (1) Any person who is served with a notice under Section 192 may, within thirty days from the date of such service, prefer an appeal against the demand made in the notice before the District Magistrate or such other authority as may be prescribed:

Provided that no appeal shall be entertained unless the appellate authority is satisfied that the appellant has made payment of the tax so demanded.

1. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

(2) If as a result of the decision in the appeal the tax demanded from the appellant is set aside or reduced the amount paid by way of tax or, as the case may be, paid in excess shall be refunded to the appellant in the prescribed manner or adjusted towards the tax due from him in respect of any other period.]

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CHAPTER - XIV
PUBLIC HEALTH, SAFETY AND CONVENIENCE

196. Municipality to provide water-supply, drainage and lighting :– Subject to the rules as may be prescribed and in accordance with sanction granted under such rules the municipality shall–

(a) provide a sufficient supply of water for the domestic use of the inhabitants;

(b) provide and maintain a sufficient system of drainage and conservancy; and

(c) cause the public roads to be sufficiently lighted.

197. Vesting of works in Municipality :– (1) All public water courses and springs, all public reservoirs, tanks, cisterns, fountains, wells, stand-pipes and other water works existing at the time of the coming into force of this Act, or afterwards made, laid or erected and whether made, laid or erected, at the cost of the municipality or otherwise, and also any adjacent land (not being private property) appertaining thereto shall vest in the municipality and be subject to its control.

(2) The State Government may by notification, limit or define such control, or may assume the administration of any public source of water-supply and public land, adjacent and appertaining thereto, after consulting the municipality and giving due regard to its objections, if any.

198. Construction and maintenance of water works :– (1) The municipality may, with the sanction of the State Government, direct the construction of such works, as it deems fit, without the limits of the municipality for supplying it with water, and may provide channels, tanks, reservoirs, cisterns,engines, mains, wells, fountains, stand-pipes and other works as it may deem fit, within the said limits for the use of the inhabitants.

(2) The municipality may cause existing works for the supply of water to be maintained and supplied with water or it may close any such works and substitute other such works and may cause them to be maintained and supplied with water.

199. Trespass on premises connected with water-supply :– It shall not be lawful for any person, except with permission of the municipality duly obtained to enter upon land belonging to or vested in, a municipality along with a conduit or pipe runs, or upon any premises connected with the water-supply.

200. Prohibition of building over water mains :– (1) Without the permission of the municipality no building, wall or other structure shall be newly erected and no road shall be constructed over any municipal water mains.

(2) If any building, wall or other structure be so erected, or any road be so constructed, the municipality may cause the same to be removed, or otherwise dealt with, as shall appear to it fit, and the expenses thereby incurred shall be paid by the persons, offending.

Supply of domestic use

201. Municipality to provide water for domestic use :– The municipality shall, so far as the funds at its disposal may admit, provide a sufficient supply of water fit for the domestic use of the inhabitants.

202. Control over house connection :– All house-connections, whether within or without the premises to which they belong, with any water-supply mains which may have been constructed by a municipality, shall be under the control of the municipality but shall be altered, repaired and kept in proper order at the expenses of the owner of the premises to which they belong, or for the use of which they were constructed and in conformity with bye-laws and regulations framed by the municipality in tis behalf.

203. Private water-supply for consumption and domestic use and powers of Executive Officer to enforce provision of water-supply :– (1) In municipalities in which there is a pipe supply of water, the Executive Office may at his discretion, on application by the owner or occupier of any building, arrange in accordance with the bye-laws, to supply water thereto for domestic consumption and use:

Provided that the Executive Officer shall not, without the sanction of the municipality, agree to supply water to any building, assessed at an annual value of less than one hundred and twenty rupees.

(2) Whenever it appears to the Executive Officer that any dwelling- house assessed at an annual value of not less than two hundred rupees without a proper supply of water for domestic consumption and use and that such a supply can be furnished from a main, not more than one hundred feet distant from any part of such building, the Executive Officer may, by notice, require the owner to obtain such supply and to execute all such works as may be necessary for that purpose in accordance with the bye-laws and regulations.

(3) The cost of making the connection and the cost of hire of meters shall be borne by the owner or applicant and shall be recoverable in the same manner as the holding tax.

Explanation :– Supply of water for domestic consumption and use shall not be deemed to include a supply–

(a) for any trade, manufacture of business,

(b) for gardens or for purposes of irrigation,

(c) for building purposes,

(d) for fountains, swimming baths, public baths, tanks in or near temples and mosques within the municipality or for any ornamental or mechanical purpose.

(e) for animals or for washing carts or carriages, where such animals or carts or carriages are kept for sale or hire.

but shall be deemed to include a supply–

(a) for flushing latrines,

(b) for all baths other than swimming baths or public baths,

(c) for the consumption and use of inmates of hotels, boarding houses and the like and for baths used by such inmates.

(4) For all water supplied under this section in excess of a maximum determined by bye-laws made by the municipality, payment shall be made at such items and on such conditions, as may be laid down in such bye-laws and shall be recoverable in the same manner as the holding tax.

Private water-supply for non-domestic purpose

204. Power of Executive Officer to supply water for non-domestic purpose at rates fixed by Municipality :– (1) The Executive Officer may supply water for any purpose, other than domestic consumption and use, on receiving a written application, specifying the purpose for which such a supply is required and the quantity likely to be consumed.

(2) For all water supplied under sub-section (1) payment shall be made at such rates as may be determined and on such conditions as shall be imposed by the municipality by general or special order.

Supply beyond limits of municipality

205. Supply without the municipality :– The municipality may, with the sanction of and on such terms, if any, as may be approved by the State Government, supply water to a local authority or other person without the municipality.

Cutting off water-supply

206. Power to cut off water supply :– (1) The Executive Officer may cut off the supply of municipal water from any premises–

(a) if the premises are unoccupied;

(b) if any water-tax, or any sum due for water for the cost of making a connection, or for the cost of hire of a meter, or for the cost of carrying out any work or test connected with the water-supply, which is chargeable to any person by or under this Act, is not paid within fifteen days after a bill for such tax or sum has been presented;

(c) if after receipt of a notice from the Executive Officer requiring him to refrain from so doing the owner or occupier continues to use the water or to permit it to be used in contravention of any bye-laws made under this Act;

(d) if the owner or occupier neglects, within a period specified in any notice issued by the Executive Officer under any bye-law made under this Act to put a meter or to comply with any other lawful order or requisition;

(e) if the owner or occupier wilfully or negligently damages his meter or any pipe or tap conveying municipal water;

(f) if the occupier refuses to admit the Executive Officer into premises which he proposes to enter for the purpose of executing any work, or for placing or removing any apparatus, or of making any examination or inquiry in connection with the water-supply, or prevents the Executive Officer doing such work, placing or removing such apparatus, or making such examination or inquiry;

(g) if any pipes, taps, works or fittings connected with the municipal water-supply are found on examination by the Executive Officer to be out of repair to such an extent as to cause waste or contamination of water;

(h) If the owner or occupier causes pipes, taps, works or fitting connected with the municipal water-supply to be placed, removed, repaired or otherwise interfered with in violation of the bye-laws:

Provided that in cases under sub-clauses (e), (f), (g) and (h) the Executive Officer shall not take action unless notice of not less than twenty-four hours has been given to the owner or occupier of the premises.

(2) The expense of cutting off the supply shall be paid by the owner or occupier of the premises.

(3) In cases under clause (d), as soon as any money for non-payment of which water has been cut off together with the expense of cutting off the supply has been paid by the owner or occupier, the Executive Officer shall cause water to be supplied, as before, on payment of the cost, if any, of reconnecting the premises with the municipal water-works.

(4) No action taken under this section shall relieve any person from any penalties or liabilities which he may otherwise have incurred.

207. Non-liability of municipality for reduction or stoppage of supply in certain cases :– The municipality shall not be liable to any penalty or damages for cutting off the supply of water or for not supplying water, save in the case of express stipulation in an agreement for the supply of water for other than domestic purposes, in the case of any drought, or other unavoidable cause or accident, or the necessity for relaying or repairing pipes.

208. Power to set apart wells, tanks for drinking, culinary, bathing and washing purposes :– (1) The municipality may, by order published at such places as it thinks fit, set apart convenient wells, tanks, parts of rivers, streams or channels, not being private property–

(a) for the supply of water for drinking and for culinary purposes; or

(b) for the purposes of bathing; or

(c) for washing animals or clothes; or

(d) for any other purpose connected with the health, cleanliness or comfort of the inhabitants and may by like order prohibit bathing or the washing of animals or clothes or other things at any public places not set apart for the

purpose, or at a time or by a sex, other than that specified in the order, and may in like manner prohibit any other act by which water in public places may be rendered foul or unfit for use, or which causes or is likely to cause inconvenience or annoyance to persons lawfully using such places.

(2) Any person who contravenes an order of the municipality under sub-section (1) shall be liable to a fine not exceeding fifty rupees.

Lighting

209. Provision for lighting public roads :– The municipality shall, so far as the funds at its disposal permit, cause the public roads to be lighted and for that purpose shall provide such lamps and works as it thinks necessary.

Public drainage

210. Maintenance system of drainage by municipality.– The municipality shall, so far as the funds at its disposal may admit, provide and maintain a system of public drains.

Private drainage

211. Control over house-drains, privies and cess-pools :– All house drains whether within or without the premises to which they belong, and all private latrines and cess-pools within the municipality shall be under the control of the municipality but shall be altered, repaired, cleansed and kept in proper order at the expense of the owner of the premises to which the same belong, or for the use of which they were constructed, and in conformity with bye-laws and regulations framed by the municipality in this behalf.

212. Connection of house-drain or with public drain :– (1) The Health Officer shall, on application by the owner or occupier of any premises owner of a private street, arrange, in accordance with the bye-laws, for the connection of the applicant's drain with any public drain, at a distance not exceeding three hundred feet therefrom at the applicants's expense.

(2) If there is a public drain or outfall, within a distance not exceeding one hundred feet of the nearest point on any premises, the Health Officer may, by notice, direct the owner of the said premises to construct a drain leading therefrom to such drain or place of outfall and to execute all such works as may be necessary in accordance with the bye-laws and regulations at such owner's expense.

(3) if any premises are in the opinion of the Health Officer without sufficient means of effectual drainage but no part there of is situated within one hundred feet of a public drain, or its place of outfall, the Health Officer may-by notice direct the owner of the said premises to construct a cess-pool or septic tank or filters of such materials, dimension and description in such position and at such level as the Health Officer thinks necessary and to construct a drain or drains emptying into such cess-pool tank or filters and to execute all such works as may be necessary in accordance with the bye-laws and regulations:

Provided that –

(a) no requisition shall be under this section on any person who has been exempted from payment of the drainage tax under Section 135;

(b) no person shall be required under this section to expend a sum, exceeding five times the holding tax, on any such building with the land assessed with it as part of the same premises, or in the case of buildings exempted under Section 132, five times the holding tax which would be payable on such building with the land which would be assessed with it to the holding tax, if such building were not exempt and if any amount exceeding the said sum is expended, the excess shall be borne by the municipality.

213. Health Officer may close or limit the use of existing private drains :– (1) Where a drain connecting any premises with a public drain or other place set apart by the municipality for the discharge of drainage is sufficient for the effectual drainage thereof and is otherwise unobjectionable, but is not, in the opinion of the Health Officer, adopted to the general drainage system of the municipality or of the part of the municipality in which such drain is situated, the Health Officer with the approval of the municipality, may–

(a) subject to the provision of sub-section (2) close, discontinue or destroy the said drain and do any work necessary for that purpose; or

(b) direct that such drain shall, from such date as he specifies in that behalf, be used for sullage and sewage only for water unpolluted with sullage or sewerage only and by notice require the owner of the premises to make at his own expense an entirely distinct drain for water unpolluted with sullage or sewage or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the Health Officer under clause (1) (a) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with a public drain or other place aforesaid; and the expense of the constructing of any drain so provided by the Health Officer and of any work done under clause (1) (a) shall be paid by the Municipality.

214. Power of Health Officer to drain premises in combination :– (1) When the Health Officer is of opinion that any group or block of premises, any part of which is situate within one hundred feet of a municipal drain already existing, or about to be constructed, may be drained more economically or advantageously in combination than separately, the Health Officer may, with the approval of the municipality, cause such group or block of premises to be drained by such method as appears to the Health Officer to be best suited therefor and the expenses incurred by the Health Officer in so doing shall be paid by the owners in such proportions as the municipality may decide.

(2) Not less than fifteen days before any work under this section is commenced, the Health Officer shall give notice to the owners of –

(a) the nature of the intended work;

(b) the estimated expenses thereof; and

(c) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group of block drained under sub-section (1) shall be joint owners of every drained constructed, erected or fixed or continued for the special use and benefit, only of such premises, and shall, in the proportion in which it is determined that they are to contribute to the expenses incurred by the Health Officer under sub-section (1), be responsible for the expense of maintaining every such drain in good repair and efficient condition.

215. Building not to be erected without permission over drains :– (1) Without the permission of the municipality, no person shall place or construct any fence, building, culvert, drain-covering, drain or other structure or any road or cable over, under, in or across any public drain, or stop, divert obstruct or in any way interfere with any public drain, whether it passes through public or private ground.

(2) The Health Officer may remove or otherwise deal with anything placed or constructed in contravention of sub-section (1) as he shall think fit, and the cost of so doing shall be recoverable from the person responsible therefor in the manner provided in Section 345.

216. Construction of culvert or drain coverings by owner or occupier :– (1) The Health Officer may by notice require the owner or occupier of any building or land, adjoining a public road, to construct culverts or drain covering over the side-channels or ditches at the entrances to the said building or land.

(2) All culverts or drain-covering or pails maintained over side-channels or ditches by the owners or occupiers of adjacent buildings or lands, shall be of such form and size and consist of such materials and be provided with such means of ventilation as the Health Officer may by notice require and shall be maintained and kept free from all obstruction at the expense of the said owners or occupiers.

217. Maintenance of troughs and pipes catching water :– The owner or occupier of ay building in a public road shall, within fifteen days after receipt of notice in that behalf from the Health Officer, put up and hence forward maintain proper troughs and pipes for catching and carrying the water from the roof and other parts of such building and for discharging such water in such manner as the Health Officer may permit.

General powers

218. Power to carry wire, pipes, drains, through private property subject to causing as little inconvenience as possible and paying for direct damage :– The Municipality may carry any cable, wire, pipe, drain or channel of any kind to establish or maintain any system of drainage, water, supply or lighting through, across, under or over any road, street or place laid out for a road, and after giving reasonable notice to the owner or occupier, through, across, under over or up the side of, any land or building in the municipality, and may place and maintain posts, poles, standards, brackets, or other contrivances to support wires and lights on any pole or post in the municipality not vested in an under the control of the Government and may do all acts necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain channel, pole, standard, bracket, or other similar contrivances in an effective state for the purpose of which it is intended to be used or for removing the same:

Provided that such work shall be done so as to cause the least practicable nuisance or inconvenience to any person:

Provided further that the Executive Officer shall, with sanction of the municipality, pay compensation to any person who sustains loss or damage by the exercise of such power.

219. Prohibition against making connection with mains without permission :– (1) No person shall, without the permission of the municipality make any connection with any municipal cable, wire pipe, drain or channel or with the house connection of any other person.

(2) The Executive Officer may by notice require any connection made in contravention of sub-section (1), to be demolished, removed, closed, altered, or remade.

220. Powers in respect of works outside the municipal area :– (1) The Municipality shall not under take new works beyond the limits of the municipal area without the sanction of the State Government.

(2) The Municipality may in the execution and for the purpose of any works beyond the limits of the municipality, sanctioned by the State Government, whether before or after the passing of this Act, exercise all the powers which it may exercise within the municipality throughout the line of the country through which conduits,channels, pipes, lines or posts and wires and the like run, and with the sanction of the State Government–

(a) over any lake, tank, or reservoir, from which a supply of water for drinking, for producing electric energy or for other purposes is derived, and over all lands within one mile of the high water level of any such lake, tank or reservoir;

(b) over any water course from which a supply of water for drinking, for producing electric energy or for other purposes is derived, within one mile above and half a mile below any point at which water is taken for such use; and

(c) over any lands used for sewage farms, sewage disposal tanks, filters and other works connected with the drainage of the municipality.

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CHAPTER - XV
CONSERVANCY

221. Municipality to arrange for the removal of rubbish and filth :– Every Municipality shall make adequate arrangements for–

(a) the regular sweeping and cleansing of the roads and removal of sweepings therefrom;

(b) the daily removal of filth, rubbish and the carcasses of animals from private premises;

(c) the daily removal of filth and rubbish from dustbins and private premises; and

(d) the conversion of such sewerage, offensive matter, filth and rubbish collected by the municipality to compost manure in the manner prescribed;

and with this object, it shall provide–

(i) depots for the deposit of filth, rubbish and the carcasses of animal;

(ii) covered vehicle or vessels for the removal of filth;

(iii) vehicles or other suitable means for the removal of the carcasses of large animals, filth and rubbish;

(iv) dustbins for the temporary deposit of rubbish.

222. Contributions from persons having control over place of pilgrimage :– Where a mosque, temple, *muth or* any place of religious worship or instruction, or any place which is used for holding fairs, festivals or for other like purposes, is situated within the limits of a Municipality or in the neighbourhood thereof and attract either throughout the year or on particular occasion a large number of persons, any special arrangements necessary for public health, safety or convenience, whether permanent or temporary, shall be made by the municipality and the municipality may require the trustee or other person having control over such place to make such recurring or non-recurring contribution, as the State Government may determine, to the funds of the municipality.

223. Prohibition of improper disposal of carcasses, rubbish and filth :– No person shall after due provision has been made under Section 221 by the municipality for the deposit and removal of the same–

(a) deposit the carcasses of animal, rubbish or filth in any road or on the verandah of any building, or any unoccupied ground alongside any road or on any public quay, jetty or landing place, or on the bank of a water - course or tank; or

(b) deposit fifth or carcasses of animals in any dustbin or in any vehicle not intended for the removal of the same; or

(c) deposit rubbish in any vehicle or vessel intended for the removal of filth save for the purpose of deodorizing or disinfecting the filth.

224. Prohibition against keeping filth on premises too long :– No owner or occupier of any premises shall keep or allow to be kept for more than twenty-four hours any filth on such premises or any building or on the roof thereof in any out-building or place belonging thereto, or fail to comply with any requisition of the Health Officer as to the construction, repair, paving or cleaning of any latrine on or belonging to his premises.

225. Prohibition against allowing outflow of filth :– No owner or occupier of any premises shall allow the water from any sink, drain, latrine or stable, or any other filth to flow out of such premises to any portion of a road except a drain or a cess-pool, or to flow out of such premises in such a manner as to cause an avoidable nuisance by the soakage of the said water or filth into the walls or ground at the side of a drain forming a portion of a road.

226. Prohibition against using any cart without cover in the removal of filth :– No person shall in the removal of filth use any cart or receptacle not having a covering proper for preventing the escape of the contents thereof or of the stench therefrom, or intentionally or negligently spill any filth in the removal thereof, or omit carefully to sweep and clean every place in which any such filth has been spilled, or placed or set down in any public place any filth whether in a vessel closed or open.

227. Prohibition against throwing rubbish or filth into drains :– No person shall put or cause to be put any rubbish or filth into any public drain not intended for rubbish or filth or into any drain communicating with any such public drain.

Public Latrines

228. Provision of public latrines and urinals :– The municipality shall provide and maintain in proper and convenient places a sufficient number of public latrines and urinals and shall cause the same to be daily cleaned and kept in proper order.

229. Permission for construction of latrine or urinal near road, tank or water-course :– No person shall, without the permission of the municipality–

(i) construct a latrine or urinal with a door or trap-door opening on to any road or drain;

(ii) construct or keep any latrine, urinal, cess-pool, house drain or receptacle for sewage or other offensive matter within fifty feet of any public tank or water-course or tank or water-course which the inhabitants of any locality use.

230. Provision of latrines by owner or occupier :– (1) The Health Officer may by notice require the owner or occupier of any building within the time specified in such notice to provide a latrine or alter or remove from an unsuitable to a more suitable place any existing latrine in accordance with the directions contained in such notice for the use of the persons employed in or about or occupying such building and to keep it clean and in proper order.

(2) Every owner or occupier of the ground on which any group of six or more huts stands shall provide latrines of such description and number and in such position

as the Health Officer may by notice require, within such time as may be fixed in the notice, for the use of the inhabitants of such huts.

231. Provision of latrines for labourers :– Every person employing workmen, labourers or other person exceeding ten in number shall provide and maintain for the separate use of persons of each sex so employed latrine of such description and number and in such position, as the Health Officer may by notice require, within such time as may be fixed in the notice.

232. Provision of latrines for markets, cart-stands, cattle-sheds, choultry :– The Health Officer may by notice require the owner or manager of a market, cart-stand, cattle-shed, *dharmasala, sarai, choultry,* theatre, railway station, dock, wharf or other place of public resort within the time specified in such notice, to provide and maintain for the separate use of persons of each sex latrines of such description and number in such position as may be specified in such notice.

233. Latrines to be screened from view and kept clean :– All latrines shall be so constructed, as to screen persons using the same and the filth from the view of persons passing by or residing in the neighbourhood and shall be kept clean and in proper order.

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CHAPTER - XVI
PUBLIC ROAD

234. Maintenance and repair of the roads :– (1) The municipality shall, at the cost of the Municipal Fund, cause the public roads and bridges to be maintained and repaired and may form the same fund meet the cost of all improvements to the same which are necessary or expedient for the public safety or convenience.

(2) The municipality may entrust to any other local authority with the consent of such authority the maintenance of any public road or portion thereof, the cost of maintenance being provided by the municipality.

235. Powers of Municipality :– (1) The municipality may–

(a) lay out and make new public roads;

(b) construct bridges and sub-ways;

(e) turn, divert or with the special sanction of the State Government permanently close any public road or part thereof; and

(d) widen, open, extend or otherwise improve any public road.

(2) Reasonable compensation shall be paid to the owners of any land or buildings or part of the building which are required for, or affected by, any such purposes.

236. Power to dispose of permanently closed roads :– When a public road is permanently closed under Section 235, the municipality may, with the sanction of the State Government, dispose of the site or of so much thereof as is no longer required, by public auction, in such manner as may be approved by the State Government.

237. Acquisition of land and buildings for improvement of roads :– (1) The municipality may acquire –

(a) any land required for the purpose of opening, widening, extending or otherwise improving any public road or of making any new public road, and the buildings or part of the buildings, if any, standing upon such land; and

(b) any land outside the proposed road alignment, with the buildings or part of the buildings, if any, standing thereupon:

Provided that, in any case in which it is decided to acquire any land under clause (b) of this sub-section, the owner of such land may retain it by paying to the municipality an annual sum to be fixed by the municipality in that behalf or a lump-sum to be fixed by the municipality not being less than twenty-five times such annual sum and subject to such conditions as the municipality thinks fit as to the removal of the existing building or part thereof, if any, the description of the new building, if any, to be erected, the period within which the new building, if any, shall be completed and any other similar matters.

(2) If any sum payable in pursuance of the proviso to sub-section (1) in respect of any land be not duly paid, it shall be recoverable in the manner provided by this Act for the collection of taxes, and if not so recovered, the Executive Officer may enter upon the land and sell it with any erections, standing thereon by public auction, subject to the condition, if any, imposed under sub-section (1) above and may deduct the said sum and the expenses of the sale from the proceeds of the sale and shall pay the balance if any to the defaulter.

(3) Any sum paid in pursuance of the proviso to sub-section (1) or recovered under sub-section (2) in respect of any land shall be left out of account in determining the annual value of such land for the purpose of assessment.

(4) Any land or building acquired under sub-section (1), clause (b), may be sold, leased or otherwise disposed of after public advertisement, and any conveyance made for that purpose may comprise such conditions as the municipality thinks fit as to the removal of the existing building or part thereof, if any, the description of the new building, if any, to be erected, the period within which the new building, if any, shall be completed and any other similar matters.

(5) The municipality may require any person to whom any land or building is transferred under sub-section (4) to comply with any conditions comprised in the said conveyance before it places him in possession of the land or building.

238. Power to prescribe building line and road alignment :– The municipality may–

(a) prescribe for any public road a building line or road alignment or both;

(b) from time to time define a fresh line in substitution for any line so defined or for any part thereof:

Provided that in either case –

(i) at least one month before the meeting of the municipality at which the matter is decided, public notice of the proposal has been given and special notice thereof has also been put up in the road or part of the road for which such line is proposed to be defined; and

(ii) the municipality consider all objections to the said proposal made in writing and delivered at the municipal office not less than three clear days before the day of such meeting.

239. Buildings not to be constructed within road alignment or building line :– (1) No person shall construct any portion of any building within at road alignment defined under Section 238.

(2) No person shall erect or add to any building between a road alignment and a building line defined under Section 238 except with permission of the Executive Officer who may, when granting permission, impose such conditions as the municipality may lay down for such cases.

240. Setting back projecting buildings or walls :– (1) When any building or part thereof abutting on a public road is within a road alignment defined under Section 238 the Executive Officer may, whenever it is proposed–

(a) to rebuild such building or take it down to an extent exceeding one-half thereof above the ground level such half to be measured in cubic feet; or

(b) to remove, reconstruct or make any addition to any portion of such building which is within the road alignment;

in any order which he issues concerning the rebuilding, alteration or repair of such building require such building to be set back to the road alignment.

(2) When any building or any part thereof within the road alignment falls down or is burnt down or is whether by order of the Executive Officer or otherwise taken down or when any private land without any building thereon lies within the road alignment the Executive Officer may forthwith take possession on behalf of the municipality of the portion of land within the road alignment and if necessary clear it.

(3) Land taken possession of under this section shall be deemed to be a part of the public road and shall vest in the municipality.

(4) When any building is set back in pursuance of any requisition made under sub-section, (1), or when the Executive Officer takes possession of any land under sub-section (2), the municipality shall forthwith make full compensation to the owner for any direct damage which he may sustain thereby.

Explanation **:–** The expression '*direct damage'* as used in sub-section (4) with reference to land means the market value of the land taken and the depreciation, if any, in the ordinary market value of the rest of the land resulting from the area being reduced in size, but does not include damage due to the prospective loss of any particular use to which the owner may allege that he intended to put the land although such use may be injuriously affected by the reduction of the site.

241. Setting buildings forward to improve line of public road :– The municipality may, upon such terms as it thinks fit, allow any building to be set forward for the purpose of improving the line of public road and may by notice require any building to be so set forward in the case of reconstruction thereof or of a new construction.

***Explanation* :–** For the purpose of this section a wall separating any premises from a public road shall be deemed to be a building, and it shall be deemed a sufficient compliance with permission or requisition to set forward a building to the road alignment if a wall of such material and dimension as are approved by the Executive Officer is erected along the said line.

242. Projected roads :– (1) The municipality may prepare schemes and plans or proposed public roads, showing the direction of such roads, the road alignment and building line on each side of them, their intended width and such other details as may appear desirable.

(2) The width of such proposed roads shall not ordinarily be less than fifty feet, or in any area covered by huts twenty-five feet.

(3) It shall be the duty of the municipality to lay out public roads in areas covered by huts, so far as may be practicable, both for the purpose of securing proper ventilation for huts in such area s and in view to the contingency of buildings being erected therein.

(4) When any plan has been prepared under sub-section (1) the road to which is refers shall be deemed to be a projected public road and the provisions of Section 240 shall apply to all buildings so far as they stand across the road alignment or building line of the projected road.

243. Watering of roads :– The municipality shall, so far as it considers it requisite for the public convenience and, so far as funds permit, cause the public roads to be watered and for that purpose may provide such equipment and apparatus as it thinks necessary.

244. Temporary closure of roads :– The Executive Officer may by an order in writing temporarily close any road to traffic for repair, or in order to carry out any work connected with drainage, water supply or lighting or any of the purposes of this Act.

245. Protection of appurtenances and materials of public roads :– It shall not be lawful for any person, without the permission of the Executive Officer, to displace, take up or make any alteration in the fences, posts pavement flags or other materials of any public road, [1][or to dig at any place on any public road.]

246. Power of municipality to recover expenses caused by extraordinary traffic :– When by a certificate of an officer of the Government, Public Works Department of a rank not below that of Executive Engineer it appears to the municipality that, having regard to the average expense of repairing roads in the neighbourhood, extraordinary expenses have been incurred by the municipality in repairing a road by reason of the damage caused by excessive weight passing along the road, on extraordinary traffic thereon the municipality may with the sanction of the State Government recover from any person by or in consequence of whose order such weight or traffic has been

1. Added by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

conducted the amount of such expenses as may be proved to the satisfaction of such municipality to have been incurred by such municipality by reason of the damage arising from such weight or traffic as aforesaid:

Provided that any person from whom expenses are or may be recoverable under this section may enter into an agreement with the municipality for the payment to it of an amount by way of compensation in respect of such weight or traffic and thereupon the persons so paying shall not be subject to any proceedings under this section:

Provided further that the decision of the municipality in this regard will be final subject to the approval of the State Government and the Civil Court shall have no jurisdiction.

Private roads

247. Owner's obligation to make a road when disposing of lands as building sites :– If the owner of any land utilises, sells, leases or otherwise disposes of such land or any portion or portions of the same as sites for the construction of buildings he shall, save in such cases, as the site or sites may about on an existing public or private road, lay down and make a road or roads giving access to the site or sites and connecting with an existing public or private road.

248. Making of new private roads :– (1) Any person intending to make or lay out a new private road shall send to the municipality a written application with plans and sections showing the following particulars, namely–

(a) the intended level, direction and width of the road;

(b) the road alignment and the building line; and

(c) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewering, draining, conserving and lighting the road.

(2) The provisions of this Act and of any rules or bye-laws made under this Act as to the level and width of public road and the height of buildings abutting thereon shall apply also in the case of roads referred to in sub-section (1), and all the particulars referred to in that sub-section shall be subject to approval by the municipality.

(3) Within sixty days after the receipt of any application under sub-section (1), the municipality shall either sanction the making of the road on such conditions as it may think fit, or disallow it, or ask for further information with respect to it.

(4) Such sanction may be refused –

(i) if the proposed road would conflict with any arrangements which have been made, or which are in the opinion of the municipality likely to be made, for carrying out any general scheme for the laying out of roads;

(ii) if the proposed road does not conform to the provisions of the Act, rules and bye-laws referred to in sub-section (2); or

(iii) if the proposed road is not designed so as to connect at one end with a road which is already open.

(5) No person shall make or lay out any new private road without or otherwise than in conformity with the orders of the municipality. If further information is asked for no steps shall be taken to make or lay out the road until orders have been passed upon receipt of such information:

Provided that the passing of such order shall not in any case be delayed for more than sixty days after the municipality has received all the informations which it considers necessary to enable it to deal finally with the said application. Any application not disallowed within a period of one hundred and twenty days from the date of receipt by the municipality shall be deemed to have been sanctioned.

249. Alteration or demolition of road made in breach of Section 248 :– (1) If any person makes or lays out any road referred to in Section 248 without or otherwise than in conformity with the orders of the municipality, the Executive Officer may, whether or not the offender be prosecuted under this Act, by notice–

(a) require the offender to show sufficient cause, by a written statement signed by him and sent to the Executive Officer on or before such day as may be specified in the notice, why such road should not be altered to the satisfaction of the Executive Officer or if such alteration be impracticable, why such road should not be demolished; or

(b) require the offender to appear before the Executive Officer either personally or by a duly authorised agent on such day at such time and place as may be specified in the notice, and show cause as aforesaid.

(2) if any person on whom such notice is served fails to show sufficient cause to the satisfaction of the Executive Officer why such road should not be so altered or demolished, the Executive Officer may pass an order directing the alteration or demolition of such road.

250. Power of Executive Officer to order work to be carried out or to carry it out himself in defalut :– (1) If any private road or part therof, is not levelled, paved, metalled, flagged, channelled, drained, conserved or lighted according to the direction of the Executive Officer, he may by notice require the owners or occupiers, as the case may be, of buildings or lands fronting or abutting on such road or part thereof to carry out any work which in his opinion may be necessary and within such time as may be specified in such notice.

(2) If such work is not carried out within the time specified in the notice, the Executive Officer, may, if he thinks fit, execute it and the expenses incurred shall be paid by the owners or coccupiers, as the case may be, in default according to the frontage of their respective buildigs or lands and in such proportion as may be settled by the Executive Officer.

251. Right of owners to require road to be declared public :– If any road has been levelled, paved, metalled, flagged, channelled, drained, conserved and lighted under the provisions of Section 250 such road shall, on requisition of not less than three-fourths of the owners thereof, be declared a public road.

Encroachment on roads

252. Prohibition against obstructions in or over road :– No one shall build any wall or erect any fence or other obstruction or protection, or make any encroachment in or over any road except as hereinafter provided.

253. Prohibition and regulation of doors, ground-floor windows and bars opening outwards :– (1) No door, gate, bar or ground-floor window, shall, without a licence from the Executive Officer, be hung or placed so as to open outwards upon any road.

(2) The Executive Officer may by notice require the owner of such door, gate, bar, or window to alter it so that no part thereof when open shall project over the road.

254. Removal of encroachments :– (1) The Executive Officer may by notice require the owner or occupier of any premises to remove or alter any projection, encroachment or obstruction (other than a door, gate, bar or ground-floor window) situated against or in front of such premises and in or over any road.

(2) if the owner or occupier of the premises, as the case may be, proves that any such projection, encroachment or obstructions has existed for a period sufficient under the law of limitation, to give any person a prescriptive title thereto or that it was erected or made with the permission or licence of any municipal authority duly empowerd in that behalf, and that the period, if any, for which the permission or licence is valid, has not expired, the municipality shall make reasonable compensation to every person who suffers damage by the removal or alteration of the same.

255. Power to allow certain projections and erections :– (1) The municipality may grant a licence, subject to such conditions and restrictions as it may think fit, to the owner or occupier of any premises to put up verandahs, balconies, sunshades, weather-frames and the like, to project over road or in roads in which the construction of arcades has been sanctioned by the municipality, to put up an arcade; or to construct any step or drain covering necessary for access to the premises.

(2) The Executive Officer may grant a licence, subject to such conditions and restrictions, as he may think fit, for the temporary erection of pendals and other structures in a public road vested in the municipality or in any other public place, the control of which is vested in the municipality.

(3) The municipality shall have powers to lease road side and margins vested in it for occupation on such terms and conditions and for such period as the municipality may fix.

(4) But neither a licence under sub-section (1) nor a lease under sub-section (3) shall be granted if the projection, construction or occupation is likely to be

injurious to health or cause public inconvenience or otherwise materially interfere with the use of the road as such.

(5) The State Government may, by notification, restrict and place under such control, as they may think fit, the exercise by municipality in general or by any municipality in particular, or the powers under sub-sections (1) and (3).

(6) On the expiry of any period for which a licence has been granted under this section, the Executive Officer may, without notice, cause any projection or construction put up under sub-section (1) or (2) to be removed, and the cost of so doing shall be recoverable as a tax in the manner provided in Section 345 from the person to whom the licence was granted.

256. Precautions during repair of roads :– (1) The Executive Officer shall during the construction or repair of any road, drain or premises vested in the municipality–

(a) cause the same to be fenced and guarded;

(b) take proper precautions against accident by shoring up and protecting the adjoining building; and

(c) cause such bars, chains or posts to be fixed across or in any road in which any such work is under execution as are necessary in order to prevent the passage of carts, carriages or animals and avert danger.

(2) The Executive Officer shall cause such drain, road or premises to be sufficiently lighted or guarded during the night while under construction or repair.

(3) The Executive Officer shall with all reasonable speed, complete the said work, fill in the ground and repair the said drain, road, or premises and remove the rubbish occasioned thereby.

257. Prohibition against removal of bars and lights :– No person shall without lawful authority remove any bar, chain, post or shorign timber or remove or extinguish any light set up under Section 256.

258. Prohibition against making holes and causing obstruction :– (1) No person shall make a hole or cause any obstruction in any road unless, he previously obtains the permission of the Executive Officer and complies with such conditions as that officer may impose.

(2) When such permission is granted, such person shall, at his own expense cause such hole or obstruction to be sufficiently fenced and enclosed until the hole or obstruction is filled up or removed and shall cause such hold or obstruction to be sufficiently lighted during the night.

259. Licence for work on buildings likely to cause obstructions :– If any person intends to construct or demolish any building or to alter or repair the outward part thereof, and if any road or foot-way is likely to be obstructed or rendered inconvenient by means of such work, he shall first obtain a licence from the Executive Officer in that behalf and shall also–

(a) cause the said building to be fenced and guarded;

(b) sufficient light it during the night; and

(c) take proper precaution against accidents during such time as the public safety or convenience requires.

260. Clearing of debris of fallen houses by occupiers :– If any obstruction is caused in any road by the fall of trees, structures or fences, the owner or occupier of the premises concerned shall within twelve hours of the occurrence of such fall, or within such further period as the Executive Officer may by notice allow, clear the road of such obstruction.

Naming of roads

261. Naming of public roads :– (1) The municipality may give names to new public road and may alter the name of any public road.

(2) The Executive Officer may cause to be put up or painted in Oriya on a conspicuous part of some building, wall or place, at or near each end, corner or entrance, the name of every public road.

(3) No person shall without lawful authority destroy, pull down or deface any such name or put up any name different from that put up by order of the Executive Officer.

Numbers on building

262. Numbering of buildings :– (1) The Executive Officer may cause a number to be affixed to the side or outer door of any building or to some place at the entrance of the premises.

(2) No person shall without lawful authority destroy, pull down or deface any such number.

(3) When a number has been affixed under sub-section, (1), the owner of the building shall be bound to maintain such number and to replace it if removed or defaced; and if he fails to do so, the Executive Officer may, by notice, require him to replace it.

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CHAPTER - XVII
BUILDING REGULATION

263. Building site and construction or reconstruction of buildings :– No person of land shall be used as a site for the construction of a building and no building shall be constructed or reconstructed otherwise than in accordance with the provisions of this chapter and of any rules or bye-laws made under this Act relating to the use of building sites or the construction or reconstruction of building:

> ***Provided that*** the State Government may in respect of all municipalities or with the consent of the municipality in respect of any particular municipalities or portion thereof, exempt all buildings or any class of buildings from all or any of the provisions of this Chapter or the said rules.

264. Application to construct buildings :– (1) If any person intends to construct or re-construct a building he shall send to the Executive Officer–

(a) an application in writing for the approval or the site, together with a site plan of the land; and

(b) an application in writing for permission to execute the work together with a ground plan, elevations and sections of the building, and specification of the work;

Provided that the Executive Officer may on application in writing by the person concerned and on payment of a prescribed fee get such plan prepared within a reasonable period.

***Explanation* :–** 'Building' in the sub-section shall include a hut, a wall, foundation, plinth or fence of whatever height bounding or abutting on any public road.

(2) Every document furnished under sub-section (1) shall contain such particulars and be prepared in such manner as may be required under rules or bye-laws.

265. Necessity or prior approval of site :– The Executive Officer shall not grant permission to construct or reconstruct a building unless and until he has approved of the site on an application made under Section 264.

266. Prohibition against commencement of work without permission :– The construction or reconstruction of a building shall not be begun unless and until the Executive Officer has granted permission for the execution of the work.

267. Period within which Executive Officer is to grant or refuse to grant permission to execute work :– Within thirty days after the receipt of any application made under Section 264 for the approval of a site or for permission to execute any work or of any information or of documents or further information or documents required under rules or bye-laws, the Executive Officer shall by written order either approve the site or grant such permission or refuses on one or more of the grounds mentioned in Section 269 to grant it.

268. Reference to municipality if Executive Officer delays grant or refusal of approval of permission :– (1) If within the period prescribed by Section 267, the Executive Officer has neither given nor refused his approval of a building-site or his permission to execute any work, as the caes may be, the municipality shall be bound, on the written request of the applicant, to determine by written order whether such approval or permission should be given or not.

(2) If the municipality does not, within one month from the receipt of such written request, deliver to the applicant an order either granting or refusing such approval or permission shall be deemed to have been given; and the applicant may proceed to execute the work, but not so as to contravene any of the provisions of this Act or any rules or bye-laws made under this Act.

269. Grounds on which approval of site for or licence to construct or reconstruct building may be refused :– The only grounds on which approval of a site for the construction or reconstruction of a building or permission to construct or reconstruct a building may be refused are the following, namely –

(1) that the work, or use of the site for the work of any of the particulars comprised in the site plan, ground plan, elevations, sections or specification would contravene some specified provision of any law, or some specified order, rule declaration, or bye-law made under any law;

(2) that the application for such permission does not contain the particulars or is not prepared in the manner required under rules or bye-laws;

(3) that any of the documents referred to in Section 264 have not been signed as required under rules or bye-laws;

(4) that any information or documents required by the Executive Officer under rules or bye-laws has or have not been duly furnished;

(5) that roads have not been made as required by Section 247; or

(6) that the proposed building would be an encroachment upon Government or municipal land.

Whenever the Executive Officer or the Municipality refuses to approve a building site for a building or to grant permission to construct or reconstruct a building, the reasons for such refusal shall be specifically stated in the order or resolution.

270. Lapse of permission :– A permission given or deemed to have been given in respect or any construction or reconstruction under this Chapter shall be available for one year and after the expiry of the said period, such construction or reconstruction shall not be proceeded with, without a fresh application under Section 264.

271. Power of Executive Officer to require alteration of work :– (1) if the Executive Officer finds that the work–

(a) is otherwise than in accordance with the plans or specification which have been approved; or

(b) contravenes any of the provisions of this Act or any bye-law, rule, order or declaration made thereunder;

he may by notice require the owner of the building within a period stated either–

(i) to make such alteration as may be specified in the said notice with the object of bringing the work into conformity with the said plans and provisions; or

(ii) to show cause why such alterations should not be made.

(2) if the owner does not show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) if the owner shows cause as aforesaid, the Executive Officer shall by an order cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he may think fit.

272. Application of certain sections to wells :– The provisions of Sections 264, 265, 266, 270 and 271 shall, so far as may be apply to a well.

273. Application of provisions to alterations and additions :– The provisions of this chapter and of any or bye-laws made under this Act relating to construction and reconstruction of buildings shall also be applicable to any alteration thereof or addition thereto :

Provided that works of necessary repair which do not affect the position or dimension of a building or any room therein shall not be deemed an alteration or addition for the purposes of this section.

[1][**273-A. Demolition or alteration of building work unlawfully commenced, carried on or completed :–** (1) If the Executive Officer is satisfied.–

(i) that the construction or reconstruction of any building or well–

(a) has been commenced without obtaining the permission of the Executive Officer or where an appeal has been preferred to the municipality in contravention of any order passed by the municipality in appeal; or

(b) is being carried on, or has been completed otherwise than in accordance with the plans or particulars on which such permission or order was based; or

(c) is being carried on, or has been completed in breach of any of the provisions of this Act or of any rule or bye-law made under this Act or of any direction or requisition lawfully given or made under this Act or such rules by-laws; or

(ii) that any alterations required by any notice issued under Section 271 have not been duly made; or

(iii) that any alteration of or addition to any building or any other work made or done for any purpose in, to or upon any building, has been commenced or is being carried on or has been completed in breach of Section 273, he may make a provisional order requiring the owner or the builder to demolish the work done, or so much of it as, in the opinion of the Executive Officer, has been unlawfully executed or to make such alteration as may in the opinion of the Executive Officer be necessary to bring the work into conformity with the Act, bye-laws, rules, direction or requisition as aforesaid, or with the plans and particulars on which such permission or order was based; and may also direct that until the said order is complied with the owner or builder shall refrain from proceeding with the building or well.

(2) The Executive Officer shall serve a copy of the provisional order made under sub-section (1) on the owner of the building or well together with a notice requiring him to show cause within a reasonable time to be mentioned in such notice why the order shall not be confirmed.

(3) if the owner fails to show cause to the satisfaction of the Executive Officer, the Executive Officer may confirm the order with any modification he may think fit to make, and such order shall then be bindig on the owner.]

274. Appeal against orders of Executive Officer :– Any person aggrieved by the Orders of the Executive Officer made under any of th provisions of this Chapter may, within thirty days from the date of the order, appeal to the municipality.

[2][**274-A. Levy of development charges :–** (1) Subject to the provisions of this Act and the rules made thereunder, a municipality may, with the previous sanction of

1. Inserted by the Orissa Municipal (Amendment) Act, 1952 (Orissa Act XII of 1953), Section 16.
1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

the State Government, by notification, levy a development charge on lands and buildings within the area under its jurisdiction at such rate, not exceeding the maximum rates specified in sub-section (3), as it may determine:

Provided that different rates of development charges may be specified for different parts of the relevant area or areas and for different uses.

(2) The development charges on lands and buildings, leviable under sub-section (1) shall be assessed with reference to their use for different purposes such as–

(i) Industrial;

(ii) Commercial;

(iii) Residential ; and

(iv) Miscellaneous:

Provided that in classifying the lands or buildings under any of the said purposes, the predominant purpose for which such lands and buildings are used shall be the main basis.

(3) The rates of development charges shall be determined–

(a) in the case of development of land, at a rate to be specified per hectare, and

(b) in the case of development of a building, at a rate to be specified per square metre of the floor area of the building:

Provided that no such rate shall exceed fifty thousand rupees in the case of development of land, and fifteen rupees per square meter in the case of development of a building.

Provided further that where land appurtenant to a building is used for any purpose independent of the building, development charge may be levied separately for such use also.

(4) the procedure relating to assessment and recovery of development charges under this section shall be such as may be prescribed.]

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CHAPTER - XVIII

NUISANCE

275. Precautions in case of dangerous structures :– (1) If any structure appears to the Executive Officer to be in a ruinous state and dangerous to the passer-by or to the occupiers of neighbouring structures, the Executive Officer may by notice require the owner or occupier to fence off, take down, secure or repair such structure so as to prevent any danger therefrom.

(2) If immediate action is necessary, the Executive Officer shall himself before giving such notice or before the period of such notice expires, fence off, take down, secure or repair such structure or .fence off a part of any road or take such temporary measures as he thinks fit to prevent danger, and the cost of doing so shall be recoverable from the owner or occupier in the manner provided in Section 345.

(3) If any tree or any branch of a tree, standing on land adjoining a public road, appears to the Executive Officer to be likely to fall and thereby endanger any person or any structure, the Executive Officer may by notice require the owner of the said tree to secure, lop or cut down the said tree or branch thereof so as to prevent any danger therefrom.

(4) If immediate action is necessary, the Executive Officer shall himself before giving such notice or before the period of such notice expires, secure, lop or cut down the said tree or branch thereof or fence off a part of any road or take such other temporary measures as he thinks fit to prevent danger, and the cost of so doing shall be recoverable from the owner of the tree in the manner provided in Section 345.

(5) If any tank, pond, well, hole, stream, dam, bank or other such place appears to the Executive Officer to be for want of sufficient repair, protection or enclosure dangerous to the passers by or to person living in the neighbourhood, the Executive Officer may by notice require the owner to fill in, remove, repair, protect or enclose the same so as to prevent any danger therefrom.

(6) If. immediate action is necessary he shall, before giving such notice or before the period of notice expires, himself take such temporary measures as he thinks fit to prevent danger the cost of doing so shall be recoverable from the owner in the manner provided in Section 345.

276. Power to stop dangerous quarrying :– If in the opinion of the Executive Officer the working of any' quarry or the removal of stone, earth or other material from any place is dangerous to persons residing in or having legal access to the neighbourhood thereof or creates or is likely to create a nuisance, the Executive Officer may require the owner or person having control of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place or to take such order with such quarry or place as he shall deem necessary for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom.

277. Precautions against fire :– (1) The Executive Officer may by notice require the owner of any structure, booth or tent partly or entirely composed of or having any external roof, verandah, pendal or wall partly or entirely composed of cloth, grass, leaves mats or other highly inflammable materials to remove or alter such tent, booth, structure, roof, verandah, pendal or wall or may grant him permission to retain the same on such conditions as the Executive Officer may think necessary to prevent danger from fire.

(2) The Executive Officer may by notice require any person using any place for the storage for private use of timber, firewood, or other combustible things to take special steps to guard against danger from fire.

278. Prohibition of construction of wells, tanks, without the permission of the Executive Officer :– (1) No new well, tank, pond, cistern, fountain or the like shall be dug or constructed without the permission of the Executive Officer.

(2) The Executive Officer may grant permission, subject to such conditions as he may deem necessary or may, for reasons to be recorded by him, refuse it.

(3) If any such work is begun or completed without such permission, the Executive Officer may either–

(a) by notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Executive Officer shall direct, or

(b) grant permission to retain such work, but such permission shall not exempt such owner from proceedings for contravening the provisions of sub-section (1).

279. Filling in of pools, which are a nuisance :– If in the opinion of the Health Officer–

(a) any pool, ditch, tank, well, pond, bog, swamp, quarry, hole, drain cess-pool, pit, water-course, or any collection of water, or

(b) any land on which water may at any time accumulate,

is or is likely to become a breeding-place of mosquitoes or in any other respect a nuisance, the Health Officer may by notice require the owner or person having control thereof to fill up, cover over, weed drain or drain off the same in such manner and with such materials as the Health Officer shall direct or to take such order with the same for removing or abating the nuisance as the Health Officer shall direct.

280. Cleaning of insanitary private tank or well used for drinking :– (1) The Health Officer may by notice require the owner of or person having control over any private water-course, spring, tank, well or other place, the water which is used for drinking, bathing or washing clothes, to keep the same in good repair and to cleanse it of silt, refuse or vegetation and to protect it from pollution by surface drainage in such manner as the - Health Officer may think fit.

(2) If the water of any place which is used for drinking, bathing or washing : clothes, as the case may be, is proved to the satisfaction of the Health Officer to be unfit for the purpose the Health Officer may by notice require the owner or person having control thereof to–

(a) refrain from using or permitting the use of such water, or

(b) close or fill up such place or enclose it with a wall or fence.

281. Duty of municipality in respect of public well or receptacle of stagnant water :– The municipality shall maintain in cleanly condition all wells, tanks and reservoirs which are not private property, and may fill them up or drain them when it appears necessary to do so.

282. Prohibition against or regulation of washing animals or clothes or fishing or drinking in public water-courses, tanks :– The municipality may in the interests of the. public health regulate or prohibit the washing of animals, clothes or other things, or fishing in any public spring, tank, well, public water-course or part thereof within the municipality and may set apart any such place for drinking or for bathing or for washing clothes, or animals, respectively, or for any other specified purpose.

283. Prohibition against defiling water of tanks whether public or private :– It shall not be lawful for any person to–

(a) bathe in or in any manner defile the water in any place set apart by the municipality or by the owner thereof for drinking purposes, or

(b) deposit any offensive or deleterious matter in the dry bed of any , place set apart as aforesaid for drinking purposes; or

(c) wash clothes in any place set apart as aforesaid for drinking or bathing; or

(d) wash any animal or cooking utensils or wool, skins or other foul or offensive substance or deposit any offensive or deleterious matter in any place set apart as aforesaid for bathing or washing clothes; or

(e) cause or suffer to drain into or upon any place set apart as aforesaid, for drinking, bathing or washing clothes, or cause or suffer anything to be brought therein to or do anything whereby the water may be fouled or corrupted.

284. Untenanted buildings or lands :– If any building or land, by reason of abandonment, disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or in the opinion of the Executive Officer, becomes a nuisance the Executive Officer may after due inquiry by notice require the owner or person claiming to be the owner to secure, enclose, clear or cleanse the same.

285. Removal of filth or noxious vegetation :– The Executive Officer may by notice require the owner or occupier of any building or land which appears to him to be in a filthy or unwholesome state, or overgrown with any thick or noxious vegetation, trees or undergrowth injurious to health or offensive to the neighbourhood, to clear, cleanse or otherwise put the land in proper state or to clear away and remove such vegetation, trees or undergrowth within such period and in such manner as may be specified in the notice.

286. Buildings unfit for human habitation :– (1) If any building or portion thereof intended for or used as a dwelling place appears to the Executive Officer to be unfit for human habitation, he may apply to the municipality to prohibit the further use of such structure for such purpose, and the municipality may after giving the owner and occupiers, of the structure a reasonable opportunity of showing cause why such order should not be made, make a prohibitory order as aforesaid.

(2) If the owner undertakes to execute forthwith the works necessary to render the structure fit for human habitation within the time specified. the Executive Officer may postpone the execution of the decision of the municipality for such time not exceeding six months as he thinks sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

287. Prohibition against keeping animal so as to be a nuisance or dangerous :– No person shall keep any animal on his premises so as to be a nuisance or so as to be dangerous.

288. Power to destroy stray pigs or dogs :– (1) The municipality may, and if so directed by the District Magistrate shall give public notice that unlicensed pigs or dogs straying within specified limits will be destroyed.

(2) When such notice has been given, the Executive Officer may cause to be destroyed in any manner not inconsistent with the terms of the notice any unlicensed pig or dog, as the case may be, found straying within such limits.

289. Power of Executive Officer to use or sell materials of dangerous structure taken down and procedure when there is no owner or occupier :– (1) When the Executive Officer takes down any structure or part thereof or cuts down any tree, branch of hedge or shrub in virtue of his powers under this chapter, the Executive Officer may sell the materials or things taken down, cut down or removed and apply the proceeds in or towards payment of the expenses incurred.

(2) If after reasonable inquiry it appears to the Executive Officer that there is no owner or occupier to whom notice can be given under any section in this chapter, he may himself take such order with the property mentioned in such section as may appear to him to be necessary and may recover the expense incurred by the sale of such property, not being land, or of any portion thereof.

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CHAPTER - XIX

INDUSTRIES AND FACTORIES (INCLUDING DANGEROUS AND OFFENSIVE TRADES, OCCUPATION OR PROCESSES)

290. Purposes for which places may not be used without licence :– (1) The municipality may notify that no place within the municipality as may be fixed by it shall be used without a licence granted by the Executive Officer and except in accordance with the conditions specified in such licence, for any one or more of the following purposes, namely–

(a) washing soiled clothes and keeping soiled clothes for the purpose of washing them and washed clothes;

(b) boiling camphor;

(c) preparing *chua;*

(d) melting tallow or sulphur;

(e) dissolving silver and gold with nitric acid;

(f) storing, boiling or otherwise dealing with manure, offal, blood, bones, hides, fish, skins, horns or rags;

(g) tanning hides and skinning or disembowelling animals;

(h) washing or drying wool or hair;

(i) preparing fish-oil, hydrogenated oils, ghee, butter and such other fat preparation for purposes of sale;

(j) making soap, dyeing, boiling, or pressing oil;

(k) manufacturing or distilling sago or keuda water, manufacturing artificial manure, manufacturing or refining sugar, manufacturing sugarcandy or jaggery, tanning or manufacture of leather or leather goods, manufacturing lac and manufacturing *bidis* or cigars or *gudakhu*;

(l) manufacturing gun-powder or fire-works;

(m) burning bricks, tiles, pottery or lime,

(n) keeping a public halting place, *dharmasala, sarai, choultry* or other rest house keeping hotel, restaurant, eating-house, coffee-house, tea-stall, boarding house or lodging house (other than a student's hostel under public or recognised control);

(o) keeping a shaving or hair dressing saloon;

(p) keeping together twenty or more sheep or goats or ten or more pigs or heads of cattle;

(q) preparing flour or articles made of flour for human consumption or sweetmeats;

(r) manufacturing ice or aerated water;

(s) selling timber or storing it for sale, manufacturing or storing furniture for sale, storing or selling coal, storing hay, straw, wood, bamboo, fibre, thatching grass, jute, coke or charocal or kendu leaf or other dangerously inflammable materials;

(t) storing or selling grain, groundnut, turmeric, tamarind, chillies, or jaggery for wholesale trade;

(u) storing any explosive or combustible material, storing kerosene, petroleum, naphtha or any inflammable oil or spirit;

(v) manufacturing anything from which offensive or unwholesome smell arises or which has been declared by the State Government by notification to be dangerous or offensive;

(w) using for any industrial purpose any fuel or machinery; and

(x) in general doing in the course of any industrial process anything which likely to be offensive or dangerous to human life or health or property:

Provided that no licence shall be required for storage of timber, fire-wood, thatching materials, hay, grass, straw, fibre, coke, coal or charcoal where such storage is for private use:

Provided further that no notification under this sub-section shall take effect till sixty days from the date of publication thereof.

(2) The owner or occupier of every such place shall within thirty days of the publication of such notification apply to the Executive Officer for a licence for the use of such place for such purposes.

(3) The Executive Officer may, by an order and under such restrictions and regulations as he thinks fit, grant such licence or refuse to grant it.

(4) Every such licence shall expire at the end of the year unless for special reasons the Executive Officer considers it should expire at an earlier date, when it shall expire at such earlier date, as may be specified therein.

(5) Application for renewal of such licence shall be made not less than thirty days before the end of every year and applications for licences for places to be newly opened shall be made not less than thirty days before they are opened.

(6) (a) The power of the Executive Officer to grant licence for the purpose of manufacturing gun-powder or fire work or storing any explosive or combustible materials specified in clauses (j) and (u) of sub-section (1) shall be subject to the provisions of the Indian Explosive Act, 1884 (IV of 1884) and the rules framed thereunder and no such licence shall be granted unless the said provisions have been complied with by the applicant for the licence.

(b) The power of the Executive Officer to grant licence for the purpose of storing kerosene, petroleum, naphtha or any other inflammable oil or spirit specified in clause (u) of sub-section (1) shall be subject to the provisions of the Petroleum Act, 1934 (XXX of 1934) and the rules framed thereunder and no such licence shall be granted unless the said provisions have been complied with by the applicant for the licence.

(7) The municipality may, subject to a maximum to be fixed by the State Government, levy a fee in respect of any such licence and the renewal thereof and may impose such conditions and restriction upon the grant of such licence as it my think necessary.

291. Application to be made for construction, establishment or installation of factory, workshop or work place in which steam or other power is to be employed :– (1) Every person intending–

(a) to construct or establish any factory, workshop or work-place in which it is proposed to employ steam-power, water-power or other mechanical power or electrical power, or

(b) to instal in any premises any machinery or manufacturing plant driven by steam water or other power as aforesaid.

shall, before beginning such construction, establishment or installation, make an application in writing to the municipality for permission to undertake the intended work.

(2) The application shall be accompanied by–

(i) a plan of the factory, workshop, work place, or premises prepared in prescribed manner; and

(ii) such particulars as to the power, machinery, plant or premises as the municipality may require by bye-laws made in this behalf by the municipality.

(3) The municipality shall as soon as may be after the receipt of the application–

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

(b) refuse permission if it is of opinion that such construction, establishment or installation is objectionable by reason or the density of the population in the neighbourhood or that it is likely to be injurious to public health or to cause a nuisance.

(4) Before granting permission under sub-section (3) the municipality –

(a) shall obtain the approval of the Inspector of Factories appointed under the Factories Act, 1948 (LXIII of 1948), having jurisdiction in the local area or if there is more than one such Inspector, or the Inspector designated by the State Government in this behalf by general or special order, as regards the plan of the factory, workshop, work place or premises with reference to–

(i) the adequacy of the provision for ventilation and light;

(ii) the sufficiency of the height and dimensions of the rooms and doors;

(iii) the suitability of the exits to be used in case of fire;

(iv) the proper disposal of effluents from such mills and factories; and

(v) any other prescribed manner; and

(b) shall consult and have due regard to the opinion of the Health Officer as regards the suitability of the site of the factory, work shop, work place or premises for the purpose specified in the application.

292. Power of municipality to issue directions for abatement of nuisance caused by steam or other power :– (1) if in any factory work shop or work-place, in which steam-power water-power or other mechanical power or electrical power is used, nuisance is caused by reason of the particular kind of fuel employed or by reason of the noise or vibration created or by reason of insanitary conditions in and around the factory affecting the public health, the municipality may issue such directions as it thinks fit for the abatement of the nuisance and rectifying the sanitary defects within a reasonable time to be specified for the purpose.

(2) if there has been wilful default in carrying out such directions or if abatement is found impracticable, the municipality may–

(a) prohibit the use of the particular kind of fuel employed.

(b) restrict the noise or vibration by prohibiting the working of the factory, workshop or work place between the hours of 9-30 p.m. and 5-30 a.m.

(3) Nothing in this section shall be deemed to empower the municipality to pass an order which will be contrary to the provision of the Factories Act, 1948 (LXIII of 1948), or the rules framed thereunder.

293. Power of State Government to pass orders or give directions to municipality :– The State Government may, either generally or in any particular case, make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under Section 291 or Section 292.

294. Power of the Executive Officer to enter factory, workshop or work place :– (1) Subject to the provision of inspection in any other laws for the time being in force, the Executive Officer or any person authorised by him in this behalf may enter any factory, workshop or work-place–

(a) at any time between sunrise and sunset; and

(b) at any time by day or by night, if he has reason to believe that any offence is being committed against Section 291 or Section 292.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under this section or by the use of any force necessary for the purpose of affecting an entrance under this section.

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CHAPTER - XX
MARKET, SLAUGHTER HOUSES AND CART STANDS

Public markets

295. Power in respect of public markets :– (1) The municipality may provide places for use as public markets.

(2) Subject to such control as may be prescribed, the municipality may in any public markets levy any one or more of the following fees at such rates as may appear to it proper, or may farm out such fees for any period not exceeding three years at a time on such terms and subject to such conditions as it may deem fit –

(a) fees for the use of, or for the right to expose goods for sale in such market;

(b) fees for the use of shops, pens or stands in such markets;

(c) fees on vehicles, cart, carriages or pack-animals carrying or on person bringing goods for sale in such markets;

(d) fees on animals brought for sale into, or sold in such markets; and

(e) licence fees on brokers, commission agents, weigh-men and measures practising their calling in such markets.

(3) The municipality may close any public market or part thereof.

296. Municipality's control over public market :– (1) No person shall, without the permission of the municipality or if the rents and fees have been farmed out of the farmer, sell or expose for sale any animal or article within any public market.

(2) The Executive Officer may expel from any public market any person who or whose servant has been convicted of disobeying any bye-laws at the time in force in such market, and may prevent such person from further carrying on by himself or his servants or agents, any trade or business in such market, or occupying any shop, stall or other place therein and may determine any lease or tenure which such person may possess in any such stop, stall or place.

Private markets

297. Licences for private markets :– (1) No person shall open a new private market or continue to keep open a private market unless he obtains from the municipality a licence to do so.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than thirty and not more than ninety days before such place is opened as a market or the commencement of the year for which licence is sought, as the case may be.

(3) The municipality shall, as regards private markets already lawfully, established, and may at its discretion, as regards new private markets grant the licence applied for , subject to such rules as to supervision and inspection and to such conditions as to sanitation, drainage, water-supply, width of paths and ways, weights and measures to be used and rents and fees to be charged in such market as the municipality may think proper, or the municipality may refuse to grant any such licence for any new market. The municipality may, however, at any time, for breach of the conditions thereof, suspend or cancel any licence which has been granted under this section. The municipality may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled or modified under this section, the municipality shall cause a notice of such grant, refusal, suspension, cancellation or modification in the Oriya language to be posted in conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) Every licence granted under this section shall expire at the end of the year.

298. Fees for licence :– When a licence granted under Section 297 does not permit the levy of any fees, it shall be granted free of charge, but when such permission is given a fee not exceeding twenty per centum of the gross income of the owner from the market in the preceding year shall be charged by the municipality for such licence.

299. Prohibiting sale in unlicensed markets :– It shall not be lawful for any person to sell or expose for sale any animal or article in any unlicensed private market.

300. Power of municipality in respect of private market :– The Executive Officer may be notice require the owner, occupier or farmer of any private market to -

(a) construct approaches, entrances, passages, gates, drains and cesspits for such market and provide it with latrines of such description and in such position and number as the Executive Officer may think fit;

(b) roof and pave the whole or any portion of it or pave any portion of the floor with such material as will in the opinion of the Executive Officer secure imperviousness and ready cleansing;

(c) ventilate it properly and provide it with a supply of water;

(d) provide passages of sufficient width between the stalls and make such alterations in the stalls, passages, shops, doors or other parts of the markets as the Executive Officer may direct;

(e) keep it in a cleanly and proper state, remove all filth and refuse therefrom and dispose of them at such place and in such manner as the Executive Officer may direct; and

(f) make such other sanitary arrangement as the Executive Officer may consider necessary.

301. Suspension of licence for failure to comply with notice under Section 300 :– (1) if any person on whom a notice to carry out any of the works specified in Section 300 has been served by the Executive Officer fails to carry out the said works within the period and in the manner laid down in the notice, the municipality may suspend his licence or may refuse to grant him a licence until such works are completed.

(2) It shall not be lawful for any person to keep open any private market during such suspension or until the licence is renewed.

302. Prohibition against nuisances in private market :– No owner, occupier, agent or manager in charge of any private market or of any shop, stall, shed or other place therein shall keep the same in such a conditions as to be a nuisance or fail to cause anything that is a nuisance to be at once removed to a place to be notified by the municipality.

303. Power to close private market :– The municipality or any officer duly authorised by it in that behalf may close any private market–

(a) in respect of which no licence has been applied for, or

(b) the licence for which has been refused, withheld or suspended, or

(c) which is held or kept open contrary to the provisions of this Act.

304. Acquisition of rights of private persons to hold private markets :– (1) The municipality may acquire the rights of any person to hold a private market in any place and to levy fees therein and may, if necessary, further acquire the land on which such market is situated.

(2) The acquisition shall be made under this Land Acquisition Act, 1894 (1 of 1894) and such rights shall be deemed to be land for the purposes of that Act.

(3) On payment by the municipality of the compensation awarded under the said Act in respect of such property and any other charges incurred in acquiring it, the rights of such person to hold a private market and to levy fees therein shall vest in the municipality.

305. Appeal against orders under Section 297 :– Any person aggrieved by an order of the municipality under sub-section (3) of Section 297 may appeal against such order to the prescribed authority within thirty days of the date thereof, and pending the disposal of such appeal the Chairperson of the municipality may, if he thinks fit, suspend the execution of the order appealed against.

306. Duty of expelling leprosy patients, from market and power to expel disturbers :– The person in charge of a market shall prevent the entry therein of or expel therefrom, any person suffering from leprosy or from any infectious or contagious disease, and any animal suffering from diseases communicable to man such as anthrax, tuberculosis, glanders, rabies, or any other disease communicable to animals such as

foot and mouth diseases, and he may expel therefrom any person who is creating a disturbance therein.

307. Prohibition against sale on public roads :– The Executive Officer may, with the sanction of the municipality, prohibit by public notice or licence or regulate, the sale or exposure for sale, of any animals or articles in or upon any public road or place or part thereof.

308. Decision of disputes as to whether places are markets :– If any question arises whether any place, where persons assemble for the sale or purchase of articles of food or clothing of livestock or poultry or cotton, groundnut or other industrial crops or of any other raw or manufactured products is a market or not, the municipality concerned shall make a reference to the State Government and the decision of the State Government on the question shall be final.

Cart stands

309. Provision of public cart stands :– (1) The municipality may construct, or provide and maintain public landing places, halting places and cart stands and may levy fees for the use of the same.

(2) A statement, in the Oriya language of any fees prescribed by the municipality for the use of such place, shall be put up in a conspicuous part thereof.

Explanation :– A cart stand shall, for the purposes of this Act, includes stand for carriages (including motor vehicles within the meaning of the Motor Vehicles Act, 1939, IV of 1939) and animals.

310. Prohibition of use of public places or sides of public road as cart-stand :– Where the municipality has provided a public landing place, halting place or cart-stand, the Executive Officer may, with the approval of the municipality prohibit the use for the same purpose by any person within such distance thereof, as may be prescribed, of any public place or the sides of any public road.

311. Recovery of cart stand fees :– (1) if the fee leviable under sub-section (1) of Section 309 in respect of carriage or animal is not paid on demand, the person duly authorised to collect the same may seize such carriage or animal or any part of its burden suffice to defray the amounts due and detain the same in his custody.

(2) if such fees, together with the expenses occasioned by such seizure and detention, remains unpaid for twelve hours, the person duly authorised, as aforesaid shall forthwith send the carriage, animal or other property seized, as aforesaid, to the Executive Officer or such officer, as he may have authorised to receive and sell distrained property.

(3) The Executive Officer, or any other officer duly authorised by him, shall, forthwith give notice to the owner of the property seized, or if the owner is not known or is not resident in the neighbourhood, the person who was in charge of the said property at the time when it was seized, and if he is not found, publish by beat of drum that after the expiration of two days, exclusive of Sunday, from the date of service or after the said publication of such notice, he will sell the said property by auction at a place to be specified in the notice.

(4) If at any time before the sale, the person to whom notice has been given or the owner of the property seized tenders to the said officer the amount due on account of the fees and of all the expenses occasioned by the non-payment thereof and by the seizure and detention of the property, the property seized shall be forthwith released.

(5) If no tender is made to such officer, he shall sell the said property or sufficient portion thereof by auction and apply the proceeds of the sale to payment of the amount due on account of the fee and the expanses incidental to the seizure, detention and sale of the property, and shall return to the person in whose possession the property was at the time of seizure, any property or sum which may remain after the sale, and the application of the proceeds thereof, as aforesaid.

312. Licence for private cart-stand :– (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand unless he obtains from the Executive Officer a licence to do so.

(2) Application for such licence shall be made by the owner of the place in respect of which the licence is sought not less than thirty and not more than ninety days before such place is opened as a cart-stand or before the commencement of the year, for which the licence is sought, as the case may be.

(3) The Executive Officer shall, as regards private cart-stands already lawfully established, and may at his discretion, as regards new private cart-stand, grant the licence applied for, subject to such rules as to supervision and inspection and to such conditions as to conservancy, as the Executive Officer may think proper, or may refuse to grant such licence for any new private cart-stand. The Executive Officer may, however, at any time for breach of the conditions thereof, suspend or cancel any licence which has been granted under this section. The Executive Officer may also modify the conditions of the licence to take effect from a specified date.

(4) When a licence is granted, refused, suspended, cancelled, or modified under this section, the Executive Officer shall cause a notice of such grant, refusal, suspension, cancellation or modification in the Oriya language to be posted in some conspicuous place at or near the entrance to the place in respect of which the licence was sought or had been obtained.

(5) The Executive Officer may levy on every licence granted under this section a fee not exceeding two hundred rupees per annum.

(6) Every licence granted under this section shall expire at the end of the year.

Slaughter-houses

313. Provision of slaughter-houses :– (1) The municipality shall provide a sufficient number of places for use as public slaughter-houses.

(2) The municipality may charge rent and fees for the use of public slaughter-houses at such rates as it may think fit.

(3) The municipality may farm out the collection of such rents and fees for any period not exceeding three years at a time and on such term and condition as it may think fit.

314. Municipality may prohibit slaughtering of cattle in places other than public slaughter-houses :– The municipality may notify–

(a) that no person shall, without or otherwise than in conformity with the written permission of the Executive Officer, slaughter or permit to be slaughtered or cut off or skinned, or permit to be cut off or skinned any cattle, horse, sheep, goat or pig in any place other than at a public slaughter-house provided by the municipality:

Provided that nothing in this section shall be held to prohibit the slaughter of animals in the performance of religious rites in the places where it is usual to perform such rites, or for private use, but not for sale:

Provided further that no such notification shall have effect until sixty days from the date of publication;

(b) that no person shall, for purpose of sale to the public, slaughter or permit to be slaughtered any cattle, horse, sheep, goat or pig without or otherwise than in conformity with a licence obtained from the Executive Officer:

Provided that licence for slaughter of animals for the purpose of sale shall be granted, subject only to such regulations as may be made by the municipality, regarding supervision, inspection, disposal of the filth and effiluents from the slaughter-house and examination of animals before and after slaughter.

315. Slaughter of animals during festivals and ceremonies – The Executive Officer may, on occasion of festivals and ceremonies or as a special case, allow any animal to be slaughtered in such places as he thinks fit.

The milk trade

316. Regulation of milk trade :– (1) The municipality may notify that no person shall, without or otherwise than it conformity with a licence from the Executive Officer –

(a) carry on within the municipality the trade or business of a dealer in or importer or seller or hawker of milk or dairy produce;

(b) use any place in the municipality for the sale of milk or diary produce:

Provided that no such licence shall be given to any person who is suffering from a dangerous disease, as notified from time to time by State Government.

(2) Such licence may be refused, or may be granted, on such conditions as the Executive Officer may deem necessary, which may extend to the construction, ventilation, conservancy, supervision and inspection of the premises, whether within or without municipal limits where the animals from which the milk supply is derived are kept.

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CHAPTER - XXI
BURIAL AND BURNING GROUNDS

317. Registration of existing burial or burning grounds :– Within three months from the date of the publication of a notification by the State Government extending this chapter to any municipality, every place therein which is used as a burial or burning ground for corpses, shall be registered as such by the owner or person-in-charge thereof in the office of the municipality but not fees shall be charged for such registration.

318. Permission to make or renew, use of burial or burning grounds and registration of same :– The municipality may at any time grant permission for the formation and making of burial or burning grounds, or for the renewed use of such grounds as, owing to disuse, have not been registered under the last preceding section, and when such permission has been granted shall cause such grounds to be registered.

319. Provision of places to be used as burial or burning grounds :– The municipality 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 municipality.

320. Prohibition to bury or burn in unregistered ground :– After the expiration of the three months mentioned in Section 317, no corpse shall be buried or burnt otherwise than in a place which is borne on the register of the municipality as an open burial or burning ground, or has been provided by the municipality for the purpose; but the Executive Officer may grant special permission for a corpse to be buried or burnt elsewhere.

321. Power to order certain burial and burning grounds to be closed :– (1) The municipality may by public notice order any burial or burning ground, whether registered under Section 317 or provided under Section 319 which is in its opinion dangerous or likely to be dangerous to the health of person living in the neighbourhood, or to be offensive to such persons, to be closed from a date to be specified in the notice and shall in such case, if no suitable place for, burial or burning exists at a reasonable distance, provide a fitting place for the purpose.

(2) When notice is issued ordering the closing of any burial ground under sub-section (1), private burial places in such burial grounds may be excepted from the notice, subject to such conditions as the municipality may impose in this behalf:

Porvided that the limits of such burial places are defined, and that they shall only be used for the burial of members of the family of the owners thereof.

322. Appeals from orders under Section 321 :– Any person aggrieved by any order made by the municipality under the powers conferred upon it by the last preceding section may appeal to the State Government, and the decision of the State Government shall be final.

323. 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 Executive Officer may cause the corpse of such person to

be burnt or buried, 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, so far as may be possible, in a manner consistent with the religious tenets of the deceased.

324. Power to provide for burial or paupers free of charge :– The municipality may, from time to time out of the Municipal Fund, provide for the burial and burning of paupers free of charge within the limits of the municipality.

325. Power to licence fuel shop at burning grounds :– (1) The Executive Officer may, from time to time, grant licences to persons applying for the same for the sale at burning grounds of the fuel and other articles used for the cremation of dead bodies and in case any such licence is granted shall prescribe a scale of rates for the sale of such articles, and any person not so licensed, who, within three hundred yards of any such burning grounds, sells or offers for sale any such fuel or other articles, shall be liable to a fine not exceeding fifty rupees.

(2) The Executive Officer may, on good and sufficient cause, cancel or withdraw any such licence he may think fit, and any person to whom any such licence is granted, who charges for the sale of any such article at any higher rate than the rate fixed for such article in such scale, shall be liable to have his licence cancelled and shall be liable also to a fine not exceeding ten rupees.

326. Municipality to provide fuel to be burning grounds :– At any burning ground provided by the municipality the municipality shall make adequate arrangements for the sale of fuel and other articles used for the cremation of dead bodies.

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CHAPTER - XXII
PLACE OF PUBLIC RESORT AND ENTERTAINMENT

327. Extent of the Chapter :– Nothing in this chapter shall apply to any church, temple, mosque or other place of public worship.

328. No enclosed place or building to be used for public resort without licence :– Any enclosed place, building or tent, situated within the municipality and covering an area of five hundred square feet or upwards, shall not be used by any person or party for the purpose of public resort or entertainment, the admission whereto is regulated by payment of money, unless a licence has been previously obtained in the manner hereinafter provided.

329. Applications for licence :– When any person desires to obtain a licence to use any enclosed place or building for public resort or entertainment or to construct any enclosure or building for such purpose, he shall send an application to the Executive Officer setting forth the name of the owner of the place or building, its situation, size and description, the material of which the enclosure or building is made or proposed to be made, whether it is or is proposed to be permanent, temporary and the purpose for which it is proposed to be used.

330. The Executive Officer shall inspect and may require addition or alteration to place or building :– Upon the receipt of any such application, the Executive Officer of the municipality shall personally inspect or cause to be inspected by the Health Officer and the Engineer and if need be by a responsible Officer or a Councillor of the municipality, the place or building in respect of which a licence is required and may call on the applicant by the notice in writing to make any alteration or addition in the material or arrangement of the enclosure or building or the precaution for the safety of the public to be assembled therein and may refuse to grant a licence until the alteration or addition is made.

331. When licence is to be granted :– if the Executive Officer is satisfied –

(a) that the enclosed place or building may safely be used for the purpose of public resort or entertainment proposed.

(b) that no objection arising from its situation, ownership or purpose exists, shall give to the applicant a written licence signed by him specifying the enclosure or building and the purpose for which it is to be used. Such licence shall be in such form and subject to such fee and conditions as the State Government may from time to time by rule direct.

If the Executive Officer is not satisfied as aforesaid he may refuse to grant licence recording his reasons for refusal in writing.

332. Licence to state period for which it is to be in force :– Every licence granted under this chapter, shall state the period for which it is to continue in force and shall cease to be in force on the expiration of that period.

333. Cancellation or suspension of licence :– The Executive Officer may, for reasons recorded in writing, cancel or suspend the licence when he has reason to believe that –

(a) the licence has been fraudulently obtained.

(b) that enclosed place or building has been used for other purposes of public resort or entertainment than that for which the licence was granted.

334. Appeal against orders under sections 330, 331 and 333 :– (1) Any applicant for a licence under this chapter may appeal from any order made under Sections 330, 331 and 333 by the Executive Officer of the municipality.

(2) The appeal shall be made within thirty days from the day on which the applicant received the order appealed against.

(3) The appeal shall lie to the chairperson of the municipality.

(4) The municipality shall have the same power to inspect and to require alteration or addition in the enclosed place or building as the Executive Officer and may either grant or withhold the licence or make such other order as it thinks fit.

335. Power to enter place of public resort to inspect licence or to prevent further use :– It shall be lawful for any Magistrate, or any Police Officer, not being below the rank of Sub-Inspector of Police, to enter at any time any enclosure or building for which licence is required, under this chapter, to inspect the licence, if any, that has been issued and if there is no licence or if the conditions of the licence are not observed

and if he sees reasons to apprehend imminent danger to the public, to prevent the further use of such enclosure or building as a place of public resort or entertainment.

336. Penalties :– Every person who, having the immediate control of any enclosed place or building, permits to be used for public resort or entertainment, without having obtained a licence, or having obtained a licence under this chapter, permits such use in contravention of any of the conditions of such licence, shall be liable on conviction before a Magistrate to a fine which may extend to five hundred rupees.

CHAPTER - XXIII

LICENCES AND PERMISSION

337. General provisions regarding licences and permissions :– (1) Every licence and permission granted under this Act or any rule or bye-law made under this Act shall specify the period, if any, for which, and the restrictions, limitations and conditions, subject to which, the same is granted, and shall be signed by the Executive Officer of the municipality or by some person duly authorised by him in that behalf.

(2) Save as otherwise expressly provided in or may be prescribed under this Act, for every such licence or permission fees may be charged on such units and at such rates as may be fixed by the municipality.

(3) The municipality may farm out the collection of such fees for a period of one year at a time on such conditions as it thinks fit.

(4) It shall be the duty of the Executive Officer to inspect places in respect of which a licence or permission is required by or under this Act, and he may enter any such place between sunrise and sunset and also between sunset and sunrise, if it is open to the public or any industry is being carried in it at the time; and if he has reasons to believe that anything is being done in any place without a licence or permission where the same is required by or under this Act, or otherwise than in conformity with the same, he may at any time by day or night without notice enter such place for the purpose of satisfying himself whether any provision of law, rules, regulations or bye-laws, any condition of licence or permission or lawful direction or prohibition is being contravened; and no claim shall lie against any person for any damage under this sub-section by the Executive Officer or any person to whom he has lawfully delegated his powers, or by any force necessary for effecting an entrance under this sub-section.

(5) The grantee of every licence or permission shall, at all reasonable time while such licence or permission remains in force, produce the same at the request of the Executive Officer or any person authorised by him.

(6) Whenever any person is convicted of an offence in respect of the failure to obtain a licence or permission required by the provisions of this Act or any rule, or regulation or bye-law made under this Act, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the municipality the amount of the fees chargeable for the licence or permission and may in his discretion, also recover summarily and pay over the municipality such amount, if any, as he may fix as the costs of prosecution.

(7) Such recovery of the fees under sub-section (6) shall not entitle the person convicted to a licence or permission as aforesaid.

(8) The acceptance by, or on behalf of a municipality of the pre-payment of the fee for licence or permission, shall not entitle the person making such pre-payment to the licence or permission, as the case may be, but only to refund of the fee in case of refusal of the licence or permission, but an applicant for the renewal of a licence or permission shall until communication of orders on his application, be entitled to act as if the licence or permission had been renewed; and save as otherwise specially provided in this Act, if orders on an application for licence or permission are not communicated to the applicant within thirty days after the receipt of the application by the Executive Officer, the application shall be deemed to have been allowed for the year or for such less period as is mentioned in the application, and subject to the law, rules, regulations, bye-laws and all conditions ordinarily imposed.

(9) Save as otherwise expressly provided in or may be prescribed under this Act, every application for a licence or permission or the renewal of a licence or permission shall be made not less than thirty and not more than ninety days before the commencement of the year.

338. Refusal, cancellation, suspension of licence or permission :– (1) Every order of the authority competent under this Act or any rule or bye-law made thereunder to pass an order refusing, suspending, cancelling or modifying a licence or permission shall be in writing and shall state the grounds on which it proceeds.

(2) Subject to special provisions in Chapter XX regarding burial and burning grounds and Chapter XXII regarding places of public resort and entertainment, any licence or permission granted under this Act or any rule or bye-law made under it may at any time be suspended or cancelled by the Executive officer, if any of its restriction, limitations or conditions is evaded or infringed by the grantee, or if the grantee is convicted of a breach of the provisions of this Act, or of any rule, bye-law made under it in any matter to which such licence or permission relates, or if the grantee has obtained the same by misrepresentation, or fraud; an appeal shall lie to the municipality against any order of the Executive Officer under this sub-section suspending or cancelling a licence.

(3) When any licence or permission is suspended or cancelled, or when the period, for which, it was granted, or within which, application for renewal should be made under sub-section (8) of Section 337 has expired, whichever expires later, the grantee shall, for all purpose of this Act, or any rule or regulation or bye-law made under this Act, be deemed to be without a licence or permission, until the order suspending or cancelling the licence or permission is cancelled or, subject to said sub-section, until the licence or permission is renewed, as the case may be.

339. Limitation of time for appeal :– Saves as otherwise expressly provided or may be prescribed, every appeal under this Act shall, subject to the provisions of Section 5 of the Indian Limitation Act, 1908 (Act IX of 1908), be presented–

(a) where the appeal is against an order granting a licence or permission within thirty days after the date of the publication of the order on the notice board of the municipality; and

(b) in other cases, within thirty days after the date of the receipt of the order or proceeding against which the appeal is made.

340. Form of licences, notices and permissions :– (1) All licences, notices and permission given, issued or granted as the case may be, under the provisions of this Act must be in writing.

(2) Every licence, permission, notice, summons or other document, which is required by this Act or by any rule or regulation or bye-law under it to bear the signature of the Chairperson, Executive Officer or of any officer of municipality shall be deemed to be properly signed, if it bears facsimile of the signature of the Chairperson or the Executive Officer or of such officer, as the case may be, stamped thereon.

(3) Nothing in sub-section (2) shall be deemed to apply to a cheque drawn upon a Municipal Fund or to any deed or contract entered into by a municipality.

341. Notice of prohibitions or setting apart of places :– Whenever a municipality sets apart any place for any purpose or prohibits the doing of anything in any place, the Executive Officer shall forthwith cause to be put up a notice at such place in the Oriya language specifying the purpose for which such place has been set apart, or the act prohibited in such place.

342. Method of serving documents :– (1) When any notice or order document is required by this Act, or by any rule, regulation, bye-law or order made under it, to be served on, or sent to, any person, the service or sending thereof may by effected –

(a) by giving or tendering the said documents to such person; or

(b) if such person is not found, by leaving such document at his last known place of abode, or business, or by going or tendering the same to some adult member or servant of his family;

(c) if such person does not reside in the local area and his address elsewhere is known to the Executive Officer, by sending the same to him by posts registered; or

(d) if none of the means aforesaid be available by fixing the same in some conspicuous part of such place of abode or business.

(2) When the person is an owner or occupier of any building or land it shall not be necessary to name the owner or occupier in the document and in the case of joint owners and occupiers, it shall be sufficient to serve it on, or send it to, one of such owners or occupiers.

(3) Whenever in any notice, form or other documents, served or sent under this Act, a period is fixed within which any tax or other sum is to be paid or any work executed or anything provided, such period shall, in the absence from this Act of any distinct provision to the contrary, be calculated from the date of such service or sending.

343. Consequence of failure to obtain licences, or of breach of the same :– If under this Act or any rule, regulation or bye -law made under it, the licence or permission of a municipality or its Chairperson or the Executive Officer as the may be, is necessary for the doing of any act, and if such act is done without such licence or

permission, or in a manner inconsistent with the terms of any such licence or permission, then –

(a) the Chairperson or the Executive Officer may by notice require the person so doing such act to alter, remove, or as far practicable, restore to its original state the whole or any part of any property, movable or immovable, public or private, affected thereby, within a time to be specified in the notice; and further;

(b) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall be liable on conviction by a Magistrate to a fine not exceeding fifty rupees for every such offence.

344. Time for complying with notice, order and power to enforce in default :– (1) Whenever by any notice, requisition or order under this Act, or under any rule or regulation or bye-law made under it any person is required to execute any work or to take any measures or do anything, a reasonable time shall be named in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(2) If such notice, requisition or order is not complied with within the time so named, the Chairperson of the municipality concerned may cause such work to be executed or may take any measures or do anything may, in his opinion, be necessary for giving due effect to the notice, requisition or order as aforesaid.

(3) if no penalty has been specially provided in this Act for failure to comply with such notice, the said person shall be liable on conviction by a Magistrate to a fine not exceeding fifty rupees for every such offence.

345. Recovery of sums due as taxes :– All costs, damages, compensation, penalties, charges, fees (other than school fees), expenses, rent (not being rents for lands and buildings demised by the municipality), contributions and other sums, which under this Act or any other law or rules or bye-laws made thereunder, are due by any person to the municipality may, if there is no special provision in this Act for their recovery, be recovered in the prescribed manner.

346. Limitation for recovery of dues :– No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any sum due to a municipality under this Act, after the expiration of a period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such sum.

347. Persons empowered to prosecute :– Save as otherwise expressly provided in this Act, no person shall be tried for any offence against the provisions of this Act, or of any rule, regulation or bye-laws made under it, unless a complaint is made by the police or the Executive Officer of a municipality or by a person expressly authorised in this behalf by the municipality or its Executive Officer within three months of the commission of the offence. But nothing herein shall affect the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), in regard to the power or certain Magistrate to take cognizance of offences upon information recovered or upon their own knowledge or suspicion :

Provided that failure to take out a licence or obtain permission under this Act shall, for the purpose of this section, be deemed a continuing offence until the expiration of the period, if any, for which the licence or permission is required, and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

348. Recovery of fines, costs :– Any fine, costs, tax, other sum imposed or assessed by a Magistrate under this Act or under any rule or regulation or bye-law made under it shall be recoverable by such Magistrate under the Code of Criminal Procedure, 1898 (Act V of 1898), as if it were fine and the same shall be paid to the municipality concerned to be applied to the purposes of this Act.

349. Notice of action against municipality :– (1) No suit, or other legal proceeding, shall be brought against any Municipal Councillor, the Chairperson, Executive Officer, any Councillor, officer or servant, in respect of any act done or purporting to be done in execution or intended execution of this Act or any rule, regulation bye-law, or order made under it or in respect of any alleged neglect or default in the execution of this Act or any such rule, regulation, by-law or order, until the expiration of two months next after notice in writing stating the cause of action, the nature of the relief sought, the amount of compensation claimed, and name and place of residence of the intended plaintiff, has been left at the office of the municipality, and if the proceeding is intended to be brought against any such Chairperson, Executive Officer, Councillor, Officer, servant or person, also delivered to him, or left at his place of residence. And unless such notice be proved the court shall find for the defendant.

(2) Every such proceeding shall, unless it is a proceeding for the recovery of immovable property or for a declaration of title thereto, be commenced within six months after the date on which the cause of action arises or in case a continuing injury or damage, during such continuance or within six months after the ceasing thereof.

(3) if any municipality or person to whom notice is given under sub-section (1) shall, before the proceeding is commenced, tender amends to the plaintiff and if the plaintiff does not in any such proceeding recover more than, the amount so tendered, he shall not recover any costs incurred by him after such tender. The plaintiff shall also pay all costs incurred by the defendant after such tender.

(4) No suit or other legal proceeding shall be brought against the Chairperson, the Executive Officer or any Councillor, officer or servant of a municipality or any person acting under the direction of a municipality, or such Chairperson, the Executive Officer, Councillor, officer or servant in respect of any act done, in execution or intended execution of this Act, or any rule, regulation, bye-law or order made under it, or in respect of any alleged neglect or default on his part in the execution of this Act or any such rule, regulation, bye-law or order, if such act was done, or if such neglect or default was made, in good faith; but any such proceeding shall, so far as it is maintainable in a court, be brought against the municipality except in the case of suits brought under Section 375.

350. Compounding of offences :– The Executive Officer may, with the approval of the Chairperson, compound any offence under this Act which may by rules made by the State Government be declared compoundable.

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CHAPTER - XXIV
MEDICAL

351. Municipality to have control and administration of public charitable dispensaries or hospitals within the municipal area :– It shall be lawful for the State Government from time to time to direct by notification that any public charitable dispensary or hospital within the municipal area shall be under the control and administration of the municipality and the municipality shall thereupon be charged with the control and administration thereof and the construction and repair of all buildings connected therewith.

352. Municipality may establish and maintain dispensaries and hospitals :– A municipality may provide for the use of the inhabitants of the municipality dispensaries, hospitals (allopathic or otherwise) or temporary places for the reception of the sick and for that purpose may–

(a) itself build such dispensaries, hospitals or places of reception; or

(b) contract for the use of any such dispensary, hospitals or place of reception or of any part thereof; or

(c) enter into any agreement with any person having the management of any hospital for the reception of sick inhabitants of the municipality on payment or otherwise as may be agreed upon.

353. Management of hospitals and dispensary by joint Committee :– (1) The State Government may by notification direct that the cost of establishment, maintenance and management of any hospital or dispensary (allopathic or otherwise) shall be entrusted to a joint Committee consisting of persons appointed by local authorities and shall specify in such notification the proportion of the cost of establishment and maintenance of the said hospital or dispensary to be provided by the local authorities concerned:

Provided that no direction shall be made under this section except with the consent of the concerned local authorities.

(2) Subject to the prescribed rules such Joint Committee shall, in respect of such hospital or dispensary, have the same powers and be subject to the same liabilities as are conferred and imposed by any law for the time being in force on the said local authorities.

354. Two or more municipalities may combine to establish dispensaries :– Two or more municipalities may combine in providing a common dispensary, hospital (allopathic or otherwise) or place for the reception of the sick and fix the proportions of the cost thereof to be borne by them.

355. Municipality may contribute to cost of maintenance of dispensary or hospital outside municipal area :– A municipality may contribute such annual or other sum as may be agreed upon towards cost of establishment or maintenance of any dispensary or hospital (allopathic or otherwise) which is situated outside the municipal area but is generally used by the inhabitants of the municipality.

356. Municipality to conform to rules made by State Government :– Every municipality in exercising powers vested in it by Sections 351, 352, 353, 354 and 355 shall conform to the prescribed rules.

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CHAPTER - XXV
EDUCATION

357. Recognised Primary Schools :– Subject to the prescribed rules, the municipality shall be charged with and be responsible for, the maintenance and management of all primary and basic schools recognized by the State Government within the municipality, and construction and repair of all buildings connected therewith:

Provided that nothing contained in this section shall be held to apply to the practising primary schools attached to training schools and such other schools as may be notified from time to time by the State Government and these shall remain under such authority as ordered by the said Government;

Provided further that the State Government may, of their own motion or on the application of the municipality, exempt any municipality from, any one or more of the obligations imposed under this section, subject to such conditions as they deem proper and may direct that the municipality concerned shall pay such annual contribution in lieu of such exemption to such authority or authorities as the State Government may determine. The authority or authorities thus appointed shall, exercise all the functions of the municipality as are enumerated in this chapter, and control and operate the Primary Education Fund constituted under Section 362.

358. Middle Schools, High Schools and Schools of other descriptions :– The Municipality may, subject to the prescribed rules.–

(a) with its own consent, be charged with and made responsible for the maintenance and management of any Middle School, High School, or a School of any other description recognised by State Government within the municipality; or

(b) make grants-in-aid to such school or schools.

359. Provisions, maintenance and management of hostels :– The municipality may, subject to the prescriber rules, –

(a) provide buildings within or without the municipality, to be used as hostels in connection with schools for the maintenance and management of which the municipality is responsible under Section 357 or Section 358, and maintain and manage such hostels;

(b) make grants-in-aid to any schools or educational institutions referred to in Section 358 for the purpose of providing buildings to be used as student's hostels in connection with such school, college or institution or for the purpose of maintaining and managing such hostels; or

(c) establish or grant scholarship for the furtherance of technical or any other special form of education.

360. Grant-in-aid by the State Government to municipality :– The State Government may, from time to time, make such grants-in-aid to a municipality as they may deem necessary for expenditure on–

(a) the improvement of any school recognised by them,

(b) the provision of buildings to be used as student's hostels in connection with any school referred to in Section 358 or any other educational institution and the maintenance and management of such hostels. And subject to the prescribed rules the municipality shall be charged with and be responsible for the proper distribution or such funds.

361. Transmission of particulars of grants-in-aid to Schools :– Every municipality shall in each year–

(i) frame and transmit to the Director of Public instruction by such date and in such form as he may direct a statement showing–

(a) the names of schools for which grants-in-hand have been sanctioned for that year, and

(b) the amount of the grant which has been sanctioned for each such school;

(ii) furnish a report to the Director of Public instruction by such date and such form as he may direct exhibiting the grass-in-aid which it has distributed to schools within its jurisdiction.

(iii) transmit to the Director of Public instruction such further reports and statements as may be prescribed.

362. Primary Educational Fund :– There shall be constituted for each Municipality a Primary Education Fund to which shall be credited–

(1) the proceeds of any tax levied within the jurisdiction of such municipality under the provisions of this chapter;

(2) an annual contribution from the general funds of the municipality not being less than a minimum fixed by the State Government on that behalf;

(3) such additional contribution from the general funds of the municipality as the State Government may decide to be necessary in any year in order to balance the budget of the fund for the year;

(4) all sums granted to the municipality by the State Government for the benefit of primary education;

(5) all income derived from endowments or other property owned or managed by the municipality for the benefit of primary education;

(6) all other sums of money which may be contributed or received by the municipality for the purpose of this chapter.

363. Primary Education Fund where to be lodged and how to be drawn upon :– (1) The Primary Education Fund constituted under the preceding section shall be lodged in such Bank or Government Treasury as the State Government may direct.

(2) All expenses incurred on Primary Education by the Municipality concerned shall be paid out of the fund.

(3) All orders of cheques upon the Fund shall be signed by the Executive Officer of the municipality and countersigned by the Chairperson or the Vice-Chairperson or in

the absence of both the Chairperson Vice-Chairperson [1][by a member of the Finance Committee.

(4) So far as the Fund to the credit permits, the Treasury or Bank shall pay–

(a) all orders or cheques signed in accordance with sub-section (3);

(b) all expenses incurred by the State Government on behalf of the municipality provided that the Municipality has given previous authority in writing to the Bank or Treasury to debit such expenses to the Fund without the issue of any order or cheque.

364. Education tax :– Any municipality may with the previous sanction of the State Government and shall, if so directed by them, levy within its area taxes not exceeding twenty five per cent of the taxation levied in such area under the law for the time being in force, under either or both of the following heads, namely–

(i) holding tax;

(ii) profession tax.

365. Rates of levy of the taxes :– (1) The rates of levy of the tax under the preceding section shall subject to the maximum specified in that section, be determined–

(a) by the municipality with the previous sanction of the State Government in case the tax is levied by the Municipality of its own motion; and

(b) by the State Government in case the tax is levied at their direction.

(2) Subject to the maximum aforesaid, the municipality may with the previous sanction of the State Government, and shall, if so directed by them, after the rate of levy of such tax.

366. Assessment and realisation of taxes :– The tax levied in any municipality under Section 364 shall be deemed to be an addition to a tax levied in such area under the law for the time being in force governing the municipality, and all the provisions of such law relating to the incidence, assessment, or realisation of such tax or in any manner connected therewith shall be applicable accordingly:

Provided that the State Government may direct that the said provision shall apply subject to such modifications and restrictions as may be prescribed.

367. Government contribution to Primary Education Fund :– When a Primary Education Fund is constituted under Section 362, the State Government shall contribute thereto a sum not less than the proceeds of taxation levied under section 364 on behalf of the fund:

Provided that such contribution shall be, in addition to and not in lieu of the amount of recurring expenditure incurred from the Consolidated Fund of the State during the financial year before coming into force of the provisions of this chapter in Primary Schools managed or aided by the municipality for which such Primary Education Fund has been constituted:

Provided further that if and when the State Government transfer the management of any Primary School directly managed or aided by them to the

1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

municipality, the amount of expenditure made on such a School from the Consolidated Fund of the State during the year immediately preceding the year of such transfer shall be contributed by the said Government to the said municipality.

368. Budget of Primary Education Fund :– (1) Every municipality for which a Primary Education Fund has been constituted under Section 362 shall submit to State Government through the Director of Public Instruction in such form and on or before such date in each year, as may be prescribed a budget for the ensuing year showing the income and expenditure relating to such Fund.

(2) The State Government may pass such orders as they may think fit in respect of the budget.

369. Audit of accounts of Primary Education Fund :– The accounts of each Primary Education Fund shall be examined and audited under the provision of the Orissa Local Fund Audit Act, 1948 (Orissa Act 5 of 1948), and the municipality concerned shall carry out any instructions which the State Government may issue on the audit report.

370. Recognition of Primary Schools :– (1) An application for the recognition of a Primary School shall be made in the prescribed form to the District Inspector of Schools.

(2) Subject to such rules, as may be prescribed, the District Inspector of Schools may by, an order in writing, grant such application either with or without conditions or refuse or defer the grant of recognition and may in like manner cancel or suspend any order granting recognition.

(3)(a) An appeal shall lie to the Director of Public Instruction in respect of any order passed under sub-section (2) within sixty days from the date of the passing thereof.

(b) The Director of Public Instruction shall also have power otherwise than on appeal to modify or cancel any order passed by the District Inspector of Schools under sub-section (2):

Provided that the Director of Public Instruction shall, before modifying or cancelling any such order, communicate to the said District Inspector the action proposed to be taken by him and his reasons therefor and consider any explanation or objection which may be made by the said District Inspector.

Provided further that no action shall be taken by the Director under this clause unless he has communicated to said District Inspector his proposal to modify or cancel the order passed by him within one year from the date of the passing thereof.

371. Previous orders of recognition in respect of Primary Schools :– All orders of recognition in respect of Primary Schools made by the Director of Public Instructions or by any order officer subordinate to him before this Act comes into force shall be deemed to have been made under the provisions of this chapter.

372. Admission of Primary Schools to aid :– (1) An application or grants-in-aid to any Primary School should be made in the prescribed form to the Municipality.

(2) Subject to such rules as may be prescribed, the Municipality concerned may by an order in writing grant such application, either with or without conditions or refuse or defer the grant of admission to aid and may in like manner cancel or suspend any order granting admission to aid.

(3) (a) An appeal shall lie to the State Government in respect of any order passed under sub-section (2) within ninety days from the date of passing thereof.

(b) The State Government shall also have power otherwise than on appeal to modify or cancel any order passed by the municipality under sub-section(2).

373. Previous orders admitting Primary Schools to aid :– All order admitting Primary Schools to aid made by the Director of Public Instruction or by any other officer sub-ordinate to him before this Act comes into force shall be deemed to have been made under the provisions of this Chapter.

374. Power of State Government to make rules :– (1) The State Government may after previous publication, make rules to carry out all or any of the purpose of this Chapter.

(2) In particular and without prejudice to the generality of the foregoing power they may make rules–

(a) with reference to all matters expressly required or allowed by this Chapter to be prescribed;

(b) declaring what shall constitute 'primary education', 'primary school place', 'school age,' and 'attendance at school';

(c) declaring what schools or departments of schools be classed as primary schools;

(d) regulating the appointment, pay, punishment and removal of the members of the staff of such schools employed by the municipality;

(e) laying down the registers, statements, reports, returns, budgets and other information to be maintained or furnished by the municipality in respect to Primary Schools;

(f) regulating the procedure for the assessment and realisation of the taxes leviable under Section 364;

(g) declaring the conditions subject to which schools may be admitted to recognition or aid.

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CHAPTER - XXV-A

OTHER POWERS OF MUNICIPALITY

[1][**374-A. Other powers of Municipality :–** Without prejudice to the generality of the powers and functions of Municipality provided in this Act, every Municipality shall, subject to such conditions and limitations as the State Government may, in the public interest, deem fit to impose, have powers with respect to –

1. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

(a) preparation of plans for economic development and social justice; and

(b) the performance of functions and implementation of schemes in relation to –

(i) urban planning including town planning.

(ii) planning for economic and social development,

(iii) urban forestry, protection of the environment and promotion of ecological aspects,

(iv) safeguarding the interest of weaker sections of society including handicapped and mentally retarded,

(v) slum improvement and upgradation,

(vi) urban poverty alleviation,

(vii) promotion of cultural, educational and aesthetic aspects,

(viii) vital statistics including registration of birth and death.]

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CHAPTER - XXVI

LIABILITIES AND DISABILITIES OF CHAIRPERSON, VICE-CHAIRPERSON, [1][* * *] COUNCILLOR AND SERVANTS OF THE MUNICIPALITY

375. Liability for loss, waste or mis-application of property :– (1) Every Chairperson, Vice-Chairperson, [1][* * *] Councillor, officer or servant of a municipality, including a Government servant whose services are lent to the municipality, shall be liable for the loss, waste or mis-application of any money or other property owned by or vested in the municipality if such loss, waste or mis-application is a direct consequence of any illegal act, omission, neglect or misconduct on his part; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the Municipality with the previous sanction of the State Government or by the State Government.

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

376. Sanction for prosecution of Chairperson, Vice-Chairperson or Councillor of a municipality :– When the Chairperson, Vice-Chairperson, [1][* * *] or any Councillor of a municipality or any officer of Government whose services are lent to the municipality is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take congnizance of such offence except with the previous sanction of the State Government.

1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

377. Assessments not to be impeached :– (1) No assessment or demand made, and no charge imposed, under the authority of this Act, shall be impeached or affected by reason of any clerical error or by reason of any mistake

(a) in respect of the name, residence, place of business or occupation of any person, or

(b) in the description of any property or think, or

(c) in respect of the amount assessed, demanded or charged:

Provided that the provisions of this Act have been in substance and effect complied with. Further no proceedings under this Act shall, merely for defect in form, be quashed or set aside by any Court.

(2) No suit shall be brought in any Court to recover any sum of money collected under authority of this Act or to recover damages on account of any assessment or collection of money made under the said authority:

Provided that the provisions of this Act have been in substance and effect compiled with.

(3) No distraint of sale under this Act shall be deemed unlawful nor shall any person making the same be deemed a trespasser, on account of any error, defect or want of form in the notice, schedule, form, summons, notice of demand, warrant or dstraint, inventory or other proceeding relating thereto, if the provisions of this Act, the rules, regulations and bye-laws have in substance and effect been complied with :

Provided that every person aggrieved by any irregularity may recover satisfaction for any special damage sustained by him.

378. Servants of municipality or contractors are Public servants :– The Chairperson, Vice-Chairperson, [1][* * *] Executive Officer, a Councillor there of any person employed by the municipality or any person with whom the municipality or its Executive Officer has entered into a contract on behalf of the municipality in the performance of their duty or of anything which they are empowered or required to do by virtue or in consequence of this Act or of any bye-laws, rule, regulation or order made under it, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (XLV of 1860).

379. Prohibition against removal or obliteration of notice :– No person shall, without authority in that behalf, remove, destroy, deface, or otherwise obliterate, any notice exhibited or any sign or mark erected by or under the orders of a municipality or its Chairperson or the Executive Officer.

380. Executive Officer's power to summon parties :– The Executive Officer may summon any person to appear him or the Chairperson, Vice-Chairperson, [1][* * *], Councillor or a Committee and to give evidence or produce documents, as the case may be, in respect of any question relating to a taxation or to the grant of any licence or permission under the provisions of this Act.

381. Penalty on Councillor, officer or servant being interested in contracts made with a municipality :– If any Councillor or any officer or servant, maintained

1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

by or employed under a municipality, has directly or indirectly any share or interest in any work done by order of the municipality of which he is a Councillor, or by which he is maintained or under which he is employed, or in any contract with or under such municipality, he shall thereupon be disqualified to continue in office and shall be punishable on conviction with a fine which may extend to five hundred rupees:

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person–

(a) having a share in any registered Joint Stock Company or a Co-operative Society, constituted under the laws for the time being in force which shall contract with or be employed by or on behalf of the municipality; or

(b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted; or

(c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the municipality:

Provided further that it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a Councillor in any matter relating to a contract or agreements between the municipality and such company or the manager or publisher of such newspaper.

Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity.

382. Personal liability of Councillors :– (1) A person shall be liable for any expenditure made from Municipal Fund contrary to law where such illegal payment has been authorised by him while acting as Chairperson, Vice-Chairperson. [1][* * *] Councillor or Executive Officer.

Provided that the State Government may in their discretion for reasons to be stated in writing condone any such illegal payment.

In any such case, where an application has not been condoned by the State Government, a suit for compensation may be instituted against the person in pursuance of the decision of the municipality at a meeting.

[2][(2) Nothing in sub-section (1) shall apply to a person who is liable under Section 73-A.]

CHAPTER - XXVII

PENALTIES

383. General Provisions regarding penalties specified in the Schedule :– (1) Whoever–

(a) contravenes any provision of any of the sections specified in the first column of Schedule IV, or

1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Inserted by the Orissa Act 10 of 1997, w.e.f. 19.05.1997.

(b) contravenes any rule or order made under any of the said specified section, or

(c) fails to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of the provisions of any of the said sections.

shall be punishable with fine which may extent to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of –

(a) contravening any provision of the sections specified in the first column of Schedule v, or

(b) contravening any rule or order made under any of the said specified section, or

(c) failing to comply with any direction lawfully given to him, or any requisition lawfully made upon him under or in pursuance of any of the said sections,

continue to contravene the said provision, or to neglect to comply with the said direction or requisition, as the case may be, shall be punishable for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

Explanation :– The entries in the third column of Schedules IV and V headed 'subject are not intended as definitions of the offences described in the sections, sub-sections or clause, mentioned in the first and second columns or even as abstracts of those sections, sub-sections or clauses, but are inserted merely as reference to the subject of the sections, sub-sections or clauses as the case may be.

384. Penalty for acting as Councillor, Chairperson or Vice-Chairperson [1][* * *] of a municipality when disqualified :– (1) Whoever acts as a Councillor, knowing that under this Act or the rules and regulations made thereunder, he is not entitled or has ceased to be entitled to hold such office, shall be punishable with fine which may extend to fifty rupees for every such offence.

(2) Whoever acts as the Chairperson or Vice-Chairperson [1][* * *] of a municipality or exercises any of his functions knowing that under this Act or the rules or regulations made thereunder he is not entitled or has ceased to be entitled to hold such office or to exercise such functions shall be punishable with fine which may extend to one hundred rupees for every such offence.

(3) If the Chairperson or Vice-Chairperson [1][* * *] of a municipality intentionally omits to deliver up or to hand over any documents of, or any moneys or other properties vested in, or belonging to the municipality which are in or have come into his possession or control, to his successor in office or other prescribed authority in every case as soon as his term of office as such Chairperson or Vice-Chairperson [1][* * *] expires and in the case of the Vice-Chairperson [1][* * *] also on demand by the Chairperson, such Chairperson or Vice-Chairperson [1][* * *] shall punishable with fine which may extend to five hundred rupees for every such offence.

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1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

385. Penalty for acquisition by an officer or servant of interest in contract work :– If any officer or servant of a municipality knowingly acquires, directly or indirectly by himself or by a partner or employer or servant, any personal share or interest in any contract or employment with, by or on behalf of the municipality, he shall be deemed to have committed an offence under Section 168 of the Indian Penal Code (XLV of 1860):

Provided that no person shall, by reason of being a share holder in or member of any registered Joint Stock Company or Co-operative Society constituted under the laws for the time being in force be held to be interested in any contract entered into between such company and the municipality unless he is a Director of such company;

Provided further **that** nothing in this section shall apply to a teacher, employed by a municipality who with the sanction of the State Government enters into a contract with the municipality with regard to the utilisation, for the purpose of a school of any land or building owned by him or in which he has a share or interest.

[1][**385-A. Penalty for unlawful building :–** If the construction or reconstruction of any building or well –

(a) is commenced without the permission of the Executive Officer; or

(b) is carried on or completed otherwise than in accordance with the particulars on which such permission was based; or

(c) is carried on or completed in contravention of any lawful order or in breach of any provision contained in this Act or in any rule or bye-law made hereunder or of any direction or requisition lawfully given or made; or

If any alterations or additions required by any notice issued under Section 271 or Section 273 are not duly made; or

If any person to whom a direction is given by the Executive Officer to alter or demolish a building or well under Section 273-A fails to obey such direction; the owner of the building or well or the said person, as the case may be, shall be liable on conviction to a fine which may extend in the case of a building to five hundred rupees and in the case of a well or hut to fifty rupees and to a further fine which may extend in the case of a building to one hundred rupees and in the case of a well or hut to ten rupees, for each day during which the offence is proved to have continued after the first day.]

386. Penalty for not giving or giving false information :– If any person who is required by the provisions of this Act or by any notice or other proceedings issued under this Act to furnish any information-

(a) intentionally omits to furnish it, or

(b) knowingly furnishes false information,

such person shall be punishable with a fine which may extend to one hundred rupees.

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1. Inserted by the Orissa Municipal Amendment Act 1952 (Orissa Act XII of 1953), s. 17.

CHAPTER - XXVIII
RULES, REGULATIONS, BYE-LAWS AND SCHEDULE

387. Power of State Government to make rules :– (1) The State Government may make rules to carry out all or any of the purpose of this Act and prescribe forms for any proceedings for which they consider that a form should be provided.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to maker rules–

(i) with reference to all matters expressly required or allowed by this Act to be prescribed;

(ii) with reference to all matters not expressly provided for in this Act, which relate to elections of Chairperson, Vice-Chairperson [1][* * *] or Councillors including deposits to be made by candidates standing for election as Councillors and the condition under which such deposits may be forfeited and generally determining the mode and time of election of Councillors and members of committees, term of office and qualification of such members and the registration of voters and candidates and for regulating all elections under this Act;

[2][* * *]

(iii) as to the conditions on which property may be acquired by a municipality or on which property vested in or belonging to such municipality may be transferred by sale, mortgage, lease, exchange or otherwise;

(iv) as to the working of Provident Fund institutions;

(v) as to the conditions on which grants-in-aid shall be paid from a Municipal Fund for purposes of medical relief and as to the conditions on which grants and loans may be made;

(vi) as to the opening; maintenance, management and supervision of municipal schools;

[3][(vi-a) with regard to grant of pensions, gratuities and other retirement benefits out of Municipal Fund to the Officers, servants and employees of the Municipalities, Notified Area Councils and employees of the Orissa State Municipalities' Union and extraordinary pensions and gratuities to any member of their family other than employees of the Orissa Local Fund Service or any member of their family.]

(vii) with reference to leave, leave allowance, [4][conduct] and punishment of the offices and the servants of the municipality;

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1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Proviso omitted by *ibid.*
3. Inserted by the Orissa Act 5 of 1988, w.e.f. 17.12.1987.
4. Inserted by the Orissa Municipal Amendment, Act 1952 (Orissa Act XII of 1953), s. 18 (b).

(viii) as to the intermediate officer, if any through which correspondence between municipality, committees or the Councillors or the members of Committees and the State Government of their officers shall pass;

(ix) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expenses of municipality and the power of the municipality or officers of the State Government to accord professional or administrative sanction to estimates;

[1][(x) as to the accounts to be kept by Municipality;]

(xi) [2][* * *]

(xii) [2][* * *]

(xiii) as to the interpolation of the Chairperson by the Councillors of a municipality;

(xiv) as to moving of resolutions at the meetings of a municipality;

(xv) as to the conditions on which and the mode in which contracts may be made by or on behalf of municipality.

(xvi) [2][* * *]

(xvii) as to the transfer of allotments entered in the sanctioned budget of a municipality from one head to another;

(xviii) as to the power of [2][* * *] inspecting and superintending officers and officers authorised to hold inquiries, to summon and examine witness and to compel the production of documents and all other matters connected with [2][* * *] inspection and superintendence.

(xix) for regulating the sharing between local authority and municipal authorities in the State of Orissa of the profession tax and other taxes or income levied or obtained under this or any other Act;

(xx) as to the class of magistrates by whom offences under this Act shall be tried;

(xxi) regulating the conduct of proceedings of municipality and committee including the manner in which the notice of meetings shall be given, the fixing of quorum, the record of proceedings;

(xxii) regulating the powers of municipality and committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;

(xxiii) prescribing the qualifications of candidates for employment under Section 73 and declaring what circumstances shall be a disqualification for continuance of employment under that section;

(xxiv) prescribing the closing balance to be maintained by the municipality, the statements, accounts and reports to be submitted to the State Government

1. Substituted by the Orissa Municipal Amendment, Act 1952 (Orissa Act XII of 1953).
2. Repealed by *ibid.*

and the date for the preparation of the budget estimate and the particulars to be contained therein;

[1][(xxv) prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed by the municipality for the residence of an officer or a servant of the municipality and its Chairperson [2][and Vice-Chairperson] and terms on which such officer, Chairperson [2][or Vice-Chairperson], may be required to occupy the same;

(xxvi) [3][* * *]

(xxvii) prescribing the conditions of sanction relating to water-supply, drainage and conservancy system and road lighting;

(xxviii) regulating the maintenance and management of schools under Section 357 and 358 construction and repair of buildings connected therewith and the appointment of teachers;

(xxix) prescribing the conditions subject to which grants-in-aid may be made under Section 358 or Section 359;

(xxx) regulating the provision, maintenance and management of students's hostels and the establishment or scholarship under Section 359;

(xxxi) [3][* * *]

(xxxii) regulating the control and administration of dispensaries, hospitals and places of reception for the sick, including dispensaries and hospitals entrusted to a Joint Committee under Section 353 the construction and repair of buildings connected therewith and the supply of medicines and medicals assistance for the inhabitants of the municipalities;

(xxxiii) prescribing the powers and duties of the municipality and regulating the performance and exercise of the duties and powers of the Inspector of Local Works;

(xxxiv) regulating the submission for approval of plans, designs, specifications and estimate;

(xxxv) regulating the duties and powers of municipality in regard to sanction and for the prevention of epidemic diseases;

(xxxvi) regulating the duties of municipality in regard to the relief of famine, serious distress or scarcity;

(xxxvii) regulating the establishment of municipal fire brigades;

(xxxviii) [3][* * *]

(xxxix) [3][* * *]

(xi) generally for the guidance of municipalities and Committees and Government officers in all matters connected with the carrying out of the provisions of this Act and from time to time repeal, alter, or add to such rules.

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1. Substituted by the Orissa Act 23 of 1992, w.e.f. 27.04.1992.
2. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Repealed by the Orissa Municipal Amendment Act, 1952 (Orissa Act XII of 1953), s. 18(f).

Rules made under this section shall be published in such manner as the State Government may direct, and shall thereupon have the force of law.

(3) The State Government may by notification, alter, add to or cancel any entry in Schedule to this Act.

(4) in making any rule, the State Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees.

388. Powers of municipality to make by-laws and regulations :– The municipality may take regulations or bye-laws not inconsistent with this Act [1][or the rules made thereunder] or with any other law to provide–

(1) for all matters expressly required or allowed by this Act to be provided for by regulations or bye-laws;

(2) for the due performance by all municipal officers and servants of the duties assigned to them;

(3) for the regulation of the time and mode of collecting the taxes under this Act;

(4) for determining the conditions under which lands shall be deemed to be appurtenant to buildings;

(5) (a) for the use of public tanks, wells, conduits and other places or works for water-supply;

(b) for the regulation of public bathing, washing and the like;

(c) for the maintenance and protection of the water-supply system and the protection of the water-supply from contamination;

(d) for the conditions on which house-connections with the Municipalities water-supply mains may be made for their alteration and repairs and for their being kept in proper order;

(e) for supply of water for domestic consumption and use;

(f) for the prevention of waste of water;

(g) for the measurement of water;

(h) for the compulsory provision of cisterns and meters;

(i) for the supply of water in case of fire;

(6) for the maintenance and protection of the lighting system;

(7) (a) for the maintenance and protection of the drainage system;

(b) for the construction of house drains and for regulating their situation, mode of construction materials;

(c) for the alteration and repair of house drains;

(d) for the cleansing of house drains;

(e) for the construction of cess-pools, septic tank filters and drains;

1. Inserted by the Orissa Act 16 of 1968, w.e.f 01.08.1968.

(f) for the payment or apportionment of money payable on account of pipes or drains common to more premises than one;

(8) For the cleansing of latrines, earth, closets, ash-pit and cess-pools and the keeping of latrines supplied with sufficient water for flushing;

(9) for the testing of water pipes and drains in private premises the recovery or the apportionment of the cost of such testing and the breaking up of ground or of buildings for the purpose of such testing;

10. (a) for the laying out of roads and for determining the information and plans to be submitted with applications for permission to layout roads, and for regulating the level and width of public roads and the height of building abutting thereon;

(b) for the regulation of the use of public roads and the closing thereof parts thereof;

(c) for the regulation of traffic in public roads or their reservation for particular kinds of traffic;

(d) for the protection of avenues, trees, grass and other appurtenances of public roads and other places;

(11) (a) for the regulation of building;

(b) for determining the information and plans to be submitted with applications to build;

(12) for the regulation of hotels, lodging houses, boarding houses, *choultries, rest*-houses, emigration depots, restaurants, eating houses, cafes, refreshment rooms, coffee houses, tea stalls and any premises to which the public are admitted for repose or for the consumption of any food or drink;

(13) for regulating the mode of constructing stables, cattle-sheds and cow houses and connecting them with municipal drains.

(14) for the sanitary control and supervision of places used for any of the purpose specified in Section 290 and of any trade or manufactured carried on therein;

(15) (a) for the control and supervision of slaughter-houses and of places used for skinning and cutting off carcasses;

(b) for the control and supervision of the methods of slaughtering;

(c) for the control and supervision of butchers carrying on business in the municipality or at any slaughter-house without the municipality provided or licensed by the municipality.

(16) for the inspection of milch cattle and the regulation of the ventilation lighting, cleaning, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy man or milk seller;

(17) for enforcing the cleanliness of milk stores and milk shops and vessels and utensils used by the keepers thereof or by hawkers for containing or measuring milk or preparing any milk product and for enforcing the cleanliness of person employed in the milk trade;

(18) for requiring notice to be given whenever any milk animal is affected with any contagious disease and prescribing the precautions to be taken in order to protect milk cattle and milk against infection and contamination.

(19) (a) for the inspection of public and private markets and shops and other places therein;

(b) for the regulation of their use and the control of their sanitary condition;

(c) for licensing and controlling brokers, commission agent, weighmen and measures practising their calling in markets;

(20) [1][* * *]

(21) for prescribing and providing standard weights, scales and measures and preventing the use of any others;

(22) for the prevention of the sale or exposure for sale unwholesome meat, fish or provisions and securing the efficient inspection and sanitary regulation of shops in which articles intended for human food are kept or sold;

(23) for the regulation of burial and burning grounds and other places for the disposal of corpses;

(24) for the registration of birth, deaths and marriages;

(25) for the training and licensing of *dhais* and midwives;

(26) for the enumeration of the inhabitants of the town;

(27) for the prevention of dangerous diseases of men or animals;

(28) for the registration of dogs within the municipality;

(29) for the prevention of outbreaks of fire;

(30) for the prohibition and regulation of advertisements in public roads or parks;

(31) for the prohibiting in any specified road or area the residing of public prostitute and the keeping of brothels or the letting or other disposal of a house to public prostitutes or for a brothel;

(32) for the regulation of carriages and carts plying for hire and the licensing of their drivers;

(33) in general for securing cleanliness, safety and order and the good government and well-being of the municipality and for carrying out all the purpose of this Act.

389. Penalty for breaches of bye-laws or regulations :– In making a bye-law or regulations, municipality may provide that a breach thereof shall be punishable–

(a) with fine which may extend to fifty rupees and in case of a continuing breach, with fine which may extend to fifteen rupees for every day during which the breach continues after conviction for the first breach; or

1. Repeated by the Orissa Weights and Measures (Enforcement) Act, 1958 (Orissa Act 20 of 1958) s. 45 and Schedule.

(b) with fine which may extend to ten rupees for every day during which the breach continue after receipt of notice from the Chairperson or Executive Officer of a municipality to discontinue such breach.

390. Confirmation of bye-laws and regulations by State Government :– No regulation or bye-law or cancellation or alteration or a regulation or bye-law made by a municipality shall have effect until the same has been approved and confirmed by the State Government.

391. Prosecutions :– Prosecution under this Act for breach of any provision of the Act, rules, regulations, or bye-laws may be instituted by the Executive Officer or any person authorised by him in this behalf.

392. Procedure for making rules, regulations and bye-laws :– The State Government, before making any rules under sub-section (2) of Section 81 and Section 387, and a municipality, before making any regulation or bye-laws under Section 388, shall publish, in such manner as the State Government deems sufficient for giving information to persons interested, the proposed rules or regulations or bye-laws together with a notice specifying a date on or after which the same will be taken into consideration; and shall before making such rules or regulations or bye-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified.

Every such rule or regulation or bye-law shall be published in the Gazette in English and in Oriya and such publication shall be evidence that the rule or regulation or bye-law has been made as required by this section.

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CHAPTER - XXIX
CONTROL AND DELEGATION OF POWERS

393. Submission of annual reports :– (1) Every Municipality shall submit to the State Government a consolidated report on the administration of the municipality.

(2) The report shall relate to the financial year and shall be submitted as soon as may be after the first day of April following such year and not later than such date as may be fixed by the State Government. It shall be in such form and shall contain such details as the State Government may direct.

(3) The report which each municipality has to submit shall be prepared by its Chairperson. The municipality shall consider the report and submit it to the authority concerned with its resolutions thereon, if any.

(4) The report and resolution thereon, if any, shall be published in such manner as the State Government may direct.

[1][**393-A. Appointment and powers and functions of Director and Deputy Director :–** (1) The State Government may appoint an officer to be the Director of

1. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.

Municipal Administration for the State who shall perform such functions and exercise such powers as are delegated under Section 408 or conferred by this Act or the rules made thereunder.

(2) The State Government may also appoint such number of Deputy Directors as they deem fit for assisting the Director and they shall be subject to the direction and control of the Director.

(3) The Deputy Director so appointed shall exercise such powers, perform such functions and shall have such local jurisdiction as may be assigned by the State Government.]

394. Inspecting and superintending officers of municipality :– (1) It shall be the duty of the State Government and such officers or authorities as they may authorise to see that the proceedings of municipality are in conformity with law and rules in force thereunder.

(2) The State Government may appoint such officers as may be required for the purpose of inspecting or superintending the operations of all or any of the municipality established under this Act.

395. Powers of entry of inspecting officers :– The Magistrate of the district or any officer or person, whom the State Government may empower in this behalf, may at all times enter on and inspect or cause to be entered on and inspected–

(a) any immovable property, or any work in progress, under the control of any municipality or Chairperson.

(b) any school, hospital, dispensary, vaccination station, *choultry, sarai, dharmasalas* or other institutions maintained by or under the control of any municipality and any records, registers or other documents kept in such institution; and

(c) the office of any municipality and any records, registers or other documents kept therein.

396. Access of inspecting officers to municipality property :– The municipality and its Chairperson, officers and servants shall be bound to afford to the officers and persons, referred to in Section 394 and 395, such access at all reasonable times, to municipalities property or premises and to all documents as may, in the opinion of such officers or persons, subject to the prescribed rule, be necessary to enable them to discharge their duties under the said sections.

397. Power to call for reports from municipality :– The Magistrate of the district or any officer or person whom the State Government may empower in this behalf may–

(a) call for any record, register, or other document in the possession or under the control of any Municipality or the Executive Officer;

(b) require any municipality or Chairperson to furnish any return, plan, estimate, statement, account or statistics;

(c) require any municipality or Chairperson to furnish any information or report on any matter connected, with such municipality; and

(d) record in writing for the consideration of any municipality or Chairperson any observation they or he may think proper in regard to its or his proceedings or duties.

398. Power to suspend or cancel resolution under the Act :– (1) The State Government may by order in writing–

(i) suspend or cancel any resolution of the municipality passed, order issued or licence or permission granted; or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance of or under colour of this Act, if in their opinion –

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised; or

(b) such resolution, order licence, permission or act is in excess of the powers conferred by this Act or any other law; or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission of the doing of such act is likely to cause danger to human life, health or safety or is likely to lead to a riot or an affray;

[1][or]

[2][(d) such resolution, order, licence, permission or act is gravely prejudicial to the financial interests of the municipality:]

Provided that nothing in this sub-section shall enable the State Government to set aside any election which has been held.

(2) The State Government shall before taking action on any of the ground referred to in clauses (a) and (b) of sub-section (1) give the authority or person conferred an opportunity for explanation:

[3][***Provided that*** nothing in this sub-section shall apply to the suspension of any such resolution, order, licence or permission.]

(3) If in the opinion of the Magistrate of the district immediate action is necessary on any of the grounds referred to in clause (c) of sub-section (1), he may suspend the resolution, order, [4][licence or permission, as the case may be, or prohibit the act from being done] and report to the State Government who may thereupon either rescind the order of the said Magistrate or after giving the authority or person concerned a reasonable opportunity of explanation direct that it continues in force with or without modification permanently or for such period as they think fit.

[5][(4) Where any resolution passed or order issued by any Municipality is cancelled by the State Government under this section, the position prevailing immediately prior to the passing or issuing of such resolution or order, as the case may be, shall, unless

1. Added by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Inserted by ibid.
3. Added by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
4. Substituted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
5. Inserted by the Orissa Act 23 of 1972, w.e.f. 30.12.1972.

otherwise directed by the State Government, be restored with effect from the date of such cancellation.]

399. Extraordinary powers of Magistrate of the district :– (1) In cases of emergency the Magistrate of the district may direct or provide for the execution of any work or the doing of any act which a municipality Chairperson, or Executive Officer is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the safety [1][or in the interest] of the public and may direct that the expenses of executing such work or doing such act shall be paid by the municipality.

(2) If the expense is not so paid, he may make an order directing the person having the custody of the Municipal Fund to pay it in priority to any other charge against such Fund. Such person shall, so far as the Funds to the credit of the municipality admit, be bound to comply with such order.

(3) Every case in which the powers conferred by this section are exercised shall be forthwith reported to the State Government by the Magistrate of the district with the reason in full for the exercise of such powers and a copy of the report shall at the same time be sent to the municipality for information. The municipality shall thereupon be entitled to address the State Government on the contents of the report of the Magistrate of the district.

400. State Government's power to take action [2][in certain cases.] :– (1) If at any time it appears to the Government that a municipality or its Chairperson or the Executive Officer has made default in performing any duty imposed by or under this or any other Act, they may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the State Government may appoint some persons to perform it and may direct that the expenses of performing it, shall be paid from the Municipality Fund, as the case may be, within such time as they may fix, to such person by the municipality.

(3) If expenses which the State Government have directed under sub-section (2) to be paid from the Municipal Fund are not so paid, the Magistrate of the district, with the previous sanction of the State Government, may make an order directing the person having the custody of the Municipal Fund to pay it in priority to any other charge against such Fund except charges for the service of authorised loans.

(4) Such persons shall so far as the Funds to the credit of the municipality admit be bound to comply with such order.

[3][(5) Without prejudice to the foregoing powers of the State Government, it shall be competent for the State Government to direct any Municipality for the execution of any work or the doing of any act within a specified time if, in their opinion, such work or action is necessary in the public interest, and if the Municipality fails to comply with such direction within the specified time, the State Government may direct the

1. Inserted by the Orissa Act 16 of 1968, w.e.f. 01.08.1968.
2. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
3. Inserted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

execution or the doing of such work by any other authority or person, in which case the expenses therefor shall be realised from the Municipal Fund.]

[1][**401. Dissolution and reconstitution of Municipality :–** (1) If in the opinion of the State Government a municipality is incompetent to perform or persistently makes default in performing the duties imposed on it by law or exceeds or abuses its powers, they may, by notification published in the prescribed manner, direct that the Municipality be dissolved.

(2) Before publishing a notification under Sub-section (1), the State Government shall communicate to the Municipality the grounds on which they propose to do so, fix a reasonable period for the Municipality to show cause against the proposal and consider the explanations and objections, if any, of the Municipality.

[2][(3) On and with effect from the date of publication of such notification, all the Councillors including the Chairperson and Vice-Chairperson of the Municipality shall be deemed to have vacated their office as such and the election to constitute the Municipality in accordance with the provisions of this Act shall be completed before the expiration a period of six months from the said date:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Municipality for such period.]

(4) The Councillors including the Chairperson and Vice-Chairperson of the Municipality constituted on such dissolution shall continue only for the remainder of the period which the Councillors including the Chairperson and Vice-Chairperson of the dissolved Municipality would have continued had there been no such dissolution.

(5) During the interval between the dissolution of a municipality and the reconstitution thereof, all or any of the powers and duties of the Municipality and its Chairperson may be exercised and discharged, as far as may be, and subject to such extent, as the State Government may determine, by a person to be appointed by the State Government as the Administrator, and the Administrator so appointed may, if the State Government so direct, receive such payment for his services from the Municipal Fund as may be determined by them.]

402. [3]**[* * *]**

403. Devolution of assets and liabilities of dissolved [3]**[* * *] municipality :–** When a municipality is dissolved under Section 401 [3][* * *] the State Government until the date of the reconstitution thereof and the reconstituted municipality thereafter, shall be entitled to all the assets and be subject to all the liabilities of the municipality as on the date of dissolution [3][* * *] and on the date of the reconstitution, respectively.

404. Powers of officers acting for or in default of Municipality :– When the Magistrate of the district or person appointed by the State Government lawfully takes

1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.
2. Substituted by the Orissa Act 8 of 1996, w.e.f. 21.04.1996.
3. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

action on behalf or in default of a municipality under this Act, he shall have all such powers as are necessary for the purpose and shall be entitled to the same protection under this Act, as the Municipality or its officers or servants whose powers he is exercising and compensation shall be recoverable from the Municipal Fund by any person suffering damage from the exercise of such powers to the same extent as if the action has been taken by such municipality or its officers or servants.

405. Appointment of Inspector of Local Works and duties to be performed by him :– (1) It shall be lawful for the State Government to appoint an officer to be inspector of Local Works in respect of a municipality.

(2) It shall be the duty of the Inspector of Local Works to inspect and advise with regard to all public works under construction or repair vested in or in charge of the municipality.

(3) The Inspector of Local Works shall also perform such duties and exercise such powers as may be assigned to him by the prescribed rules.

(4) The Inspector of Local Works may at all times enter upon, or cause to be entered upon, any immovable property belonging to any municipality or any work in progress under its direction and may require it to furnish such statements, estimates and reports as he thinks fit. A report of every inspection, shall be prepared, and a copy thereof, forwarded to the municipality concerned through the Magistrate of the district.

In all matters of professional detail, then municipality shall be guided by the report of the Inspector of Local Works.

406. Decision of disputes not otherwise provided for :– If any dispute for the decision of which this Act does not otherwise provide, arises between two or more local authorities or between a local authority or authorities and municipal authority or authorities the matter shall be referred to the State Government and the decision of the State Government upon the matter so referred shall be final and binding.

407. Adjudication of disputes between local authorities :– (1) When a dispute exists between a municipality and one or more other local authorities in regard to any matters arising under the provisions of this or any other Act and the State Government are of opinion that the local authority concerned are unable to settle it amicably among themselves, the State Government may take cognizance of the disputes, and –

(a) decide it themselves; or

(b) refer in for inquiry and report to an arbitrator or to a Joint Committee constituted under Section 61 for the purpose.

(2) The report referred to in clause (b), sub-section (1) shall be submitted to the State Government who shall decide the dispute in such manner as they deem fit.

(3) The decision of the State Government under clause (a) of sub-section (1) of under sub-section (2), as the case my be shall be final and binding on each of the disputing Local Authorities.

(4) The powers of the State Government under this section shall in relation to a dispute to which a cantonment authority is a party, be exercisable with the concurrence of the Central Government.

408. Delegation of powers by State Government :– The State Government may by notification authorise any person or authority to exercise in regard to any municipality, any one or more of the powers vested in them by this Act, except the power to make rules or alter Schedule, the power to determine contributions payable and the power to sanction prosecution under Section 376 and may in the like manner withdraw such authority.

409. Power to except municipality from provisions of Act unsuited thereto :– (1) If the circumstances of any municipality are such that in the opinion of the State Government any of the provisions of this Act are unsuited thereto, the State Government may by notification except 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 applied thereto by notification.

(2) While such exception as aforesaid remains in force the State Government may make rules in respect of matters excepted from the operations of the said provisions.

410. Withdrawal of sections expressly extended by State Government :– Where specific provision is made in any section of this Act for its being extended by the State Government to any municipality the State Government may at any time by order withdraw any section they may thus have extended from operation in such municipality and such section shall cease to have effect in the said municipality from the date of such order.

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CHAPTER - XXX
MISCELLANEOUS

411. Municipality may take relief on measure in case of famine or serious distress :– It shall be lawful for a municipality to take such measures as it thinks fit for the relief of famine or serious distress within its area, and for that purpose to–

(1) open and maintain such relief works as may be necessary;

(2) open and maintain such temporary hospitals, power houses, orphanages and places for the gratuitous distribution of food as may be necessary;

(3) distribute such gratuitous relief in the form of doles of money or food as may by necessary.

412. Additional powers of municipality :– It shall be lawful for a municipality subject to such rules and restrictions as the State Government from time to time may make under this Act to –

(1) establish and maintain at such places within its area as it thinks fit, *Daka* Bungalows and Sarais for the use of travellers and charge such fees for the use of such Bungalows and Sarais as it thinks fit;

(2) offer rewards for the destruction of noxious animals and of monkeys within its area;

(3) establish and maintain fire-brigade;

(4) hold within its area from time to time, fairs and exhibitions of cattle, country produce and agricultural implements of local manufacturers and incur such expenditure and charge such fees in connection therewith as it thinks fit; and

(5) undertake and carry out any other local work likely to promote the health, comfort or convenience of the public and not otherwise provided for in this Act.

413. Construction and maintenance of tramways :– (1) A municipality may either singly or in combination with any other local authority or any Joint Stock Company–

(a) with the previous section of the State Government construct or maintain or assist the construction or maintenance of a tramway or rope-way, motor omnibus or other transport service, within or partly within and partly without the municipality, subject in the case of tramway to the provisions of any law for the time being in force relating to the construction and maintenance of tramways;

(b) subscribe to any debenture loan raised by the Central or the State Government or by any local authority or by any company as defined in the Indian Companies Act, 1913(VII of 1913), for such construction or maintenance which in the opinion of the municipality is likely to be of benefit to the municipality;

(c) guarantee the payment from the Municipal Fund of such sums as it shall think fit as instalments of principles and interest on capital expended on any such construction.

(2) No application for sanction shall be made in regard to any of the matters specified in sub-section (1), unless it is authorised by a resolution of the municipality supported by not less than two-thirds of the Councillors present at a meeting specially convened in that behalf, such resolution being confirmed after a period of three months by a like majority at a like meeting.

414. Power of the Executive Officer or Health Officer to enter and inspect markets, shops :– (1) The Executive Officer or the Health Officer or any person authorised by him in that behalf may at all reasonable times enter into and inspect any market, building shop, stall or place used for the sale or storage of articles intended for human consumption or as a slaughter house and inspect and examine any article of food or drink or any animal which may be therein.

(2) If in the course of the inspection of a place under sub-section (1), in article of food or an animal appears to be intended for human consumption and to be unfit therefor, the Executive Officer or the Health Officer or any person authorised by him in that behalf, may produce it before a Magistrate, or if he is the Executive Officer or the Health Officer himself may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption.

415. Power of Magistrate to order destruction of poisonous articles and animals and to punish offender :– Where any animal or article is brought before a Magistrate under sub-section (2) of Section 414, such Magistrate, if he is satisfied on the evidence that the article or animal was intended for human consumption and is unfit therefor, may order the article or animal to be destroyed or to be so disposed of as too prevent its being exposed for sale or used for human consumption and may direct that the owners or persons in possession of such article or animal, not being merely a carrier or bailee thereof, shall be punishable with fine which may extend to one hundred rupees.

416. The municipality may undertake construction, repair and maintenance of Government buildings :– It shall be lawful for the municipality from time to time to undertake on behalf of the Government concerned and on such conditions, as may be agreed upon, the construction, repair and maintenance of any public building or other work which is the property of the Government.

Provided that the cost of such construction, repair or maintenance shall be defrayed by the Government concerned.

417. Duties of the engineer :– (1) It shall be the duty of the engineer to prepare all plans, designs, specifications and estimates which the municipality may require to carry out such works as it may direct and to conform generally to the rules made by the State Government under Section 387 and all regulations that may be made by the municipality under Section 388.

(2) All plans of buildings and water-supplies shall be scrutinised by the Health Officer who shall see that the sanitary requirements of such buildings or works have been complied with.

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CHAPTER - XXX-A

[1][* * *]

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CHAPTER - XXXI

SUPPLEMENTARY AND TRANSITIONAL PROVISIONS

418. Continuity of Municipality's officers, appointments, rules etc. not affected by the Act :– All municipalities constituted, Councillors or Commissioner, Chairperson and Vice-Chairperson appointed or elected, Committees established, limits defined, appointments, rules, orders and bye-laws made, licences granted, notifications and notice issued , taxes and rates imposed and proceedings taken under any of the

1. Omitted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

enactments repealed shall, so far as may be, deemed to have been respectively constituted, appointed, elected, established, defined, made, granted, issued, imposed and taken under the corresponding provisions of this Act.

419. Passing of property, rights and liabilities to municipality constituted under this Act :– All property, all rights of whatever kind, used, enjoyed, possessed by, and all interests of whatever kind owned by or vested in or held trust by or for a municipality constituted under the Madras District Municipalities Act, 1920 (Madras Act V of 1920), and a Municipality constituted under the Bihar and Orissa Municipal Act, 1922(Bihar and Orissa Act VII of 1922) as well as all liabilities legally subsisting against the said municipalities or municipalities shall pass to the municipality concerned as constituted under this Act.

420. Recovery of sums due at commencement of Act :– All rates, taxes, payments by way of composition for a rate or tax, or due for expenses or compensation or otherwise, all arrears thereof and all sums of money otherwise due to the municipality, at the commencement of this Act, may be recovered as through they had accrued under this Act.

421. Vacation of office by existing Councillors, Commissioners and office bearers :– Notwithstanding anything contained in Chapter IV of this Act, it shall be lawful for the State Government to direct that the term of office of the Chairperson Vice-Chairperson or Councillors, holding offices under the Madras District Municipalities Act, 1920 (Madras Act V of 1920), or the Chairperson, Vice-Chairperson or the Commissioner holding office under the Bihar and Orissa Municipal Act, 1922 (Bihar & Orissa Act VII of 1922), shall expire on such date or dates not later than one year after the commencement of this Act, as the State Government shall determine, and the State Government shall make appointments and cause a register of voters to be prepared by the Magistrate of the district, and arrangements of Election to be made under this Act so that the newly elected Councillors of the municipality may come into office on the date fixed for the retirement of the former Councillors of Commissioner, as the case may be:

> ***Provided that*** the Chairperson and the Vice-Chairperson of municipalities elected or appointed under the Bihar and Orissa Municipal Act, 1922 or under the Madras District Municipalities Act, 1920 shall continue in office until a new Chairperson and Vice-Chairperson have been elected or appointed under this Act and shall then vacate office.

422. Provision for exercise of extraordinary powers :– At any time within one year after the commencement of this Act, the State Government, or the Magistrate of the district, with the previous sanction of the State Government, may take such action consistent so far as may be with the provisions of this Act, as may in the opinion of the State Government be necessary for the purpose of newly constituting a municipality or bringing the provision of this Act into force for the first time.

[1][423. Special provision in the case of newly constituted and reconstituted municipality :– (1) Notwithstanding anything contained in this Act, when any area is

1. Substituted by the Orissa Act 11 of 1994, w.e.f. 31.05.1994.

specified as a transitional area, smaller urban area or large urban area as referred to in sub-section (2) of Section, 4 for the first time, until a Municipality is constituted for that area in accordance with the provisions of this Act a person appointed by the State Government as Administrator shall exercise the powers, discharge the duties and perform the functions of Municipality for that area including that of its Chairperson.

(2) The Administrator appointed under sub-section (1) may, if the State Government so direct, receive such payment for his services from the Municipal Fund, that may be constituted for such Municipality, as may be determined by the Government.]

424. Power of State Government to direct reconstitution of municipality without election :– (1) Notwithstanding anything contained in this Act, shall be lawful for the State Government by notification to direct–

(i) that all the Commissioners of municipalities, who are salaried servants of Government nominated to the municipality under the Bihar and Orissa Municipality Act, 1922 (Bihar & Orissa Act VII of 1922), or any other Act or Regulation for the time being in force, shall cease to hold office from the date on which his Act comes into force;

(ii) that for the term for which such Councillor would have held office if this Act had not been enforced, the remaining Councillors of the municipality shall be deemed to have been duly elected under this Act and that the municipality shall consist of such number of Councillors and no more; and

(iii) that the Chairperson or Vice-Chairperson of the municipality who were duly elected under any of the enactments repealed by this Act, immediately before the commencement of this Act, shall be deemed to have been duly elected under this Act.

425. Power of State Government in cases of doubts and difficulties :– If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order as occasion may require, do anything which appears to them to be necessary to remove the difficulty.

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SCHEDULE I
ENACTMENTS REPEALED
[*See* Section 2]

Number and year	Short title	Extent of repeal
(1)	(2)	(3)
Bihar and Orissa Act I of 1919	Bihar and Orissa Primary Education Act, 1919	The whole
Bihar and Orissa Act VII of 1922	Bihar and Orissa Municipal Act, 1922	The whole
Bihar and Orissa Act III of 1930	Bihar and Orissa Municipal (Amendment) Act,1930.	The whole
Bihar and Orissa Act I of 1931	Bihar and Orissa Municipal (Amendment) Supplementary Act, 1931.	The whole
Bihar and Orissa Act II of 1932	Bihar and Orissa Municipal (Amendment) Act, 1932	The whole
Bihar and Orissa Act III of 1935	Bihar and Orissa Municipal (Amendment) Act, 1935.	The whole
Bihar and Orissa Act IV of 1935	Bihar and Orissa Municipal (Amendment)Act, 1935	The whole
Bihar and Orissa Act III of 1936	Bihar and Orissa Municipal (Amendment) Act, 1936.	The whole
[1][Orissa Act VI of 1940	The Bihar and Orissa Municipal (Amendment)Act, 1940.	The whole
Orissa Act XI of 1943	The Bihar and Orissa Municipal (Amendment) Act, 1943	The whole
[2][Orissa Act X of 1949	Bihar and Orissa Municipal (Amendment) Act, 1949.	The whole
Madras Act V of 1920	Madras District Municipalities Act, 1920	The whole
[2][Orissa Act VIII of 1946	Madras District Municipalities (Orissa Amendment)Act,1946.	The whole]
[2][Orissa Act XI of 1949	Madras District Municipalities (Orissa Amendment)Act, 1949	The whole]
Madras Act VIII of 1920	Madras Elementary Education Act, 1920	The whole
Madras Act II of 1888	The Places of Public Resort Act, 1888	The whole

1. Inserted by the Orissa Municipal Amendment Act, 1952 (Orissa Act XII of 1953) s. 19.
2. Inserted by the Orissa Municipal Second Amendment Act, 1951 (Orissa Act XXX of 1951).

SCHEDULE II
ENACTMENTS AMENDED
[*See* Section 2]

Number and year	Short title	Extent of Amendment
(1)	(2)	(3)
1 of 1871	Cattle Tresspass Act, 1871	1. In Section 3,at the end of the definition of "local authority" the following words shall be added, nemely– "and entrusted by the State Government under Section 31 with any function under this Act, in that area". 2. For Section 6, the following section shall be substituted, namely– "6. The Magistrate of the district or any officer not being below the rank of a subdivisional Magistrate specially authorised by the Magistrate of the district in this behalf shall appoint for each pound a pound-keeper. Every pound-keeper appointed by the Magistrate of the district or by the officer so authorised may be suspended and remove by such Magistrate or Officer. Any pound keeper may hold simultaneously any offices under the Government. Every pound-keeper shall be deemed to be a public servant within the meaning of the Indian Penal Code.": 3. In section 12– (i) for the words " the pound-keepers shall levy a fine" the words "the Local Authority exercising jurisdiction within the area in which the pound is situated shall impose a fine" shall be substituted; (ii) the second paragraph beginning with the words "All fines so levied" and ending with words "may direct" shall be omitted.

Number and year	Short title	Extent of Amendment
(1)	(2)	(3)
		4. In section 17, for the words "be deemed to hold them a part of the revenues of the Province" the following words shall be substituted, namely– "dispose of them as hereinafter provided." 5. After Section 17 of the said Act the following section shall be inserted, namely– "18. All sums received on account of fines and the unclaimed proceeds of the sale of cattle shall be sent to the Local Authority concerned and out of those sums there shall be paid– (a) the remuneration of the pound keepers; (b) the expenses incurred for the construction and maintenance of pounds, or for any other purposes connected with the execution of this Act and the surplus, if any, shall be credited to the funds of the said Local Authority."
XVII of 1878	Northern India Ferries Act, 1878	1. Existing Section 17 shall be renumbered as sub-section (1) of Section 17 and to the said sub-section the following proviso shall be added, namely– "***Provided that*** where the ferry, is entrusted to the management of a Local Authority under Section 7 or Section 7-A the receipts from tolls, rents, fines and compensation received under this Act shall not be the Consolidated Fund of the State and shall be disposed of as provided in sub-section (2)".

Number and year	Short title	Extent of Amendment
(1)	(2)	(3)
		2. The following shall be inserted as sub-section (2) of Section 17, namely– " The sums received as tools, rents, fines and compensation under this Act by a Local Authority entrusted with the management of a ferry under Section 7 or Section 7-A shall in the first instance, be applied to defraying all charges incurred by it in carrying out this Act and shall then be credited to the funds of the said Local Authority."
Bengal Act 1 of 1885	The Bengal Ferries Act, 1885. "Power of state Government to vest management of public ferries in a Local Authority.	For Section 35, the following section shall be substituted, namely– "35. It shall be lawful for the State Government to order that any public ferry shall be managed by a Local Authority having jurisdiction over the area in which such ferry is situated, and such Local Authority shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in Sections 7, 17 and 32 and the State Government may further order that all or any part or the proceeds of such ferry and all or any part of the fines levied and compensation received under this Act in respect thereof, be paid to such Local Authority; and thereupon such ferry shall be managed and such proceeds, fines and compensations shall be paid accordingly: ***Provided that*** when by an order of the State Government all or any part of such proceeds, fines and compensation are paid to any Local Authority, they shall be appropriated in the first instance towards payment

Number and year	Short title	Extent of Amendment
(1)	(2)	(3)
		of all charges incurred in carrying out the purposes of this Act and the surplus, if any, shall be credited to the fund of such Local Authority; ***Provided further that*** the State Government may from time to time, vary or amend any order made under this section."
Madras Act II of 1890	The Canals and Public Ferries Act, 1890.	For Section 10 the following section shall be substituted, namely– "10. (1) The State Government may – (a) Provide for management of any public ferry, or (b) assign the management of any public ferry to a Local Authority. (2) In the cases referred to in clause (a) of sub-section (1) The State Government may levy tolls at such rates as they may fix upon passengers, animals, vehicles and goods conveyed across the ferry. (3) When under clause (b) of sub-section (1) the management of a public ferry is assigned to a Local authority such authority may levy tolls upon passengers, animals and vehicles at such rates as it may, subject to the control of the State Government fix. All money received by such authority under the provisions of the Act shall form part of its fund: ***Provided that*** when by an order of the State Government any part of such money received by such Local authority under the provisions of this Act are paid to such Local Authority, they shall be appropriated in the first instance towards payment of all charges incurred in carrying out the provisions of the Act and the surplus, if any, be credited to the fund of such Local Authority."

[1][SCHEDULE III

TAX ON CARRIAGES, CARTS, HORSES AND OTHER ANIMALS

[*See* Sections 131 (1) (f) and 176]

Sl.No.	Item		Rate per year
(1)	(2)		(3)
1.	For every four-wheeled carriage drawn by horse or other animals.	:	20.00
2.	For every two-wheeled vehicle including a cart, jhatka and tanga excluding bicycle.	:	20.00
3.	For every bicycle	:	8.00
4.	For every rickshaw	:	4.00
5.	For every cycle-rickshaw including Trolly rickshaw	:	15.00
6.	For every horse other than pony	:	8.00
7.	For every pony mule, donkey or ass	:	4.00
8.	For every elephant	:	24.00
9.	For every bullock or bull	:	2.00
10.	For every camel	:	12.00
11.	For every buffalo and she-buffalo	:	8.00]

1. Substituted by the Orissa Municipal (Amendment) Act, 1986 (Orissa Act 20 of 1986), s. 11.

SCHEDULE IV
ORDINARY PENALTIES
[*See* Section 383]

Section or rule	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
143	..	Failure of owner occupier to furnish return of rent.	One hundred rupees
148	..	Failure to give notice of transfer of title or to produce documents.	Fifty rupees
177.	..	Failure to furnish statement of carriages, carts, horses and other animals liable to taxation or furnishing incorrect statement.	Ten rupees
[1][179	(3)	Failure to affix municipal number plate to cart or carriage.	Ditto]
181	..	Keeping carriages, carts, horses	Ditto
194	..	Failure of owner or occupier to obey requisition to furnish list of persons carrying on profession, cart	One hundred rupees
195	..	Failure of employer or headof an office, firm or company to obey requisition to furnish list of persons in his employ.	Ditto
199	..	Trespassing on premises connected with the water-supply.	Fifty rupees
202	..	Failure to maintain house connection in conformity with bye-laws and regulations.	Ditto
203	(2)	Failure to obey requisition to make house connection.	Ditto

1. Inserted by the Orissa Municipal Amendment Act 1952 (Orissa Act XII of 1953) s.20.

Section or rule	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
211.	..	Filure to maintain house drains in conformity with bye-laws and regulation.	Ditto
212	(2)and (3)	Filure to obey requisition as to house drainage.	Ditto
213	(1) (b)	Failure to obey direction as to limited use of drain or notice requring construction of distinct drain.	Ditto
215	..	Unlawful construction of building over public drain.	One hundred rupees
216	..	Filure to obey requisition regarding culverts, or to keep them free from obstruction.	Fifty rupees
217	..	Failure to obey requisition to maintain troughs and pipes for catching water from roof or other part of building.	Ditto
219	..	Making connection with mains witout permission.	Two hundred
223	..	Improper disposal of carcasses, and filth.	Ten rupees
224	..	Allowing rubbish or filth to accumulate on premises for more than twenty four hours.	Twenty rupees
225	..	Allowing filth to flow in roads	Ten rupees
226	..	Using cart without cover in removal of filth.	Twenty rupees
227	..	Throwing rubbish or filth into drains	Ditto

Section or rule	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
229	..	Construction of latrine or urinal near road, tank and water-course.	Five hundred rupees
230	..	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order.	One hundred rupees
231	..	Failure to provide latrins for premises used by large numbers of people or to keep them clean in proper order.	Ditto
232	..	Failure to obey requisition to provide latrines for market, cattle-stand or cart-stand or to keep them clean in proper order.	Ditto
233	..	Failure to construct latrines so as to screen persons using them from view.	Twenty rupees
239	..	Building within regular lines of road	One thousand rupees
240	(1)	Failure to obey orders to set back buildings.	Five hundred rupees
245	..	Unlawful displacement of paymet or fences, posts and other materials of public road.	Fifty rupees
247	..	Failure to provide roads on building sites prior to disposal.	Two hundred rupees
248	(5)	Unlawful making or link of new private roads.	Five hundred rupees
250	..	Failure to obey requisition to metal private road.	One hundred rupees

Section or rule	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
252	..	Building wall or erecting fence in a public road.	Ditto
253	..	Allowing doors, ground-floor, windows to open outwards without licence or contrary to notice.	Twenty rupees
254	..	Failure to remove permanent encroachment.	Two hundred rupees
255	..	Failure to remove temporary encroachment.	Fifty rupees
257	..	Unlawful removal of bar or storing timber or removal or extinction of light.	Ditto
258	..	Unlawful making of hole or placing of obstruction in roads.	[1][Five hundred rupees
259	..	Construction of building without licence where road or footway is likely to be obstructed.	[2][Fifty rupees]
		Failure to fence such building while under repair to failure or remove obstruction.	Fifty rupees
260	..	Failure to remove obstruction caused in road by all fall of trees within 12 hours of fall.	Ditto
261	(3)	Unlawful destruction of name of road	Twenty rupees
262	(2)	Unlawful destruction of number of buildings.	Five rupees
	(3)	Failure to replace number when required to do so.	Twenty rupees

1. Substituted by Orissa Act 10 of 1997, Section 11 (a).
2. Substituted by *ibid* Section 11(b).

Section or rule	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
275	(1)	Failure to obey requisition to take down, repair or secure dangerous structure.	Five hundred rupees
275	(3)	Failure to obey requisiton to secure lop, or cut down dangerous trees.	Fifty rupees
	(5)	Failure to obey requisition to repair tank or other place dangerous to passers-by or persons living in neighbourhood.	Fifty rupees
276	..	Failure to obey requisition to stop dangerous quarrying.	One hundred rupees
277	..	Failure to obey notice regarding precautions against fire.	Ditto
278	(1)	Constructing well without permission	Fifty rupees
	(3)	Failure to obey notice to fill up or demolish well.	Ditto
279	..	Failure to obey requisition to fill up tank or well or drain off water.	Ditto
280	..	Failure to obey requisition to cleanse or close tank, well or other source of water used for drinking.	Ditto
282	..	Unlawful washing and fishing in river after prohibition or contrary to regulations	Ditto
283	..	Defillilng water of tanks	Ditto
284	..	Failure to obey requisition to enclose, clear or cleanse untenanted premises.	Ditto
285	..	Failure to obey requisition to clear or cleanse building or land in filthy state or overgrown with noxious vegetation.	Ditto

Section or rule	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
286	..	Using or allowing the use of buildings unfit for human habitation after prohibition.	Twenty rupees for each day.
287	..	Unlawful keeping of animals so as to be a nuisance or dangerous.	Ten rupees.
290	(1)	Using a place for any of the purpose specified in Section 290 (1) without licence or contrary to licence.	One hundred rupees
291	..	Unlawful erection of factory, workshop	One hundred rupees
292	..	Disobedience or order regarding abatement of nuisance.	One hundred rupees
296	..	Sale or exposure for sale in public market of animal or article without licence or contrary to licence.	Twenty rupees
297	..	Opening or keeping open private market without licence or contrary to licence.	Five hundred rupees
299	..	Sale or exposure for sale of animal or article in unlicenced private market.	Twenty rupees
300	..	Failure to obey direction to contract approaches, drains to private market or to pve them.	Five rupees
301	(2)	Opening or keeping open of private market after suspension or refusal of licence for default to carry out works.	Twenty rupees for each.
302	..	Nuisances in private markets	Twnenty rupees

Section or rule	Sub-section or clause	Subject	Fine which may be imposed
(1)	(2)	(3)	(4)
307	..	Sale or exposure for sale of animal or article in public road.	Ten rupees
310	..	Using a public place or the sites of a public road or public landing place.	Two hundred rupees
312	..	Opening or keeping open a new private cart-stand without licence or contrary to licence.	Ditto
314	..	Slaughter of cattle in places other than public slaughter-house.	Ditto
316	..	Carrying on milk trade without licence or contrary to licence.	Fifty rupees
320	..	Burying or burning corpses in unregistered ground.	One hundred rupees
337	(5)	Failure to produce licence on request	Five rupees
379	..	Removal of notice exhibited by or under order of the council.	Fifty rupees
380	..	Failure to obey summons	Ditto

SCHEDULE V
PENALTIES FOR CONTINUING BREACHES
[*See* Section 383]

Section or rule	Sub-section or clause	Subject	Daily fine which may be imposed
(1)	(2)	(3)	(4)
202	..	Failure to maintain house connections in conformity with bye-laws and regulations.	Five rupees
203	(3)	Failure to obey requisition to make house-connection.	Ditto
211	..	Failure to maintain house-drains, in conformity with bye-laws and regulations	Ten rupees
212	(2)&(3)	Failure to obey requisition as to house-drainage.	Ditto
217	..	Failure to obey requisition to maintain troughs and pipes for catching water from roof or other part of building.	Ditto
230	..	Failure to obey requisition to provide latrine or to remove latrine to another site and failure to keep latrines clean and in proper order.	Ditto
231	..	Failure to provide latrines for premises used by large numbers of people or to keep them clean and in proper order.	Twenty rupees
232	..	Failure to obey requisition to provide latrine for market, cattle-stand or cart-stand or to keep them clean and in proper order.	Ditto
239	..	Building within regular lines or road.	One hundred rupees
254	..	Failure to remove permanent encroachment	Ten rupees
255	..	Failure to remove temporary encroachment.	Five rupees

Section or rule	Sub-section or clause	Subject	Daily fine which may be imposed
(1)	(2)	(3)	(4)
258	..	Unlawful making of hold or placing Obstruction in road.	[1][One hundred rupees
259	..	Construction of building without licence where street or foot-way is likely to be obstructed.	[2][Ten rupees]
275	..	Failure to obey requisition to repair tank or other place dangerous to passers-by or persons living in neighbourhood.	Ten rupees
276	..	Failure to obey requisition to stop dangerous quarrying	Ditto
277	..	Failure to obey notice regarding precautions against fire.	Ditto
279	..	Failure to obey requisition to fill up tank or well or drain off water.	Ditto
280	..	Failure to obey requisition to cleanse or close tank, well or other source of water used for drinking.	Ditto
284	..	Failure to obey requisition to enclose, clear or cleanse untenanted premises.	Ditto
285	..	Failure to obey requisition clear or cleanse building or land in filthy state or overgrown with noxious vegetations.	Ditto
287	..	Unlawful keeping of animals so as to be nuisance or dangerous.	Five rupees
290	(1)	Using a place for any of the purpose specified in section 290 (1) without licence or contrary to licence.	Twenty rupees

1. Substituted by Orissa Act 10 of 1997, Section 12 (a).
2. Substituted by *ibid* s. 11(b).

Section or rule	Sub-section or clause	Subject	Daily fine which may be imposed
(1)	(2)	(3)	(4)
291	..	Unlawful erection of factory, workshop	One hundred rupees
292	..	Disobedience of order regarding abatement of nuisance.	
297	..	Opening or keeping open private market without licence or contrary to licence.	Ditto
299	..	Sale or exposure for sale of animal or article in unlicensed private market.	Twenty rupees
310	..	Using a public place or the sites of a public road as a public landing place.	Ditto
312	..	Opening or keeping open a new private cart-stand without licence or contrary to licence.	Ditto
316	..	Carry on milk trade without licence or contrary to licence.	Five rupees

APPENDIX

PROVISION OF THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1954 (ORISSA ACT III OF 1954) NOT INCORPORATED IN THE ORIGINAL ACT.

3. Validation of existing octroi tax :– Any order made by a municipality in any part of the State of Orissa directing the imposition or collection of any octroi tax or any action taken thereunder prior to the commencement of this Act shall be deemed to have been validly made or taken under the provisions of Section 131 of the Orissa Municipal Act, 1950 (Orissa Act XXIII of 1950) as amended by this Act.

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PROVISIONS OF THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1955 (ORISSA ACT 1 OF 1956) NOT IN CORPORATED IN THE ORIGINAL ACT.

5. Removal of doubts – Notwithstanding anything contained in the foregoing sections, all rules made notifications issued, orders passed, actions taken and things done in pursuance of the provisions of the said Act as here in before specified and prior to the commencement of this Act shall be continued to have force and effect and shall be read and construed as having been so made, issued, passed, taken or done in pursuance of the said provisions as amended by this Act.

———

PROVISIONS OF THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1968 (ORISSA ACT 16 OF 1968) NOT INCORPORATED IN The ORIGINAL ACT.

52. Savings and transitory provision – Notwithstanding anything contained in this Act or in the principal Act :–

(a) the Councillors of a municipality, the last general election in respect of which was held more than four years prior to the date of coming into force of this Act, shall cease to hold office with effect from the said date;

(b) the Councillors of a municipality, not being a municipality referred to in clause (a), shall cease to hold office on the expiry of a period of four years from the date of the last general election;

(c) the general election of Councillors of all such municipalities as are referred to in clause (a) and (b) shall be held within a period of [eight months] from the date on which the Councillors thereof have respectively ceased to hold office in accordance with the said clauses;

(d) during the period intervening between the date of expiry of the term of office of the Councillors as aforesaid and the date of the first meeting of the newly elected Councillors with a quorum necessary there for the power and functions of the municipality and its Chairperson shall be exercised and performed, as far as may be, by the District Magistrate or by such other officer above the rank to which the Executive Officer belongs as may be appointed by the State Government in that behalf;

* Substituted by Orissa Act 20 of 1968, for "six months".

Explanation– For the purposes of clauses (a) and (b) the date on which the last general election was held means the date of polling at such election.

———

PROVISIONS OF THE ORISSA MUNICIPAL (SECOND AMENDMENT) ACT, 1968(ORISSA ACT 20 OF 1968)NOTINCORPORATED IN ORIGINAL ACT.

(1) Repeal [* * *]

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act, as if this Act had commenced on the 27th September 1968.

———

PROVISIONS OF THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1978 (ORISSA ACT 22 OF 1978) NOT INCORPORATED IN THE ORIGINAL ACT.

24. Repeal and transitory provisions –(1) The amendments made by this Act shall not apply to any Council holding office immediately proper to date of its commencement.

(2) The rules relating to the election of Chairperson framed under the principal Act, shall cease to apply to an election of Chairperson under the principal Act as a amended by this Act; and until fresh framed in that behalf, the rules framed under that Act in respect of election Councillor or shall, as far as may be and subject to such modification as the State Government may, by order, make therein, apply to the election of Chairperson held under the principal Act so amended;

Provided that no such modification shall remain in force after the expiry of one year from the date of commencement of this Act.

———

PROVISIONS OF THE ORISSA MUNICIPAL (AMENDMENT) ACT, 1990 (ORISSA ACT 5 OF 1990) NOT INCORPORATED IN THE ORIGINAL ACT.

22. Repeal and transitory provisions– (1) The amendments made by this Act shall not apply to any Municipal Council holding office immediately prior to the date of its commencement.

(2) The rules relating to the election of Chairperson framed under the principal Act shall cease to apply to an election of Chairperson under the principal Act as amended by this Act, and until fresh rules are framed in that behalf, the rules framed under the principal Act in respect of election of Councillors shall, as far as may be and subject to such modifications as the State Government may, by order, make therein, apply to the election of Chairperson held under the principal Act so amended;

Provided that no such modification shall remain in force after the expiry of one year from the date of commencement of this Act.

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THE ODISHA LOKAYUKTA ACT, 2014

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EXTRAORDINARY
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LAW DEPARTMENT

NOTIFICATION

The 23th June, 2018

No.6523—I-Legis-3/2014/L—The following Act of the Odisha Legislative Assembly having been assented to by the President on the 16th January,2015 is hereby published for general information.

ODISHA ACT 12 OF 2018

THE ODISHA LOKAYUKTA ACT, 2014

AN ACT TO PROVID0E FOR THE ESTABLISHMENT OF A BODY OF LOKAYUKTA FOR THE STATE OF ODISHA TO INQUIRE INTO ALLEGATIONS OF CORRUPTION AGAINST CERTAIN PUBLIC FUNCTIONARIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Odisha in the Sixty-fifth Year of the Republic of India, as follows:—

CHAPTER –I

PRELIMINARY

Short title, extent, application and commencement.

1. (1) This Act may be called the Odisha Lokayukta Act, 2014.

(2) It extends to the whole of the State of Odisha.

(3) It shall be applicable to the public servants of the State of Odisha serving in and outside the State and the public servants under the control of Government of Odisha.

(4) It shall come into force on such date as the Government may, by notification, appoint.

Definitions. **2.** (1) In this Act, unless the context otherwise requires,—

(a) "bench" means a bench of the Lokayukta;

(b) "Chairperson" means the Chairperson of the Lokayukta;

(c) "competent authority", in relation to—

(i) the Chief Minister, means the Legislative Assembly of the State;

(ii) a member of the Council of Ministers, means the Chief Minister;

(iii) a member of State Legislative Assembly other than a Minister, means the Speaker of the Legislative Assembly;

(iv) an officer in any Department of the Government, means the Minister- in- charge of the Department under which such officer is serving ;

(v) a Chairperson or member of any Body or Board or corporation or Local authority or company or society or autonomous Body (by whatever name called) established or constituted under any Act of the Legislature of the State or wholly or partly financed by the Government or controlled by it, means the Minister -in- charge of the Department of such Body or Board or corporation or authority or company or society or autonomous body:

Provided that if such Chairperson or member is also a member of the State Legislative Assembly, then the competent authority shall be the Speaker of the Legislative Assembly;

(vi) an officer of any Body or Board or corporation or Local authority or company or society or autonomous body (by whatever name called) established or constituted under any Act of the Legislature of the State or wholly or partly financed by the Government or controlled by it, means the head of such Body or Board or corporation or authority or company or society or autonomous body; and

(vii) any other case not falling under sub-clauses (i) to (vi) above, means such Department or authority as the Government may, by notification, specify;

(d) "complaint" means a complaint, made in such form as may be prescribed, alleging that a public servant has committed an offence punishable under the Prevention of Corruption Act,1988; 49 of 1988.

(e) "Government" means the Government of Odisha;

(f) "investigation" means an investigation as defined under clause (h) of section 2 of the Code of Criminal Procedure, 1973; 2 of 1974.

(g) "Judicial Member" means a Judicial Member of the Lokayukta;

(h) "Lokayukta" means the body established under section 3;

(i) "Member" means a Member of the Lokayukta;

(j) "Minister" means Minister of the Government but does not include the Chief Minister;

(k) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(l) "preliminary inquiry" means an inquiry conducted under this Act;

(m) "prescribed" means prescribed by rules;

(n) "public servant" means a person referred to in clauses (a) to (h) of sub-section (1) of section 14 but does not include a public servant in respect of whom the jurisdiction is exercisable by any court or other authority under the Army Act, 1950, the Air Force Act, 1950, the Navy Act, 1957 and the Coast Guard Act, 1978 or the procedure is applicable to such public servant under those Acts; 45 of 1950. 46 of 1950. 62 of 1957. 30 of 1978.

(o) "regulations" means regulations made under this Act;

(p) "rules" means rules made under this Act; and

(q) "Special Court" means the court of a Special Judge appointed under sub-section (1) of section 3 of the Prevention of Corruption Act, 1988 and includes the Special Courts established under section 3 of the Odisha Special Courts Act, 2006. 49 of 1988. Odisha Act 9 of 2007.

(2) The words and expressions used herein and not defined in this Act but defined in the Prevention of Corruption Act, 1988 and in the Code of Criminal Procedure,1973, shall have the meanings respectively assigned to them in those Acts. 49 of 1988. 2 of 1974.

CHAPTER-II

ESTABLISHMENT OF LOKAYUKTA

Establishment of Lokayukta.

3. (1) After the commencement of this Act, the Government shall, by notification, establish, for the purpose of this Act, a body called the Lokayukta for the State of Odisha.

(2) The Lokayukta shall consist of —

(a) a Chairperson, who is or has been a Chief Justice of a High Court or a Judge of a High Court or an eminent person who fulfils the eligibility specified in clause(b) of sub-section (*3*); and

(b) five Members, out of whom two shall be Judicial Members:

Provided that at least one member other than the judicial members, shall be from scheduled Castes, Scheduled Tribes, Other backward classes, Minorities or Women.

(3) A person shall be eligible to be appointed,—

(a) as a Judicial Member if he is or has been a Judge of a High Court;

(b) as a Member other than a Judicial Member, if he is a person of impeccable integrity and outstanding ability having special knowledge and expertise of not less than twenty years in the matters relating to public administration, finance including insurance and banking, law, anti-corruption policy or management.

(4) The Chairperson or a Member shall not be—

(a) a member of Parliament or a member of the Legislature of any State or Union Territory;

(b) a person convicted of any offence involving moral turpitude;

(c) a person of less than fifty years of age, on the date of assuming office as Chairperson or Member, as the case may be;

(d) a member of any Panchayat or Municipality;

(e) a person who has been removed or dismissed from service of the Union or a State; or

(f) a person holding any office of trust or profit (other than his office as the Chairperson or a Member) or person connected with any political party or carry on any business or practise any profession,

and accordingly, before he enters upon his office, as the Chairperson or a Member, as the case may be, shall, if—

(i) he holds any office of trust or profit, resign from such office; or

(ii) he is carrying on any business, sever his connection with the conduct and management of such business; or

(iii) he is practising any profession, cease to practise such profession.

Appointment of Chairperson and Members on recommendation of Selection Committee.

4. (1) The Chairperson and Members shall be appointed by the Governor by warrant under his hand and seal after obtaining the recommendations of a Selection Committee consisting of—

(a) the Chief Minister—Chairperson;

(b) the Speaker of the Legislative Assembly—Member;

(c) the Leader of Opposition in the Legislative Assembly—Member;

(d) the Chief Justice of the Orissa High Court or a Judge of the said High Court nominated by the Chief Justice—Member;

(e) one eminent jurist as recommended by the Chairperson and members referred to in clauses (a) to (d) nominated by the Governor–Member.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3) The Selection Committee shall, for the purposes of selecting the Chairperson and Members of the Lokayukta and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least five persons of standing and having special knowledge and expertise in the matters relating to public administration, finance including insurance and banking, law, anti-

corruption policy, management, or in any other matter which, in the opinion of the Selection Committee, may be useful in making selection of the Chairperson and Members of the Lokayukta:

Provided that the Selection Committee may also consider any person other than the persons recommended by the Search Committee.

(4) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Chairperson and Members of the Lokayukta.

(5) The term of the Search Committee referred to in sub-section (3), the fees and allowances payable to its members and the manner of selection of panel of names shall be such as may be prescribed.

Term of Office of Chairperson and Members.

5. The Chairperson and every Member shall, hold office as such for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier:

Provided that he may,—

(a) by writing under his hand addressed to the Governor, resign his office; or

(b) be removed from his office in the manner provided in section 37.

Filling of vacancies of Chairperson or Members.

6. The Governor shall take or cause to be taken all necessary steps for the appointment of a new Chairperson and Members at least three months before the expiry of the term of such Chairperson or Member, as the case may be, in accordance with the procedure laid down in this Act.

Salary, allowances and other conditions of service of Chairperson and Members.

7. The salary, allowances and other conditions of service of—

(a) the Chairperson shall be the same as those of the Chief Justice of the High Court of Orissa;

(b) other Members shall be the same as those of a Judge of the High Court of Orissa:

Provided that if the Chairperson or a Member is, at the time of his appointment, in receipt of or has become entitled to receive pension (other than disability pension) in respect of any service or previous service under the Government of India or under the Government of a State or as Chief Justice or as a Judge of a High Court, his salary in respect of service as the Chairperson or, as the case may be, as a Member, be reduced—

(i) by the amount of that pension; and

(ii) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension:

Provided further that the salary, allowances and pension payable to, and other conditions of service of, the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

Restriction on employment by Chairperson and Members after ceasing to hold office.

8. (1) On ceasing to hold office, the Chairperson and every Member shall be ineligible for—

(i) reappointment as the Chairperson or a Member of the Lokayukta;

(ii) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the Governor by warrant under his hand and seal;

(iii) further employment to any other office of profit under the Government of India or the Government or corporation, company, society, local authority or autonomous body as referred to in sub-clauses (v) and (vi) of clause (c) of sub-section(1) of section 2;

(iv) contesting any election of President or Vice President of India or Member of either House of Parliament or Member of either House of a State Legislature or of Municipality or Panchayat within a period of five years from the date of relinquishing the post.

(2) Notwithstanding anything contained in sub-section (1), a Member shall be eligible to be appointed as a Chairperson, if his total tenure as Member and Chairperson does not exceed five years.

Explanation.— For the purposes of this section, it is hereby clarified that where the Member is appointed as the Chairperson, his term of office shall not be more than five years in aggregate as the Member and the Chairperson.

Member to act as Chairperson or to discharge his functions in certain circumstances.

9. (1) In the event of occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise the senior-most Member to act as the Chairperson until the appointment of a new Chairperson is made to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, the senior-most Member available, as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Secretary, other officers and staff of Lokayukta.

10. (1) There shall be a Secretary or more than one Secretary to the Lokayukta, who is or has been, in the rank of Secretary to the Government or District Judge in the State and who shall be appointed by the Chairperson from a panel of names sent by the Government.

(2) There shall be a Director of Inquiry and a Director of Prosecution not below the rank of the Additional Secretary to the Government or District Judge or equivalent, who shall be appointed by the Chairperson from a panel of names sent by the Government.

(3) The appointment of officers and staff of the Lokayukta shall be made by the Chairperson or such Member or officer of Lokayukta as the Chairperson may direct:

Provided that the Governor may, by rule, require that the appointment in respect of any post or posts as may be specified in the rule, shall be made after consultation with the State Public Service Commission.

(4) Subject to the provisions of any law made by the Legislature of the State the conditions of service of Secretary and other officers and staff of the Lokayukta shall be such as may be specified by regulations made by the Lokayukta for the purpose:

Provided that the regulations made under this sub-section shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor.

CHAPTER-III

INQUIRY WING

Inquiry Wing.

11. (1) Notwithstanding anything contained in any law for the time being in force, the Lokayukta shall constitute an Inquiry Wing headed by the Director of Inquiry for the purpose of conducting preliminary inquiry into any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988: 49 of 1988.

Provided that till such time the Inquiry Wing is constituted by the Lokayukta, the Government shall make available such number of officers and other staff from such of its Departments, as may be required by the Lokayukta, for conducting preliminary inquiry under this Act.

(2) For the purposes of assisting the Lokayukta in conducting a preliminary inquiry under this Act, the officers of the Inquiry Wing not below the rank of Under Secretary to the Government, shall have the same powers as are conferred upon the Lokayukta under section 28.

CHAPTER-IV

PROSECUTION WING

Prosecution Wing.

12. (1) The Lokayukta shall, by notification, constitute a Prosecution Wing headed by the Director of Prosecution who is or has been in the rank of Director of Public Prosecution of the State for the purpose of prosecution of public servants in relation to any complaint made before the Lokayukta under this Act:

Provided that till such time the Prosecution Wing is constituted by the Lokayukta, the Government shall make available such number of officers and other staff from such of its Departments, as may be required by the Lokayukta, for conducting prosecution under this Act.

(2) The Director of Prosecution shall, after having been so directed by the Lokayukta, file a case in accordance with the findings of the investigation report as per sub-section (6) of section 20, before the Special Court, and shall take all necessary steps in respect of the prosecution of public servants in relation to any offence punishable under the Prevention of Corruption Act, 1988. 49 of 1988.

(3) The report under sub-section (2) shall be deemed to be a report, filed on completion of investigation, referred to in section 173 of the Code of Criminal Procedure, 1973. 2 of 1974.

CHAPTER-V

EXPENSES OF LOKAYUKTA TO BE CHARGED ON THE CONSOLIDATED FUND OF THE STATE

Expenses of Lokayukta to be charged on the Consolidated Fund of the State.

13. The administrative expenses of the Lokayukta, including all salaries, allowances and pensions payable to or in respect of the Chairperson, Members or Secretary or other officers or staff of the Lokayukta, shall be charged upon the Consolidated Fund of the State and any fees or other moneys taken by the Lokayukta shall form part of that Fund.

CHAPTER-VI

JURISDICTION IN RESPECT OF INQUIRY

Jurisdiction of Lokayukta to include Chief Minister, Ministers, Members of Legislature, officers and employees of the State Government.

14. (1) Subject to the other provisions of this Act, the Lokayukta shall inquire or cause an inquiry to be conducted into any matter involving, or arising from, or connected with, any allegation of corruption made in a complaint in respect of the following, namely:—

(a) any person who is or has been a Chief Minister;

(b) any other person who is or has been a Minister of the State;

(c) any person who is or has been a Member of the Odisha Legislative Assembly;

(d) any person who is Chairperson or a member by whatever name called, of a Panchayat or a Municipality as respectively provided in articles 243-B and 243-Q of the Constitution of India;

(e) any officer or employee of the State, referred to in sub-clauses (i) and (ii) of clause (c) of section 2 of the Prevention of Corruption Act, 1988 when serving or who has served, in connection with the affairs of the State; 49 of 1988.

(f) any officer or employee referred to in clause (e) or holding equivalent post in any Body or Board or corporation or

authority or company or society or trust or autonomous body (by whatever name called) established by any Act of Parliament or of a State Legislature which is wholly or partly financed by the Government or controlled by it;

(g) any person who is or has been a director, manager, secretary or other officer of every other society or association of persons or trust (whether registered under any law for the time being in force or not), by whatever name called, wholly or partly financed or aided by the Government and the annual income of which exceeds such amount as the Government may, by notification, specify;

(h) any person who is or has been a director, manager, secretary or other officer of every other society or association of persons or trust (whether registered under any law for the time being in force or not) in receipt of any donation from the public and the annual income of which exceeds such amount as the Government may, by notification, specify or from any foreign source under the Foreign Contribution (Regulation) Act, 2010 42 of 2010. in excess of ten lakh rupees in a year or such higher amount as the Central Government may, by notification, specify:

Provided that any person referred to in this clause shall be deemed to be a public servant under clause (c) of section 2 of the Prevention of Corruption Act, 1988 and the provisions of 49 of 1988. that Act shall apply accordingly.

(i) any person or institution, who enters into any contract, by any means, with the Government for execution of any work or for rendering any service to the public on behalf of the Government by any means or receives Government grants, aids or external grants and aids for any purpose.

(2) Notwithstanding anything contained in sub-section (1), the Lokayukta shall not inquire into any matter involving or arising from, or connected with, any such allegation of corruption against any Member of the Odisha Legislative Assembly in respect of anything said or a vote given by him in the said Assembly or any committee thereof covered

under the provisions contained in clause (2) of article 194 of the Constitution of India.

(3) The Lokayukta may inquire into any act or conduct of any person other than those referred to in sub-section (1), if such person is involved in the act of bribe giving or bribe taking or abetting the same or in conspiracy relating to any allegation of corruption under the Prevention of Corruption Act, 1988 against a person referred to in sub-section (1): 49 of 1988.

Provided that no action under this section shall be taken in case of a person serving in connection with the affairs of the Union, without the consent of the Central Government.

(4) No matter in respect of which a complaint has been made to the Lokayukta under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952. 60 of 1952.

Explanation.— For the removal of doubts, it is hereby declared that a complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity.

Matters pending before any court or committee or authority for inquiry not to be affected.

15. In case any matter or proceeding related to allegation of corruption under the Prevention of Corruption Act, 1988 has been pending before any Court or Committee of the Legislative Assembly of the State or before any other authority prior to commencement of this Act or prior to commencement of any inquiry after the commencement of this Act, such matter or proceeding shall be continued before such court, committee or authority, except the matter pending before the Lokpal under the Odisha Lokpal and Lokayuktas Act, 1995 which shall be disposed of by the Lokayukta. 49 of 1988. Odisha Act 8 of 1995.

Constitution of benches of Lokayukta.

16. (1) Subject to the provisions of this Act, —

(a) the jurisdiction of the Lokayukta may be exercised by benches thereof;

(b) a bench may be constituted by the Chairperson with two or more Members as the Chairperson may deem fit;

(c) every bench shall ordinarily consist of at least one Judicial Member;

(d) where a bench consists of the Chairperson, such bench shall be presided over by the Chairperson;

(e) where a bench consists of a Judicial Member and a non-Judicial Member, not being the Chairperson, such bench shall be presided over by the Judicial Member;

(f) the benches of the Lokayukta shall ordinarily sit at Bhubaneswar and at such other places as the Lokayukta may, by regulations, specify.

(2) The Lokayukta shall notify the areas in relation to which each bench of the Lokayukta may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson shall have the power to constitute or reconstitute benches from time to time.

(4) If at any stage of the hearing of any case or matter, it appears to the Chairperson or a Member that the case or matter is of such nature that it ought to be heard by a bench consisting of three or more Members, the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer, to such bench as the Chairperson may deem fit.

Distribution of business amongst benches.

17. Where benches are constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the Lokayukta amongst the benches and also provide for the matters which may be dealt with by each bench.

Power of Chairperson to transfer cases.

18. On an application for transfer made by the complainant or the public servant, the Chairperson, after giving an opportunity of being heard to the complainant or the public servant, as the case may be, may transfer any case pending before one bench for disposal to any other bench.

Decision to be made by majority.

19. If the Members of a bench, consisting of an even number of Members, differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Lokayukta and such point or points shall be decided according to the opinion of the majority of the Members of the Lokayukta who have heard the case, including those who first heard it.

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CHAPTER-VII

PROCEDURE IN RESPECT OF PRELIMINARY INQUIRY AND INVESTIGATION

Provisions relating to complaints and preliminary inquiry and investigation.

20. (1) The Lokayukta, on receipt of a complaint, if it decides to proceed further, may order—

(a) preliminary inquiry against any public servant by its Inquiry Wing or any agency to ascertain whether there exists a prima facie case for proceeding in the matter; or

(b) investigation by any agency or authority empowered under any law to investigate, where there exists a prima facie case:

Provided that any investigation under this clause shall be ordered only if in the opinion of the Lokayukta there is substantial material relating to the existence of a prima facie case or any earlier statutory investigation or enquiry regarding the same complaint reveals that a prima facie case exists:

Provided further that before ordering an investigation under this clause, the Lokayukta shall call for the explanation of the public servant and views of the competent authority, so as to determine whether there exists a prima facie case for investigation:

Provided also that a decision to order investigation under this clause shall be taken by a bench constituted by the Chairperson under section 16.

(2) During the preliminary inquiry referred to in sub-section (1), the Inquiry Wing or any agency shall conduct a preliminary inquiry and on the basis of material, information and documents collected, seek the comments on the allegations made in the complaint from the public servant and competent authority and after obtaining the comments of the concerned public servant and competent authority, submit, within sixty days from the date of receipt of the reference, a report to the Lokayukta.

(3) A bench consisting of not less than three Members of the Lokayukta shall consider every report received under sub-section (2) from the Inquiry Wing or any agency and after giving an opportunity of being heard to the public servant, decide as to whether there exists a *prima*

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facie case, and make recommendations to proceed with one or more of the following actions, namely:—

(a) investigation by any agency (including any special investigation agency);

(b) initiation of the departmental proceedings or any other appropriate action against the concerned public servant by the competent authority;

(c) closure of the proceedings against the public servant and take action to proceed against the complainant under section 46.

(4) The promotion and other service benefits of a public servant mentioned in clauses (e) to (h) of sub-section (1) of section 14 shall not be affected until the public servant is put under suspension on recommendation of the Lokayukta under section 32 or charge sheet is filed after completion of investigation under clause (a) of sub-section (3) or a charge memo is issued against the said public servant in a disciplinary proceeding initiated on the recommendation of the Lokayukta under clause (b) of sub-section (3).

(5) Every preliminary inquiry referred to in sub-section (1) shall ordinarily be completed within a period of ninety days and for reasons to be recorded in writing, within a further period of ninety days from the date of receipt of the complaint.

(6) In case the Lokayukta decides to proceed to investigate into the complaint, it shall, by order in writing, direct any investigating agency (including any special agency) to carry out the investigation as expeditiously as possible and complete the investigation within a period of six months from the date of its order:

Provided that the Lokayukta, for the reasons to be recorded in writing, may extend the said period by a further period not exceeding six months at a time and for the maximum period of two years.

(7) Notwithstanding anything contained in section 173 of the Code of Criminal Procedure, 1973, any investigating agency (including any special agency) shall, in respect of cases referred to it by the Lokayukta, submit the investigation report to the Lokayukta. 2 of 1974.

(8) A bench consisting of not less than three Members of the Lokayukta shall consider every report received by it under sub-section (7) from any investigating agency (including any special agency) and may, decide as to—

(a) filing of charge-sheet or closure report before the Special Court against the public servant;

(b) initiating the departmental proceedings or any other appropriate action against the concerned public servant by the competent authority.

(9) The Lokayukta may, after taking a decision under sub-section (8) on the filing of the charge sheet, direct its Prosecution Wing to initiate prosecution in a Special Court in respect of cases investigated by any investigating agency (including any special agency).

(10) The Lokayukta may, during the preliminary inquiry or the investigation, as the case may be, pass appropriate orders for the safe custody of the documents relevant to the preliminary inquiry or, as the case may be, investigation, as it deems fit.

(11) The website of the Lokayukta shall, from time to time and in such manner as may be specified by regulations, display to the public, the status of number of complaints pending before it or disposed of by it.

(12) The Lokayukta may retain the original records and evidences, which are likely to be required in the process of preliminary inquiry or investigation or conduct of a case by it or by the Special Court.

(13) Save as otherwise provided, the manner and procedure of conducting a preliminary inquiry or investigation (including such material and documents to be made available to the public servant) under this Act, shall be such as may be specified by regulations.

Persons likely to be prejudicially affected to be heard.

21. If, at any stage of the proceeding, the Lokayukta—

(a) considers it necessary to inquire into the conduct of any person other than the accused; or

(b) is of opinion that the reputation of any person other than an accused is likely to be prejudicially affected by the preliminary inquiry,

it shall give to that person a reasonable opportunity of being heard in the preliminary inquiry and to produce evidence in his defence, consistent with the principles of natural justice.

Lokayukta may require any public servant or any other person to furnish information, etc.

22. Subject to the provisions of this Act, for the purpose of any preliminary inquiry or investigation, the Lokayukta or the investigating authority, as the case may be, may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such preliminary inquiry or investigation, to furnish any such information or produce any such document.

Cognizance by Special Court without sanction.

23. (1) A Special Court may, notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 or section 19 of the Prevention of Corruption Act, 1988, on filing of a charge sheet on completion of investigation, by the Lokayukta or any officer authorised by it in this behalf, take cognizance of offence committed by any public servant. 2 of 1974. 49 of 1988.

(2) Nothing contained in sub-section (1) shall apply in respect of the persons holding the office in pursuance of the provisions of the Constitution of India and in respect of which a procedure for removal of such person has been specified therein.

(3) The provisions contained in sub-sections (1) and (2) shall be without prejudice to the generality of the provisions contained in article 311 and sub-clause (c) of clause (3) of article 320 of the Constitution of India.

Action on investigation against public servant being Chief Minister, Ministers or Members of the State Legislative Assembly.

24. Where, after the conclusion of the investigation, the findings of the Lokayukta disclose the commission of an offence under the Prevention of Corruption Act, 1988 by a public servant referred to in clause (a) or clause (b) or clause (c) of sub-section (1) of section 14, the Lokayukta may file a case in the Special Court and shall send a copy of the report together with its findings to the competent authority. 49 of 1988.

CHAPTER-VIII

POWERS OF THE LOKAYUKTA

Supervisory powers of the Lokayukta.

25. The Lokayukta shall, notwithstanding anything contained in any other law for the time being in force, have the powers of superintendence

and direction over the investigating agency including the State Vigilance and Crime Branch in respect of the matters in so far as they relate to the investigation made by such agency under this Act:

Provided that while exercising power of superintendence or giving direction under this section, the Lokayukta shall not exercise powers on such manner so as to require any agency (including the State Vigilance and Crime Branch) to whom the investigation has been given, to investigate and dispose of any case in a particular manner.

Search and seizure.

26. (1) If the Lokayukta has reasons to believe that any document which, in its opinion, shall be useful for, or relevant to, any investigation under this Act, are secreted in any place, it may authorise any agency to whom the investigation has been given to search for and to seize such documents.

(2) If the Lokayukta is satisfied that any document seized under sub-section (1) may be used as evidence for the purpose of any preliminary inquiry or investigation under this Act and that it shall be necessary to retain the document in its custody or in the custody of such officer as may be authorised, it may so retain or direct such authorised officer to retain such document till the completion of such preliminary inquiry or investigation as the case may be:

Provided that where any document is required to be returned, the Lokayukta or the authorised officer may return the same after retaining copies of such document duly authenticated in the manner as may be prescribed.

Inquiry Wing to have powers of civil court in certain cases.

27. (1) Subject to the provisions of this section, for the purpose of any preliminary inquiry, the Inquiry Wing of the Lokayukta shall have all the powers of a civil court, under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:— **5 of 1908.**

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents:

Provided that such commission, in case of a witness, shall be issued only where the witness, in the opinion of the Lokayukta, is not in a position to attend the proceeding before the Lokayukta; and

(vi) such other matters as may be prescribed.

(2) Any proceeding before the Lokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code, 1860. 45 of 1860.

Power of the Lokayukta to utilise services of officers of the Government.

28. (1) The Lokayukta may, for the purpose of conducting any preliminary inquiry or investigation, utilise the services of any officer or organisation or investigation agency of the Government.

(2) For the purpose of preliminary inquiry or investigating into any matter pertaining to such inquiry or investigation, any officer or organisation or agency whose services are utilised under sub-section (1) may, subject to the superintendence and direction of the Lokayukta, —

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document; and

(c) requisition any public record or copy thereof from any office.

(3) The officer or organisation or agency whose services are utilised under sub-section (2) shall inquire or, as the case may be, investigate into any matter pertaining to the preliminary inquiry or investigation and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf.

Provisional attachment of assets.

29.(1) Where the Lokayukta or any investigating officer authorised by it in this behalf, has reasons to believe, the reason for such belief to be recorded in writing, on the basis of material in his possession, that—

(a) any person is in possession of any proceeds of corruption;

(b) such person is accused of having committed an offence relating to corruption; and

(c) such proceeds of offence are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of offence,

the Lokayukta or the investigating officer, may, by order in writing, provisionally attach such property for a period not exceeding ninety days from the date of the order, in the manner as provided in the Second Schedule to the Income-tax Act, 1961 and the Lokayukta and the officer shall be deemed to be an officer under sub-rule (e) of rule 1 of that Schedule. 43 of 1961.

(2) The Lokayukta shall, immediately after attachment under sub-section (1), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Special Court, in a sealed envelope, in the manner as may be prescribed and such Court may extend the order of attachment and keep such material for such period as the Court may deem fit.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or after the expiry of the period as directed by the Special Court under sub-section (2).

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) or sub-section (2), from such enjoyment.

Explanation.—For the purposes of this sub-section, "person interested", in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

Confirmation of attachment of assets.

30. (1) The Lokayukta, when it provisionally attaches any property under sub-section (1) of section 29 shall, within a period of thirty days of such attachment, direct its prosecution wing to file an application stating the facts of such attachment before the Special Court and make a prayer for confirmation of attachment of the property till completion of the proceedings against the public servant in the Special Court.

(2) The Special Court may, if it is of the opinion that the property provisionally attached had been acquired through corrupt means, make an order for confirmation of attachment of such property till the completion of the proceedings against the public servant in the Special Court.

(3) If the public servant is subsequently acquitted of the charges framed against him, the property, subject to the orders of the Special Court, shall be restored to the concerned public servant along with

benefits from such property as might have accrued during the period of attachment.

(4) If the public servant is subsequently convicted of the charges of corruption, the proceeds relatable to the offence under the Prevention of Corruption Act, 1988 shall be confiscated and vest in the Government free from any encumbrance or leasehold interest excluding any debt due to any bank or financial institution. 49 of 1988.

Explanation.—For the purposes of this sub-section, the expressions "Bank", "debt" and "financial institution" shall have the meanings respectively assigned to them in clauses (d), (g) and (h) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. 51 of 1993.

Confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption in special circumstances.

31.(1) Without prejudice to the provisions of sections 29 and 30, where the Special Court, on the basis of prima facie evidence, has reasons to believe or is satisfied that the assets, proceeds, receipts and benefits, by whatever name called, have arisen or procured by means of corruption by the public servant, it may pass an order for the confiscation of such assets, proceeds, receipts and benefits till his acquittal.

(2) Where an order of confiscation made under sub-section (1) is modified or annulled by the High Court or where the public servant is acquitted by the Special Court, the assets, proceeds, receipts and benefits, confiscated under sub-section (1) shall be returned to such public servant, and in case it is not possible for any reason to return the assets, proceeds, receipts and benefits, such public servant shall be paid the price thereof including the money so confiscated with the interest from the date of confiscation at the rate as may be prescribed.

Power of Lokayukta to recommend transfer or suspension of public servant connected with allegation of corruption.

32. (1) Where the Lokayukta, while making a preliminary inquiry into allegations of corruption, is prima facie satisfied, on the basis of evidence available that the continuance of the public servant, referred to in clauses (e) to (h) of sub-section (1) of section 14, in his post is likely to affect such preliminary inquiry adversely or is likely to destroy, or in any way tamper with, the evidence or influence witnesses, then, the Lokayukta may recommend to the Government for transfer or suspension of such public servant till such period as may be specified in the order.

(2) The Government shall ordinarily accept the recommendation of the Lokayukta made under sub-section (1), except for the reasons to be recorded in writing in a case where it is not feasible for administrative reasons.

Power of the Lokayukta to give directions to prevent destruction of records during preliminary inquiry.

33. The Lokayukta may, in discharge of its functions under this Act, issue appropriate directions to a public servant entrusted with the preparation or custody of any document or record—

(a) to protect such document or record from destruction or damage; or

(b) to prevent the public servant from altering or secreting such document or record; or

(c) to prevent the public servant from transferring or alienating any assets allegedly acquired by him through corrupt means.

Power to delegate.

34. The Lokayukta may, by general or special order in writing and subject to such conditions and limitations as may be specified therein, direct that any administrative or financial power conferred on it may also be exercised or discharged by such of its Members or officers or employees as may be specified in the order.

CHAPTER -IX

SPECIAL COURTS

Special Courts to be constituted by the Government.

35. (1) The Government shall constitute such number of Special Courts, as recommended by the Lokayukta, to hear and decide the cases arising out of the Prevention of Corruption Act, 1988 or under this Act. **49 of 1988.**

(2) The Special Courts constituted in accordance with the recommendation under sub-section (1) shall ensure completion of each trial within a period of one year from the date of filing of the case in that Court:

Provided that in case the trial cannot be completed within a period of one year, the Special Court shall record reasons therefor and complete the trial within a further period of not more than three months or such further periods not exceeding three months each, for reasons to be recorded in writing before the end of each such three months period, but not exceeding a total period of two years.

Letter of request to a contracting State in certain cases.

36. (1) Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 if, in the course of a preliminary inquiry or investigation into an offence or other proceeding under this Act, an application is made to a Special Court by an officer of the Lokayukta authorised in this behalf that any evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act and he is of the opinion that such evidence may be available in any place in a contracting State, and the Special Court, on being satisfied that such evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act, may issue a letter of request to a court or an authority in the contracting State competent to deal with such request to— 2 of 1974.

(i) examine the facts and circumstances of the case;

(ii) take such steps as the Special Court may specify in such letter of request; and

(iii) forward all the evidence so taken or collected to the Special Court issuing such letter of request.

(2) The letter of request shall be transmitted in such manner as may be prescribed.

(3) The evidence collected in pursuance of the letter of the request under sub-section (1) by the Special Court shall be made available to the concerned authorised officer.

(4) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be evidence collected during the course of the preliminary inquiry or investigation.

CHAPTER- X

COMPLAINTS AGAINST CHAIRPERSON, MEMBERS AND OFFICIALS OF THE LOKAYUKTA

Removal and suspension of Chairperson and Members of Lokayukta.

37.(1) The Lokayukta shall not inquire into any complaint made against the Chairperson or any Member.

(2) Subject to the provisions of sub-section (4), the Chairperson or any Member shall be removed from his office by order of the Governor on the grounds of misbehaviour after the High Court of Orissa, on a reference being made to it by the Governor on a petition signed by at

least twenty-five Members of the Legislative Assembly, has, on an inquiry held in accordance with the procedure prescribed in that behalf, reported that the Chairperson or such Member, as the case may be, ought to be removed on such ground.

(3) The Governor may suspend from the office, the Chairperson or any Member in respect of whom a reference has been made to the High Court under sub-section (2), on receipt of the recommendation or interim order made by the High Court in this regard until the Governor has passed orders on receipt of the final report of the High Court on such reference.

(4) Notwithstanding anything contained in sub-section (2), the Governor may, by order, remove from the office, the Chairperson or any Member, if the Chairperson or such Member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages himself during his term of office, in any paid employment outside the duties of his office; or

(c) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body.

(5) If the Chairperson or any Member is, or becomes, in anyway concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (2), be deemed to be guilty of misbehaviour.

Complaints against officials of Lokayukta.

38.(1) Every complaint or allegation made against any officer or employee or agency under, or associated with, the Lokayukta for an offence punishable under the Prevention of Corruption Act, 1988 shall be dealt with in accordance with the provisions of this section. **49 of 1988.**

(2) The Lokayukta shall complete the inquiry into the complaint or allegation made within a period of thirty days from the date of its receipt.

(3) While making an inquiry into the complaint against any officer or employee of the Lokayukta or agency engaged or associated with the Lokayukta, if it is prima facie satisfied on the basis of evidence available, that continuance of such officer or employee of the Lokayukta or agency

engaged or associated in his post while conducting the inquiry is likely to affect such inquiry adversely or is likely to destroy or in any way tamper with the evidence or influence witnesses, then, the Lokayukta may, by order, suspend such officer or employee of the Lokayukta or divest such agency engaged or associated with the Lokayukta of all powers and responsibilities heretobefore exercised by it .

(4) On completion of the inquiry, if the Lokayukta is satisfied that there is prima facie evidence of the commission of an offence under the Prevention of Corruption Act, 1988, it shall, within a period of fifteen days of the completion of such inquiry, order to prosecute such officer or employee of the Lokayukta or such officer, employee, agency engaged or associated with the Lokayukta and initiate disciplinary proceedings against the official concerned: 49 of 1988.

Provided that no such order shall be passed without giving such officer or employee of the Lokayukta, or agency so engaged or associated, a reasonable opportunity of being heard.

CHAPTER- XI

ASSESSMENT OF LOSS AND RECOVERY THEREOF BY SPECIAL COURT

Assessment of loss and recovery thereof by Special Court.

39. If any public servant is convicted of an offence under the Prevention of Corruption Act, 1988 by the Special Court, without prejudice to any law for the time being in force, it may make an assessment of loss, if any, caused to the public exchequer on account of the actions or decisions of such public servant not taken in good faith and for which he stands convicted, and may order recovery of such loss, if possible or quantifiable, from such public servant so convicted: 49 of 1988.

Provided that if the Special Court, for reasons to be recorded in writing, comes to the conclusion that the loss caused was pursuant to a conspiracy with the beneficiary or beneficiaries of actions or decisions of the public servant so convicted, then such loss may, if assessed and quantifiable under this section, also be recovered from such beneficiary or beneficiaries proportionately.

CHAPTER-XII

FINANCE, ACCOUNTS AND AUDIT

Budget.

40. The Lokayukta shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta and forward the same to the Government for information.

Grants by the Government.

41. The Government may, after due appropriation made by the Legislative Assembly by law in this behalf, make to the Lokayukta grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Lokayukta.

Annual statement of accounts.

42. (1) The Lokayukta shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Accountant General, Odisha.

(2) The accounts of the Lokayukta shall be audited by the Accountant General, Odisha at such intervals as may be specified by the Accountant General, Odisha.

(3) The Accountant General, Odisha or any person appointed by him in connection with the audit of the accounts of the Lokayukta under this Act shall have the same rights, privileges and authority in connection with such audit, as the Accountant General, Odisha generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Lokayukta.

(4) The accounts of the Lokayukta, as certified by the Accountant General, Odisha or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Government and the Government shall cause the same to be laid before the Odisha Legislative Assembly.

Furnishing of returns etc, to Government.

43. The Lokayukta shall furnish to the Government, at such time and in such form and manner as may be prescribed or as the Government

may request, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Lokayukta, as the Government may, from time to time, require.

CHAPTER- XIII

DECLARATION OF ASSETS

Declaration of assets.

44. (1) Every public servant shall make a declaration of his assets and liabilities in the manner as provided by or under this Act.

(2) A public servant shall, within a period of thirty days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to—

(a) the assets of which he, his spouse and his dependent children are, jointly or severally, owners or beneficiaries;

(b) his liabilities and that of his spouse and his dependent children.

(3) A public servant holding his office as such, at the time of the commencement of this Act, shall furnish information relating to such assets and liabilities, as referred to in sub-section (2), to the competent authority within ninety days of the coming into force of this Act.

(4) Every public servant shall file with the competent authority, on or before the thirty-first July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the thirty-first March of that year.

(5) The information under sub-section (2) or sub-section (3) and annual return under sub-section (4) shall be furnished to the competent authority in such form and in such manner as may be prescribed.

(6) The competent authority in respect of each Department shall ensure that all such statements are published on the website of such Department by thirty-first August of that year.

Explanation.—For the purposes of this section, "dependent children" means sons and daughters who have no separate means of earning and are wholly dependent on the public servant for their livelihood.

Presumption as to acquisition of assets by corrupt means in certain cases.

45. If any public servant wilfully or for reasons which are not justifiable, fails to declare his asset or gives misleading information in respect of such assets and is found to be in possession of assets not disclosed or in respect of which misleading information was furnished, then, such assets shall, unless otherwise proved, be presumed to belong to the public servant and shall be presumed to be assets acquired by corrupt means:

Provided that the competent authority may condone or exempt the public servant from furnishing information in respect of assets not exceeding such minimum value as may be prescribed.

CHAPTER- XIV

OFFENCES AND PENALTIES

Prosecution for false complaint and payment of compensation, etc., to public servant.

46. (1) Notwithstanding anything contained in this Act, whoever makes any false and frivolous or vexatious complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees.

(2) No Court, except a Special Court, shall take cognizance of an offence under sub- section (1).

(3) No Special Court shall take cognizance of an offence under sub-section (1) except on a complaint made by a person against whom the false, frivolous or vexatious complaint was made or by an officer authorised by the Lokayukta.

(4) The prosecution in relation to an offence under sub-section (1) shall be conducted by the public prosecutor and all expenses connected with such prosecution shall be borne by the Government.

(5) In case of conviction of a person being an individual or society or association of persons or trust (whether registered or not) for having made a false complaint under this Act, such person shall be liable to pay compensation to the public servant against whom he made the false complaint in addition to the legal expenses for contesting the case by such public servant, as the Special Court may determine.

(6) Nothing contained in this section shall apply in case of complaints made in good faith.

Explanation.—For the purpose of this sub-section, the expression "good faith" means any act believed or done by a person in good faith with due care, caution and sense of responsibility or by mistake of fact believing himself justified by law under section 79 of the Indian Penal Code,1860. 45 of 1860.

False complaint made by society or association of persons or trust.

47. (1) Where any offence under sub-section (1) of section 46 has been committed by any society or association of persons or trust (whether registered or not), every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the society or association of persons or trust, for the conduct of the business or affairs or activities of the society or association of persons or trust as well as such society or association of persons or trust shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a society or association of persons or trust (whether registered or not) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of such society or association of persons or trust, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER-XV

MISCELLANEOUS

Reports of Lokayukta.

48. It shall be the duty of the Lokayukta to present annually to the Governor a report on the work done by the Lokayukta and on receipt of such report the Governor shall cause a copy thereof together with a memorandum explaining, in respect of the cases, if any, where the advice

of the Lokayukta was not accepted, the reason for such non-acceptance to be laid before the Odisha Legislative Assembly.

Protection of action taken in good faith by any public servant.

49. No suit, prosecution or other legal proceedings under this Act shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers.

Protection of action taken in good faith by others.

50. No suit, prosecution or other legal proceedings shall lie against the Lokayukta or against any officer, employee, agency or any person, in respect of anything which is done in good faith or intended to be done under this Act or the rules or the regulations made thereunder.

Members, officers and employees of Lokayukta to be public servants.

51. The Chairperson, Members, officers and other employees of the Lokayukta shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code,1860. **45 of 1860.**

Limitation to apply in certain cases.

52. The Lokayukta shall not inquire or investigate into any complaint, if the complaint is made after the expiry of a period of seven years from the date on which the offence mentioned in such complaint is alleged to have been committed.

Bar of Jurisdiction.

53. No civil court shall have jurisdiction in respect of any matter which the Lokayukta is empowered by or under this Act to determine.

Legal assistance.

54. The Lokayukta shall provide to every person against whom a complaint has been made, before it, under this Act, legal assistance to defend his case before the Lokayukta, if such assistance is requested for.

Act to have overriding effect.

55. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Provisions of this Act to be in addition to other laws.

56. The provisions of this Act shall be in addition to, and not in derogation of, any other laws for the time being in force.

Power to make rules.

57. (1) The Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the form of complaint referred to in clause (d) of sub-section (1) of section 2;

(b) the term of the Search Committee, the fee and allowances payable to its members and the manner of selection of panel of names under sub-section (5) of section 4;

(c) the post or posts in respect of which the appointment shall be made after consultation with the Odisha Public Service Commission under the proviso to sub- section (3) of section 10;

(d) other matters for which the Lokayukta shall have the powers of a civil court under clause (vi) of sub-section (1) of section 27;

(e) the manner of sending the order of attachment along with the material to the Special Court under sub-section (2) of section 29;

(f) the rate of interest as contemplated under sub-clause (2) of section 31;

(g) the manner of transmitting the letter of request under sub-section (2) of section 36;

(h) the form and the time for preparing in each financial year the budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta under section 40;

(i) the form for maintaining the accounts and other relevant records and the form of annual statement of accounts under sub-section (1) of section 42;

(j) the form and manner and the time for preparing the returns and statements along with particulars under section 43;

(k) the form and the time for preparing an annual return giving a summary of its activities during the previous year under sub-section (5) of section 44;

(l) the form of annual return to be filed by a public servant under sub-section (5) of section 44;

(m) the minimum value for which the competent authority may condone or exempt a public servant from furnishing

information in respect of assets under the proviso to section 45; and

(n) any other matter which is to be or may be prescribed.

Power to make regulations.

58. (1) Subject to the provisions of this Act and the rules made thereunder, the Lokayukta may, by notification, make regulations to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the conditions of service of the Secretary and other officers and staff of the Lokayukta and the matters which, in so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor under the proviso to sub-section (4) of section 10;

(b) the place of sittings of Benches of the Lokayukta under clause (f) of sub-section (1) of section 16;

(c) the manner for displaying on the website of the Lokayukta, the status of all complaints pending or disposed of along with records and evidence with reference thereto under sub-section (11) of section 20;

(d) the manner and procedure of conducting preliminary inquiry or investigation under sub-section (13) of section 20;

(e) any other matter which is required to be, or may be, specified under this Act.

Power to remove difficulties.

59. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to be necessary for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the Odisha Legislative Assembly.

Repeal and its effect.

60. (1) The Odisha Lokpal and Lokayuktas Act, 1995 is hereby repealed. **Odisha Act 8 of 1995.**

(2) On such repeal, every inquiry, investigation and other proceedings together with record thereof, relating to allegation of corruption pending under the Act so repealed, shall stand transferred to the Lokayukta immediately on the date of establishment of such Lokayukta under sub-section (1) of section 3 and shall be dealt in accordance with the provisions of this Act.

(3) On such repeal, every inquiry, investigation and other proceedings pending under the Act so repealed, not relating to allegations of corruption against the public functionaries or matter incidental thereto shall be transferred to the Government after the date of notification to be dealt by the appropriate forum which may be constituted by the Government in that behalf.

(4) Notwithstanding anything contained in this Act, the offices and the posts created for the functioning of the Lokpal and any other official appointed to function under the Lokpal in any capacity immediately before such repeal are to continue as such under this Act until further provisions are made by the Government in that behalf.

By order of the Governor

B.P. ROUTRAY

Principal Secretary to Government

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