

MUNICIPAL COUNCILS
AN ACT TO AMEND THE MUNICIPAL COUNCILS ORDINANCE.

Ordinance Nos,
29 of 1947

Law Nos,
38 of 1973
8 of 1974
4 of 1975
5 of 1975
18 of 1977
24 of 1977

Act Nos,
1 of 1949
3 of 1951
12 of 1951
39 of 1951
8 of 1952
38 of 1953
7 of 1954
26 of 1954
44 of 1954
22 of 1955
22 of 1956
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39 of 1958
12 of 1959
9 of 1961
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42 of 1968
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48 of 1971
18 of 1979
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[10 of 1981](#) [27th February , 1981]
[33 of 1981](#) [29th May , 1981]
[61 of 1981](#) [28th September , 1981]
[5 of 1983](#) [27th January , 1983]
[13 of 1983](#) [18th March , 1983]
[20 of 1985](#) [23rd May , 1985]
[39 of 1986](#) [12th November , 1986]
[19 of 1987](#) [16th April , 1987]
[35 of 1987](#) [25th June , 1987]

[15th August , 1947]

Short title **1**. This Ordinance may be cited as the Municipal Councils Ordinance.

PART I

CONSTITUTION OF MUNICIPAL COUNCILS

Power to declare areas to be
Municipalities and to define their
limits.

2.The Minister may, by Order published in the Gazette-

- (a) declare area to be a any Municipality;
- (b) define the limits of the Municipality so declared; and
- (c) assign a name and designation to the Municipal

Council to be constituted for the Municipality so declared.

Municipal Council to be constituted for each Municipality.

3. A Municipal Council in accordance with the provisions of this Ordinance shall be constituted for every area declared to be a Municipality by Order under section 2.

Functions of Municipal Councils.

4. The Municipal Council constituted for each Municipality shall, subject to the powers reserved to or vested in any other authority by this Ordinance or by any other written law, be the local authority, within the administrative limits of the Municipality, charged with the regulation, control and administration of all matters relating to the public health, public utility services and public thoroughfares, and generally with the protection and promotion of the comfort, convenience and welfare of the people and the amenities of the Municipality.

Composition of Municipal Councils.

5.

[94,24 of 1977]

(1) Each Municipal Council shall consist of the Mayor and Deputy Mayor and such number of other Councillors as the Minister may prescribe by Order published in the Gazette.

(2) In determining the number of Councillors the Minister shall have regard to the area and population of the Municipality.

(3) Every Order made under subsection (1) shall as soon as may be convenient be laid before Parliament.

Arrangements preliminary to constitution of Municipal Councils.

7. For the purposes of any preliminary arrangements in connexion with the constitution of any Municipal Council under this Ordinance, it shall be lawful for the Minister, by an Order or Orders published in the Gazette, to issue all such directions as may be necessary or appropriate, or to modify or supplement any of the provisions of this Ordinance in such manner and to such extent as may be specified by him in such Order; and every such Order shall have the same effect in relation to the purposes aforesaid as if it had been embodied in this Ordinance.[* Section 6 is repealed by Law No. 24 of 1977]

PART II

ELECTION AND TERM OF OFFICE OF COUNCILLORS

First general election of Councillors.

8. Where a Municipal Council is to be constituted for any Municipality under this Ordinance, a general election in accordance with the provisions of the Local Authorities Elections Ordinance shall be held for the purpose of electing the first Councillors of the Council.

Commencement of term of office of Municipal Councils and date of constitution of such Councils.

9. The term of office of each Municipal Council to be constituted under this Ordinance shall commence on such date as the Minister may appoint by Order published in the Gazette. Such date shall be deemed to be the date of the constitution of the Council for all the purposes of this Ordinance; and the Council shall be deemed to be constituted on that date, notwithstanding that the full number of Councillors prescribed under section 5 may not have been duly elected.

Term of office of Councillors.

10.

[2, 39 of 1986]

(1) The term of office of each Councillor elected at a general-

election shall commence-

(a) in the case of the first general election, on the date specified by the Minister by Order under section 9;

(b) in the case of any general election subsequent to the first general election, on the first day of January next succeeding the date of the election or on such other date as the Minister may appoint by Order published in the Gazette,

[2.39 of 1961]

[[2. 2 of 1967]

[\[2. 39 of 1986\]](#)

[\[2.39 of 1986\]](#)

and shall, unless such councillor vacates office earlier by death, resignation or removal continue for a period of forty eight months from the date on which such term of office commenced.

(2) The Minister may by Order published in the Gazette

(a) curtail the term of office referred to in subsection (1) by appointing, in substitution for the date on which the term 'of office expires, a day of any month preceding the month on which such term of office expires in that year Or in the year immediately preceding that year; and

(b) extend such term by appointing, in substitution for the date on which the term of office expires, under subsection (1) or the day appointed under paragraph (a) of this subsection, a day of any month after the day on which the term of office expire in that year or in any year subsequent to the year so specified or appointed, and there after from time to time extend such term by appointing in substitution for the date of expiry of such term specified in the last Order, a later date:

Provided, however, that the period by which such term is extended or the aggregate of the periods by which such term is from time to time extended shall not exceed twelve months."

Subsequent
general
elections.

11. Where the term of office of the Councillors elected at a general election is due to expire under section 10, a general election in accordance with the provisions of the Local Authorities Elections Ordinance shall be held for the purpose of electing new Councillors in place of such Councillors. [' Section 12 is repealed by Law No. 24 of 1977]

Refusal,
resignation or
vacation of
office.

13.

(1) Where any person who is elected as a Councillor decides for any reason not to serve as a Councillor, he may-

(a) if he is not the Mayor, relinquish the office of Councillor-

(i) by a written communication of his refusal of office to the Mayor, or in the event of any vacancy in the office of Mayor to the Commissioner, at any time before the date fixed for the first meeting of the Council after

his election; or

(ii) by a written communication of his resignation of office to the Mayor, or in the event of any vacancy in the office of Mayor to the Commissioner, at any time after such first meeting; or

(b) if he is the Mayor, relinquish the office of Councillor-

(i) by a written communication of his refusal of office to the Commissioner, at any time before the date fixed for the first meeting of the Council after his election ; or

(ii) by a written communication of his resignation of office to the Commissioner, at any time after such first meeting.

(2) Any Councillor who, without leave of the Council first obtained, fails to attend three consecutive general meetings of the Council shall ipso facto vacate his office.

[97,24 of 1977] (3) If any person elected as a Councillor refuses or resigns his office, or dies, or vacates his office under subsection (2) or if a casual vacancy occurs in any other manner in such office, the Mayor or the Commissioner, as the case may be, shall send a written communication to that effect to the elections officer. Upon the receipt of such communication, the elections officer shall proceed to fill the vacancy in accordance with the provisions of the Local Authorities Elections Ordinance, and the person thereupon elected shall serve as a Councillor until the expiry of the term of office of the Councillors elected at the last preceding general election.

PART III

MEETINGS AND CONDUCT OF BUSINESS

MAYOR AND DEPUTY MAYOR

Term of office **14.**
of Mayor and
Deputy Mayor.
[99,24 of 1977]

(1) There shall be a Mayor and a Deputy Mayor for each Municipal Council who shall be Councillors and be elected in accordance with the provisions of the Local Authorities Elections Ordinance.

(2)

(a) The Mayor or Deputy Mayor of a Municipal Council shall hold office for the term of office of the Council unless he resigns or vacates such office.

(b) Whenever a Mayor or Deputy Mayor vacates his office he shall at the same time cease to be Councillor.

(3) The Mayor of a Municipal Council shall, subject to the provisions of section 254A, be the chief executive officer of the Council and all executive acts and responsibilities which are by this

Ordinance or by any other written law directed or empowered to be done or discharged by the Council may, unless the contrary intention appears from the context, be done or discharged by the Mayor.

(4) The Mayor may by order in writing delegate to the Deputy Mayor or Commissioner or any officer of the Council any of the powers, duties or functions conferred or imposed upon or vested in the Mayor by this Ordinance or any other written law.

(5) The exercise, discharge or performance by the Deputy Mayor or Commissioner or any other officer of the Council of any power, function or duty delegated to him by order of the Mayor shall be subject to the direction and control of the Mayor and shall be subject to such conditions and restrictions and limited to such purpose or purposes as may be specified in the order and any such delegation may at any time be varied or cancelled by order of the Mayor.

(6) During the period commencing on the date of occurrence of a vacancy in the office of Mayor and ending on the date of election of a new Mayor or during the period of absence of the Mayor on account of illness or other unavoidable cause the Deputy Mayor may exercise, discharge and perform the same powers, functions and duties as the Mayor.

(7) Whenever the office of Mayor of a Municipal Council falls vacant information of the occurrence of the vacancy shall forthwith be given to the elections officer of the district, in writing, by the Commissioner of the Council. Upon the receipt of such information the elections officer shall proceed to fill the vacancy in the manner prescribed in the Local Authorities Elections Ordinance.

Mayor and Deputy Mayor to be justices of the Peace and Unofficial Magistrates. **16.** The Mayor and Deputy Mayor of the Council shall each, during the tenure of his office, be ex officio a Justice of the Peace and Unofficial Magistrate for the administrative district in which the Municipality is situated. [Section 15 is repealed by Law No. 24 of 1977]

MEETINGS

General meetings. **17.** There shall be twelve general meetings of each Municipal Council in every year for the transaction of business. The general meetings shall be held at the Municipal office during the first week of every month, or as soon thereafter as seems expedient to the Mayor.

Special meetings. **18.** The Mayor may, whenever he thinks fit, and shall upon a written requisition signed by three Councillors, call a special meeting of the Council to be held at the Municipal office. Notice of meetings.

[101,24 of 1977] **19.** The Mayor shall cause notice in writing of every general or special meeting or adjourned meeting of the Council, and of the business to be transacted thereat to be served on each Councillor at least four days before the meeting.

Business at meetings. **20.** Without the permission of a Municipal Council, no business shall be brought before or transacted at any general or special meeting, other than the business specified in the notice of the meeting.

Decisions of questions, and quorum. **21.**
(1) All matters or questions authorized by this Ordinance or by any

other written law to be decided by a Municipal Council shall be decided by a majority of the Councillors present and voting at any general or special meeting.

(2) No business shall be transacted at any meeting of the Council unless one-third of the number of Councillors in office on the day of that meeting is present.

Mayor or Deputy mayor to preside at meetings of the Council.

[103,24 of 1977]

Adjournment in case of absence of quorum.

22. The Mayor, or in his absence, the Deputy Mayor, shall preside at all meetings of the Council, and if both the Mayor and the Deputy Mayor are absent, Councillors present shall elect one of their own number to preside at the meeting.

23. If at any general or special meeting of a Municipal Council there is not a sufficient number of Councillors present to form a quorum, the meeting shall stand adjourned to such date, not more than fifteen days after the date of the meeting so adjourned, as the Mayor thinks fit; and the business which would have been brought before the meeting so adjourned if there had been a quorum present, shall be brought before, and disposed of at, such adjourned meeting.

Adjournment of meetings.

24. The Mayor, Deputy Mayor or other Councillor presiding at any general or special meeting at which a quorum of the Council is present, may, with the consent of the meeting, adjourn the meeting, from time to time; but no business shall be transacted without the permission of the Council at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Minutes of proceedings.

25. Minutes of the proceedings of all meetings of a Municipal Council shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the Mayor, Deputy Mayor or other presiding Councillor after each meeting and shall at all reasonable times be open at the Municipal office to the inspection, free of charge, of any Councillor, and to the inspection of any other person on payment of a fee of twenty-five cents.

COMMITTEES

Standing committees. **26.**

(1) Every Municipal Council shall at its first general meeting in each year elect by ballot from among the Councillors a standing committee on finance and not less than two other standing committees.

(2) The Mayor shall not be eligible for election to any standing committee,

(3) A Councillor other than the Mayor shall not be eligible for election to more than one standing committee until every other such Councillor has been elected to at least one standing committee and shall not in any event be eligible for election to more than two standing committees.

(4) Every standing committee other than the standing committee on finance shall consist of six Councillors elected as aforesaid, and the standing committee on finance shall consist of five Councillors so elected and the Mayor who shall ex officio be a member of it. If during the year any vacancy occurs in any standing committee the

Council shall at a general or special meeting elect a Councillor to fill the vacancy.

(5) The Mayor shall ex officio be the chairman of the standing committee on finance, but every other standing committee shall at its first meeting elect by ballot its own chairman.

(6) The Mayor may be present and may speak but not vote at a meeting of any of the standing committees other than the standing committee on finance; and, if present, he shall preside and may both speak and vote at every joint meeting of the standing committee on finance and any other standing committee or committees.

(7) In the absence of the Mayor from any meeting of the standing committee on finance, or from any joint meeting of that committee and any other standing committee or committees, and in the absence from any meeting of any such other standing committee of the chairman elected under subsection (5), the members of the committee or committees concerned shall elect a chairman for the meeting from among their own number.

(8) Every standing committee shall exercise, perform and discharge such powers, duties and functions as are delegated to it by the Council, or otherwise conferred or imposed upon, or vested in it.

(9) No business shall be transacted at any meeting of a standing committee or at any joint meeting of two or more standing committees unless the prescribed quorum is present. Until a by-law is made by the Council prescribing the quorum at any meeting of a standing committee or at any joint meeting of two or more standing committees, one-third of the total number of the members of such committee or committees, as the case may be, shall form a quorum:

Provided that at least one member of each such committee is present.

(10) The Council may by resolution decide that the election of the standing committees referred to in subsection (1) shall be adjourned to the second general meeting of the Council in any year and, upon the passing of any such resolution, such election shall be so adjourned and the provisions of subsections (1) to (4) shall apply accordingly subject only to the modification effected by such resolution.

Special **27.**
committees.

(1) A Municipal Council may, from time to time, appoint from among the Councillors special committees, consisting of such number as it thinks fit, for the purpose of inquiring into and reporting upon any Municipal matter.

(2) Every special committee shall at its first meeting elect by ballot its own chairman and shall continue to be a committee until it has reported to the Council and until its report has been finally considered by the Council.

(3) At the time of appointing a special committee, the Council may determine the number of members who are to form a quorum; and where such quorum is not determined by the Council two-thirds of the members of the special committee shall form a quorum at any meeting thereof.

Financial matters and finance committee. **28.** No financial matter shall be finally dealt with by a Municipal Council unless such matter has been first dealt with and reported on by the standing committee on finance.

Custody of Municipal books, papers, & c, and access thereto by committees and Councillors. **29.** Every meeting of a standing or a subcommittee of a Municipal Council shall be held at the Municipal office or at such other place as the committee may decide and any such committee shall at any such meeting have access to the books, deeds, contracts, accounts, vouchers, and other documents and papers of the Council.

MISCELLANEOUS

Casting vote. **30.** Where the votes of the Councillors present and voting at any meeting, general or special, of the Council, or of any standing or other committee of the Council, are equally divided in regard to any question, the Mayor, Deputy Mayor or other Councillor presiding at such meeting shall, in addition to his own vote as a Councillor or as a member of the Committee, have a casting vote.

Notices may be served by known place of abode of the Councillor to be served; and where a notice is so post, **31.** All notices of meetings may be forwarded by post addressed to the usual or last post, forwarded by post it shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post.

Delegation of powers, duties and functions of council. **32.** A Municipal Council may by resolution delegate generally or specially to the Mayor or Deputy Mayor or to the Commissioner or to any one or more of its officers or committees any of the powers, duties or functions conferred or imposed upon or vested in it by or under this Ordinance or by any other written law.

Acts of Council not invalidated by vacancies or absence of Councillors. **33.** Subject to the provisions of section 21, nothing which is done or determined by a Municipal Council under the provisions of this Ordinance or of any other written law shall be or be deemed to be illegal or invalid by reason only of the fact that any Councillor was absent from the Council or that there was any vacancy in the number of the Councillors at the time such thing was done or determined.

PART IV

STATUS, POWERS AND DUTIES OF MUNICIPAL COUNCILS

Municipal Councils to be corporations. **34.**

(1) Every Municipal Council shall be a corporation with perpetual succession and a common seal and shall have power, subject to this Ordinance, to acquire, hold and sell property, and may sue and be sued by such name and designation as may be assigned to it under this Ordinance.

(2) The common seal of the Council shall remain in the custody of the Commissioner, and shall not be affixed to any contract or other instrument on behalf of the Council, except in the presence of the Mayor or Deputy Mayor and the Commissioner who shall sign their names to such contract or other instrument in token of their presence.

Lands vested in Municipal councils. **35.** There shall be vested in the Municipal Council of each Municipality all such immovable property of the following classes, namely:-

- (a) waste lands;
- (b) stone, gravel and cabook quarries;
- (c) lakes, ponds, reservoirs, tanks, aqueducts and other waterworks;
- (d) State lands, whether with or without buildings,

as may be situate within the limits of the Municipality and may be or have been made over, with the sanction of the President or the Governor-General, as the case may be, to the Council under this Ordinance or under any repealed enactment.

Method of granting administration. & c, of such lands. **36.**

(1) A vesting order, certificate or other record signed by the person authorized to make over any property referred to in section 35, and by the officer of the Municipal Council authorized to receive or accept such property on behalf of the Council, shall be sufficient, and shall be deemed at all times to have been sufficient, to vest such property and all right, title and interest in such property in the Council:

Provided, however, that nothing in section 35 or in the preceding provisions of this section shall be deemed-

(i) to affect or prejudice any right or title of the State to any such property or the right of the State at any time to resume or dispose of such property for public purposes; or

(ii) to affect or prejudice any right, title or interest which any military or other authority, in which lands are vested on behalf of the State, has or may have in any such property or in any part thereof;

(iii) to empower the Council to sell or otherwise alienate any such property without having previously obtained the consent in writing of the President to such sale or alienation.

(2) All property vested in a Municipal Council shall be administered, and the revenue thereof shall be employed and made use of, for the purposes of this Ordinance.

Other property vested in Municipal Councils. **37.**

(1) There shall be further vested in each Municipal Council, for the purposes of his Ordinance, the following classes of property:-

(a) all public parks, gardens and open spaces acquired by or otherwise transferred to the Council, and all erections and other structures therein and the equipment thereof subject always to the terms of any trust or the conditions in any instrument by which any such property may have been transferred to the Council;

(b) all streets within the Municipality (except such streets as may be specially exempted by the President) together with the pavements, stones and other materials thereof and also all erections, materials, implements and

things provided therefor;

(c) all public markets and all works, erections or structures for the benefit or convenience of the public which may be constructed, erected or provided under this Ordinance or which may have been constructed, erected or provided under any repealed enactment, or which may be otherwise transferred or have been transferred to the Council, and all the sites, reservations, appurtenances, materials, furniture and equipment provided therefor, subject always to any such trust or condition as aforesaid;

(d) all other public buildings constructed or provided in whole or in part out of the Municipal Fund of the Council, or which may be otherwise transferred to the Council, and all the sites, appurtenances, materials, furniture and equipment thereof, subject always to any such trust or condition as aforesaid;

(e) the property of and in all the lamps, with the otherwise property rights. lamp-irons, lamp-posts, sluices, dams, pipes, posts, chains, poles, rails and other similar erections and things in, about or belonging to the streets vested in the Council, and of and in all the materials, furniture and things belonging thereto, except in so far as the same shall be otherwise regulated by contract Council or shall be shown to be private or subject to private rights.

(2) Any property referred to in paragraph (e) of subsection (1) may be sold or otherwise disposed of by the Council, from time to time, as it may deem necessary, and the revenue arising from such sale or disposition shall be credited to the Municipal Fund.

Control and erection of monuments.

[7,4 of 1975]

37A. No person shall erect a monument on any land belonging to the State or on any land vested in or belonging to any Municipal Council except with the prior approval of the Minister granted upon an application made in that behalf by such person.

[9,4 of 1975] In this section " monument " includes any statue, pillar, post, or any structure erected to commemorate any person, whether living or dead, but does not include any structure, tomb, or cross erected in any cemetery or burial ground.[* New sections 37A and 37e have been introduced in the course of the revision and are based on sections 7, 8 and 9 of the Naming of Streets and the Control of the Erection of Monuments Law, No. 4 of 1975]

Naming of public parks, &c.

[8,4 of 1975]

37B. It shall not be lawful for any Municipal Council to name any public park, playground, library, reading room, stadium, building, clock tower, bridge or bathing-well except with the prior approval of the Minister.[* New sections 37A and 37E have been introduced in the course of the revision and are based on sections 7, 8 and 9 of the Naming of Streets and the Control of the Erection of Monuments Law, No. 4 of 1975]

Power to act a trustee for any public purpose.

38. A Municipal Council may receive and hold property in trust for the benefit of the inhabitants of the Municipality, or any section of such inhabitants, or for the purposes of any public service administered by the Council, and may otherwise act as trustee for any public purpose.

Power to **39.**
appoint agents
outside Sri
Lanka.

(1) A Municipal Council may at any time by resolution appoint an agent or agents outside Sri Lanka for the purpose of entering into contracts on its behalf with persons resident or carrying on business outside Sri Lanka, for the execution or performance of any work or service or for the supply of any articles or materials.

(2) Any such appointment shall, until revoked by the Council, confer on the agent or agents appointed full authority to enter into any such contract on behalf of the Council when requested to do so by the Council.

General **40.**
powers.

[\[2.61 of
1981\]](#)

[\[2.13 of
1983\]](#)

[\[3.39 of
1986\]](#)

[\[2.19 of
1987\]](#)

(1) For the purpose of the discharge of its duties under this Ordinance, a Municipal Council (without prejudice to any other powers specially conferred upon it) shall have the following powers :-

(a) to create all such posts or offices as it may deem necessary;

(b) to assign to any post or office in the service of the Council, other than a post in the Local Government Service, such salary, allowances or remuneration as the Council may think fit;

(c) to make appointments to posts or offices referred to in paragraph (b);

(d) subject to the express provisions of this Ordinance, to remove any officer or servant of the Council, other than a member of the Local Government service;

(e) save as otherwise provided in subsection (3), to abolish any post or office in the service of the Council, whether or not such post or office is a post in the Local Government Service;[Vide also section 19 (2) of the Local Government Service Law]

(f) to sell by public auction or, with the prior approval in writing of the Minister, to sell otherwise than by public auction, or to lease, either in block or in parcels-

(i) any land or building vested in the Council by virtue of section 35 or section 37 if the prior sanction of the President has been obtained by the Council, and

(ii) any other land or building of the Council, subject to the terms and conditions of the instrument by which the land or building was vested in or transferred to the Council, unless the sale or lease is prohibited by such instrument;

(g) subject to the express provisions of this Ordinance, to enter into any contract with any person for any work to be done, or services to be rendered, or goods or materials to be supplied ;

(h) to grant, with the prior approval of the Minister, to any person, firm, company or corporation for any purpose, a licence or concession, whether exclusive or otherwise, for any period or for any consideration, subject to such terms and conditions as to the Council may seem fit;

(i) to make by its officers authorized in that behalf and the servants or workmen accompanying them all such entries into lands and buildings and inspections thereon as may be necessary for the detection and abatement of nuisances, the detection, prevention, and abatement of all contraventions of this Ordinance or of by-laws, rules or regulations made thereunder, or for the performance of acts required to be done by or under this Ordinance in respect of which the owner or occupier of such premises is, or may be deemed to be, in default;

(j) all expenses incurred. by the Council in the establishment and maintenance of maternity and child welfare service , the provision of health education, the maintenance. of primary health care centres and community development projects, the training of midwives for the purposes of any maternity service established by the Council, and charities or measures for the relief of distress caused by the rain, floods, fire, earthquake, gales; famine or epidemics;

(jj) all contributions voted by the council for the promotion of religion and culture, including contributions made towards the cost of organization of religious ceremonies and festivals. the maintenance of Dhamma schools and Sasana Rakshaka Mandalayas, the establishment of cultural centres, the organization .of literary and cultural festivals, the publication of books of literary and cultural value and the award of prizes to artists, authors and craftsmen;

(k) to institute or defend any legal proceedings which the Council may deem necessary to institute or defend for the purpose of enforcing or protecting the rights of the Council or of the public or of protecting its officers or members in the execution or intended execution of their duties ;

(kk) to exercise, perform and discharge, any power, duty or function delegated to it by the Development Council constituted for the administrative district within the limits of which the municipality is situated; and to implement any work or scheme assigned to it for implementation by such Development Council;

(l) to deal with any budget or supplementary budget in the manner hereinafter provided ;

(m) to consider recommendations from the standing committees, to reduce or increase the amount of expenditure, or to transfer the moneys assigned under one head of expenditure in the budget to another head;

(n) to consider the annual administration report, and append such observations thereto as the Council thinks fit, prior to its

submission to the Minister;

(o) to approve the raising of loans for works or public services to be undertaken under the provisions of this Ordinance, or for the acquisition of any land or buildings required for the purposes of or in connexion with any such work or public service or any machinery, plant or equipment required for the purposes of any such public service;

(p) to consider the periodical statements of receipts and disbursements hereinafter provided for, and progress reports of work done, and to pass such resolutions thereon as the Council thinks fit;

(q) to call the attention of the Mayor to any neglect in the execution of Municipal work, to any waste of Municipal property, the wants of any locality as noticed personally by any Councillor or made known to him by the inhabitants, and to suggest any improvements which appear desirable;

(r) to bring forward general questions connected with the Municipal Fund, or any new measures relating to purposes authorized by this Ordinance;

(rr) to organize employment programmes for the inhabitants of the municipality;

(rrr) to-

(i) prepare and submit to the appropriate authority, a programme for the provision of educational facilities such as buildings, furniture, playground, hostels, teachers' quarters, sports materials and library facilities, within the municipality ;

(ii) recommend to the appropriate authority, the opening, closing, amalgamation, naming and upgrading: of, schools within the municipality;".

(s) to sanction the appropriation of Municipal land, or the acquisition of land for the purposes of this Ordinance;

(t) to purchase any land or other immovable property which may be sold in execution of any judicial decree or order obtained by the Council against any person whomsoever, and to resell the same;

(u) to establish and maintain any of the following public services :-

(i) water supply;

(ii) the lighting of streets, public places and public buildings;

(iii) the supply of electric light or power;

(iv) markets;

(v) public baths, bathing places, laundries and places for washing animals;

(vi) any other form of public service, subject to such prohibition or restriction of the establishment and maintenance of that service as may be imposed

by any other law;

[\[2.61 of 1981\]](#) (uu) to set apart such sums of moneys with the prior approval of the Minister for the payment of incentives to occupiers of residential premises who qualify for such payment on a recommendation made by the committee appointed under section 154A, in accordance with a scheme prepared by such committee ;

[\[3.39 of 1986\]](#) "(uuu) with the prior approval of the Minister"

(i) to engage in commercial and industrial enterprises for the manufacture and production of such machinery, equipment, articles, materials and goods' as may be required for the public services or the public utility services, as the case may be, which may be established and maintained by any Municipal Council or Urban Council under the Municipal Councils Ordinance and the Urban Councils Ordinance or under any other written law; and

(ii) to sell such machinery, equipment, articles, materials or goods to any other Municipal Council or Urban Council or to the public at such prices as may be determined by the Council and approved by the Minister.

(v) to make, repeal, alter, or amend bylaws for the purposes of this Ordinance;

(w) generally to do all things necessary for the effective exercise and performance of the powers and duties of the Council.

(2) The proceeds of any sale or lease by a Municipal Council under subsection (1) shall be paid into the Municipal Fund.

(3) Nothing in subsection (1) (e) shall be deemed or construed to empower the Municipal Council to abolish the office of Mayor, Deputy Mayor, Municipal Commissioner or Municipal Magistrate.

Powers of the Minister **40A**

in Respect of
commercial and
industrial enterprises.

[\[3.13 of 1983\]](#)

(1) The Minister may approve any commercial or industrial enterprise under (uu) of subsection (1) of section 40 having regard to"

(a) the economic viability of such enterprises.

(b) the benefits that may accrue to any Municipal Council and the public by the operation of such enterprise;

(c) the financial position of the Municipal Council engaging in such enterprise.

(2) No sums of money appropriated to a Municipal Council by Parliament under paragraph (f) of subsection (2) of section 185 and no grants allocated to a Municipal Council by the Minister under paragraph (g) of subsection (2) of section 185

shall be utilized by such Council for the purposes of establishing or maintaining any commercial or industrial enterprise.

(3) Where the Minister is of opinion that the continued operation of any commercial or industrial enterprise of any Municipal Council would be prejudicial to the interests of such Council by reason of mismanagement or that it is likely to involve financial loss to the Council he may, after consultation with the Council by proper published in the Gazette, terminate the operation of such enterprises and direct the Council to take charge of all books records and assets of the enterprise and to take such measures as may be necessary to give effect to such Order.

(4) The Minister may, from time to time, Municipal Council engaged in any commercial or industrial enterprise general or special directions as to the carrying on or transaction of its business and such directions shall be carried out by the Council.

(5) The Minister may, from time to time, direct the Council in writing to furnish him in such form as he may require, returns, accounts and other information with respect to the business of such, enterprise, and the Council shall carry out every such direction.

Prevention of Frauds Ordinance not to apply. **41.** None of the provisions of the Prevention of Frauds Ordinance shall apply to any sale, lease, mortgage, release or other agreement or contract affecting immovable property to which a Municipal Council is a party.

Power to authorize surveys, & c. **42.**

(1) Whenever it appears to a Municipal Council that an examination or survey of any private lands, buildings, or premises is necessary for any Municipal purpose, it shall be lawful for the Council to direct any officer or servant of the Council to make such survey, and it shall thereupon be lawful for such officer or servant and his workmen to enter upon such premises and to do thereon any of the following acts :-

- (a) to survey and take levels of such land;
- (b) to dig or bore into the subsoil;
- (c) to do all other acts necessary to ascertain whether the land is adapted for such purpose ;
- (d) to set out the boundaries of any land to be acquired, or street lines, or the lines of any work proposed to be carried out;
- (e) to mark such levels, boundaries, or lines by placing permanent marks on existing buildings, trees, posts, walls, fences, or other fixed objects, or by fixing new marks, or by cutting trenches, as the case may require; and
- (f) where otherwise a survey cannot be completed, or levels taken, or the boundaries and lines marked, to cut down and clear away obstructions interfering with the

execution of such work:

Provided that full compensation shall be paid for any damage done ;
And provided further, that no person shall enter any building or any enclosure attached to a dwelling house (except with the consent of the occupier thereof) without previously giving such occupier, at least three days' notice of his intention to do so.

(2) Every mark fixed under paragraph (e) of subsection (1) shall be deemed to be the property of the Council.

Demolition of unauthorised buildings.

[2, 15 of 1957]

42A.

(1) The Mayor of a Municipal Council may cause a written notice to be served on the occupier of any unauthorised building directing such occupier to demolish that building.

(2) Where a notice served under subsection (1) on the occupier of an unauthorised building is not complied with within fourteen days reckoned from the date of such service, the Mayor may cause that building to be demolished ; and any person or persons acting under the authority of the Mayor may enter the land on which such building is situated and do all such acts as may be necessary for the purpose of such demolition.

(3) The provisions of section 68 shall, mutatis mutandis, apply in the case of any building demolished under subsection (2) in like manner and to the same extent as they apply in the case of any building pulled down under section 67.

(4) No action or other proceeding shall lie against any person for any act done in the exercise of the powers conferred by subsection (2), and no person shall be entitled to any compensation for any damage or loss caused by such act.

(5) In this section, the expression " unauthorised building" means any building situated within the administrative limits of a Municipal Council and erected on any land belonging to or vested in the State or that Council without prior permission given by or on behalf of the State, or that Council, as the case may be.

Municipal office.

43.

(1) Every Municipal Council shall establish and maintain an office within the Municipality for the transaction of business. Such office shall be called the " Municipal Office ".

(2) There shall be kept at the Municipal office during all hours of business a box for the reception of petitions, and a book for the registry of such petitions and of the orders passed thereon, after inquiry and report by the proper officer.

Acquisition of lands or general public purposes.

44. A Municipal Council may acquire lands or buildings for the general purposes of the Council without indicating the purposes for which any land or building is to be applied.

Compulsory acquisition of lands and buildings.

45. Any land or building required for the purposes of a Municipal Council may be acquired under the Land Acquisition Act by the Government for the Council.

General

46. Every Municipal Council shall, within the Municipality, have the following

duties of Council. duties:-

- (a) to maintain and cleanse all public streets and open spaces vested in the Council or committed to its management;
- (b) to enforce the proper maintenance, cleanliness and repair of all private streets;
- (c) to supervise and provide for the growth and development of the Municipality by the planning and widening of streets, the reservation of open spaces, and the execution of public improvements;
- (d) to abate all nuisances;
- (e) to establish and maintain (subject to the extent of its resources) any public utility service which it is authorized to maintain under this Ordinance and which is required for the welfare, comfort or convenience of the public;
- (f) generally to promote the public health, welfare and convenience, and the development, sanitation and amenities of the Municipality

PART V

POWERS AND DUTIES AS TO STREETS

STREETS

Power to construct new, and improve existing streets.

47. Subject to the provisions of this Ordinance, a Municipal Council may-

- (a) lay out and construct new streets, bridges or tunnels;
- (b) widen, open, enlarge or otherwise improve, or turn, divert, discontinue, or stop up, whether in whole or in part, any street to which the Thoroughfares Ordinance does not apply and, with the sanction of the Minister charged with the subject of thoroughfares, any other street,

making due compensation to the owners or occupiers of any property required for such purposes, or any person whose legal rights are thereby infringed.

Acquisition of lands required for diversions or enlargements, **48.**

(1) If in connexion with the laying out turning, diversion, widening, opening, enlargement, or improvement of any street, it becomes necessary for any Municipal Council to take possession, for public use, of the land of any person, it shall be lawful for such Council to make an agreement with the owner for the compensation to be paid for such land, and for any building, boundary wall, gateway, fence or tree standing thereon, either by allowing him to possess the ground, or part of the ground, of the former street or by the grant of other land in exchange or by payment of money or by any two or more of such methods.

(2) Any land of which possession is taken by a Municipal Council in pursuance of any agreement under subsection (1) shall vest in the Council without any formal transfer thereof, and the certificate of the Mayor of the Council that any person has been allowed by the Council to possess any part of the ground of any former street or any land given in exchange

under subsection (1), together with a survey thereof, shall be a sufficient proof of the right of such person to such ground or land.

(3) Where a Municipal Council cannot agree with the owner of any land as to the compensation to be made under subsection (1), or where such owner cannot be found, or where the Council does not deem it advisable to enter into any agreement with the owner of any land, then proceedings may be taken to obtain possession of such land, and for compensating the owner, in the manner prescribed by section 45.

(4) Every agreement under subsection (1) shall be in writing, but section 2 of the Prevention of Frauds Ordinance shall not apply to any such agreement or to any certificate issued under subsection (2).

Gifts of land required for diversion or enlargement of street. **49.** If in connexion with the laying out, turning, diversion, widening, opening, enlargement or improvement of any street, it becomes necessary for any Municipal Council to take possession of the land of any person for public use, and if the person claiming to be the owner of the land desires to make a free gift of the land to the Council for such purpose and to renounce all claim to compensation therefor, a record in writing to that effect duly signed by such person in the presence of the Mayor or of a person authorized by the Mayor in writing in that behalf shall be sufficient to vest the land in the Council. No such record shall be deemed to be invalid or of no effect in law by reason only that the requirements of section 2 of the Prevention of Frauds Ordinance have not been complied with as to attestation by a notary public and by witnesses.

Power to dispose of discontinued street. **50.** Whenever any street or any part of any street vested in a Municipal Council ceases to be used as a street, the Council, with the prior approval of the President, may sell, lease, or exchange such street or part thereof, and in the event of such sale or lease, the proceeds thereof shall be paid into the Municipal Fund.

Power to take land adjoining new street for building purposes. **51.** In laying out or constructing any street, or in turning, diverting, widening, opening, enlarging, or otherwise improving any street, a Municipal Council may, in addition to the land required for the purposes of the carriageways and footways thereof, also purchase the land necessary for houses and buildings to form the said street, and may sell, lease, or otherwise dispose of the same, subject to the provisions of paragraph (f) of subsection (1) of section 40 and subject to such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as the Council may think fit.

Proper officers empowered to enter upon lands for repair & c, **52.** It shall be lawful for the proper officer of any Municipal Council and for the servants, workmen, and labourers employed of by or under him, at all times, and with all streets, necessary and proper carriages, carts, animals and other means, to enter upon any land adjacent or near to any existing or intended street within the Municipality, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such street, or for building, excavating,

repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter or thing under the provisions of this Ordinance, or any by-law, rule or regulation made thereunder.

Power to take materials.

53. It shall be lawful for the proper officer of any Municipal Council and for the servants, workmen, and labourers employed by or under him, at all reasonable times, and with all necessary and proper carriages, animals, and other means, to search for, dig, cut, take and carry away any water, timber, brushwood, stone, gravel, clay, or any other materials whatsoever, for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing, or in any way assisting in the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any existing or intended street in the Municipality; or of building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith; or for the construction or repair of any lines or any buildings whatsoever required on or near any such street for the use of any officer as aforesaid, or any workmen, animals, carriages, persons, or things employed in his service, in and from any land adjacent or near to any such, street, and to carry away the same through the land of any person, without being deemed a trespasser:

Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn or any inclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common or abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure them;

Provided also that reasonable compensation for all materials so taken, and for the damage done in taking and carrying away the materials, shall be made to the owner thereof;

Provided, further, that such officer shall rail or fence off any quarry or pit from which any such materials may be taken, so that it may not be dangerous to any person or animal.

Power to erect buildings and keep cattle, & c. **54.** It shall be lawful for the proper officer of any Municipal Council when tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving any existing or intended street within the Municipality, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith-

(a) to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and

(b) to keep all such animals as may be employed by him duly tethered and stabled upon any lands near or adjacent thereto, and to continue so to keep the animals on such lands for such time as may be necessary;

Provided that no such building shall be erected, nor any such animal kept on any land which is under cultivation or is situated in any area where there are neighbouring waste lands or common or abandoned grounds available for the purpose;

Provided, further, that reasonable compensation for any damage done to the land shall in all cases be made to the owner thereof.

Power to throw rubbish upon **55.** In the tracing, measuring, making, working, opening, altering, turning, rubbish upon

adjacent lands. repairing, clearing, or improving of any existing or intended street within any Municipality, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall be lawful for the proper officer of the Municipal Council to throw upon any lands adjacent or near to the street such earth, rubbish, or materials as it may be necessary to remove from the place of any such work.

Power to make temporary road **56.** It shall be lawful for the proper officer of any Municipal Council to make a temporary road through the grounds adjacent or near to any existing or intended street in the Municipality during the execution of any work thereupon or any work in any way connected therewith : Provided that such road shall not be made over any ground whereon any building stands or over an inclosed garden or yard.

Power to cut trees. **57.** It shall be lawful for the proper officer of any Municipal Council to cut and remove, and place upon any adjacent or neighbouring land, all trees, bushes, or shrubs, and all leaves or branches or roots of trees that shall grow in or overhang any street within the Municipality, or cause any obstruction therein, and for that purpose to enter upon any land or premises with such persons, animals, and instruments as may be necessary, and to proceed to do therein all such things as may be necessary for the cutting, lopping, or removing of such trees, bushes, shrubs, leaves, branches, or roots.

Power to put up fences. **58.** It shall be lawful for the proper officer of any Municipal Council to put up or make fences, hedges, ditches, drains, or banks by the side of any street within the Municipality, whenever to him it shall appear necessary, and the owner or occupier of each land adjoining such fences, hedges, ditches, drains, or banks shall and he is hereby required to keep them in good and substantial repair and order.

Power to make and keep open ditches, & c, and to lay trunks, & c. **59.** The proper officer of any Municipal Council shall have power to make, scour, cleanse, and keep open all ditches, gutters, drains, or watercourses along any street within the Municipality, and also to make and lay such drains, watercourses, trunks, tunnels, plats, or bridges, as he may deem necessary for the protection, preservation, improvement, repair, or construction of any street or intended street, in and through any lands or grounds adjoining or lying near to such street or intended street.

Power to lay stones, & c **60.** The proper officer of any Municipal Council shall have power to lay any heap of stone or gravel, or any log of wood, or any other matter or thing whatsoever, upon any street within the Municipality, and to allow such matter to remain there during the time such street is under repair, and for such time before the repairs are commenced and after the repairs are completed, as may be necessary for facilitating the making of such repairs or for preventing damage to such recently repaired streets, but he shall take due and reasonable precaution for preventing danger or injury to persons passing along such street.

Power to construct and maintain tramways. **61.** Any Municipal Council, with the sanction of the Minister, may, by its own officers and servants, construct, maintain, and use, a tramway or tramways within the Municipality.

Power to enter into contracts for tramways. **62.** A Municipal Council, with the sanction of the Minister, may enter into any agreement or contract with any person, corporation or company for the purpose of granting to such person, corporation, or company, the right to construct, maintain, and use a tramway or tramways within the Municipality, upon the terms, for the consideration, and subject to the conditions and in the manner mentioned, in such agreement or contract.

Public vehicular communications. **63.** A Municipal Council may organize and maintain, either by itself and its own officers, or by agreement with any promoter or promoters in the manner

prescribed by section 62, any form of public vehicular communication other than a tramway for the service of the inhabitants of any area within the administrative limits of the Council, subject to such prohibition or restriction of the organization and maintenance of that form of communication as may be imposed by any other law.

Other powers of a Municipal Council. **64.** It shall be lawful for a Municipal Council, without prejudice to any other powers vested in it, to do any of the following acts:-

- (1) to water the streets;
- (2) to remove projections, encroachments and obstructions in or upon any street subject to the conditions that where the person responsible therefor is known to the Council, such action shall be taken by the Council, only after notice has been given to him, and he fails to remove such projections or encroachments or obstructions within such time as may be specified in the notice or with due diligence;
- (3) to shut up and secure deserted houses;
- (4) to recover in manner hereinafter provided the expenses incurred by any action taken under paragraphs (2) and (3) hereof from the person whose act or neglect shall have rendered such action necessary.

Roads for benefit of, individual property owners. **65.** A Municipal Council may, at the request of the owner or owners of any one or more estates or industrial enterprises situated within the Municipality, in any case in which the Council is of opinion that the public interests would not otherwise justify the construction or maintenance of a road in such a locality, contract with such owner or owners for the construction or maintenance of a road for the service of the estate or estates, or the enterprise or enterprises in question, subject to the payment of such contribution towards the expenses of such construction or maintenance as may be approved by the Council and subject to the condition that by an appropriate instrument such road is constituted a public road and is vested in the Council, and all such agreed contributions shall be deemed to be special rates imposed upon the lands benefited, and shall be recoverable in the same manner as a rate imposed under this Ordinance, and all the provisions of this Ordinance relating to rates shall apply thereto.

Houses in a ruinous and dangerous state. **66.** If any house, building, boundary wall or gateway adjoining any street in any Municipality, or anything affixed thereon, be deemed by the Council to be in a ruinous state, whether dangerous or not, or to be likely to fall, the Council shall immediately, if it appears to be necessary, cause a proper hoarding or fence to be put up for the protection of persons using such street, and shall cause notice in writing to be served on the owner or occupier forthwith to take down, secure, or repair such house, building, boundary wall, gateway or thing fixed thereon, as the case may require.

Failure to comply with notice. **67.** If any person, on whom a notice is served by or on behalf of the Council under section 66, does not begin to comply with such notice within three days of the service thereof or does not complete the work with due diligence, the Council shall cause all or so much of the work as it may deem necessary to be carried out, and all the expenses thereby incurred shall be paid by such person, and, in case of default, shall be recoverable as hereinafter provided.

Sate of materials of ruinous houses.

68. If any house, building, or wall, or any part thereof be pulled down by or under the authority of the Council under section 67, the Council may sell the materials thereof, or so much of the materials as may have been taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, pay any surplus arising from such sale to the owner of such house, building, or wall:

Provided always that, in case no demand for such surplus is made within twelve months by any person entitled to make such demand, the Council shall be at liberty to pay the amount of such surplus to the credit of the Municipal Fund, and shall be freed from any liability to pay or answer for or in respect of such unclaimed surplus;

And provided, further, that the Council, notwithstanding that it may have sold such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the expenses as may remain due after the application of the proceeds of the sale as by this Ordinance are provided for compelling the payment of the entirety of the expenses.

Street lines. **69.** A Municipal Council may, from time to time, cause plans to be prepared showing by means of lines the limits by which any street or proposed street should, in the opinion of the Council, be bounded. When any such plan has been approved by the Council, the lines therein indicated shall, for the purposes of section 70, be taken to be the street lines of such street.

Setting back houses to street lines **70.** Where any building which, or any part of which, projects beyond the street line has either entirely or in greater part been taken down, burned down or has fallen down, the Council may require such building or part, when being rebuilt, to be set back to the street line, and the portion of land added to the street by so setting back the building shall thenceforth be deemed to be part of the street and be vested in the Council:

Provided always that the Council shall make full compensation to the owner of any such building for any damage he may thereby sustain.

Naming of streets **71.**
and numbering of

houses.

[3,4 of 1975]

(1) The Minister shall, either by his own motion or on application made in that behalf by a Municipal Council, determine the name by which any street shall be known and in like manner at any time alter the name of any street.

(3) The Council shall determine the number by which any house or tenement shall be distinguished and may alter such number, from time to time, as occasion may require.[Subsection 2 is repealed by Law No. 4 of 1975]

(4) It shall be lawful for the Council to paint or otherwise mark or exhibit the name of any street or the number of any house or tenement on any private property and, from time to time, to alter or renew such inscription of the name or the number, as the case may be, whenever such name or number is altered or the inscription becomes illegible.

(5) Any person who, without the authority of the Council, destroys, pulls down, defaces or alters any inscription of the name of any street or the number of any house or tenement which has been lawfully set up by the Council or sets up in any street any name different from the name lawfully given to such street or sets up in any house or tenement any number other than the number

lawfully given to such house or tenement, shall be guilty of an offence.

(6) For the purposes of this section and of section 188 (I) (d), the word "street" includes any road, footway, or passage used or intended to be used as a means of access to two or more houses or sites of houses whether the public have a right of way there over or not, and any side-walk, and reservation at the site thereof.

Doors, & c., **72.**
not to open
outwards.

(1) All doors, gates, bars, and ground floor windows put up on or after the 1st day of January, 1897, which open upon any street, shall be hung or placed so as not to open outwards, except when the same are hung or placed in such manner as may be approved by the Council.

(2) If (except as aforesaid) any such door, gate, bar, or window is hung or placed so as to open outwards on any such street, the owner of the premises to which the same is attached shall, within eight days after notice from the Council to that effect, cause the same to be altered so as not to open outwards; and in case the owner fails or neglects to do so, the Council may cause such alteration to be made, and the expenses incurred thereby shall be paid by such owner, and, in case of default, shall be recoverable as hereinafter provided.

(3) If any door, gate, bar, or ground floor window put up before the date specified in subsection (1) is hung or placed so as to open outwards upon any street, the Council may, at its own cost, alter the same so that no part thereof when open projects over any such street so as to cause an obstruction.

OBSTRUCTION TO STREETS

Power to **73.**
demand
production of tile
deeds
[\[4, 39 of 1986\]](#)

(1) Whenever it appears to a Municipal Council that inclosure or obstruction has been raised or made in any street under the control of the Council, or on any waste or other land immediately adjoining such street and belonging to the State, it shall be lawful for the Council by written notice served on the person claiming to be the owner of the premises on which such building, inclosure, or obstruction has been raised or made, to demand the production of every deed, document, and instrument upon which such person founds such claim.

(2) In any of the following cases, that is to say:-

(a) where the occupier of any premises, not being himself the alleged owner, refuses to give full information respecting the name and residence of the alleged owner upon being requested so to do by the Council; or

(b) where the alleged owner of any premises refuses to produce within ten days, after being requested so to do, every deed, document, and instrument upon which he

finds his claim to the premises and which is in his possession ; or

(c) where the alleged owner of any premises, not being in possession of any such deed, document, or instrument, refuses to give full information to the Council, upon being requested so to do, of the name and residence of the person in whose possession they are ; or

(d) where any person having in his possession any such deed, document, or instrument refuses to produce it within ten days after having been requested so to do in writing by the Council,

every such occupier, alleged owner, or person so refusing shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Demand of production **74.**
of deeds to include
power of examination-
[\[5.39 of 1986\]](#)

(1) Every deed, document, or instrument the production of which is demanded by the Council under section 73 shall be produced on the premises to which it relates, or at such other place as the Council may require; and the power given by that section to demand the production thereof, shall be deemed to include the power to make such examination and copies of such deeds, documents, and instruments as may be necessary.

(2) Every person refusing or failing to permit the Council or any person authorized by the Council to examine any deed, document, or instrument or to take copies thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Power to make **75.** In any case referred to in section 73 (1), it shall be lawful for any person survey of premises. authorized in that behalf by the Council to make such survey of the premises, on which the building, inclosure, or obstruction has been raised or made, as may be necessary to enable the Council to ascertain whether an encroachment has been made thereby upon any street or on any State land adjoining a street, and for the purposes of such survey, to enter upon such premises and upon any other premises whatsoever which it may in his opinion be necessary to enter.

Proof of right to **76.**
apparent encroachment
to rest upon the owner.

(1) Whenever it appears to the Council that the line of any street under the control of the Council has been altered without proper authority, or has been stopped up, or obstructed or encroached upon, the Council shall give notice in writing to the occupier of the land from off which the street is alleged or suspected to have been turned, or upon which such stoppage or obstruction or encroachment is alleged or suspected to have been made, that a survey of the premises has been made by or by the direction of the Council, and is open to the inspection of such occupier at a place to be mentioned in the notice, and that unless within one month

Removal of
obstructions or
encroachments.

77.

from the service of the notice he, or the person under whom he holds, takes legal proceedings for establishing his title to such land, and for preventing the removal of any such obstruction or encroachment, the Council will proceed with the removal thereof in manner provided by section 77.

(2) If no legal proceedings are taken within the time specified in subsection (1) or being taken are not duly prosecuted, it shall be the duty of the Council to cause any such obstruction or encroachment to be forthwith removed as provided by section 77.

(3) Where legal proceedings are taken, it shall be incumbent on the party claiming to be the owner of the land from off which the line of any street is alleged to have been altered or turned, or upon which the stoppage or obstruction or encroachment is alleged to have been made, to prove his title to such land.

(1) It shall be lawful for the Council, through any person authorized by the Council in that behalf, to give order verbally or by notice in writing, to any person obstructing or encroaching upon any street under control of the Council, forthwith to remove or abate the obstruction or encroachment; and if any person to whom such order is given refuses or neglects to comply therewith within a reasonable time, or, if there be any doubt as to who is the proper person to whom such order should be given, after such notice has been fixed for a reasonable time to such obstruction or encroachment, it shall be lawful for the Council to cause any such obstruction or encroachment to be forthwith removed or abated.

(2) For the purpose of removing or abating any obstruction or encroachment under subsection (1), it shall be lawful for the Council or any person authorized by the Council to enter any house, garden, inclosure or other premises, together with such persons and with such implements and materials as may be necessary, and to proceed to do or take therein or cause to be done or taken all such acts or measures as may be necessary for such removal or abatement.

(3) The costs incurred in the removal or abatement of any obstruction or encroachment under this section by or under the authority of the Council shall be payable by the person whose failure to comply with the order under subsection (1) caused such costs to be incurred ; and such costs, where they are not paid by such person on demand, shall be certified by the Council to the Magistrate's Court having jurisdiction over the area where such person resides and shall be recovered by that court in like manner as a fine imposed by the court. All moneys so recovered shall be paid by the court into the Municipal Fund.

(4) Where the removal or abatement of any obstruction or encroachment is effected after the due production of all deeds,

documents, and instruments affecting the title to such premises, and such premises are nevertheless adjudged to be the property of the party laying claim to the same, such party shall be entitled to compensation from the Council for all loss and injury occasioned thereby; but if the party claiming to be the owner of such premises shall refuse or neglect to produce all such deeds, documents, and instruments, or if such deeds, documents, and instruments shall not be produced within ten days after application in that behalf, and the Council shall nevertheless have caused the removal of such building, inclosure, or encroachment, then, in the event of such premises being adjudged to be the property of the party claiming to be the owner thereof, such party shall not be entitled to any compensation for any loss or injury occasioned thereby.

INJURIES TO STREETS, & C.

Destroying
milestone,
bridge, & c.
[\[6. 39 of 1986\]](#)

78. Every person who-

- (1) wilfully or negligently destroys, pulls up, defaces, throws down, breaks, or injures any milestone, mile-post, demarcation stone, demarcation post, lamp-post, or direction post, or any bridge, culvert, parapet, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain, or fence belonging to any street or erected at or near any pit or quarry opened or used for getting road materials ; or
- (2) wilfully and unnecessarily removes any fence, post, stone, log, or other thing laid or erected by the direction of any competent authority on or in any street, for the temporary prevention of the use thereof, or for preventing danger or injury to persons passing along the same whilst undergoing repair ; or
- (3) without the permission of a competent authority, gathers or heaps up, or takes away, any stones, gravel, sand, or other material, or any slutch, dirt, drift, or soil from any street; or
- (4) leads or drives any elephant, ox, horse, pig, or other animal or any vehicle from or off or on or into any street in such manner as to cause injury to the street or shall suffer any such animal to damage the street; or
- (5) being the owner or occupier of any land contiguous to any street, suffers the passage through or into his land of the water from such street, or from any ditch or drain leading therefrom, to be obstructed, or suffers any water, filth, or other substance or thing to flow or run from such land or house into or upon any such street, or suffers any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water; or
- (6) without the previous consent of the Council, by any act on his land interferes with the free passage of water along or from any drain or culvert of any street; or
- (7) hauls or draws upon any street any timber, stone, or other thing otherwise than upon a wheeled carriage, or suffers any timber, stone, or other thing carried principally or in part upon a wheeled

carriage to drag or trail upon such street to the damage thereof; or
(8) makes or causes to be made any dam, ditch, drain, or watercourse upon or across, or otherwise breaks up, or injures, the surface of any street; or

(9) erects, sets up, lays down, or constructs, either permanently or temporarily in, along, under, or over any street, any post, pillar, lamp, wire, pipe, rails, or other plant, material, or works, without the permission of the Council, or otherwise than in accordance with the terms and conditions of such permission; or

[\[6. 39 of 1986\]](#)

(10) attaches additions to his house so as to project over the outer edge of the side drain of any street, or by means of temporary supports or otherwise exposes goods or wares of any description over any portion of a street or its side drain, or by causing carts to be loaded or unloaded in front of his dwelling in any way injures the side drain,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees, and in case of a continuing offence, to an additional fine not exceeding two hundred and fifty rupees for each day during which such offence is continued after a conviction thereof.

Using new street for certain time after making.

[\[7. 39 of 1986\]](#)

79. Upon the construction of a new street or upon the execution of any repair to any existing street under the control of a Municipal Council, it shall be lawful for the Council, by notice exhibited upon or so as to be visible from the street, to prohibit the riding or driving of any animal or vehicle on the street for a specified period not exceeding one month after the completion of the work of construction or repair; and every person doing any act in contravention of such notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Owner or occupier bound bridge & c over drain leading to his house.

80. If the owner or occupier of any house or premises adjoining any street, by the side of which a drain has been made or excavated, requires means of access to such house or premises from such street, he shall be bound to place over the drain, to the satisfaction of the Council, a bridge, platform, or arch, which shall in no case cover less than three feet of the length of such drain; and it shall be lawful for the Council on being satisfied that any person has access from such street to any house or premises so situated and that such bridge, platform, or arch should be provided, to call upon the owner or occupant of the house or premises forthwith to construct such bridge, platform or arch, and if he fails to do so within a reasonable time, to cause the work to be done, and to recover the cost thereof in the manner provided in section 77 for the recovery of the costs therein mentioned.

Allowing trees to grow in such a way as to injure streets.

[\[8. 39 of 1986\]](#)

81. Any person who allows any tree, upon any premises of which he is the owner or of which he is in occupation, to grow in such a way as to cause injury to any street, after the service of a notice upon him by the Council calling upon him to take the necessary measures to abate such injury, and after the expiration of such reasonable time as may be specified in the notice for the purpose, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees, and in any such case the Magistrate before whom the offender is convicted may, in default of the necessary measures being taken by the offender, direct that such measures shall be taken by the Council, and that the costs thereof shall be recovered in

the manner provided in section 77 for the recovery of the costs therein mentioned.

Damage to street through clearing, draining or opening up neighbouring land. **82.**

(1) It shall be the duty of every person who proposes to undertake any such operations for clearing, draining, or opening up any land in the vicinity of any street as are likely to cause injury to the street, or to impair the condition thereof by reason of any outflow or increased outflow of water or silt-

(a) to give notice in writing to the Council of his proposed operations; and

(b) in addition to such measures as may be taken by the Council to take at his own expense all such measures as may be reasonably necessary to prevent such injury to or such impairment of the condition of such street.

(2) Any person who undertakes any of the operations referred to in subsection (1) without giving the notice required by that subsection, or who otherwise makes default in complying with the requirements thereof, shall be responsible for any damage occasioned by such operations and for any expenses incurred by the Council for the purpose of preventing or remedying any damage that may be occasioned or apprehended in consequence of such operations, and the amount of any such damage or expenses may be recovered in the manner provided in section 77 for the recovery of the costs therein mentioned.

NUISANCES ON STREETS, & c.

Offences. **83.**

[\[9, 39 of 1986\]](#)

(1) Every person who, within a Municipality, turns loose or suffers to be turned loose any elephant, ox, buffalo, horse, sheep, goat, or other animal on to or into any street, or so that it makes its way on to or into any street, or ties or tethers or suffers to be tied or tethered any animal of any description in any manner which permits it to make its way on to or into any street, unless such animal is so tied or tethered during the time required for loading or unloading it, or for the loading or unloading of any cart or boat to which it may belong, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees; Provided that where any such animal is found on or in any street or tied or tethered in such a way that it can make its way on to or into any street such animal shall be deemed to have been turned loose or suffered to be turned loose or to have been tied or tethered, or suffered to be tied or tethered, as the case may be, by the owner thereof unless he satisfies the court to the contrary.

(2) The owner of any pig found tied, straying, burrowing, or wallowing in any street or canal within a Municipality shall be guilty of an offence

any shall be liable on conviction to fine not exceeding five hundred rupees; and it shall be lawful for any person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any such street or canal; and such person may, if he choose, take such pig to any peace or police officer of the area in which the offence was committed and such officer shall forthwith sell the pig and pay the proceeds of such sale to such person.

(3) Every person who, within a Municipality-

(a) hangs up or otherwise exposes any mats, clothes, or any substances of any nature whatever on or at the side of any street in a manner calculated to obstruct the use of the street;

(b) leaves or permits to be left, on any street any cart or other carriage, without the oxen, horses, or other animal being yoked or harnessed thereto, unless such cart or carriage has accidentally broken down there, and, in case of such accident, for a longer time than may be necessary for its removal;

(c) suffers any vehicle to remain in any street between a quarter of an hour after sunset and a quarter of an hour before sunrise without having attached thereto the lights required by the Vehicles Ordinance or the Motor Traffic Act;

(d) leaves any boat or raft in any canal in such a way as to obstruct the use of such canal;

(e) lays or throws any stones, bricks, raft, timber, sand, lime, dung, straw, rubbish, or scorings of any ditch or drain, or other article or thing, on or in any street, river, or canal, and allows such article or thing to remain there, except for such period as may be absolutely necessary for the removal thereof;

(f) leads or drives on any street any cart or other carriage with timber, boards, iron, or other goods so that either end of any such goods projects beyond the wheels or sides thereof;

(g) encroaches on any street by making or causing to be made any building, platform, bridge, ditch or fence, or other obstruction upon or in any street;

(h) after having blocked or stopped any cart or other carriage in going up or down any hill or rising ground, causes or suffers to be or to remain on any road the stone, timber, or other thing with which such cart or other carriage may have been blocked or stopped ; or

(f) in any manner wilfully prevents any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any street,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees, and, in case of a continuing offence, to an additional fine not exceeding two hundred and fifty rupees for each day during which such offence is continued after a conviction thereof.

(4) Every person who, within a Municipality, places or continues any kraal or fence or any other obstruction in any canal or river so as to

impede or in any way interfere with the convenient navigation thereof, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees. It shall be lawful for the Council to cause any such kraal, fence or obstruction so placed or continued to be pulled up or otherwise destroyed, and to recover the costs thereof in the manner provided in section 77 for the recovery of the costs therein mentioned.

Seizure of **84.**
stray
cattle.
[\[10.39 of 1986\]](#)

(1) It shall be lawful for any person authorized thereto by the Council to seize any ox, buffalo, horse, sheep, goat or pig which he may find tied, tethered, or straying on or about any street within the Municipality, unless such animal belongs to any cart or boat to which it is tied or tethered whilst the cart or boat is being loaded or unloaded, and to place every animal so seized in the pound established by the Council for the purpose.

[\[10.39 of 1986\]](#)

(2) No animal seized under subsection (1) shall be delivered to the owner thereof unless upon payment of such sum as the Council having regard to local conditions may by resolution fix, from time to time, for the use of the person by whom the animal may have been seized and for each day during which the animal may have been kept in the pound

[\[10.39 of 1986\]](#)

(3) If no person claims any animal placed in the pound or pays the dues required by subsection (2) within ten days after the seizure of the animal, it shall be lawful for the Council to sell it by public auction, and after payment of such sums as the Council having regard to local conditions may by resolution fix from time to time, to the person by whom the animal was seized and for each day during which the animal may have been kept and maintained in the pound, to pay any balance of the proceeds of such sale into the Municipal Fund, and if such balance is not claimed and the payment thereof is not obtained by any person entitled thereto within a period of one year from the date of the sale, to pay such balance into the Municipal Fund.

(4) The provisions of this section shall have effect in every Municipality notwithstanding anything contained in the Animals Act.

Interference with **85.**
cattle seizers or
pig seizers.
[\[11.39 of 1986\]](#)

Any person who removes any animal from the lawful custody of any person authorized to seize it under section 84, or under subsection (2) of section 83, or who in any way molests or obstructs such person in the exercise or discharge of his powers or duties shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees.

SPECIAL USER OF STREETS

Power of Council to **86.**
authorize the user of
streets for special
purposes-

Any Municipal Council may, from time to time, and either independently or in combination with any other Municipal Council, subject to the terms of any special enactment in that behalf, enter into agreement with any person or body of persons or any local authority constituted by law (hereinafter referred to as " the promoters "), to authorize such promoters, for the purpose of any system of tramways, of any supply of gas, electrical energy, water, or other public service, or any private enterprise or object, to make such user of streets under the control of a Council, and to execute all such works and to set up or to maintain all such

erections or plant thereon or therein as may in the opinion of the Council be necessary for the purpose of the effective establishment or maintenance or the modification or development of such public service or such enterprise or object.

Rules. **87.**

(1) For the purpose of any agreement referred to in section 86, and for the purpose of securing the observance of the respective rights and obligations of the public, the Municipal Council and the promoters in connexion with any public service or any private enterprise or object to which the agreement relates, the Council (except in so far as provision is made by any special enactment in that behalf) may make rules-

(a) authorizing the promoters and their agents, servants or workmen, or the agents, servants, or workmen of the Council subject to such conditions as may be prescribed in the rules-

(i) to break up the soil, metal, and pavement of any street vested in the Council;

(ii) to open and break up any sewers, drains, or tunnels within or under such streets;

(iii) to erect, set up, or lay down, either permanently or temporarily in, along, under, or over such street, any post, pillar, lamp, wire, pipe, rails or other plants, material, or works;

(iv) to alter the position of any public line, wire, or other apparatus or plant in or about such street for the purpose of any other public service;

(b) requiring the promoters to do as little damage as may be in the execution of the powers granted by the said rules, and to make any compensation for any damage which may be done in the execution of such powers;

(c) requiring the promoters to complete any work which they may be authorized to execute under such rules with all convenient speed, and to reconstruct, repair or restore any street, sewer, drain, tunnel, or any plant or apparatus which they may be authorized to remove, alter or to interfere with in pursuance of such rules;

(d) requiring the promoters to remove and carry away all rubbish occasioned by their operations, and to cause proper precaution to be taken for the safety of the public in connexion therewith;

(e) prohibiting any interference with or obstructions to any operations authorized by any rule under this section.

(2) No rule under this section shall authorize or empower any entry to be made, any material or plant to be erected or deposited, or any work to be executed upon any building or land which is not vested in the Council, without the consent of the owners and occupiers thereof first had and obtained.

(3) Any rule made by a Municipal Council under this section may, from

time to time, be amended, varied or rescinded by the Council.

Expenses caused by extraordinary traffic **88.**

(1) Where it appears to any Municipal Council that, having regard to the average expense of maintaining streets in the neighbourhood, extraordinary expenses have been incurred by the Council in maintaining any street of which it has control, by reason of the damage caused or likely to be caused by the carriage of any excessive weight or the passing of extraordinary traffic thereon, the Council shall be entitled to recover from any person by whose order or in consequence of whose order, such weight or traffic was carried or caused, the amount of such expenses as may be proved to the satisfaction of a competent court to have been incurred by the Council by reason of the damage arising or likely to arise from such excessive weight or extraordinary traffic, or, where more than one person is responsible for such excessive weight or extraordinary traffic, may recover from each of such persons such proportion of the amount of the expenses so incurred as in the opinion of the court may fairly be assigned to him.

(2) Any person against whom expenses are or may be recoverable by a Municipal Council under this section may enter into agreement with the Council for making payment to the Council by way of composition in respect of such weight or traffic and, where payment is made in accordance with such agreement, no proceedings under this section shall be instituted or maintained against such person,

(3) Proceedings for the recovery of any expenses under this section shall be commenced within twelve months from the time at which such expenses were incurred, or where any expenses incurred are the consequence of any particular contract or work extending over a long period, shall be commenced not later than six months after the completion of the contract or work.

(4) All sums paid to, or recovered by, the Council under this section shall be paid by the Council into the Municipal Fund

POWERS, DUTIES, AND RESPONSIBILITIES OF OFFICERS, & c.

Powers conferred on officers in charge of public works by whom to be exercised. **89.** In respect of all streets within the limits of a Municipality, the Mayor of the Council and all persons authorized in writing by him in that behalf, shall and may by themselves, their servants, workmen, and labourers, exercise the several powers and authorities conferred by this Part on officers in charge of works to which this Part is applicable.

Survey by proper officer to be conclusive evidence. **90.** If any plan or survey made by or by the direction of a Municipal Council or the Mayor of the Council or any authority of which the Council is a successor, is produced in evidence in any proceeding under this Part, such plan or survey shall be deemed and taken to be conclusive proof of the facts exhibited thereof, in so far as the claim of the Council is concerned, unless the contrary is established by the party contesting such claim.

Compensation for injury to property by **91.** Every person who sustains any loss or damage by reason of the exercise, by or by the authority of the Mayor of a Municipal Council, of

authorized officers. any of the powers or authorities conferred by this Part upon officers in charge of works to which it is applicable, shall, (except where the loss or damage is incurred through the act, default or neglect of such person), be entitled to receive compensation for such loss or damage, if he makes application in that behalf to the Council at any time before the expiration of three months after the claim for compensation has arisen. Where any such person fails to make such application within the aforesaid period, his claim to compensation for the alleged loss or damage shall be disallowed, and he shall be barred from recovering such compensation.

Arbitration. **92.** Where, for any reason, the amount of any compensation payable under section 91 is not agreed upon between the Municipal Council and the claimant, such amount may be determined by two arbitrators of whom one shall be nominated by the Council and the other by the claimant. If the two arbitrators cannot agree, they shall appoint an umpire and the award of the arbitrators or the umpire, as the case may be, given in terms of the reference agreed to by the Council and the claimant, shall be final.

Officers and contractors leaving stones, & c., on streets at night. [\[12. 39 of 1986\]](#) **93.** If any officer of a Municipal Council in charge of any work on any street or any person engaged upon any street in pursuance of any contract with any such Council, lays or causes to be laid any heap of stones, gravel, rubbish, or other matter whatsoever upon the street, and allows such heap to remain there at night to the danger or personal damage of any person passing along the street (all due and reasonable precautions not having been taken by him to prevent any such danger or damage), such officer or person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Road officer or road contractor not to be liable to a fine except in certain cases. **94.** Save as in section 93 provided, nothing contained in this Part shall render any officer of a Municipal Council in charge of any work on any street, or any contractor under the Council, liable to any prosecution or fine under this Part for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract.

Police officers to enforce provisions of this Part. **95.** It shall be the duty of all officers of the police force to aid and assist in the prevention of all offences against this Part within the areas in which they are appointed.

PART VI

POWERS AND DUTIES AS TO PUBLIC HEALTH

PUBLIC HEALTH

Municipal Council to be general public health authority. **96.** Subject to the powers and responsibilities by law committed to any other authority, the Municipal Council of each Municipality shall be the general administrative authority for the purpose of promoting and securing the public health within the Municipality, and shall for that purpose be entitled to exercise all such powers as are vested in it by this Ordinance, the Nuisances Ordinance, the Housing and Town Improvement Ordinance, and any other written law for the time being in force in that behalf.

DRAINAGE

Government or Councils to make **97.** The Government or any Municipal Council may, from time to time, cause to be made, altered, or extended such public main or other drains,

public drains sewers and watercourses as may appear to be necessary for the effectual draining of the Municipality, and, if necessary, the Government or the Council may carry them through, across, or under any street or any place laid out as or intended for a street, or any cellar or vault which is under any of the streets, and (after reasonable notice in writing in that behalf) into, through, or under any enclosed or other lands whatsoever, doing as little damage as may be and making full compensation for any damage done.

Duty of Council to repair, alter, and discontinue drains. **98.**

(1) Every Municipal Council shall maintain and, from time to time, repair and as it sees fit, enlarge, alter, arch over or otherwise improve all or any of the public drains, culverts, gutters, and watercourses, and may discontinue, close up, or destroy such of them as it may deem useless or unnecessary, but so that no nuisance is created by such act.

(2) Where, by reason of the discontinuance, closing up, destruction or alteration of any drain, culvert, gutter or watercourse, any person is deprived of the lawful use thereof, the Council shall with due diligence provide an effective substitute therefor.

Power to affix to buildings ventilation of drains. **99.** (1) The Council may cause such pipes and fittings as it may deem necessary for the proper ventilation of public drains to be fixed to the outside of any building. (2) Such pipes and fittings shall be so constructed and fixed as to occasion the least possible inconvenience in the neighbourhood. The outlet of every such pipe shall be at least two feet above the eaves of the building to which it is affixed and at least ten feet distant from any window.

Cleansing and emptying of drains **100.**

(1) Every Municipal Council shall cause all public drains, culverts, gutters, and watercourses to be so constructed, maintained, and kept as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of maintaining, flushing, trenching, and emptying the same, the Council may construct and place, either above or underground, such reservoirs, sluices, engines and other works as may be necessary.

(2) The Council may, with the sanction of the Minister, cause all or any of such drains, culverts, gutters, and watercourses to communicate with and be emptied into the sea or other fit place; or may cause the refuse from the same to be conveyed by a proper channel to the most convenient site for its deposit, and may sell or otherwise dispose of the said refuse for any agricultural or other purpose as may be deemed most expedient, but so that it shall not become a nuisance.

Obstruction of discharge of rain water and drainage. **101.** Whenever a Municipal Council has by a resolution determined that any natural watercourse, channel, lake, swamp or any part thereof into which rain water or drainage has theretofore discharged shall remain open for the reception of such rain water or drainage, any person who, after receiving a written notice of the resolution from the Council, fills up or permits to remain filled up any such watercourse, channel, lake or swamp in such a

manner as to obstruct or interfere with the free flow of such rain water or drainage, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees and in case of a continuing offence, to an additional fine not exceeding two hundred and fifty rupees for each day during which the offence is continued after a conviction thereof:

Provided that-

(a) such natural watercourse, channel, lake or swamp may be filled up if the owner thereof first provides such other channel or drain, as may, in the opinion of the Mayor, be sufficient and suitable for the reception and conveyance of such rain water or drainage ; and

(b) the Council may contribute in part or in whole to the cost of providing such other channel or drain.

Obstruction of drains and water courses. **102.** Every person who fills up or otherwise obstructs or interferes with the free flow in, any public drain or watercourse (whether the same be within any private premises or not) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees, and in case of a continuing offence, to an additional fine not exceeding one hundred rupees for each day during which the offence is continued after a conviction thereof.

Connection of drain with any public drain without authority.

[\[15.39 of 1986\]](#)

(1) Every person who, without the written consent of the Council first obtained, connects or causes to be connected any drain directly or indirectly with any public drain or watercourse shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand rupees, and, in the case of a continuing offence to an additional fine not exceeding two hundred and fifty rupees for each day during which the offence is continued after a conviction thereof.

(2) The Council may cause any drain which is connected with any such public drain or watercourse without its consent or otherwise than in accordance with the provisions of this Ordinance or of any by-laws for the time being in force to be demolished, altered or otherwise brought into conformity with such provisions; and all the expenses incurred thereby shall be paid by the person who connected or caused such drain to be connected, and, in case of default, shall be recoverable as hereinafter provided.

Erection of building over public drains &

c.

[\[16.39 of 1986\]](#)

104.

(1) Every person who erects or constructs or causes to be erected or constructed any building or works over any public drain, culvert, gutter, or watercourse without the written consent of the Council first obtained shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand rupees, and, in case of a continuing offence 10 an additional fine not exceeding two hundred and fifty rupees for each day during which the offence is continued after a conviction thereof.

(2) The Council may cause any building or work referred to in subsection (1) which is erected or constructed without its consent or otherwise than in accordance with the provisions of this Ordinance or of any by-laws for the time being in force to be demolished, altered or otherwise brought into conformity with such provisions; and the expenses thereby incurred shall be paid by the person who erected or constructed or caused the erection or construction of such building or work, and in case of default, shall be recoverable as hereinafter provided.

Construction, & **105.**
c, of private
drains.

[\[17, 39 of 1986\]](#)

(1) All works connected with-

(a) the construction, fixing or alteration of any drain or drainage appliance ; or

(b) the connection of any drain with any public drain, shall be carried out either by an officer of the Council or by a person licensed in that behalf by the Council at the cost and charge of the owners of the premises drained, and in accordance with the provisions of this Ordinance or of any by-laws for the time being in force:

Provided that the preceding provisions of this subsection shall not apply in the case of-

(i) any public drain or any appliance connected therewith; or

(ii) any drain situated solely on private premises and not being an underground drain or a drain connected to an underground drain.

(2) Every person who, not being an officer of the Council or a person licensed by the Council, carries out any work referred to in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand rupees.

(3) Where any work referred to in subsection (1) is carried out by any person (other than an officer of the Council or a person licensed by the Council) or otherwise than in accordance with the provisions of this Ordinance or of any by-laws for the time being in force, the Council may cause such work to be demolished, altered or otherwise brought into conformity with such provisions and the expenses thereby incurred shall, except in any case where the work was carried out by an officer of the Council, be paid by the owner of the premises on which the work was carried out and, in case of default, shall be recoverable as hereinafter provided.

(4) Any work carried out under the provisions of this section shall be open, at all reasonable times, to the inspection of the officers of the Council.

Drains in **106.**
new
buildings.

[\[18, 39 of 1986\]](#)

(1) Every person who erects or causes to be erected any new building, or rebuilds or causes to be rebuilt any building, shall cause such

building to be provided with such drains and appliances as may in the opinion of the Council be necessary for the drainage of such building, and for the collection and removal of any sullage, foul liquids, rain water, or faecal matter therefrom in accordance with the provisions of this Ordinance and any by-laws for the time being in force.

(2) Every person who fails or neglects to provide such drains or appliances as aforesaid shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand five hundred rupees.

Drainage of premises within **107.**

one hundred feet of public drains.

[\[19, 39 of 1986\]](#)

(1) Where any premises are within one hundred feet of any public drain or other fit place into which drains may lawfully be discharged, the Council may, by notice in writing, served on the owner of such premises, require such owner within such time as may be specified in the notice, to provide and execute to the satisfaction of the Council, in accordance with any by-laws for the time being in force, all or any of the following works that the Council may deem necessary for the effectual drainage of such premises, that is to say:-

(a) to provide and construct such channels, drains, gullies, manholes, and appliances as may be necessary for the removal and discharge into such drain or other fit place of sullage, foul liquids and rain water;

(b) where a sufficient water supply is available, to provide and construct sufficient and suitable water-closets or additional water-closets and drains and other appliances in connection therewith, and to convert any earth closet, privy, cesspit, closet, or other latrine into a water-closet, or abolish any such earth closet, privy, cesspit, closet or other latrine;

(c) to reconstruct, take up, and remove or fill up any existing drain or appliance (other than any drain or appliance that has been laid with the sanction of the Council for the drainage of such premises on the water carriage system) that may be, in the opinion of the Council, unnecessary or in sanitary.

(2) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand rupees.

Drainage of premises in **108.**

other cases.

[\[20, 39 of 1986\]](#)

(1) In the case of any premises which are more than one hundred feet, but less than two hundred feet, from any public drain or other fit place into which drains may lawfully be discharged, the Council may, by notice in writing served on the owner of such premises, require such owner within such time as may be specified in the

Drainage in combination **109.**

[\[21, 39 of 1986\]](#)

notice, to provide and execute, in accordance with any by-laws for the time being in force, all or any of the works referred to in section 107.

(2) If in the opinion of the Council there is no suitable public drain or other fit place into which drains may lawfully be discharged within a reasonable distance of such premises, the Council may, by notice in writing served on the owner of such premises require the said owner, within such time as may be specified in the said notice, to provide and execute such other works and undertake such other measures as may in the opinion of the Council be best or necessary for the proper collection and disposal of the sullage and foul liquids, and the removal of faecal matter from such premises.

(3) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (1) or subsection (2) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

(1) Where it appears to the Council to be more economical or otherwise more advantageous that the drainage of a group of premises, whether contiguous or otherwise, should be undertaken as a whole rather than separately, the Council may cause to have drawn up a scheme for the drainage of such group of premises in accordance with the following provisions.

(2) In every such case the Council shall cause to be prepared-

- (a) plans showing the premises affected, and the nature and extent of the necessary works;
- (b) a schedule of the premises and the names of the owners thereof as far as can be ascertained ;
- (c) an estimate of the cost of the work that is, in the opinion of the Council, necessary for carrying such scheme into effect;
- (d) a provisional apportionment of such cost amongst the owners affected in such proportion as may seem to the Council to be most equitable having regard to the greater or less degree of benefit to be derived by the premises from any work so undertaken.

(3) The Council shall cause written notice in Sinhala, Tamil and English to be given to the owners of all the premises to be drained of the intention to cause the proposed works to be done in accordance with the provisions of this section, either by serving it upon them personally, or by leaving it at their respective residences or places of business, or by posting registered letters addressed to them at such residences or places of business.

(4) During one month from the date of service of such notice the above-mentioned particulars or certified copies thereof shall be kept deposited at the Municipal office and shall be open to inspection at all reasonable times.

(5) During the said month the owner of any such premises may, by written notice served on the Council, object to the proposals on any of the following grounds, that is to say;-

- (a) that the proposed works are insufficient or unnecessary or are not required in pursuance of this Ordinance;
- (b) that the estimated cost of the work is excessive;
- (c) that the provisional apportionment of such cost is incorrect in some matter of fact to be specified in the objection;
- (d) that any premises should be excluded from or included in the proposals ;
- (e) that there has been some material informality, defect, or error in respect of the notices, plans, or estimates;
- (f) that any compensation to be paid is excessive or insufficient.

(6) The Council shall consider and determine the objections, and its decisions thereon shall be final.

(7) In any case where no such objections have been raised or in any case where such objections have been raised and have been determined by the Council, the Council may give orders for the drainage of the premises in accordance with the scheme, and if it considers expedient may- (a) proceed to execute, by contract or otherwise, all or any of the work necessary for carrying into effect the scheme mentioned in subsection (1) of this section ; or (b) by notice in writing, require all or any of the owners to provide and execute, within such time as may be specified in the notice, all or any of the works that may be required to be done in or exclusively for the drainage of the premises.

(8) The Council may recover in equal proportions from the owners of all or any of the premises included in any scheme prepared under this section a reasonable sum as expenses for surveys and the preparation of plans.

(9) When the Council has completed the execution of any works under this section and the expenses thereof have been ascertained, a final apportionment shall be made in similar manner to the provisional apportionment, and the expenses recovered accordingly as herein provided.

(10) The cost of the maintenance of the system of drainage made under such scheme as aforesaid shall be borne equally by the owners of the premises affected by such scheme.

(11) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (7) (6) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Right to carry
drains through land
belonging to other

110.

(1) When it appears to the Council that the only or the best

persons.

[\[22, 39 of 1986\]](#)

practicable means by which a drain required for the drainage of any premises can be emptied into any drain or other fit place into which drains may lawfully be discharged is by carrying the same into, through, or under any land belonging to some person other than the owner of the said premises, the Council, after giving the owner of the said land a reasonable opportunity of stating any objection, may, if no objection is raised, or if any objection which is raised appears to the Council invalid or insufficient, by an order in writing, authorize the owner of the said premises to carry his drain into, through, or under the said land in such manner as the Council shall think fit to allow.

(2) Every such order bearing the signature of the Mayor shall be complete authority to the person in, whose favour it is made, or to any agent or person employed by him for that purpose, after giving to the owner of the said land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen at any time between sunrise and sunset and to execute the necessary work.

(3) Subject to the provisions of this Ordinance, the owner or occupier of any premises, or any agent or person employed by him for that purpose, may, after giving the owner of any land, wherein a drain has already been lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen at any time between sunrise and sunset for the purpose of repairing or cleansing such drain.

(4) In executing any work under this section as little damage as possible shall be done; and the owner or occupier of premises for the benefit of which the work is done shall-

(a) cause the work to be executed with the least practicable delay ;

(b) fill in, reinstate, and make good at his own cost the land broken up for the purpose of executing the said work; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

[\[22,39 of 1986\]](#)

(5) Every owner of land who refuses to permit or prevents without reasonable cause the execution of any work in accordance with the provisions of this section shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one thousand rupees; and every such owner who persists in such refusal or who continues to prevent the execution of such work after a conviction thereof shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees for each day during which the offence is continued.

(6) When the owner of any land into, through, or under which a drain has been carried under this section while such land is un built upon, desires at any time afterwards to erect a building of,

such land, the Council shall, by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove, divert, reconstruct, or protect the same in such manner as may be approved by the Council and to fill in, make good, and reinstate the land ;

Provided that no such requisition shall be made unless, in the opinion of the Council, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment of the same, that the drain should be closed, removed, diverted, reconstructed, or protected.

[\[22,39 of 1986\]](#) (7) Every owner or occupier who refuses to comply with the requirements of any notice served on him under subsection (6) within a reasonable time, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one thousand rupees.

Right of owners to joint use of drains.

111.

[\[23, 39 of 1986\]](#)

(1) Where it appears to the Council that the only or the best practicable means by which a drain required for the drainage of any premises can be emptied into any drain or other fit place into which drains may lawfully be discharged is through a drain belonging to some person or persons other than the owner of the said premises, the Council after giving the said person or persons a reasonable opportunity of stating any objection thereto, may, if no objection is raised, or if any objection which is raised appears to the Council invalid or insufficient, by an order in writing, authorize the said owner to use the last-mentioned drain, or declare him to be a joint owner or one of the joint owners thereof, on such conditions as to the payment of rent or compensation, and as to connecting the drain of the said premises with such other drain as aforesaid, and as to the respective responsibilities of the parties for maintaining, flushing, cleansing, and emptying such last-mentioned drain or otherwise as may appear to the Council equitable.

(2) Every such order bearing the signature of the Mayor shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for that purpose, after fulfilling the conditions of the said order, and after giving to the owner or owners of the drain reasonable notice in writing of his intention so to do, to enter upon the land in which such drain is situated with assistants and workmen at any time between sunrise and sunset and, subject to the provisions of this Ordinance, to do all such things as may be necessary for-

- (a) connecting the two drains;
- (b) renewing, altering, or repairing the connection; and
- (c) discharging any responsibility attaching to the person in whose favour the Council's order is made for maintaining, flushing, cleansing, or emptying the drain or any part thereof.

(3) In executing any work under this section as little damage as

possible shall be done, and the person in whose favour the Council's order is made shall-

- (a) cause the work to be executed with the least practicable delay ;
- (b) fill in, reinstate, and make good at his own cost the land broken up, or repair and make good any damage to buildings occasioned by the execution of the said works ; and
- (c) pay compensation to any person who sustains damage by the execution of the said works.

[\[23.39 of 1986\]](#) (4) Every owner or occupier of any premises who refuses without reasonable cause, to permit, or prevents the execution of any works in accordance with the provisions of this section, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand rupees; and every such owner or occupier who persists in such refusal or who continues to prevent the execution of such work after a conviction thereof shall be guilty of a continuing offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty rupees for each day during which the offence is continued.

Maintenance and **112.**
repair of drains,
& c.

[\[24.39 of 1986\]](#)

(1) Every drain and every fixture or appliance connected therewith shall, from time to time, be repaired, flushed, cleansed, and cleared by the owner or occupier of the premises within which such drain may be situated.

(2) The Council may, by notice in writing served on the owner or occupier of such premises, require such owner or occupier within such time as may be specified in the notice, to repair, flush, cleanse, or clear such drain, fixture, or appliance.

(3) The Council may, if the requirements of such notice are not complied with, or if the Council receives an application from the said owner or occupier so to do, or if the Council deems immediate action necessary, repair, flush, cleanse, or clear such drain, fixture, or appliance, and the expenses incurred thereby shall be paid by the owner or the said occupier, and, in be recoverable as case of default, shall hereinafter provided.

[\[23.39 of 1986\]](#) (4) The owner of any premises in which drains, fixtures and appliances connected therewith are provided for the common use of the occupiers of such premises shall make such provision and take such measures as may be necessary for keeping such drains, fixtures, and appliances in a proper sanitary condition. Every such owner who, after due notice in writing in that behalf from the Council fails to make such provision or to take such measures as the Council may think fit, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

(5) Where any drain, not being a drain vested in the Municipal Council, or any fixture or appliance is provided for the benefit of more premises than one, the Council may, in pursuance of the

provisions of this section, by notice in writing, require the owners or occupiers of such premises, within such time as may be specified in the notice, to execute all or any of the works aforesaid, and the Council may, either in default of compliance with the requirements of such notice, or without such notice if the Council deem necessary, execute all or any of such works and recover the expenses of so doing from the said owners or occupiers in such proportions as it may deem just.

[\[23.39 of 1986\]](#) (6) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (2) or subsection (5) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Reconstruction of- **113.**
defective drains and
appliances.

[\[25.39 of 1986\]](#)

(1) Where, in the opinion of the Council-

(a) any drains or any fixtures and appliances connected therewith provided for the drainage of any premises are defective or in a condition injurious to health ;

(b) any such drains or appliances are improperly connected to any public or other drain; or

(c) any such drains are not provided with proper and sufficient traps, gullies, ventilating shafts, inspection chambers, or other such appliances,

the Council may, by notice in writing, served on the owner or occupier of such premises, require such owner or occupier, within such time as may be specified in the notice, to re-lay, reconstruct, make good, disconnect, or abolish such defective or improper drains, connections, fixtures, and appliances, and provide sufficient and suitable drains, connections, fixtures, and appliances in accordance with the provisions of this Ordinance and of any by-laws made thereunder.

[\[24.39 of 1986\]](#) (2) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the time specified in the notice shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one thousand rupees.

(3) For the purpose of determining whether any such drains, connections, fixtures, or appliances are defective or injurious to health or improperly connected to any public or other drain, the Council may order an inspection of the premises at any reasonable time, and the inspecting officer may enter the premises at any reasonable time (after giving due notice to the occupier) and, if necessary for the purpose of such inspection, may cause the ground to be opened wherever he may deem fit, doing as little damage as may be ; and where such drains, connections, fixtures, or appliances are found to be in a satisfactory condition they shall forthwith be reinstated, and the

ground made good at the expense of the Council.

Drains or appliances laid in streets **114.** The Council may permit any drain, manhole, inspection chamber, gully, ventilating shaft, or similar appliances required in pursuance of this Ordinance for the drainage of any premises to be constructed, laid, or fixed over, through, or under any street or public place: Provided that such permission shall not be deemed to convey to the owner of the said premises any special rights whatsoever over the said street or public place ; and the Council may at any time alter or reconstruct any portion of such drain or appliance as it may think necessary.

Entry of premises. **115.**

[\[26.39 of 1986\]](#)

(1) Any person authorized in that behalf by the Council may, after giving due notice to the occupier, enter any premises between the hours of eight in the morning and five in the afternoon for the purpose of inspecting, flushing, clearing, repairing, or maintaining any drain, manhole, inspection chamber, gully, ventilating shaft or other appliance connected therewith:

Provided that no such notice need be given in any case, where the entry is made for the purpose of inspecting, flushing or maintaining any public drain, or for the purpose of inspecting any drain or other aforementioned appliance which the person authorized as aforesaid has reason to believe is the source of any nuisance.

[\[26.39 of 1986\]](#)

(2) Every person who prevents or attempts to prevent the person authorized as aforesaid from entering any premises or refuses admittance thereto shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees and every person who continues to prevent such entry or who persists in such refusal after a conviction thereof shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees for each day during which the offence is continued.

New drains not to be used without permission. **116.**

[\[27.39 of 1986\]](#)

[\[27.39 of 1986\]](#)

(1) Every person who uses or causes or suffers to be used any new drain, gully, bathroom, water-closet, privy, urinal or other sanitary appliance provided in pursuance of this Ordinance without the written permission of the Council, or until the Council has given a certificate that such drain, gully, bathroom, water-closet, privy, urinal, or other sanitary appliance conforms in all respects to the provisions of this Ordinance and of any by-laws made thereunder, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees; and every person who, after a conviction thereof, uses or causes or suffers to be used any sanitary appliance aforesaid without obtaining such certificate or permission, shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees for each day during which the offence is continued.

(2) Any person making such new provision may apply in writing to the Council for such certificate, and thereupon the Council,

after such inquiry as it may consider necessary, shall, within fourteen days of the receipt of the application, either grant the certificate, or inform the applicant of its refusal to do so, and of the grounds for such refusal.

Offences. **117.**

[\[28, 39 of 1986\]](#)

(1) No person shall discharge or cause or suffer to be discharged, without the sanction in writing of the Council, any sullage, foul liquids, or fecal matter into any drain or other place which is not suitable or intended to receive such discharge, or into any land or place in such a manner as to cause a nuisance, or wilfully discharge or cause to be discharged any rain water into any drain which is intended to carry foul water.

(2) No person shall discharge or cause or suffer to be discharged into any drain any hot water, steam, or any liquid which would prejudicially affect the drain or the flow or the disposal of the sewage or water conveyed therein, or which would from its nature, temperature, or otherwise be likely to create a nuisance.

(3) No person shall drop, pass, or place, or cause or suffer to be dropped, passed, or placed, into or in any drain any brick, stone, earth, ashes or any substance or matter which such drain is not intended to receive, or which by reason of its amount or nature may be likely to cause such drain or any other drain connected therewith to be obstructed, or which may prejudicially affect any such drain or the flow therein or may be likely to create a nuisance.

(4) Without the written permission of the Council, no person shall in any way alter the fixing, disposition, or position of, or obstruct, remove, stop up, or change, any drain, ventilation pipe, closet, or other fitting or appliance connected therewith.

(5) No person shall erect, re-erect, or alter any building in such a manner as to cause any drain, closet, or appliance provided in or for the benefit of such building or of any other building within the same premises to contravene the provisions of this Ordinance or of any by-law made thereunder.

(6) Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees; and every person who continues such contravention after a conviction thereof shall be guilty of a continuing offence and shall on conviction be liable to a fine not exceeding two hundred and fifty rupees for each day during which the offence is continued.

LATRINES

Construction of **118.**
additional
privies.

[\[29, 39 of 1986\]](#)

(1) any case where the Council is of opinion that any privy, water-closet or bathroom, or additional privy, water-closet or bathroom should be attached to, or provided for, any house or building or land, the Council may, by notice in writing served on the owner of such house or building or land, require such owner, within thirty days from the service of the notice, to cause such privy, water-

closet or bathroom to be constructed in accordance with the requisition contained in such notice.

[\[29.39 of 1986\]](#)

(2) Every owner who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the said period of thirty days shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Duty of employers of labour to provide privies.

[\[30.39 of 1986\]](#)

119.

(1) The Council may by notice in writing served on any person employing a large body of workmen or labourers, require such person to-

- (a) provide within such time as may be specified in the notice such number of privies, water-closets and urinals as may seem to the Council necessary ; and in any case where persons of both sexes are employed or intended to be employed or are in attendance, to provide proper separate accommodation for persons of each sex ; and
- (b) cause the same to be maintained in a sanitary condition and proper order.

(2) Where any person served with a notice under subsection (1) fails or neglects to provide and maintain such privies, water-closets, and urinals or to maintain the same in a sanitary condition or in proper order, the Council may cause such privies, water-closets and urinals to be constructed or to be maintained in a sanitary condition or in proper order, and the expenses incurred by the Council in respect thereof shall be paid by the person aforesaid, and, in case of default, shall be recoverable as hereinafter provided.

[\[30.39 of 1986\]](#)

(3) Every person who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the time specified in the notice shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand rupees.

Neglecting to close

cesspool.

[\[31.39 of 1986\]](#)

120.

(1) The Council may, by notice in writing, served on the owner or occupier of any house or building or land having a cesspool on the premises, require such owner or occupier within thirty days from the date of service of the notice, to close such cesspool and to substitute a privy or water-closet therefor.

[\[31.39 of 1986\]](#)

(2) Every owner or occupier who fails or neglects to comply with the requirements of any notice served on him under subsection (1) within the said period of thirty days shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one thousand rupees.

Offences.

[\[32.39 of 1986\]](#)

121.

(1) No person shall injure or improperly foul, or suffer to be in a foul condition for want of proper cleansing, any privy, water-closet, or urinal or the approaches thereto, used in common by the occupiers of two or more separate dwelling houses, or by any other person or persons. Every person offending against the provisions of this subsection, or in the absence of proof satisfactory to the court as to which of the persons having the use in common of such privy, or urinal, or the approaches thereto as aforesaid is in default, each of such last-mentioned persons shall be deemed to have contravened the provisions of this subsection,

[\[32.39 of 1986\]](#)

(2) Every person who contravenes any of the preceding provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees; and every person who continues such contravention after a conviction thereof shall be guilty of a continuing offence and shall be liable on conviction to a fine not exceeding two hundred and fifty rupees for each day during which the offence is continued.

INSANITARY BUILDINGS

Duty of Council **122.** It shall be the duty of the Council to cause to be made, from time to time, as to insanitary buildings. an inspection of every part of the Municipality with a view to securing that the houses or buildings in the Municipality are kept in such sanitary condition as is required by the provisions of this Ordinance or any other enactment, and to undertake all necessary measures to enforce such provisions within the Municipality.

Duty of Council as to existing buildings **123.**

(1) Whenever the Council is satisfied that any buildings or blocks of buildings, whether existing at the date of the constitution of the Council or subsequently erected, are, by reason of the occurrence of an epidemic or of the manner in which such buildings are crowded together, or of the want of drainage or the impracticability of scavenging, attended with risk to the health of the inhabitants thereof or of the neighborhood, the Council shall serve a notice on the owners or occupiers thereof, or, at its option on the owner of the land on which such buildings are constructed, to execute within such time as may be specified in the notice, such operations including the alteration of such building as the Council may deem necessary for the avoidance of such risk.

(2) In any case where an owner or occupier served with a notice under subsection (1) refuses or neglects to execute such operations within the time specified in the notice, any officer authorized by the Council in that behalf may cause the buildings to be taken down, or such operations to be performed in respect thereof, as the Council may deem necessary to prevent such risk.

(3) Where any buildings are taken down under subsection (2), the Council or the authorized officer shall cause the materials of each building to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the building, or if the owner be unknown or the title disputed, shall be held in deposit by the Council until the person entitled thereto obtains the order of a

competent court for the payment of such proceeds.

Overcrowding
of houses.

[\[33.39 of 1986\]](#)

124. Whenever it appears to the Council that any house is so overcrowded as to be dangerous or prejudicial to the health of the occupiers thereof, or of the neighborhood, and the occupiers consist of more than one family, the Council shall cause proceedings to be taken before a Magistrate or Municipal Magistrate to abate such overcrowding, and the Magistrate shall thereupon make such order as he may think fit; and each of the persons permitting such overcrowding shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty rupees for each day after the date of such order during which such overcrowding shall continue.

Power of
Council to
inspect and lime-
wash houses.

125. It shall be lawful for any person authorized in that behalf by the Council at any lime between sunrise and sunset to enter into and inspect any house or building, and by an order in writing to direct all or any part thereof to be forthwith internally and externally lime washed or otherwise cleaned ; and if the owner or occupier of such house or building neglects to comply with such direction within seven days from the time when the order shall have been served upon him, the Council may cause the work to be done, and the expenses thereby incurred shall be paid by the owner, and, in case of default, shall be recoverable as hereinafter provided.

Houses or huts not to
be built or roofed with
cadjan without
permission.

126.

(1) In any Municipality it shall not be lawful for any person to erect or construct any house, hut, shed, or other building (whether to be used as a dwelling or as a stable or for any other purpose) having its external roof or walls made of grass, leaves, thatch, Cajuns, mats, or other such inflammable material, without first obtaining the permission of the Council.

(2) The permission given by the Council under subsection (1) shall in every case be subject to a specified time-limit and such conditions as it may impose in writing for the purpose of ensuring that such inflammable material as may be used for the roof or walls of the building to which the permission relates will be replaced at the earliest opportunity by such non- inflammable or durable material as may be approved by the Council.

(3) If any house, hut, shed, or other building of the description referred to in subsection (1) is built without the permission required by that subsection, the Council shall give notice to the owner thereof, or of the ground upon which such building is erected or constructed, or is being erected or constructed, by affixing a notice to some conspicuous part of such house, hut, shed, or other building, to take down and remove the building forthwith or within such time as the Council may specify in the notice.

(4) If any house, hut, shed, or other building is not taken down and removed forthwith or within the time specified in any notice under subsection (3), the Council shall cause the building to be taken down and removed, and the expenses incurred by the Council in doing so shall be paid by the owner

of the building or of the ground upon which it is built, and, in case of default, shall be recoverable as hereinafter provided.

(5) Nothing in the preceding provisions of this section shall apply to any house, hut, shed, or other building which was erected or constructed before the date of the commencement of this Ordinance; and in the case of any such house, hut, shed or other building having its external roof or walls made of grass, leaves, thatch, cadjans, mats or other inflammable material, the Council may give notice to the owner thereof, or of the ground upon which such building stands, by affixing a notice to some conspicuous part of such house, hut, shed, or other building, to take down and remove the building forthwith or within such time as may be specified in the notice ; and in the event of such building not being taken down and removed in compliance with the requirements of such notice the provisions of subsection (4) shall apply.

CONSTRUCTION OF BUILDINGS

Certificate of conformity with building by-laws. [127.](#)
[\[34.39 of 1986\]](#)

(1) No building constructed after the date of the commencement of this Ordinance shall be occupied, except by a caretaker, until the Council has given a certificate that such building, as regards construction, drainage, and other respects conforms to the provisions of this Ordinance and to the by-laws made thereunder.

(2) Any person who has erected any building may apply in writing to the Council for such certificate, and thereupon the Council, after such inquiry as it may consider necessary, shall, within twenty-one days of the receipt of the application, either grant the certificate or inform the applicant of its refusal to do so and the grounds of such refusal.

[\[34.39 of 1986\]](#) (3) Every person who occupies or allows to be occupied any building in contravention of this section shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding two hundred and fifty rupees for each day during which the contravention continues.

Floor level of new building. [128.](#)

(1) No building within any Municipality shall be hereafter constructed having the ground floor at a lower level than one foot above the highest recorded flood at the site, or lower than such level as, in the opinion of the Council, will allow of the drainage from the premises being led into some public drain either existing or to be hereafter made, or other fit place into which the Council is empowered to empty drains.

(2) Every person who constructs any building in contravention of this section shall be guilty of 'an offence ; and the Council may cause such building to be altered, pulled down, or otherwise dealt with as it may deem proper, and may recover the expenses thereby incurred from the owner of the building in the manner hereinafter provided.

CONSERVANCY AND SCAVENGING

Duty of Council as to conservancy scavenging. **129.** It shall be the duty of the Council, so far as is reasonably practicable, to take all necessary measures in every part of the Municipality-

(a) for properly sweeping and cleansing the streets, including the footways, and for collecting and removing all street refuse;

(b) for securing the due removal at proper periods of all house refuse, and the due cleansing any emptying at proper periods of all latrines and cesspits; and

(c) for the proper disposal of all street refuse, house refuse and night-soil.

All refuse collected to be property of council. **130.** All street refuse, house refuse, night-soil, or other similar matter, collected in any Municipality under the provisions of this Part shall be the property of the Council, and the Council shall have full power to sell or dispose of all such matter and the money arising therefrom shall be paid to the credit of the Municipal Fund.

Places for disposal of refuse and keeping equipment. **131.** The Council shall, from time to time, provide places convenient for the proper disposal of all street refuse, house refuse, night-soil, and similar matter removed in accordance with the provisions of this Part, and for keeping all vehicles, animals, implements, and other things required for that purpose or for any of the other purposes of this Ordinance, and shall take all such measures and precautions as may be necessary to ensure that no such refuse, night-soil, or similar matter removed in accordance with the provisions of this Part is disposed of in such a way as to cause a nuisance.

NUISANCES

Inspection of nuisances. **132.** It shall be the duty of the Council to cause to be made, from time to time, an inspection of the Municipality with a view to ascertaining what nuisances exist calling for abatement under the powers conferred by this Ordinance or any other enactment, and to the enforcement of the provisions of this Ordinance or such other enactment in order to abate such nuisances.

Power to fill up unwholesome tanks on private premises. **133.**

(1) Where in any Municipality, any private tank or low marshy ground or any waste or stagnant water, situated on any private land, appears to the Council to be injurious to health or to be offensive to the neighborhood, the Council shall, by notice in writing, require the owner of that land to cleanse or fill up such tank or marshy ground, or to drain off or remove such waste or stagnant water.

(2) If any owner on whom a notice under subsection (1) is served refuses or neglects to comply with the notice within such period as may be specified therein, the Mayor or the officers and workmen of the Council may enter into the land and do all necessary acts for all or any of the purposes referred to in subsection (1), and the expenses incurred thereby shall be paid by the owner of the land, and, in case of default, shall be

recoverable as hereinafter provided.

(3) Where the land- referred to in subsection (2) is owned by more than one person, the expenses referred to in that subsection shall be apportioned among, and recoverable from, the several owners in such proportions as may be determined by the Council.

Nuisance by child. **134.** Every person who, having the care or custody of any child under twelve years of age, omits to prevent such child from committing a nuisance in or by the side of any street, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees.

Public bathing places. **135.**

[35, 39 of 1986]

[36, 39 of 1986]

(1) The Council may by public notice prohibit bathing or the washing of animals or clothes in any public place not set apart for the purpose, or at times or by persons other than those specified in the notice, and all other acts which may render water in public places foul or unfit for use, or may cause inconvenience or annoyance to persons using the bathing or washing places. Such notice shall be published in the Gazette and in two at least of the newspapers circulating within the Municipality.

(2) Every person who bathes, washes, or does any act contrary to such prohibition as aforesaid shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees.

Pollution of streams which flow into reservoirs or waterworks. **136.** Every person who bathes in, or washes any clothes or other things in, or causes or suffers any dirt, refuse, or impurity to flow into, or otherwise in any manner pollutes or contaminates any reservoir used for the purposes of the waterworks belonging to any Municipal Council, or any stream or watercourse whereof the water flows into or feeds any such reservoir, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees, and, in case of a continuing offence, to an additional fine not exceeding one hundred rupees for each day during which the offence is continued after a conviction thereof or after service of a written notice from the Council directing attention to the offence.

Power of the Mayor in regard **136B.**

to trees or branches, trunks or fruits of trees endangering the safety of person or property.

(1) Where in any Municipal Council area any tree or any branch, trunk, fruit or other part of a tree is causing or is likely to cause damage to any building, or is in a condition dangerous to the occupants of any building, or to the safety of passers by along any public thoroughfare, the Mayor may, by a notice in writing served on the owner or occupier of the land on which such tree stands require such owner or occupier to tie up and make secure, or to cut down and remove such tree or the branch, trunk, fruit or other part of such tree within such time as may be specified in the notice.

(2) Every person on whom a notice is served under subsection (1), shall comply with the requirements of such notice within the time specified therein, and in the event of the refusal or neglect of such persons to

comply with such requirements within such time, the Mayor or any officer or workman authorized in writing in that behalf by the Mayor, may enter upon the land referred to in such notice and do what such person was required to do by such notice, and the expenses thereby incurred may be recovered from such person as a debt due to the Council."

Pollution caused by factories.

[2, 42 of 1979]
[\[38, 39 of 1986\]](#)

136A.

(1) Any person who, within the administrative limits of any Municipal Council, operates or causes to be operated any factory which causes pollution so as to endanger or prejudice the health of the neighborhood, shall be guilty of an offence.

(2) Where a Magistrate after summary inquiry convicts a person of an offence under subsection (1) he shall, depending on the degree of pollution caused by such factory, make order-

(a) that such person pay a fine equivalent to twice the fee payable for a licence issued under the provisions of this Ordinance or any by-law made thereunder, in respect of the premises on which that factory is situated notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction and the amount so recovered shall be paid into the Fund of the Council; or

(b) that operations in such factory shall cease.

For the purposes of this section, " pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological or radioactive properties of any part of the environment by discharging, emitting or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare or to animals, birds, wildlife, fish or aquatic life, or to plants,

Power of the Mayor in regard to trees or branches, trunks or fruits of trees endangering the safety of person or property.

[\[39, 39 of 1986\]](#)

136B.

(1) Where in any Municipal Council area any tree or any branch, trunk, fruit or other part of a tree is causing or is likely to cause damage to any building, or is in a condition dangerous to the occupants of any building, or to the safety of passers by along any public thoroughfare, the Mayor may, by a notice in writing served on the owner or occupier of the land on which such tree stands require such owner or occupier to tie up and make secure, or to cut down and remove such tree or the branch, trunk, fruit or other part of such tree within such time as may be specified in the notice.

(2) Every person on whom a notice is served under subsection (1), shall comply with the requirements of such notice within the time specified therein, and in the event of the refusal or neglect of such persons to

comply with such requirements within such time, the Mayor or any officer or workman authorized in writing in that behalf by the Mayor, may enter upon the land referred to in such notice and do what such person was required to do by such notice, and the expenses thereby incurred may be recovered from such person as a debt due to the Council.

INFECTIOUS DISEASES AND EPIDEMICS

Medical practitioners to report diseases.

[\[40, 39 of 1986\]](#)

137.

(1) Every medical practitioner or person professing to treat disease who infectious attends to any person suffering from any of the following diseases, namely, smallpox, cholera, acute or choleric diarrhoea, plague, typhoid or enteric fever, phthisis, simple continued fever of seven days' duration or over, chicken pox, measles, scarlet fever, diphtheria or such other diseases as may be, from time to time, proclaimed under the regulations framed under the Quarantine and Prevention of Diseases Ordinance, shall within three hours of such attendance give information in writing to the medical officer of health stating the name, race, sex, and age of the diseased person, his residence, and the nature of his disease.

(2) The occupier of any building in which there is any person affected with any of the diseases mentioned in subsection (1) shall forthwith inform the medical officer of health, and the occupier and the person so affected shall furnish such officer with all the information regarding the affected person which he may reasonably demand, including full particulars of all places at which the affected person spent the nights during the fourteen days prior to such demand.

(3) Every person who fails to comply with any of the requirements of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and such imprisonment,

Search of premises and segregation of persons.

138.

(1) It shall be lawful for any person authorized in that behalf by the Council, the medical officer of health or any sanitary officer acting on the written orders of the medical officer of health, to enter at any time without notice any dwelling place or premises for the purpose of searching for cases of infectious diseases.

(2) It shall be lawful for any person authorized as aforesaid or the medical officer of health to cause persons diseased or suspected to be affected with any disease mentioned in the regulations made under section 2 of the Quarantine and Prevention of Diseases Ordinance, to be removed to some, public hospital or other place provided by the Council, or to any place selected by such person which the person authorized as aforesaid or the medical officer of

health considers suitable-

- (a) from any house or place in which goods are exposed for sale;
- (b) from any house or place of public resort;
- (c) from any building in which there are no means of isolating such person from the other inmates ; or
- (d) from any building where the retention of such person is likely to prove a source of danger to others.

(3) Any person authorized as aforesaid or the medical officer of health may, in any case where a person is affected with any of the said diseases in any such house or place as is mentioned in subsection (2) (a), allow such person to remain there on condition that the sale of goods from such house or place is discontinued until such person or the medical officer of health has given permission in writing to resume such sale.

(4) Any person authorized as aforesaid or the medical officer of health may cause any person who is found in any infected locality, or who has come from any place where disease exists, to be removed to a place of observation set apart for the purpose, or to be kept under surveillance for such period as such person or the medical officer of health may direct.

Penalty for disposal of infected articles

[\[41, 39 of 1986\]](#)

139. Every person who gives, lends, sells, transmits, or otherwise disposes of any article or thing which he has reason to know has been exposed to infection without first disinfecting such article or other thing to the satisfaction of the medical officer of health shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees:

Provided that nothing in the preceding provisions of this section shall be deemed to apply to a person who transmits with proper precautions any article or thing for the purpose of having the same disinfected in a place approved by the Council for the purpose.

Penalty for exposure of infected persons.

[\[42, 39 of 1986\]](#)

140.

(1) Every person suffering from an infectious disease who, without proper precaution against spreading such disease, causes himself to be conveyed in a public conveyance, and, every person in charge of or accompanying a patient so conveyed, and every person knowing himself to be suffering from any infectious disease who enters a public conveyance without previously notifying to the owner or driver that he is so suffering shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees, and to an additional fine of such amount as the Magistrate or Municipal Magistrate may deem sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting such conveyance.

(2) The amount of any additional fine imposed under subsection (1) shall be awarded by the Magistrate or Municipal Magistrate, subject to the provisions of the Code of Criminal Procedure Act, to the owner or driver of the said conveyance.

(3) No owner or driver of a public conveyance shall be required to convey any person suffering from any infectious disease without

payment or tender of a sum sufficient to cover such loss and costs as aforesaid, anything in any enactment relating to public conveyances for the time being in force to the contrary notwithstanding.

(4) Every public conveyance in which a person suffering from any infectious disease is conveyed shall be forthwith disinfected by the officer in charge of the place to which such person is removed.

Penalty for letting infected rooms. [\[43.39 of 1986\]](#) **141.** Every person who knowingly lets a house or other building, or part of a house or building, in which any person has been suffering from any infectious disease, without having such house or other building or part thereof, and all articles therein liable to retain infection, disinfected to the satisfaction of a registered medical practitioner shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand rupees. For the purposes of this section, a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging-house.

Appointment of special officer. **142.** In the event of any epidemic or any unusual mortality prevailing within a Municipality, the Minister may appoint a special officer for the purpose of investigating the causes of such epidemic or mortality, and of advising the Council and the Minister as to the sanitary measures to be taken.

Salary of special officer. **143.** The appointment of a Special officer under section 142 may be made, from time to time, for such period not exceeding twelve months as the Minister may deem necessary. Such officer shall be paid out of the Municipal Fund such salary as may be fixed by the Minister.

Powers of special officer **144.** Every special officer appointed under section 142 or any health officer shall, during his employment, have all the powers of entry and inspection given to the Council or any officer of the Council by this Ordinance.

OFFENSIVE AND DANGEROUS TRADES

Slaughterhouses. **145.**

[\[3.61 of 1981\]](#)

(1) No place shall be used as a slaughterhouse within a Municipality unless a licence in writing for the use thereof as a slaughterhouse has been obtained from the Council. The Council is hereby empowered, at its discretion, from time to time, to grant such licence, and such licence to suspend or revoke, as to the Council may seem necessary.

[\[3.61 of 1981\]](#)

(2) Every person who, within the Municipality, uses as a slaughterhouse any place which is not so licensed shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding two thousand rupees, and, in the case of a continuing offence, to an additional fine not exceeding five hundred rupees for each day during which the offence is continued after notice has been given by the Council to discontinue such use.

Penalty for using slaughterhouses during suspension or revocation of licence. **146.**

[\[4.61 of 1981\]](#)

[\[4.61 of 1981\]](#)

(1) Every person who during the period for which any licence granted under section 145 is suspended, or after the licence is revoked as aforesaid, slaughters any animal, or allows any animal to be slaughtered in the slaughterhouse to which such licence relates, shall be guilty of an offence

and shall be liable on conviction to a fine not exceeding five thousand rupees, and to an additional fine not exceeding one thousand rupees for each day on which any animal is slaughtered or allowed to be slaughtered therein after notice has been given by the Council to discontinue the slaughter of animals therein.

(2) For the purposes of this section, " animal" means any bull, cow, calf, ox, buffalo, sheep, goat, or swine.

Licensing of
offensive and
dangerous trades
and places.

147.

[\[5.61 of 1981\]](#)

(1) No place shall be used within any Municipality for any of the following purposes, namely, for boiling offal or blood, or as a soap-house, oil-boiling-house, dyeing-house, tannery, brick, pottery or lime kiln, sago manufactory, gunpowder manufactory, manufactory of fireworks, or other manufactory or place of business from which either offensive or unwholesome smells arise, or for any purposes which are calculated to be dangerous to life, or as a yard or depot for hay, straw, wood, coal, cotton, bones, or inflammable oil, or for any other trade or business which the Council may, by means of by-laws, declare to be an offensive or dangerous trade or business for the purposes of this section, except under a licence from the Council, which is hereby empowered, at its discretion, from time to time, to grant such licences, and to impose such terms therein as to the Council may appear expedient.

(2) No licence for any of the purposes mentioned in subsection (1) shall be given within the administrative limits of the Council under section 5 of the Nuisances Ordinance.

[\[5.61 of 1981\]](#)

(3) Every person who without a licence as aforesaid uses any place within the Municipality for any of the purposes mentioned in subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand rupees, and, in case of a continuing offence, to an additional fine not exceeding five hundred rupees for each day during which the said offence is continued after a conviction thereof.

Suspension or
revocation of
licence.

148.

[\[6.61 of 1981\]](#)

(1) It shall be lawful for the Council to suspend or revoke any licence granted under section 147 if it appears to the Council to be necessary to do so :

Provided, however, that where the licence is suspended or revoked, except on the ground that the owner has violated the licence or any of the terms thereof, the Council shall be liable to make compensation to the owner for the loss to which he has been subjected by reason of the suspension or revocation.

[\[6.61 of 1981\]](#)

(2) Every person who uses or permits to be used any place for any purpose mentioned in subsection (1) of section 147 after he is given notice that his licence has been suspended or revoked shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding two thousand rupees for each day after such notice

" Closure order **148A.**
by-Magistrate.

[\[7.61 of 1981\]](#)

during which such place is so used.

(1) Where a person convicted by any court for the offence of using any premises for any trade or business without a licence issued in that behalf under this Ordinance or under any by-law made thereunder, continues to use such premises without a licence for such trade or business, whether by himself or by any other person on his behalf, a Magistrate may, upon an application for a closure order made by the Mayor. Commissioner or any officer authorized in that behalf by such Mayor or Commissioner, as the case may be, order the closure of such trade or business at such premises, until such time such person obtains a licence from the Council.

(2) In any proceedings under subsection (1), a certificate issued by the Mayor, Commissioner or any officer authorized in that behalf by such Mayor or Commissioner, as the case may be, setting out that the person mentioned in the certificate, continues to use such premises without obtaining a licence for any trade or business shall be prima facie evidence of the matters stated therein.

(3) In any case where such person fails to comply with the closure order issued under subsection (1) the Magistrate shall forthwith order the Fiscal of the court requiring and authorizing such Fiscal before a date specified in such order not being a date earlier than three or later than seven clear days from the date of issue of such order, to close any trade or business at such premises. Such order shall be sufficient authority for the said Fiscal or any police officer authorized by him in that behalf, to enter the premises with such assistants as the Fiscal or such officer shall deem necessary to close any such trade or business at such premises."

MISCELLANEOUS

Default of **149.**
owners or
occupiers.

(1) Where any owner or occupier neglects to comply with the requirements of any notice served on him in pursuance of" any of the preceding provisions of this Part within the time specified in such notice, or if no time is so specified, then, within a reasonable time, the Council may cause the required works to be executed, and the expenses thereof shall be recovered from the said owner or occupier as provided in this Ordinance.

(2) Where any person, either by the commission or omission of any action, contravenes any of the preceding provisions of this Part, the Council may-

(a) by notice in writing, require such person, within a reasonable time to be specified in the notice, to undertake such works as may be necessary to abate such contravention; or

(b) without such notice, if it deems necessary, or if such person fails to comply with such notice within a

reasonable time, undertake such works and recover the cost of so doing from such person in the manner provided in this Ordinance.

(3) Where any drain, not being a drain vested in the Council, and any fixture or appliance in connexion therewith, is provided for the benefit of more premises than one the owners or occupiers of such premises shall, for the purpose of this Part, and in so far as the Council may in any particular case think fit, be deemed to be the joint owners or users of such drain, fixture, or appliance, and jointly liable for any contravention of any provision of this Ordinance and for any expenses that the Council may legally recover in pursuance thereof; and the Council may recover such expenses in such proportion as it may deem just.

Work may be executed by Council. **150.** At the written request of the owner or occupier of any premises in which works are required to be 'done' in pursuance of this Ordinance, it shall be lawful for the Council, if it sees fit, and under such conditions as it may determine, to cause all or any of such works to be done by contract or otherwise, and the estimated expenses or the actual expenses, as the case may be, thereof may be recovered in advance or otherwise in the manner provided in this Ordinance.

Inclusion of commission in expenses **151.** Where, in pursuance of the preceding provisions of this Part, the Council has executed any work on behalf of any person whether in default of compliance with any notice or otherwise, and the expenses thereof are recoverable from such person, the Council may include in such expenses a reasonable commission for surveys, plans, superintendence, and establishment expenses.

Recovery of expenses by instalments. **152.**

(1) Where, in pursuance of the preceding provisions of this Part, the Council has executed, by contract or otherwise, any works required in connexion with the installation or improvement of a drainage system on or for any premises, and the amount of the expenses thereof are recoverable from the owner of such premises, the Council may recover such expenses in the manner provided in this Ordinance:
Provided that if such owner gives notice in writing, within fourteen days of notice by the Council of completion of the work, of his desire to pay the amount of such expenses by quarterly instalments, the Council shall recover the amount of such expenses by quarterly instalments sufficient to defray the whole amount within a period not exceeding fifteen years, together with interest at such rate as the Council may, from time to time, by resolution determine.

(2) The expenses referred to in subsection (1) shall co-equality with the Municipal rates, be a first charge on the premises in respect of which the same are incurred or made, and shall be paid to the Council by the owner of such premises and his successors in title, and the instalments thereof as they fall due shall be recoverable from the present or future owner of the premises in the same manner as rates or taxes may be recovered, but there shall be

no remission of such instalments or any part thereof in cases of non-tenancy of the said premises. The first instalment of such payments shall become due and shall be paid on the first day of the quarter following that in which the work is completed.

Register of expenses. **153.** The Council shall keep at the Municipal office a register of all expenses incurred and recoverable under section 152 and shall show in such register the total amounts so incurred and recoverable, the instalments in which the same are payable, and the balances for the time being outstanding. Such register shall be open at all reasonable times to the inspection of any person on payment to the Council of a fee of twenty-five cents for every such inspection-

Loans for private works . **154.** The execution of any work the expenses of which are recoverable and may be recovered as provided in section 152 shall be deemed to be a purpose for which a Municipal Council may borrow money under section 191, and the provisions of Part X and of any regulations made thereunder shall apply accordingly :

Provided that any money so borrowed shall not be taken into account for the purpose of the application of section 192.

" Payment of **154A.**
incentives.

[\[8.61 of 1981\]](#)

(1) A Municipal Council shall appoint a committee consisting of not less than six Councilors for the purpose of preparing a scheme as regards the maintenance of residential premises and for making recommendations for the payment of an incentive to occupiers of such premises who qualify for such payment.

(2) The committee in preparing a scheme under subsection (1) and in making any recommendation for payment of an incentive to an occupier of any residential premises shall take into consideration :

(a) that the residential premises are well maintained and in good repair and in a clean and sanitary condition; and

(b) that the street including the pavement, and all surface drains as fronts, adjoins or abuts such premises are clean and kept free of any waste material.

(3) The committee may enter and inspect any residential premises with the consent of the occupier and ascertain any information from the occupier of such premises at all reasonable hours of the day for the purpose of making their recommendations."

PART VII

MARKETS AND SALE OF ARTICLES

Provision of markets and charging of rents and fees. **155.** A Municipal Council may, from time to time, as occasion requires, provide places within the Municipality for the purpose of being used as public markets, and may charge such rents, tolls and fees as to it may seem fit for the use of, or the right to expose goods for sale in, such markets, and for the use of shops, stalls, sheds, pens, and standings therein. All such rents, tolls, and fees shall be recoverable by the Commissioner from the persons liable to pay the same, as if the amounts payable in respect thereof were taxes due under this Ordinance.

[\[V, 48 of 1971\]](#)

Expulsion of persons breaking by-laws and **156.** The Council may-

determination of lease.

(a) expel or cause to be expelled from any public market any person who, or whose servant, is convicted of a breach of any by-law made under this Ordinance in relation to markets;

(b) prevent such person by himself or his servants from further carrying on any trade or business in such market or occupying any stall, shop, or other place therein; and

(c) determine any lease or tenure which such person may have in any such stall, shop, or other place within the market.

Sale, lease, and closure of markets. **157.** A Municipal Council may, subject to the provisions of paragraph (f) of subsection (1) of section 40, sell, or let to tenants on lease or otherwise, on such terms as it may think fit, any public market or any part thereof, and may close any such market or part thereof.

Penalty for selling in market without permission. **158.** Every person who, without the permission of the Council, sells or exposes for sale any article within a public market, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred rupees.

Street sales. **159.** The Council may, from time to time, by notification in the Gazette, prohibit the sale, or exposure for sale, of any articles in or upon any specified public street or part of such street, and may, in like manner, cancel, suspend, or modify such prohibition. Every person who, after such notification, sells or exposes for sale any articles in any such street in contravention of the notification, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding two hundred rupees.

Unwholesome provisions. **160.**

(1) The medical officer of health or any person authorized generally or specially by the Council in writing for that purpose, may at all reasonable times enter into and inspect any place used for the sale of articles of human food or drink or any place used for keeping or storing any such articles which are intended for sale, and may examine any such articles which are found therein.

(2) Any such article which, on such examination, appears to such officer or person to be unfit for human food or drink may be seized by him.

(3) Every officer or person seizing any article under subsection (2) shall cause such article to be produced forthwith before a Magistrate.

(4) Where the Magistrate finds that the article so seized is unfit for human food or drink, he shall order the same to be destroyed or so disposed of as to prevent it from being exposed for sale or used for food or drink ; and the owner thereof, or the person in whose possession the same was found, shall be liable to be convicted of an offence under section 266 of the Penal Code.

(5) Where the Magistrate finds that the article so seized was fit for human food or drink, he may make an order upon the Council to return such article, or such portion thereof as may be in good condition, to the owner, or to the person in whose possession such article was found, and to pay such owner or person such reasonable

amount as the Magistrate considers will compensate such owner or person for any loss or depreciation that may have been caused by such seizure.

PART VIII

OFFICERS AND SERVANTS

THE MUNICIPAL MAGISTRATE

Appointment of Municipal Magistrate. **161.** There shall be a Municipal Magistrate appointed to each Municipality, and the Magistrate having jurisdiction within such Municipality may be appointed to be Municipal Magistrate, in addition to his own duties.

Municipal Magistrate may be appointed to be Additional Magistrate. **162.** Where a Municipal Magistrate has been appointed for any Municipality, other than the Magistrate having jurisdiction therein, such Municipal Magistrate may be appointed to be an Additional Magistrate, in addition to his own duties.

The jurisdiction of the Municipal Magistrate. **163.**

(1) A Municipal Magistrate shall hear, try, and determine any offences committed within the Municipality under this Ordinance or under any by-laws, rules or regulations made thereunder, and also any offences under any of the enactments mentioned in the first column of the following tabular statement which are shown in the second column thereof as triable by a Municipal Magistrate, and shall have jurisdiction to award such punishment to the offender as is authorized by law :- OFFENCES TRIABLE BY MUNICIPAL MAGISTRATES

Short title of enactment	Offence triable by Municipal Magistrate
The Auctioneers and Brokers Ordinance	Any offence under the Ordinance
The Boats Ordinance	Any offence under the Ordinance
The Brothels Ordinance	Any offence under the Ordinance
The Bread Ordinance	Any offence under the Ordinance
The Butchers Ordinance	Any offence under the Ordinance
The Cemeteries and Burials Ordinance	Any offence under the Ordinance
The Census Ordinance	Any offence under the Ordinance
The Contagious Diseases Ordinance	Any offence under the Ordinance
The Contagious Diseases (Animals) Ordinance	Any offence under the Ordinance
The Excise Ordinance	Any offence under the Ordinance
The Gaming Ordinance	Any offence under the Ordinance
The Gas Meter Ordinance	Any offence under the Ordinance
The Motor Traffic Act	Any offence under the Ordinance
The Nuisances Ordinance	Any offence under the Ordinance
The Penal Code	Any offence under the Ordinance
The Police Ordinance	Any offence under the Ordinance
The Prevention of Cruelty to Animals Ordinance	Any offence under the Ordinance
The Quarries Ordinance, 1S89	Any offence under the Ordinance
The Rabies Ordinance	Any offence under the Ordinance
The State Lands Ordinance	Any offence under the Ordinance
The Surveyors Ordinance	Any offence under the Ordinance
The Thoroughfares Ordinance	Any offence under the Ordinance
The Tolls Ordinance	Any offence under the Ordinance
The Vaccination Ordinance	Any offence under the Ordinance
The Vagrants Ordinance	Any offence under the Ordinance
The Vehicles Ordinance	Any offence under the Ordinance

Weights and Measures Ordinance The Wells and Pits Ordinance
*The Food and Drugs Act The Medical Ordinance Offence triable
by Municipal Magistrate Any offence under the Ordinance Any
offence under the Ordinance Any offence under the Ordinance
Any offence under the Ordinance Any offence under the
Ordinance Any offence under the Ordinance Any offence under
the Ordinance An\ offence under the Act Offences under section
54 of the Ordinance

(2) The President may, from time to time, by Order published in
the Gazette, extend the jurisdiction of Municipal Magistrates to
offences not comprised in the foregoing statement.

Additional Municipal Magistrate. **164.** There may, from time to time, be appointed an Additional Municipal Magistrate for any Municipality ; and every Additional Municipal "Magistrate shall, as regards offences committed within the Municipality, have the same powers and jurisdiction as a Municipal Magistrate.

Payment for services of Magistrate who is appointed Municipal Magistrate in addition to his own duties, **165.** Where the Magistrate having jurisdiction within any Municipality is appointed to be Municipal Magistrate for such Municipality in addition to his own duties, the Municipal Council shall, out of the Municipal Fund, pay to the Deputy Secretary to the Treasury in respect of the services of the said Magistrate as Municipal Magistrate such sum as may, from time to time, be fixed by the Minister in charge of the subject of Justice with the concurrence of the Minister in charge of the subject of Finance.

Allowances, status, rights, salary and pension of Municipal Magistrate and payment of expenses. **166.**

(1) Where any person other than the Magistrate having jurisdiction in any area within which a Municipality is situated is appointed Municipal Magistrate for the Municipality or where a person is appointed to act temporarily as Municipal Magistrate, such Municipal Magistrate shall-

- (a) by reason of such appointment become an officer of the Government of Sri Lanka and shall for the purposes of the Widows' and Orphans' Pension Fund Ordinance, and for all other purposes be deemed to be a public officer; and
- (b) be paid by the Deputy Secretary to the Treasury such salary as may be voted for that purpose by Parliament and such passage and other allowances as would ordinarily be payable to an officer of the Government of Sri Lanka in receipt of that salary ;

and the Municipal Council shall-

- (i) refund to the Deputy Secretary to the Treasury all disbursements by way of such salary and allowances made to or in respect of such Municipal Magistrate, and

(ii) if such Municipal Magistrate is granted a pension or gratuity on retirement or otherwise, or if upon his death any gratuity is granted to any of his dependants, in respect of his services as an officer of the Government of Sri Lanka, pay the whole of such pension or gratuity to the Deputy Secretary to the Treasury, or such portion thereof as may be certified by the Secretary to the Treasury to have been granted to him in respect of his services as such Municipal Magistrate.

(2)

(a) Where any such Municipal Magistrate as is referred to in subsection (1) is granted leave of absence, an officer may be appointed to act temporarily as Municipal Magistrate in his place and during his absence.

(b) Such acting officer shall be paid by the Deputy Secretary to the Treasury such salary and allowances as the Minister in charge of the subject of Justice with the concurrence of the Minister in charge of the subject of Finance may direct, and the Municipal Council shall, in addition to the amount for which it may be liable under subsection (1) (b), refund to the Deputy Secretary to the Treasury all disbursements made as salary or allowances to such officer during the period of his appointment:

Provided that the total of the sum which the Municipal Council shall be liable so to refund shall not be greater than the amount for which it may be liable under subsection (1) (A) (i) during the said period.

(3) The expenses incurred in the establishment and maintenance of the court of any Municipal Magistrate referred to in subsection (1) shall be paid out of the Consolidated Fund and shall be refunded to the Consolidated Fund by the Council.

Oath to be taken by the Municipal Magistrate. **167.** Every Municipal Magistrate shall, before commencing to exercise the functions of his office, take and subscribe the oath of allegiance and office in the form set out in the First Schedule, and such oath shall be enrolled in the court of such Municipal Magistrate, and the copy of such enrolment shall be forthwith transmitted to the Registrar of the Supreme Court to be filed of record in that court.

Procedure in Municipal Court. **168.** All proceedings before a Municipal Magistrate shall be conducted and governed by the rules, forms, and procedure prescribed for and observed by Magistrates' Courts, and, subject to the provisions of this Ordinance, no appeal shall lie from any judgment or order of a Municipal Magistrate, except as provided for by the Code of Criminal Procedure Act, or by any other law for the time being in force, in respect of appeals from any judgment or order of a

Magistrate's Court.

Stamp duties in proceedings in Municipal Court **169.** The provisions of any enactment time being in force relating to the stamp duties chargeable in respect of proceedings in Magistrates' Courts shall apply to proceedings in the court of a Municipal Magistrate.

OFFICERS AND SERVANTS OF THE COUNCIL

The Municipal Commissioner. **170.**

(1) There shall be a Municipal Commissioner for each Municipal Council. The Municipal Commissioner shall, next to the Mayor, be the chief executive officer of the Council and all other officers and servants shall be subordinate to him.

(2) The Commissioner shall exercise, perform and discharge all the powers, duties and functions conferred or imposed upon, or vested in, or delegated to him by or under this Ordinance or any other written law.

(3) The Commissioner, in the exercise and performance of the powers, duties and functions delegated to him under this Ordinance, shall not act in opposition to, or in contravention of, any resolution, decision, direction or order of the Council, except with the permission in writing of the Mayor, in cases of extreme urgency, when there will not be sufficient time to call a special meeting of the Council.

[104,24 1977]

(4) In the event of the vacation of the office of both the Mayor and the Deputy of Mayor by death or resignation or for any other cause, then during the period intervening between the vacation of office of the Deputy Mayor and the election of a new Mayor the Commissioner may exercise, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the Mayor by this Ordinance or any other written law.

Delegation of Commissioner's powers. **171**

(1) The Commissioner may, with the consent of the Council, by general or special order in writing, delegate to any officer of the Council any of the powers, duties or functions conferred or imposed upon, or vested in or delegated to him as Commissioner by this Ordinance or any other written law.

(2) The exercise, discharge or performance by any officer of the Council of any power, function or duty delegated to him by order of the Commissioner shall be subject to such conditions and restrictions, and limited to such purpose or purposes, as may be specified in the order ; and any such delegation may at any time be varied or cancelled by order of the Commissioner.

Commissioner to have custody of books, & c. deeds, contracts, accounts, vouchers and other documents and papers of the Council and shall permit any Councillor to inspect or peruse the same in the Municipal office. **172.** The Commissioner shall be responsible for the custody of all books, custody of books, & c. deeds, contracts, accounts, vouchers and other documents and papers of the Council and shall permit any Councillor to inspect or peruse the same in the Municipal office.

Limitation of powers. **173.** The exercise, discharge or performance by any officer of the Council of any power, function or duty delegated to him by resolution of the Council shall be subject to such conditions and restrictions, and limited to such purpose or purposes,

as may be specified in the resolution ; and such delegation may at any time be varied or cancelled by resolution of the Council.

Charity
Commissioner. **174**

(1) A Municipal Council may, at any time, by resolution create the office of Charity Commissioner of the Council.

(2) The duties of the Charity Commissioner may be defined by the Council and may include, inter alia-

(a) the giving of assistance and advice to existing charitable societies or institutions for the purpose of preventing waste of effort and extending the activities of such societies or institutions, and generally for such other purposes as may be necessary;

(b) the making of reports to the Council as to the expenditure of contributions made by the Council to any such societies or institutions ;

(c) the systematic study of poverty, distress, and unemployment and the making of proposals for the prevention thereof;

(d) the consideration of applications for relief and the direction of applicants to the most appropriate society or institution; and

(e) the keeping of records or registers of applicants for relief or persons in search of employment.

Executive posts **175**.
and executive
officers.

(1) A Municipal Council may, by resolution, declare the posts or offices in the service of the Council which are to be deemed to be executive posts. The holders for the time being of such posts and the Charity Commissioner, if any, of the Council shall, together with the Municipal Commissioner, be deemed to be executive officers of the Council.

(2) The executive officers of the Council shall exercise and perform all the powers, duties and functions, conferred or imposed upon, or vested in, or delegated to them under this Ordinance or any other written law.

Government servants as executive officers. **176.** The salary, allowances and conditions of service of any executive officer of a Municipal Council, being an officer whose services are lent by the Government to the Council, shall be determined by the Minister after consultation with the Council, and such salary and allowances shall be paid to such officer by the Council. The Council shall further pay to the Government such contribution as may be required by the Government in respect of the pension, leave, pay and other privileges, which would have accrued to the officer if he had not been employed in the service of the Council.

Power of Commissioner to make appointments and promotions. **177.** Notwithstanding anything in any other written law, the Commissioner may, if so authorized by the Council, from time, appoint or promote any person to any post or office in the service of the Council (other than a post in the Local Government Service)* the initial salary of

which does not exceed such sum as may be specified in the resolution of the Council whereby such authority is delegated to the Commissioner.

Acting appointments. **178.** Every person who is appointed to act in the place of any officer or servant of a Municipal Council, during the absence or temporary incapacity of such officer or servant, or during any vacancy, shall exercise, perform and discharge all the powers, duties and functions conferred or imposed upon, or vested in, or delegated to such officer or servant, and shall be subject to the same liabilities, restrictions and conditions of service as the said officer or servant and shall, where such acting appointment is made in pursuance of the powers conferred by this Ordinance, receive such salary and allowances as the Council may determine.

Disqualifications for appointment to any post or office in the service of the Council. **179.** No person who-

- (a) has directly or indirectly any concern or interest in any contract or work made with or executed for a Municipal Council, or is a shareholder, director, secretary, manager or other officer of a joint stock company which has any such concern or interest; or
- (b) is acting professionally in relation to any matter on behalf of any person having any such concern or interest,

shall be appointed to any post or office in the service of the Council.

Officers and servants not to be interested in contracts of Council. **180.** Any officer or servant of a Municipal Council who has directly or indirectly any concern or interest in any contract or work made with or executed for the Council shall be liable to dismissal from his office or employment; and if his concern or interest is otherwise than as a shareholder in a Joint stock company he shall be guilty of an offence and shall, upon conviction after summary trial before a Magistrate, be liable to a fine not exceeding five thousand rupees.

Suspension, punishment, and dismissal of officers and servants. **181.** Any officer or servant of a Municipal Council (other than a member of the Local Government service), may be suspended or dismissed, or fined or reduced in status, or any increment to his salary may be withheld for any specified period for any breach of departmental rules or discipline or for carelessness, incompetence, neglect of duty or other misconduct-

- (a) by the Council, if such officer or servant receives a salary exceeding one hundred rupees a month ; and
- (b) by the Mayor, if such officer or servant receives a salary not exceeding one hundred rupees a month.

Leave of absence. **182.**

(1) Subject to the provisions of subsection (2), leave of absence may be granted to any officer or servant of a Municipal Council (other than a member of the Local Government service) in accordance with by-laws made by the Council for that purpose under the provisions of section 272 of this Ordinance.

(2) Where an officer or servant of a Municipal Council is an officer or servant whose services are lent by the Government to the Council, leave of absence may be granted to him by the Secretary to the Ministry, after

consulting the Council, upon the same terms and conditions as those upon which leave of absence would be granted to him under the Financial Regulations of the Government.

Provident fund. **183.**

(1) A Municipal Council may establish and maintain a provident fund for the benefit of any of its servants who are not members of the Local Government service, make contributions out of the Municipal Fund to that fund, regulate the management and investment thereof, fix the contributions to be made thereto by, and the payments to be made therefrom to, such servants and make all such by-laws as may be necessary in that behalf.

(2) Notwithstanding that a Municipal Council is not empowered by this section to grant or make rules for granting pensions, annuities or retiring allowances to officers or servants of the Council or to the widows, children, next of kin and dependants of any such officer or servant, any rules made by the Council in relation to the matters aforesaid under any repealed enactment shall continue in force for the purposes of the application of sections 57 and 58 of the Local Government Service Ordinance* and no further. [*Repealed by Act No. 18 of 1969, itself repealed by Law No. 16 of 1974]

Ex gratia payment of pension, annuity, gratuity, or retiring allowance. **184.**

(1) A Municipal Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant out of the Municipal Fund-

[3,15 of 1957] (a) to any person who retires or has retired from service as an officer or a servant of that Council, and

[2,39 of 1958]

(b) to any person who, not being a citizen of Sri Lanka, ceases or has ceased to be an officer or a servant of that Council by reason of his inability to continue to remain in Sri Lanka, owing to the expiry of the period for which he has been authorized under the Immigrants and Emigrants Act to remain in Sri Lanka,

a pension, gratuity, or retiring allowance in respect of any period of that service, and of service in any business or undertaking taken over by the Council prior to his becoming an officer or servant of the Council, for which no pension, gratuity, or retiring allowance, or no adequate pension, gratuity, or retiring allowance, is payable under any by-laws or rules of that Council or under any pension scheme established or deemed to be established under the Local Government Service Law.

[3,15 of 1957] Any such officer or servant to whom a pension is granted under the preceding provisions of this subsection may, at his option which shall be exercised within such period as may be

determined by the Council, be paid, in lieu of such pension, a pension at the rate of three-fourths of such pension, together with a gratuity equal to ten times the annual value of the reduction so made in such pension.

[3,15 of 1957] (I A) Where no pension, annuity or gratuity or no adequate pension, annuity or gratuity is payable to the widow, children, next of kin or dependants of any deceased officer or servant of the Council under any by-laws or rules of that Council or under any scheme or fund established under the Local Government Service Ordinance, the Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant out of the Municipal Fund to such widow, children, next of kin or dependants a pension, annuity or gratuity.

[3, 15 of 1957] (2) Nothing in subsection (1) or subsection (I A) shall be deemed or construed to confer on any person any right to any pension, annuity, gratuity or retiring allowance under either of those subsections.

Power to establish gratuity scheme.

184A.

[4,15 of 1957]

(1) A Municipal Council may, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Public Administration, make rules providing for the establishment of, and may establish in accordance with such rules, a scheme for the payment of gratuities to temporary officers and servants of that Council upon their discontinuance from the service of that Council.

(2) Rules under subsection (1) may be so made by a Municipal Council as to be applicable to temporary officers and servants of that Council who have been discontinued from the service of that Council before the coming into operation of the rules.

Power of grant full pension to members of the Local Government Service and others who had exercised option of commutation of pension.

[2,5 of 1975]

[[2,18 of 1979]

[[2,18 of 1979]

184B. Any member of the Local Government Service or any other person not being a member of that Service employed by a Municipal Council, who retires or has retired from such service and who exercises or has exercised the option of commutation of his pension, may, with effect from the date following the expiry of a period of ten years from the date of his retirement or from February 1, 1977, whichever date is the later, be paid by that Council, the full pension which would have been paid to him had he not exercised such option:

[2, 18 of 1979] Provided, however, that in a case where the date following the expiry of the period of ten years falls on a date later than the first day of a month, the date of commencement of such pension shall be the first day of the following month.

[2,5 of 1975] In this section, " member of the Local Government Service " means member of the Local Government Service constituted by- (a) the Local Government Service Ordinance, No. 43 of 1945 ;* or[* Chapter 264 of the 1956 Revised Edition of the Legislative Enactments, is repealed by Act No. 18 of 1969] (b) the Local Government Service Act, No. 18 of 1969 ;f or [+ Repealed by Law No. 16 of 1974] (c) the Local Government Service Law.

PART IX

THE MUNICIPAL FUND

Municipal Fund **185**.
and its
constituents.

(1) Every Municipal Council for its general financial purposes shall establish a Municipal Fund.

(2) There shall be payable into the Municipal Fund-

(a) all rates, taxes, duties, fees and other charges levied by the Council by virtue of this Ordinance or of any other written law;

(b) all fines levied and penalties recovered under the authority of this Ordinance or under any enactments specified in the tabular statement in section 163 or in respect of any offence to which the President extends the jurisdiction of the Municipal Magistrate;

(c) the amount of all stamp duties and fees specified in the Second Schedule;

(d) all sums realized by sales, leases or other transactions of the Council;

(e) all revenue derived by the Council from any property vested in the Council, or by the administration of any public service;

(f) all sums and all sources of revenue, from time to time, appropriated or made over to the Council by Parliament, whether by resolution or otherwise;

(g) subject to any special appropriation made by the Minister, all grants allocated to the Council by the Minister;

(h) all sums otherwise accruing to the Council in the course of the exercise of its powers and duties.

Moneys received by the council to be lodged with the bank. **186**. All moneys received by a Municipal Council and payable into the council to be lodged with the bank. received by the Municipal Fund shall be lodged with an approved bank, and shall be credited to an account entitled " the Municipal Fund ".

In this section " approved bank *" means a bank specified by the Minister by Order published in the Gazette as a bank in which the moneys of any Municipal Council, Urban Council or Town Council may be deposited.[* Chapter 264 of the 1956 Revised Edition of the Legislative Enactments, is repealed by Act No. 18 of 1969]

Power to invest any part of the Municipal Fund. **187**. Any part of the Municipal Fund may be invested by a Municipal Council in any one or more of the following securities and in no others :-

(a) stock or other securities of the Government of Sri Lanka;

(b) debentures issued by the State Mortgage and Investment Bank ;

(c) any other securities guaranteed by the Government of Sri Lanka.

Application of **188**.
Municipal
Fund.

[\[9.61 of 1981\]](#)

(1) There shall be paid out of the Municipal Fund established by

each Municipal 'Council-

(a) all sums payable by the Council in respect of any liability incurred under the Workmen's Compensation Ordinance;

(b) all sums payable by the Council as premium for the insurance of any property belonging to or vested in the Council, or for insurance against any liability that may be incurred by the Council under the Workmen's Compensation Ordinance;

(c) all sums which the Council is authorized or required to refund by or under this Ordinance or any other written law;

(d) all expenses incurred by the Council in the construction, maintenance, extension and alteration of streets, bridges, causeways and the like; the acquisition of land necessary for any of these purposes, the lighting of public streets, places and buildings ; the regulation of traffic, and the prevention and removal of obstructions in public streets or places; the naming of streets, the numbering of houses, the planting of trees in streets and the erection and maintenance of shelters in streets for the use of passengers by omnibus; the regulation of buildings, the removal of undue projections, and the control, supervision and removal of dangerous places, buildings, trades and practices;

(e) all expenses incurred by the Council in the construction, maintenance, supervision, and control of markets, bathing and washing places, quarantine and disinfecting stations, segregation camps, hospitals, cattle marts and slaughterhouses, latrines, privies, urinals, drains and sewerage, drainage works and other works connected therewith ; any form of public vehicular service including tramways; waterworks, drinking fountains, tanks, wells, parks and gardens; the reclamation of unhealthy localities, and other sanitary measures of a like nature; and the acquisition of land required for any of the above-mentioned purposes;

[5, 15 of 1957] (ee) all sums voted by the Council to defray the cost of refreshments served to Councillors, officers and servants of the Council attending any meeting of the Council or any committee of the Council;

(f) all expenses incurred by the Council in the establishment and maintenance of housing schemes in general and in particular, the acquisition, construction, maintenance, enlargement, improvement, alteration, repair, operation, management, and letting of dwellings, for the use of the working classes, and of any buildings for the use or convenience of the inhabitants of such dwellings, and the doing of any act or thing necessary or

expedient to facilitate any such undertaking, and the acquisition of land or buildings for any such purpose;

(g) all expenses incurred by the Council for the cleaning and watering of streets and drains, scavenging; the removal of night-soil and excessive or noxious vegetation ; and generally the abatement of all nuisances;

(h) all sums payable by the Council for the maintenance of schools ;

(i) all expenses incurred by the Council in the establishment and maintenance of Municipal services, the construction, purchase, and maintenance of all buildings required in order to give effect to the purposes of this Ordinance, the survey of houses and lands, and all other works, matters, and services necessary for or conducive to public safety, health, or convenience ;

(j) all expenses incurred by the Council in the establishment and maintenance of maternity and child-welfare services, the training of midwives for the purposes of any maternity service established by the Council, and charities or measures for the relief of distress caused by rain, floods, fire, earthquake, famine, or epidemics;

[\[3.19 of 1987\]](#) "(jj) all contributions voted by the council for the promotion of religion and culture, including contributions made towards the cost of organization of religious ceremonies and festivals. the maintenance of Dhamma schools and Sasana Rakshaka Mandalayas, the establishment of cultural centres, the organization .of literary and cultural festivals, the publication of books of literary and cultural value and the award of prizes to artists, authors and craftsmen; "; and

[\[3.19 of 1987\]](#) (k) all contributions voted by the Council for the purposes of recreation or entertainment in the Municipality or towards the support of any law library established within the Municipality, or for the relief of the poor, the rehabilitation and care of, destitute persons or physically, mentally or socially handicapped persons or the support of any charitable or benevolent society or institution, or for any fund or scheme constituted or established for the purpose of granting relief or assistance to officers or servants of the Council in cases of sickness, indebtedness or distress ;

(l) such contributions not exceeding in the aggregate ten thousand rupees in any year as may be voted by the Council towards the cost of any public ceremonies, and any other contributions voted by the Council, with the prior sanction in writing of the Minister, towards the cost of any such ceremonies;

(m) all sums allocated by the Council to the Mayor to be expended at his discretion on civic receptions or the

celebration or observance of any event or occasion of public interest;

[105,24 of 1977]

(mm) all allowances payable to the Mayor, Deputy Mayor and Councillors at such rates as may be prescribed by regulations made under section 289;

(n) all expenses incurred by the Council in the maintenance of a fire brigade, and the protection of life and property from fire;

[47,39 of 1986]

(nn) all expenses incurred by the council in the installation and maintenance of official telephone facilities to the residence of the Councillors;

(o) all expenses incurred by the Council in the establishment and maintenance of any form of public service which the Council is authorized to establish, maintain or provide by or under this Ordinance or any other written law;

(p) the expenses incurred by the Council in the establishment and maintenance of public libraries within the Municipality;

[9,61 of 1981]

(pp) all sums as may be set apart by the Council to pay as incentives to the occupiers of premises under section 154A ;

(q) all expenses incurred by or on behalf of the Municipal Commissioner in the exercise of his powers and the performance of his duties as a local authority under the Petroleum Ordinance;

[8,48 of 1971]

(r) all expenses incurred by the Council or by the Mayor or the Commissioner or any officer of the Council on behalf of the Council in the exercise of its or his powers and the discharge of its or his functions and duties under this Ordinance or any other written law or any by-law, rule or regulation made thereunder; and (s) all sums which are required or authorized to be paid out of the fund by or under this Ordinance or any other written law.

(2) The Minister may sanction any expenditure not authorized by the terms of paragraph (1) of subsection (1) which may be or may have been in good faith incurred by mistake or inadvertence in supposed pursuance of that paragraph.

(3) The Municipal Council of Colombo shall pay annually, out of the Municipal Fund, to the committee of the Colombo Law Library a sum of one thousand five hundred rupees.

Orders, cheques, & c., for payment out of the fund. **189.** All orders or cheques for the payment of moneys out of the Municipal Fund shall be signed by two officers specially authorized by the Council for that purpose, and the bank in which the fund is established may pay all orders or cheques against the said fund which are so signed,

Statement of receipts, disbursements, & c., on account of the Fund. **190.** At each general meeting of a Municipal Council, the Mayor shall submit to the Council a statement of receipts and disbursements on account of the Municipal Fund from the close of the previous year up to the close of the month preceding that in which the meeting takes place. Such statement, together with the minutes of the proceedings of the

meeting, shall be forwarded forthwith to the Commissioner of Local Government, and shall be published in the Gazette.

PART X

LOANS

Purposes for which money may be borrowed. **191.** Subject to the provisions of section 192, a Municipal Council may, with the sanction of the Minister, borrow such sums as may be required for any of the following purposes:-

(a) the carrying out of any work of a permanent character undertaken under the provisions of this Ordinance or any repealed enactment;

(b) the establishment, completion, improvement or development, of any public service undertaken as aforesaid ;

(c) the acquisition of any land or building required for the purposes of or in connexion with any such work or public service ;

(d) any machinery, plant or equipment required for the purposes of any such public service:

Provided that the sanction of the Minister shall not be necessary for borrowing any such sum if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which that sum is to be borrowed.

Limitation of borrowing powers. **192.** The amount at any time outstanding in respect of all loans raised by any Municipal Council under the authority of this Part shall not exceed in the aggregate ten times the fair average annual income received by the Council from all rates, taxes, properties, and other sources of income for the preceding five years, or, in the case of any Municipal Council which has not been in existence for five years, ten times its income for one year as appraised by the Council, subject to the approval of the Minister:

Provided that in any case in which the liabilities of any Municipal Council in respect of its loans are wholly or mainly due to the Government of Sri Lanka, the Minister may, by Order published in the Gazette, authorize the limit prescribed by this section to be exceeded to such extent as may be stated in the Order.

Modes of borrowing. **193.** Where a Municipal Council is authorized by or under this Part to borrow money, the Council may, subject to the provisions of this Part, raise the money either-

by mortgage; or

(b) with the consent of the Minister, by debentures issued under this Ordinance; or

(c) with the consent of the Minister, by housing bonds issued under this Ordinance in any case where the money is to be raised for the purpose of a

housing scheme.

Security for
borrowing and
priority of securities.

194.

(1) All moneys borrowed by a Municipal Council under this Part shall be charged indifferently on all the rates, taxes, property and revenue of the Council.

(2) Subject to the provisions of this section, all securities created by a Municipal Council under this Part shall rank equally without any priority.

(3) Nothing in this section shall

(a) apply to any money borrowed under this Part by way of temporary loan or overdraft without security;
or

(b) affect any priority existing at, or any right to priority conferred by a security created before, the date of the commencement of this Ordinance.

GENERAL PROVISIONS AS TO LOANS

Period for
repayment of
moneys
borrowed.

195.

(1) Every sum borrowed by a Municipal Council under this Part shall be repaid within such period as the Council, with the sanction of the Minister, may determine.

(2) Where any sum is borrowed by a Municipal Council under this Part for the purpose of meeting expenditure on the construction of new, or the extension or the alteration of existing works forming or to form part of an undertaking of a revenue-producing character, it shall be lawful for any annual provision required to be made by the Council for the repayment of the sum so borrowed to be suspended for such period (not being a period longer than the period during which the expenditure remains unremunerative, or the period of five years from the commencement of the financial year next after that in which the expenditure commences to be incurred, whichever is shorter) and subject to such conditions as the Minister may determine.

Return to
Minister.

196.

[\[48.39 of
1986\]](#)

(1) The Mayor of a Municipal Council shall, within one month after being requested so to do by the Minister, transmit to the Minister a return showing the provision made by the Council for the repayment of moneys borrowed by the Council under this Part.

(2) The return shall show such particulars, shall be made up to such date and shall be in such form, as the Minister may require, and shall be certified by the officer whose duty it is to keep the accounts of the Council.

(3) If it appears to the Minister from any return made under this section or otherwise that the Council-

- (a) has failed to pay any instalment or annual instalment required to be paid; or
- (b) has failed to appropriate to the discharge of any loan any sum required to be so appropriated ; or
- (c) has failed to set apart any sum required for a sinking fund ; or
- (d) has applied any portion of a sinking fund to a purpose other than those authorized by this Part or any regulation made thereunder,

the Minister may by order direct that such sum as is specified in the order, not exceeding the amount in respect of which the default has been made, shall be paid or applied in the manner and by the date set out in the order, and the Council shall notify the Minister as soon as the order has been complied with. The Council shall, if it is necessary to do so for the purpose of complying with any such order, make payments out of the Municipal Fund.

(4) An order made under the last preceding subsection may be enforced at the instance of the Minister by mandamus.

[\[48.39 of 1986\]](#)

(5) If a return required to be made under this section is not made, the person in default shall be liable, on conviction after summary trial before a Magistrate, to a fine not exceeding two thousand and five hundred rupees, and notwithstanding the recovery of any such fine the making of the return may be enforced, at the instance of the Minister, by mandamus.

Balance of unexpended moneys.

197. The balance of any money borrowed by a Municipal Council under this Part and not required for the purpose for which the money was borrowed may, with the consent of the Minister, and subject to any conditions which he may impose, be applied to any other purpose for which money may be borrowed under this Part:

Provided that such consent and conditions shall not be necessary if such money was borrowed, under the proviso to section 191, without the sanction of the Minister.

Lender relieved from certain inquiries.

198. A person lending money to a Municipal Council under this Part shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money

PROVISIONS RELATING TO DEBENTURES AND HOUSING BONDS

Creation, & c., of debentures, and housing bonds.

199. For the purposes of any borrowing by a Municipal Council by means of an issue of debentures or housing bonds under this Part, debentures or housing bonds may be created, issued, transferred, dealt with and redeemed in such manner as may be prescribed.

PROVISIONS RELATING TO MORTGAGES

Form of mortgage.

200. A mortgage created under this Part shall be by deed made in such form as may be prescribed or in a form to the like effect.

Transfer of mortgage.

201. The person entitled to a mortgage created by a Municipal Council under this Part may transfer it by deed made in such form as may be prescribed or in a form to the like effect.

Receipts on behalf of joint holders and minors. **202.**

(1) Where two or more persons are jointly entitled to a mortgage created by a Municipal Council under this Part, any one of those persons may give an effectual receipt for any interest thereon, unless notice in writing to the contrary has been given to the Council by any other of those persons.

(2) The receipt of the guardian of a minor shall be a sufficient discharge to a Municipal Council for any money payable to the minor in respect of a mortgage created by the Council under this Part.

Repayment of moneys borrowed on mortgage. **203.**

(1) Every sum borrowed under this Part by a Municipal Council by way of mortgage shall be paid off either by equal yearly or half-yearly instalments of principal, or of principal and interest combined, or by means of a sinking fund, or partly by one of those methods and partly by another or others of them.

(2) Subject to the provisions of subsection (2) of section 195, the payment of the first instalment or the first payment to the sinking fund shall be made within such period as may be prescribed.

(3) All instalments referred to in subsection (1) may be paid by the Council out of the Municipal Fund.

Sinking fund- **204.**

(1) If a Municipal Council determines to repay by means of a sinking fund any sums borrowed under this Part by way of mortgage, the sinking fund shall be formed and maintained either-

(a) by payment, out of the Municipal Fund, to the sinking fund throughout the fixed period of such equal annual sums as will be sufficient to pay off within that period the moneys for the repayment of which the sinking fund is formed ; or

(b) by payment, out of the Municipal Fund, to the sinking fund throughout the fixed period of such equal annual sums as with accumulations at a rate not exceeding such rate as may be prescribed, or such other rate as the Minister may in any particular case approve, will be sufficient to pay off within that period the moneys for which the sinking fund is formed.

In this Part, a sinking fund formed under paragraph (a) of this subsection is referred to as a " non-accumulating sinking fund ", and a sinking fund formed under paragraph (b) thereof as an " accumulating sinking fund ".

(2) Every sum paid to a sinking fund shall, unless applied in repayment of the moneys for the repayment of which the sinking fund is formed, be immediately invested, with the approval of the Minister, in the securities prescribed in section 20 of the Trusts Ordinance for the investment of trust property which consists of money.

(3) In the case of an accumulating sinking fund, the interest received in

any year from the investment of the sums set apart for the purposes of the sinking fund shall be paid into the Municipal Fund, but the contribution to be made to the sinking fund out of the Municipal Fund shall in that year be increased by a sum equal to the interest that would have accrued to the sinking fund during that year if interest had been accumulated therein at the rate per centum per annum on which the annual payments to the sinking fund are based.

(4) A Municipal Council may at any time apply the whole or any part of a sinking fund in or towards the discharge of the moneys for the repayment of which the sinking fund was formed :

Provided that, in the case of an accumulating sinking fund, the Council shall pay, out of the Municipal Fund, into the sinking fund each year and accumulate during the residue of the fixed period a sum equal to the interest which would have been produced by such sinking fund or part thereof so applied if invested at the rate per centum per annum on which the annual payments to the sinking fund are based.

(5) Any surplus of a sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose, as the Council, with the consent of the Minister, may determine.

Adjustments of **205.**
sinking fund.

(1) If at any time it appears to a Municipal Council that the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part, and, in case of an accumulating sinking fund, with the accumulations thereon, will not be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed, the Council shall, either temporarily or permanently, make such increased payments, out of the Municipal Fund, to the sinking fund as will cause the sinking fund to be sufficient for that purpose, and if it appears to the Minister that any such increase is necessary, the Council shall increase the payments out of the Municipal Fund to such extent as he may direct.

(2) If the Council desire to accelerate the repayment of any moneys borrowed under this Part by way of mortgage, the Council may increase the amounts payable, out of the Municipal Fund, to the sinking fund.

(3) If the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Part, and also, in the case of an accumulating sinking fund, together with the accumulations thereon, will in the opinion of the Minister be more than sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed, the Council may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Minister be sufficient to repay within the fixed period the moneys for the repayment of which the sinking fund is formed.

(4) If at any time the amount in a sinking fund, together with the accumulations thereon in the case of an accumulating sinking fund,

will in the opinion of the Minister be sufficient to repay the moneys for the repayment of which the sinking fund is formed within the fixed period the Minister may authorize the Council to suspend the annual payments, out of the Municipal Fund, to the sinking fund until the Minister otherwise directs.

SUPPLEMENTARY BORROWING POWERS

Temporary loans, & c. **206.**

(1) Subject to the provisions of section 192, a Municipal Council may, with the consent of the Minister, borrow by way of temporary loan or overdraft from a bank or otherwise, any sums which the Council may temporarily require-

(a) for the purpose of defraying expenses pending the receipt of moneys receivable by the Council in respect of the period of account in which those expenses are chargeable and taken into account in the estimates made by the Council for that period ;

(b) for the purpose of defraying, pending the raising of a loan which the Council has been authorized to raise under this Part, expenses intended to be defrayed by means of the loan:

Provided that the consent of the Minister shall not be necessary for borrowing any such sum if the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which that sum is to be borrowed.

(2) Where money is borrowed in pursuance of paragraph (h) of subsection (1) and subsequently such a loan as is mentioned in that paragraph is raised, then for the purposes of the provisions of this Part regulating the repayment of that loan, the loan shall, to the extent of the sum borrowed under the said paragraph, be deemed to have been raised at the time when the borrowing under the said paragraph took place.

Power to reborrow. **207.**

(1) Subject to the provisions of section 192, a Municipal Council may, with the consent of the Minister, borrow for the purpose of-

(a) paying off any moneys previously borrowed under this Part by the Council and which are intended to be repaid forthwith; or

(b) replacing moneys which, during the preceding twelve months, have been temporarily applied from other moneys of the Council in repaying moneys previously borrowed, and which at the time of such repayment it was intended to replace by borrowed moneys:

Provided that the consent of the Minister shall not be necessary for borrowing any sum under the preceding provisions of this subsection if

the amount outstanding in respect of all loans already raised by such Council does not exceed the total income received by such Council during the three years immediately preceding the year in which that sum is to be borrowed ;

Provided further that a Municipal Council shall not have power to borrow under this section-

(a) for the purpose of making any payment to a sinking fund or of paying any instalment or making any annual payment which has or may become due in respect of borrowed moneys; or

(b) for the purpose of replacing any moneys previously borrowed which have been repaid-

(i) by instalments or annual payments;

(ii) by means of a sinking fund;

(iii) out of moneys derived from the sale of land ;

(iv) out of capital moneys properly applicable to the purpose of the repayment, other than moneys borrowed for that purpose.

(2) Any moneys borrowed under this section shall, for the purposes of repayment, be deemed to form part of the original loan, and shall be repaid within that portion of the fixed period which remain unexpired, and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this section:

Provided that the Minister may, upon application made to him for that purpose, extend the period for the repayment of the moneys borrowed under this section so as to expire on such date as he may think fit.

When Mayor may exercise power of Council relating to raising of loans.

[106,24 of 1977]

207A. If the Municipal Council fails to sanction the raising of a loan for the purpose of fulfilling any duty imposed on the Council or carrying out any work which the Mayor considers to be necessary, the Mayor may, with the approval of the Minister, raise such loan and may exercise all the powers vested in the Council under the provisions of this Part as though such powers were conferred by this Part on the Mayor.

REGULATIONS

Regulations. **208.**

(1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Part.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all matters stated or required to be prescribed, and, in the case of loans raised by the issue of debentures or housing bonds under this Part, for or in respect of the following additional matters:-

(a) the terms of the issue of such loans ;

(b) the discharge of such loans;

(c) the security for such loans;

(d) the extension or variation of the times within which

- such loans may be discharged;
- (e) the consent of owners under disability;
- (f) the application of the enactments relating to stamp duties and to cheques;
- (g) the disposal of unclaimed dividends.

(3) No regulation made by the Minister under this section shall have effect until it has been approved by Parliament, and notification of such approval is published in the Gazette.

(4) Every regulation shall upon notification of such approval be as valid and effectual as if it were herein enacted.

SAVINGS

Savings. **209.** Nothing in the provisions of this Part shall, unless there is specific provision in this Ordinance to that effect, apply to any loans raised by a Municipal Council under any other Part or under any other written law or under any repealed enactment; and in the case of any loan raised by a Municipal Council under any repealed enactment, the provisions of such repealed enactment relating to loans shall, notwithstanding such repeal, apply to such loan in like manner and to the same extent as they would have applied if that enactment had not been so repealed.

INTERPRETATION

Interpretation. **210.** For the purposes of this Part, " fixed period ", in relation to any moneys borrowed under this Part, means the period originally determined under section 195 (1) as the period within which such moneys are to be repaid.

PART XI

BUDGET, ESTIMATES, ACCOUNTS, AND CONTRACTS

BUDGET

Budget. **211.** After consultation with the several standing committees, the Mayor of each Municipal Council shall, on a date to be fixed by him in each year, submit to the Council a budget containing an estimate of the available Municipal income and details of the proposed expenditure for the ensuing financial year.

Budget to be circulated and

open to inspection.

212. Every budget of a Municipal Council shall-

(a) be circulated among the Councillors at least seven days prior to the date referred to in section 211; and

(b) be open to inspection at the Municipal office or at such other place as the Mayor may determine, for seven days prior to the said date and notice thereof shall be given by the Mayor in the Gazette and in two or more of the newspapers circulating within the Municipality.

Final consideration of budget. **213.** Every Municipal Council shall finally consider the budget at a special meeting to be called in the last month of the financial year.

Supplementary budget **214.**

budget

(1) The Mayor may at any time prepare a supplementary budget and lay it before the Council.

(2) Every supplementary budget shall-

(a) be circulated among the Councillors at least seven days prior to the meeting of the Council before which it is laid ; and

(b) be open to public inspection at the Municipal office or at such other place as the Mayor may determine for seven days prior to the said meeting and notice thereof shall be given by the Mayor in the Gazette and in two or more of the newspapers circulating within the Municipality.

Power of Council with regard to budget and supplementary budget. **215.** It shall be in the discretion of a Municipal Council to pass, modify, or reject all or any of the items in any budget or supplementary budget or to add any item thereto.

Mayor's powers with regard to budget. **215A.** If the Municipal Council modifies or rejects all or any of the items in any budget or supplementary budget or adds any item thereto and the Mayor does not agree with any such decision of the Council, he shall re-submit the budget or supplementary budget to the Council for further consideration. Where a budget or supplementary budget is not passed by the Council within two weeks after it is re-submitted, such budget or supplementary budget shall, notwithstanding that it has not been passed by the Council, be deemed to be the duly adopted budget or supplementary budget of the Council.

[107,24 of 1977]

Reduction or increase of expenditure **216.** The Mayor may in case of necessity, during any year reduce or increase the expenditure under any head of the budget or of any supplementary budget, or may transfer the moneys assigned under one head of expenditure to another head :

[108,24 of 1977]

Provided that the total amount of expenditure sanctioned by the budget or by any supplementary budget passed by the Council shall not be exceeded.

Lapse of authority for expenditure **217.** The authority for expenditure conveyed by any budget or supplementary budget passed by a Municipal Council or deemed to be the sanctioned by budget. duly adopted budget or supplementary budget of such Council shall expire at the end of the financial year to which such budget relates.

[109,24 of 1977]

ACCOUNTS

Annual administration report. **218.** The Mayor shall, as soon as possible after the close of each financial year, prepare a detailed report of his administration during the previous year, with a statement showing the nature and amount of receipts and disbursements on account of the Municipal Fund during that year. Such report and statement shall be submitted to the Council, and with any resolutions that may be passed thereon by the Council, shall be submitted to the Minister within six weeks of the date when the same were first submitted to the Council.

Audit of accounts. **219.** The accounts of every Municipal Council shall be audited by the Auditor-General or by such officers as may be authorized by him, and he or they shall maintain a continuous audit of such accounts.

Powers of auditors- **220.** For the purposes of any audit and examination of accounts under this Ordinance, the auditor or auditors appointed by or under section 219 may, by summons in writing, require the production before him or them of all books, deeds, contracts, accounts, vouchers and the other documents and papers which he or they may deem necessary, and may require any person holding or accountable for any such book, deeds, contracts, accounts, vouchers, documents or papers to appear before him or them at any such audit and examination or adjournment thereof, and to

make and sign a declaration with respect to the same.

Penalty. **221.** If any person neglects or refuses to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign a declaration, when required to do so under section 220, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand rupees and to an additional fine not exceeding five hundred rupees for each day during which such failure or neglect is continued after he has been convicted of such offence.

Auditors' report **222.** The auditor or auditors shall submit a monthly report of his or their audit to the Council, and shall also submit an annual report of such audit to the Council and a duplicate of such annual report to the Minister as soon as possible after the close of the financial year.

Irregularities in accounts- **223.**

(1) The Minister may by written order direct the auditor or auditors of the Municipal accounts appointed by or under section 219 to call the attention of the Council to any material defect, impropriety or irregularity in the expenditure of moneys by, or in the recovery of moneys due to, the Council or in the Municipal accounts.

(2) The Council shall report to the Minister as soon as possible the action which it has taken, or which it proposes to take, in respect of any such defect, impropriety or irregularity.

(3) The Minister may make such orders as he thinks fit upon such report, and such orders shall be final and shall be complied with by the Council and all other persons.

Powers of Council in relation to auditors. **224.** A Municipal Council may, from time to time, require the auditor or auditors of its accounts to furnish information concerning the extent, method or progress of any audit or to make any special audit.

Remuneration of auditors. **225.** Every Municipal Council shall, from time to time, pay out of the Municipal Fund to the Deputy Secretary to the Treasury as remuneration to the auditor or auditors of its accounts such sums as the Minister in charge of the subject of Finance may certify as reasonable for their services.

Surcharges and appeals therefrom. **226.**

(1) Every auditor of the Municipal accounts of a Municipal Council, acting in pursuance of the powers conferred upon him by this Ordinance or any other enactment, shall disallow every item of the Municipal accounts which is contrary to law, and surcharge the same on the person making or authorizing the making of the illegal payment, and shall charge against any person the amount of any deficiency or loss incurred by the negligence or misconduct of that person and any amount which ought to have been, but is not, brought into account by that person, and shall in each case certify the amount due from such person and communicate his decision in writing to such person through the Mayor:

[6, 15 of 1957]

Provided that no expenses paid by the Council shall be disallowed by any such auditor if such expenses have been sanctioned by the Minister by virtue of power conferred on him in that behalf by any provision of this Ordinance.

(2) Before making any disallowance or surcharge against any

person, the auditor shall afford an opportunity to such person to be heard or to make any representation with regard to the matter which he may think fit, and shall in the event of his making such disallowance or surcharge furnish such person in writing, on application being made to him for that purpose, with the reasons for his decision in respect of such disallowance or surcharge.

(3) Any person aggrieved by any such disallowance or surcharge may, within fourteen days after the date of the decision of the auditor being communicated to him, appeal therefrom to the Minister:

Provided that no such appeal shall be entertained in any case in which the appellant has failed or neglected to make any representation with regard to the matter of such disallowance or surcharge after an opportunity to do so has been afforded to him by the auditor in accordance with the provisions of subsection (2).

(4) Upon any such appeal, the Minister shall decide the same according to the merits of the case, and may by order direct the recovery from the appellant of the whole or any portion of the amount disallowed or surcharged, if he thinks fit to do so; and if he finds that any disallowance or surcharge has been lawfully made, but that the subject-matter thereof was incurred in such circumstances as to make it fair and equitable that the disallowance or surcharge should be remitted, the Minister may by order direct that the same shall be remitted, but that the amount of the costs and expenses which may have been incurred by the auditor in the enforcing of such disallowance or surcharge or any portion thereof, shall be recovered from such person.

(5) Any amount directed to be recovered from any such person by any order made by the Minister under this section may forthwith be recovered by the Commissioner in the same manner as any sum certified to be due by an auditor is recoverable under the provisions of this section.

(6) Every sum certified to be due from any person by any auditor as aforesaid shall be paid by such person to the Commissioner within fourteen days after the decision of the auditor has been communicated to such person, unless there is an appeal against the decision ; and if such sum is not so paid and there is no such appeal, it shall be the duty of the Commissioner to recover the same from such person, and any sum so certified, together with all costs and expenses incurred in connexion with the enforcement thereof, may, on application to a Magistrate having local jurisdiction, be recovered in the same manner as if it were a fine imposed by such Magistrate.

CONTRACTS

Contracts involving expenditure not exceeding fifteen thousand rupees.

[\[50.39 of 1986\]](#)

227. The Commissioner may, on behalf of the Council, enter into any contract for the execution or performance of any work one thousand or service, or for the supply of any articles or materials, involving an estimated expenditure of not more than fifteen thousand rupees, if the contract will not or is not expected to endure for more than one year, and

Contracts involving expenditure exceeding fifteen thousand rupees.

[\[51.39 of 1986\]](#)

the necessary funds have been provided for the same in a sanctioned budget or by supplementary budget.

228. Any contract for the execution or performance of any work or service or for the supply of any articles or materials for a Municipal Council, which involves an estimated expenditure of more than fifteen thousand rupees, or which will or is expected to endure for more than one year, shall, if entered into in Sri Lanka, be reduced to writing, and signed by the Mayor and the Commissioner on behalf of the Council, and sealed with the common seal of the Council, and, in addition to such other matters as may be deemed necessary for inclusion in any such contract, shall specify-

- (a) the work or services to be executed or performed, or the articles or materials to be supplied ;
- (b) the price or rate to be paid for the work, service, articles or materials ;
- (c) the time or times within which the work or service is to be completed, or the articles or materials are to be supplied ; and
- (d) any penalty or penalties to be imposed in case of breach.

Tenders. **229.**

(1) Before any such contract as is referred to in section 228 is entered into-

- (a) the Commissioner shall, if the Council so directs, take sufficient security for the due performance of the contract;
- (b) the Commissioner shall, unless otherwise authorized by a resolution of the Council in any particular case, call for tenders by advertisement;
- (c) the invitations to tender and the tenders, if any, or copies thereof, shall be laid before the Council which shall either accept one of such tenders, or reject all of them; and
- (d) the contract shall be sanctioned by the Council, after satisfying itself that the necessary funds have been provided for the same in a sanctioned budget or supplementary budget.

[110,24 1977]

(2) If the Council rejects any or all the tenders laid before the Council or fails to of sanction the contract referred to in subsection (1), the Mayor may, with the approval of the Minister, enter into such contract notwithstanding the provisions of paragraphs (c) and (d) of subsection (1) of this section.

PART XII

RATES AND TAXES

Assessment of property. **230.**

[\[2.10 of 1981\]](#)

[\[52.39 of 1986\]](#)

(1) Subject to the provisions hereinafter contained, every Municipal Council shall, from time to time, so often as it thinks necessary, make and assess, with the sanction of the Minister, any rate or rates on the annual value of all houses and buildings of every description, and of

all lands and tenements whatsoever within the Municipality.[* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof] [subsection 3 and 4 repealed by Act § 52, 39 of 1986]

[2.8 of 1967]

(IA) In pursuance of the powers of a Municipal Council under subsection (1), any Council may, with the sanction of the Minister, impose different rates for different areas or parts of the Municipality according to the services provided by such Council for each such area or part.

[2.10 of 1981]

(IAA) In pursuance of the powers under subsection (1) the Council may impose a higher rate on premises used for business or commercial purposes.

(IAB)

(a) The Council may, with the approval of the Minister, exempt from the payment of rates all residential premises the annual value of which does not exceed an amount that may be determined by the Council under paragraph (b).

(b) In determining the amount of the annual value of residential premises that may be exempted, the Council shall have regard to

(i) the state of development of the Municipality ;

(ii) the nature of the services and amenities provided by the Council to residential premises with lesser annual values ;

(iii) the loss of revenue that may result from the grant of any exemption and the means proposed by the Council to recover such loss.

(c) Where any residential premises are exempted under the provisions of paragraph (b) the benefit of such exemption shall accrue to the occupier thereof.

[2.57 of 1979]

(IB) It shall be lawful for the Minister to authorize the waiver of the whole or any part of the rates imposed by the Council under this section in any past year and any costs incurred for the purpose of recovering those rates where-

(a) he is of the opinion that such rates have been imposed without the provision of adequate services; or

(b) he determines, with the approval of the Government, that such waiver is just and equitable in all the circumstances of the case.

[2.57 of 1979]

(Ic) Where the Minister has under subsection (IB) authorized the waiver of the whole or part of any rates imposed and any costs incurred, the Council shall-

(a) where such rates and any costs incurred have been paid, set off such amount of the rates and costs waived, against future rates due on the property in respect of which such rates have been paid ;

(b) where such rates and any costs incurred have not been paid, waive the amount of such rates and costs.

No person shall have a right to a refund of such amount.

(2) Such rate or rates-

(a) shall endure for any period not exceeding twelve months,

(b) shall not exceed in the aggregate the maximum rate or rates from time to time determined by the Minister,

(c) shall be payable by such instalments and at such times as the Mayor, with the sanction of the Council, may direct, and

(d) shall be assessed and levied in the manner provided by this Ordinance or by any by-law made thereunder;

Provided that-

(i) no house, building, land, or tenement shall pay less than one rupee a year in respect of such rate or rates ;

(ii) all houses, buildings, lands, or tenements which are situated within an area not benefited by the conservancy service provided by the Council shall be exempt from any portion of such rate or rates that is declared by a resolution of the Council to be levied for the purpose of providing such service; and

(iii) all school buildings, buildings wholly or mainly used for religious purposes, public libraries, burial and cremation grounds, and buildings in charge of military sentries shall be exempted from the payment of such rate or rates.

Assessment of state property. **231.** All houses, buildings, lands, and tenements within the Municipality belonging to the State, and leased or let by the State to any person, shall be liable to be assessed in respect of the rate or rates leviable under section 230 ; and every lessee or occupier of any such premises shall be liable to pay, and shall pay to the Council, the rate or rates leviable in respect of the house, building, land, or tenement so held or occupied. [* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Property of the State not liable to seizure and sale. **232.** No property whatever of the state, whether movable or immovable, shall be liable to be seized or sold for the recovery of any rate or rates, tax or taxes, which may be due from any person holding, occupying, or enjoying any house, building, land, or tenement the property of the State, under any agreement, contract, or permit, either express or implied, with or from the State.[* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Division or consolidation of property for assessment-

233.

(1) The Council may, from time to time, as often as it may think necessary for the purpose of assessment, divide any house, building, land, or tenement, and consolidate any separate

houses, buildings, lands, or tenements whatsoever within the Municipality, and assess, in respect of any rate or rates leviable under this Ordinance, each such divided portion separately, and each such consolidated premises as a whole : Provided that in the case of any such consolidation the consolidated premises shall be assessed at the aggregate annual value of the several houses, buildings, lands, or tenements of which such premises are composed.

(2) The Council shall cause a notice of such division or consolidation to be given to every occupier, whether he be proprietor, joint proprietor or tenant, of each such house, building, land, or tenement.

(3) Nothing in this section shall be deemed to affect the requirements of section 235 regarding the service of notice of assessment.

(4) The assessed annual value of any premises so dealt with shall not, by reason of such division or consolidation, be increased or reduced for the year in which the division or consolidation is made.[t Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Return for
purposes of
valuation.
[\[53, 39 of 1986\]](#)

234.

(1) In order to enable a Municipal Council to assess the annual value of any house, building, land, or tenement liable to be rated, the Council may require the owner and occupier of such house, building, land, or tenement to furnish returns of the rent or annual value thereof, and for the like purpose it shall be lawful for any person authorized in that behalf by the Council at any time between sunrise and sunset, to enter and inspect and survey such house, building, land, or tenement.

(2) It shall be the duty of the owner of any house, building, land, or tenement to notify in writing to the Council the completion of any new building or of any addition to any existing building, intended for occupation.

(3) Every person who-

(a) fails or neglects to furnish the return herein specified within seven days from the day on which he is required to do so ; or

(b) knowingly makes a false or incorrect return; or

(c) hinders, obstructs, or prevents any person authorized as aforesaid from entering or inspecting or, if need be, surveying any such house, building, land, or tenement; or

(d) fails to notify the completion of any new building or of any addition to an existing building within fourteen days from the date of such completion,

shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one thousand rupees.[t Shall not have effect in such areas as may be specified in an Order under section 2 of the

Rating and Valuation Ordinance.-See section 76 thereof]

Valuation of **235**.
property.

(1) The Council shall cause to be kept a book, to be called the "Assessment Book", in which the annual value of each house, building, land, or tenement within the Municipality shall be entered every year, and shall cause to be given public notice thereof and the place where the assessment book may be inspected.[t Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

(2) Every owner or occupier of any house, building, land, or tenement, or his authorized agent, shall be permitted free of charge, to inspect any portion of the said assessment book which relates to his premises.

(3) The Council shall cause a notice of assessment in Sinhala, Tamil and English to be served on or left at the premises of every occupier, whether he be proprietor, joint proprietor, or tenant of the house, building, land, or tenement assessed. The said notice shall be substantially in the form set out in the Third Schedule, and there shall be appended thereto a demand of payment of the rate or rates leviable within such time and in such proportions as the Council may deem reasonable.

(4) Such notice shall further intimate that written objections to the assessment will be received at the Municipal office within one month from the date. of service of the notice.

(5) The Council shall cause to be kept a book to be called the "Book of Objections", and cause every objection to an assessment to be registered therein. The Council shall cause to be given notice in writing to each objector of the day on which and the place and the time at which his objections will be investigated.

(6) At the time and place so fixed the Council shall cause to be investigated the objections, in the presence of the objector (or an agent authorized by him in writing) if each objector or agent appears or in his absence if such objector or agent does not appear. Such investigation may be adjourned, from time to time, for reasonable cause.

(7) When any objection to an assessment is disposed of, the Council shall cause the decision thereon to be notified to the objector, and such decision shall be noted in the book of objections, and any necessary amendment shall be made in the assessment book.

(8) Every assessment against which no objection is taken shall be final for the year.

Procedure in case **236**.
of objection to
assessment & c.

(1) Every person who is aggrieved by the decision under section 235 with regard to the assessment of any house, building, land, or tenement, may, within thirty days of receiving the notification of the decision, institute an action objecting to such decision in the Primary Court having jurisdiction in the place where such house, building, land, or tenement, is situated, if the amount of the rate or rates on the annual value of such house, building, land or

tenement, or in the case of a consolidation, on the annual value of the houses, buildings, lands, or tenements, so consolidated, does not exceed one thousand five hundred rupees, and in the District Court having such jurisdiction where such amount exceeds the sum of one thousand five hundred rupees.

(2) Upon the trial of any action under this section, the plaintiff shall not be allowed to adduce evidence of any ground of objection which is not stated in his written objection to the assessment.

(3) Every such court shall hear and determine such action according to the procedure prescribed for such court by the law for the time being in force regulating the hearing and determination of actions brought in such court, and the decision of such court shall in all cases be subject to appeal to the Court of Appeal.

(4) Every such appeal shall be governed by the provisions of Chapter LVIII of the Civil Procedure Code, or by any enactment hereafter enacted regulating the making of appeals to the Court of Appeal from any judgment, decree, or order of a Primary Court or a District Court.

(5) Neither the institution of such action nor any appeal therein shall stay the levying of the whole or any part of such rate or rates, and the excess, if any, collected shall be returned according to the decision of such Primary Court or District Court if there be no appeal, or according to the final decision of the Court of Appeal in case of appeal.[* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Revision of
assessment on
alteration of property
affecting annual
value. **237.**

(1) Where physical alterations affecting the annual value of any house, building, land, or tenement are made after the assessment in respect thereof for any year has become final by virtue of the preceding sections, a Municipal Council may, notwithstanding anything to the contrary contained in the said sections, at any time prepare a new assessment for such premises.

(2) Every such new assessment shall come into force from the first day of the month following that in which it is entered in the assessment book :

Provided always that such new assessment shall as far as possible be made in the manner prescribed by the preceding sections and be subject to the objections, investigations, actions, and appeals referred to therein.[* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Assessments of **238.**
annual values.

[3,57 of 1979]

(1) A Municipal Council shall . prepare a new assessment only

when so directed by the Minister, generally or specially. The Minister may direct the preparation of a new assessment in respect of any class or species of immovable property or all immovable property in any Municipal Council area having regard to the provision of new services or the improvement of existing services in such Municipal Council area. Except when a new assessment is carried out on the directions of the Minister, the Council shall adopt the valuation or assessment for the preceding year with such alterations as may, in particular cases, be deemed necessary, as the valuation or assessment for the year following:

Provided always that notice of such valuation and assessment shall be given in the prescribed manner.

(2) The Minister may on representations made or of his own volition direct the revision of the assessment of the annual values in respect of any past year in such manner as he may deem fit having regard to the services that had been provided at the time.

(3) Where there has been a reduction of the rates as a result of the revision of assessments on a direction of the Minister under subsection (2), the Council shall-

(a) where such rates have been paid, set off the amount of such rates and any costs incurred for the purpose of recovering those rates so reduced, against future rates due on the property in respect of which such rates have been paid ; or

(b) where such rates have not been paid, waive the amount of such rates and any costs incurred.

No person shall have a right to a refund of such amount.

Revision of assessment and remission of rates in certain cases.

239. The Council shall have power and authority at any time to revise any assessment, increasing or decreasing the same as it may see fit, and to fix the date upon which the revised assessment shall come into force.[* Shall not have effect in such areas as may be specified in an Order under section Ordinance.-See section 76 thereof]

Remission of rates In lefties non-tenancy.

240.

(1) If any building, other than a building containing furniture, is or remains untenanted, a proportionate remission of the rates and taxes payable in respect of such building may be allowed for the period during which the building is or remains untenanted.[* Shall not have effect in such areas as may be specified in an Order under section Ordinance.-See section 76 thereof]

(2) If any building containing furniture and registered with the Council as a building intended to be let as a furnished building is or remains untenanted a proportionate remission of one-half of the rates and taxes payable in respect of such building may be allowed for the period during which such building is or remains untenanted.

(3) The period for which a remission is allowed under subsections (1) and (2) shall in respect of any building commence on the day on which the Council receives a written notice of its being untenanted and terminate on the date on which it is reoccupied :

Provided that the said period shall terminate on a date one month prior to the said date of reoccupation if within three days of the reoccupation notice thereof is not given to the Council. Every notice under movable properly. this subsection shall contain an address to which all communications arising therefrom may be posted.

(4) When with reference to any claim for remission under this section a dispute arises regarding the period during which any building is or remains untenanted, a written notice of the decision of the Council thereon shall be posted to the last of the addresses given under subsection (3); and such decision shall be final, unless a written application for its revision is presented to the Council within seven days from the date upon which such notice is posted and unless such decision is in consequence revised by the Council.

Liability of persons leaving the Municipality. **241.** If during the course of any quarter the Council has reason to believe that any person who, if that quarter had come to an end, would be liable to pay any rate or rates for that quarter is about to leave the Municipality, the Council may declare such person liable to immediate payment of such rate or rates or any of them from the commencement of that quarter up to the date of such declaration, and the amount of such rate or rates so declared to be due shall be leviable forthwith, in like manner and in all respects as the said rate or rates may in ordinary cases be leviable.[* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof]

Seizure of movable property **242.** No movable property found in or upon any house, building, land, or tenement in respect of which any rate or rates under this Ordinance may be due shall be seized by the Council for any arrears of such rate or rates beyond two quarters next preceding such seizure, unless such movable property belongs to any person who was the owner or joint owner of the said house, building, land, or tenement at the time the arrears beyond such two quarters accrued and became due; or unless such movable property belongs to any person who has occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.[* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof]

Deduction of rates paid by tenant from rent. **243.** The occupant of any house, building, land, or tenement, not being the owner or joint owner thereof, whose property has been seized as aforesaid, or who to avoid such seizure, or, after seizure, to avoid a sale of such property, has paid the amount of rate or rates due in respect of such house, building, land, or tenement, and costs, may deduct the amount so paid by him from the rent due by him on account of the said house, building, land, or tenement to the owner or owners thereof; and the receipt of the Mayor for the amount so paid shall be deemed an acquittance in full for the like amount of rent:

Provided that nothing herein contained shall authorize any such deduction from the rent by any occupant, who by the terms of his lease or other agreement is himself bound and liable to pay such rate or rates.[* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof]

Assessment, ; cannot be impeached for want of form. **244.** No assessment or valuation, and no charge or demand of rate or tax under the authority of this Ordinance and no seizure and sale, shall be impeached or affected by reason of any mistake in the name of any person

liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax, or any mistake in the amount of assessment or the mode of seizure and sale ; and no proceedings under this Ordinance or any by-law made thereunder shall be quashed or set aside for want of form by any court if the provisions of this Ordinance or of such by-law have in substance and effect been complied with.[+ Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Taxes on **245.**
vehicles and
animals .
[4.42 of 1979]

(1) Every Municipal Council may levy an annual tax on vehicles and animals specified in the Fourth Schedule, and kept or used within the Municipality, at the rates specified in that Schedule.

(2) The tax on vehicles and animals shall be payable at such times as the Council may direct, and shall be assessed and levied in the manner hereinafter mentioned or by any by-laws provided, which by-laws the Council is hereby empowered to make.

(3) No tax under this section shall be assessed or imposed or levied upon-

(a) any vehicle or animal kept or used by the President or his personal staff* or

(b) any gun carriage or ordnance cart or wagon; or

(c) any artillery or cavalry horse or any horse of the mounted orderlies or police; or

(d) the authorized number of horses belonging to military officers doing staff, regimental, or other public duty within the Municipality; or

(e) any bicycle belonging to the State and used by the armed forces of Sri Lanka; or

(f) any vehicle kept for sale by a bona fide dealer in such vehicles.

Tax on vehicles **246.**
and animals
payable yearly in
advance.

(1) The annual tax leviable under this Ordinance on the vehicles and animals specified in the Fourth Schedule shall be payable annually by each person in whose possession or custody or control any vehicle or animal liable to the tax may be found so soon as it has been for thirty days kept or used within the Municipality, but no person shall be liable under this section in respect of any vehicle or animal which has been in his possession, custody or control for less than thirty days in any year.

(2) No person by reason of the transfer of ownership shall be liable to pay the tax for any vehicle or animal on which tax has already been paid for the year in which the ownership was transferred.

(3) Half the tax paid on any vehicle or animal shall be refunded in every case where the Council is satisfied that the vehicle or animal has been kept or used for less than six months in any one year.

Sanction of Minister not required for certain rates.

247. Whenever in any year a Municipal Council, in making and assessing under the provisions of this Ordinance any rate on property, makes, assesses, imposes, or levies, without alteration, the same rate as was in force during the preceding year, the sanction of the Minister shall not be required for the making, assessment, imposition, or levying of such rate.

Power of to levy certain licence duties.

247A.

[5, 42 of 1979]

[\[3.20 of 1985\]](#)

(1) A Municipal Council may, impose and levy a duty in respect of licences council issued by the Council.

(2) The duty levied under subsection (1) in respect of any licence issued by the Council authorizing the use of any premises for any of the purposes described in this Ordinance or in any by-law made thereunder shall be determined by the Council according to the annual value of the premises so licensed, and, where such licence authorizes the use of such premises for the purposes of any trade, having regard to

- (a) the annual value of such premises;
- (b) the turnover of business of such trade;
- (c) the profit that is likely to be earned in such trade; and
- (d) the essential nature of the goods or services supplied in the course of such trade:

Provided that where the annual value of such premises falls within the limits of any item in Column I set out below, the maximum duty shall not exceed the sum set out in the corresponding entry in Column II- Column II Rs. 2,000 3,000 5,000; Column I Where the annual value- does not exceed Rs. 1,500 exceeds Rs. 1,500 but does not exceed Rs. 2,500 exceeds Rs. 2,500

Provided further, that where any such premises are used for the purposes of a hotel, restaurant or lodging house, and such hotel, restaurant or lodging house is registered with or approved or recognized by the Ceylon Tourist Board for the purposes of the Tourist Development Act, the duty so levied shall be according to the takings of the hotel, restaurant or lodging house for the year preceding the year in which the licence duty is levied, and shall not exceed one per centum of such takings. Where such hotel, restaurant or lodging house is in its first year of operation, the licence duty shall be determined and levied according to the annual value of such premises.

For the purposes of this section, " takings " in relation to a hotel, restaurant or lodging house means the total amount received or receivable from transactions entered into in respect of that hotel, restaurant or lodging house or for services performed in carrying on that hotel, restaurant or lodging house-

Tax on certain trades.

247B.

[5,42,of 1979]

[\[54, 39 of 1986\]](#)

(1) A Municipal Council may impose and levy a tax on any trade carried on within the administrative limits of that Council.

(2) The tax levied under subsection (1) shall be annual tax determined by

the Council according to the annual value of the premises on which that trade is carried on :

Provided that where the annual value of such premises falls within the limits of any item in Column I set out below, the tax levied shall not exceed the sum set out in the corresponding entry in Column II- Column I Where the annual value- does not exceed Rs. 1,500 exceeds Rs. 1,500 but does not exceed Rs. 2,500 exceeds Rs, 2,500

Provided further, that such tax shall not be leviable or payable in respect of any trade for which a licence is necessary under the provisions of this Ordinance or any by-law made thereunder.

(3) The tax levied under subsection (1) shall be payable, on such date as may be determined by the Council or prescribed by by-law, by the person who carries on such trade.

[\[54,39 of 1986\]](#)

(4) If any person liable to pay the tax leviable under this section fails to pay such tax within seven days after demand, the Commissioner shall report such failure to the Magistrate's Court having jurisdiction over the area in which the Council is situated. The Court shall proceed to recover the amount due as if it were a fine imposed by Court, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction, and the amount so recovered shall be paid into the Fund of the Council.

Determination of duty or tax where several trades are carried on.

[\[4,20 of 1985\]](#)

247BB. Where a Municipal Council resolves to impose and levy a duty in respect of a licence under section 247 A or a tax on a trade under section 247B, and the trade carried on is one of many other trades carried on in the same premises, the Council shall determine such duty or tax on the basis of the apportioned annual value of the area of the premises occupied for the purposes of such trade.

Tax on businesses and professions.

[\[5, 42 of 1979\]](#)

[\[5,20 of 1985\]](#)

[\[55, 39 of 1986\]](#)

247C.

(1) A Municipal Council may by resolution impose and levy annually on every person who, within the administrative limits of such Council, carries on any business for which no licence is necessary under the provisions of this Ordinance or any by-law made thereunder, or no tax is payable under section 247B, a tax according to the takings of the business for the year preceding the year in which such tax is payable at such rates not exceeding the rates set out below:- Column 1 Column 11 Where the takings of the business Tax for the year- payable Rs. CD do not exceed Rs. 6.000 . . Nil (ii) exceed Rs- 6.000 but do not Column 11 exceed Rs. 12,000 . 90 Rs. (iii) exceed Rs. 12,000 but do not exceed Rs. 18,750 - 180 . . 2,000 (iv) exceed Rs. 18,750 but do not . . 3,000 5,000: (v) exceed Rs. 75,000 exceed Rs. 75,000 but do not 360 exceed Rs. 150,000 . . 1,200 ax shall not (vi) exceed Rs. 150,000 . 3,000;

Provided, however, that the preceding provisions of this section shall not apply to itinerant vendors who do not carry on business at fixed places or do not for the purposes of such business establish themselves on the public roads or other public place.

(1A) A Municipal Council may by resolution impose. and levy annually on every person who, within the administrative limits of

such Council, practices any profession a tax of an amount not exceeding an amount specified by the Minister by regulation as the maximum amount of tax which the Council may so impose and levy.

[\[5.20 of 1985\]](#)

(2) The tax payable under subsection (1) or subsection (1A) shall be payable on such date as may be specified by the Council or prescribed by by-law.

[\[5.20 of 1985\]](#)

(3) If any person liable to pay any tax leviable under this section fails to pay such tax within seven days after demand, the Commissioner shall report such failure to the Magistrate's Court having jurisdiction over the area in which the Council is situated. The Court shall proceed to recover the amount due as if it were a fine imposed by Court, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction, and the amount so recovered by Court shall be paid into the Fund of the Council.

For the purposes of this section-

(a) " business" includes any trade or the business of a manufacturer, or of any person taking commission or fees in respect of any transaction or services rendered or the business of an independent contractor, but does not include the occupation of selling articles, goods or materials at a private fair or the occupation of maintaining any educational establishment or school to which grants from State funds are paid or to which such grants were earlier paid but at present are not paid; and " takings " in relation to any business means the total amount received or receivable from transactions entered into in respect of that business or for services performed in carrying on that business, and includes-

(a) in the case of a financier, money-lender or pawn-broker, the moneys given out by him as loans, the interest receive or receivable by him on such loans, and the sums received by him as fees or other charges in respect of such loans;

(b) in the case of an auctioneer, and subject to the provisions of paragraph (c) in the case of a broker or commission agent-

(i) in respect of lands sold by him or in the sale of which he is instrumental, the commissions or fees received or receivable by him for any transactions effected or services rendered by him in connexion with such sale;

(ii) in respect of any goods sold by him or in the sale of which he is instrumental the total amount paid or

payable by the purchaser of such goods;
(c) in the case of any broker (other than a share broker or a produce broker), or commission agent, who-

(i) on behalf of any person not resident in Sri Lanka, sells or is instrumental in selling any goods of that non-resident person, or

(ii) acts on behalf of an exporter of any goods manufactured in Sri Lanka, or

(iii) on behalf of any other person carrying on a business in Sri Lanka, is instrumental in selling in Sri Lanka any goods of that other person, being goods the total proceeds of the sale of which is included in the takings of the business of that other person,

the commissions or fees received or receivable by such broker or commission agent in respect of any transactions effected, or services rendered by him in so selling, acting, or in being instrumental in so selling, and in the case of a share broker or a produce broker, the commissions or fees received or receivable by such broker or commission agent in respect of any transaction effected or services rendered by him; and

(d) in the case of a person carrying on any educational establishment or school, the total amount, excluding profits from investment of the moneys of the educational establishment or school, received or receivable by him in carrying on such educational establishment or school, but does not include any amount received or receivable by the sale of capital assets.

Tax on
undeveloped
land .

247D.

[5, 42 of 1979]

[\[6.20 of 1985\]](#)

(1) Where any land within the administrative limits of a Municipal Council is suitable for building purposes, or for the purposes of permanent or regular cultivation, or such land is capable of being developed for any such purpose at a cost which would in the opinion of the Council, be reasonable, and where-

(a) no building has been erected on such land; or

[\[6.20 of 1985\]](#) (b) the extent of such land which is actually covered by buildings bears to the total extent of such land, a proportion less than that prescribed by the Council by resolution; or

(c) such land has not been subject to regular or permanent cultivation, the Council shall levy annually on the owner of such land, a tax not exceeding two per centum of the capital site value of such land.

(2) The provisions of sections 235 and 236 shall, with the necessary modifications, apply with respect to every assessment of the capital site value of land made under subsection (1).

For the purposes of this section, "capital site value " when used in reference to any land, means the probable price which would be paid for the land, exclusive of all buildings thereon, if the land were sold in the open market, free of all mortgages, leases, encumbrances or other charges.

Tax on **247E.**

certain
sales of
land.

[5, 42 of 1979]

[56, 39 of 1986]

(1) Where any land within the administrative limits of a Municipal Council is sold by public auction or otherwise, by an auctioneer or broker or his servant or agent, the vendor or such auctioneer or broker or his servant or agent, shall pay to the Council, from the proceeds of the sale of such land, a tax equivalent to one per centum of the amount of such proceeds.

(2) If the tax payable under subsection (1) is not paid within fourteen days of demand, the Commissioner shall report such failure to the Magistrate's Court and the Court shall proceed to recover the amount due as if it were a fine imposed by Court, notwithstanding that such amount exceeds the amount of fine which a Magistrate may impose in the exercise of his ordinary jurisdiction, and the amount so recovered by Court shall be paid into the Fund of the Council.

Tolls. **248.**

(1) Every Municipal Council may, with the sanction of the Minister, establish tolls, and take and receive all tolls payable within the Municipality; and it shall be lawful for the Minister to make over to the Council such existing or future tolls lawfully established, or such proportion of any such tolls as to him may seem fit, for the proper maintenance of the roads within the - Municipality.

(2) Every Municipal Council which establishes tolls or to which tolls are made over as aforesaid, is hereby empowered to appoint toll-keepers and the provisions of the Tolls Ordinance shall, unless altered or modified by any by-laws made by the Council under this Ordinance, apply to the tolls so established or made over.

(3) The Council may by resolution, approved by the Minister and published in the Gazette, make over any toll established or taken and received by the Council or made over to the Council under this Ordinance in respect of any ferry, to any of the following local authorities or bodies, that is to say, any other Municipal Council, any Urban Council, any Town Council, or any Village Council.

Power to compound with livery stable-keepers and others. **249.** The Council may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping or using carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons in lieu of the tax levied under section 245.

Power to inspect **250.** It shall be lawful for any person authorized in that behalf by the

stables, & c, and to
summon persons liable
to the payment of the
tax.

Council, at any time between sunrise and sunset, to enter and inspect any stable or coach house, or any place wherein he may have reason to believe that there is any vehicle or animal liable to taxation under this Ordinance ; and the Council may summon any person whom it has reason to believe to be liable to the payment of such tax, or any other person, and may examine any such person as to the number and description of the horses and carriages in respect of which such person is liable to be taxed.

Penalty for disobeying
summons, or hindering the
inspection.

[\[57, 39 of 1986\]](#)

251. Every person who-

- (a) on being summoned under section 250 fails, without lawful excuse, to appear in pursuance of the summons;
- or
- (b) hinders or obstructs any person authorized as aforesaid, from entering or inspecting or leaving any such stable, coach house, or place,

Warrant for **252.**
recovery of
rates and taxes.

[\[9, 48 of 1971\]](#)

(1) If the amount of any rate assessed under this Ordinance or the amount of any tax imposed thereunder is not paid into the Municipal office within such time as the Council may direct, it shall be the duty of the Commissioner to issue a warrant signed by him to some collector or other officer of the Council named therein directing him-

- (a) in the case of non-payment of any rate, to levy such rate and the costs of recovery by seizure and sale of all and singular the movable or immovable property of the proprietor or of any joint proprietor, of the premises on account of which such rate may be due, and of all movable property, to whomsoever the same may belong, which may be found in or upon any such premises; and
- (b) in the case of non-payment of any tax, to levy such tax and the costs of recovery by seizure and sale of the property on account of which such tax may be due, and of all and singular the movable or immovable property of the defaulter.

(2) Every warrant issued under subsection (1) shall be in the form contained in the Fifth Schedule, with such variations as the circumstances require.

(3) A Municipal Council may by resolution waive the whole or any part of any rate or tax and any costs incurred for the purpose of recovering that rate or tax if it appears to the Council that the amount to be waived is inconsiderable or irrecoverable or that it should be written off on the ground of the poverty of the person liable therefor; and, in any case where any such resolution is passed, no warrant under subsection (1) shall be issued and any such warrant that may have been issued shall be recalled.[* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.- See section 76 thereof]

Warrant for **253.**
recovery of rent
due to the
Council-
[10, 48 of 1971]

(1) If the amount due as rent for any premises let by the Council at a rental not exceeding thirty rupees a month is not paid into the Municipal office within fourteen days after such amount becomes due, it shall be the duty of the Commissioner by warrant signed by him to authorize an officer of the Council named therein and his assistants to levy such amount and the costs of recovery by the seizure and sale of all movable or immovable property situated within the Municipality and belonging to the tenant, and by the seizure and sale of all movable property, to whomsoever the same may belong, which may be found in or upon the premises for which rent is due.

(2) Every warrant issued under subsection (1) shall be in the form set out in the Sixth Schedule, with such variations as circumstances may require.

Warrants where **254.** Where a warrant is issued for the levy of any rate in respect of any house, State property building, land or tenement belonging to the State and leased to any person, such is leased. warrant shall not direct the seizure and sale of such house, building, land or tenement, or the leasehold or other interest of any lessee or occupier in the same, but shall be limited to directing the seizure and sale of the movable or immovable property of such lessee or occupier. [+ Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Recovery of **254A.**
payments due to
the Municipal
Council.
[28, 48 of 1971]

(1) Where under the provisions of this Ordinance, or any by-law, rule or regulation made under this Ordinance, any duty, fine, penalty, fee or other payment has become due to the Municipal Council, then, notwithstanding anything to the contrary in any such provision or any such by-law, rule or regulation, it shall be the duty of the Municipal Commissioner to take all steps necessary to recover such duty, fine, penalty, fee or other payment and credit it to the funds of the Municipal Council.

(2) Where any rate, tax, rent, fee, duty, toll, fine, penalty or any other payment whatsoever has become due to the Municipal Council under any written law, other than this Ordinance, or any by-law, rule or regulation made under this Ordinance, then, notwithstanding anything to the contrary in the aforesaid written law, it shall be the duty of the Municipal Commissioner to take all steps necessary to recover such rate, tax, rent, fee, duty, toll, fine, penalty or other payment and credit it to the funds of the Municipal Council.

Scale **255.** The costs of recovery as leviable under any warrant issued under this Part shall be of according to the following table of charges:-
costs.

[\[58, 39 of 1986\]](#) [6,42 of 1979]

(a) for costs on the issue of a warrant, a charge of-

(i) ten per centum on the amount of tax or rent due;

(ii) fifteen per centum on the amount of rate due on bare lands and residential premises; and

(iii) twenty per centum on the amount of rate due on properties other than bare lands and residential premises;

(b) for seizure and removal of goods seized, in case such removal takes place, a charge not exceeding five cents for every fifty cents of rate or tax or rent due ;

(c) for keeping any goods seized in safe custody in case of detention, a charge not exceeding seventy-five rupees per day;

(d) for keeping a person in possession in case of seizure of immovable property, or in case goods seized are not removed, a charge not exceeding seventy-five rupees per day;

(e) for the expenses of sale, when any sale takes place, a charge not exceeding one rupee on every ten rupees of the net proceeds of sale.[* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Sale of property seized .

[11,48 of 1971]

[59, 39 of 1986]

256. Any property seized in pursuance of any warrant issued under this Part shall be sold by public auction (of which at least twenty-one days' notice shall be given in the Gazette and in one or more of the newspapers circulating within the Municipality in respect of property exceeding the value of one thousand rupees, and at least six days' notice in all other cases) by the officer to whom such warrant is addressed, or some other officer of the Council appointed by the Commissioner for that purpose, at any time after the expiration of twenty-four days in the case of property exceeding the value of ten thousand rupees, and of eight days in all other cases, from the date of such seizure, unless in the meantime the amount of the rate or rates or tax or taxes or rent and of the costs aforesaid be duly paid ; and the surplus accruing by such sale (if there be any), after deducting the amount of such rate or rates or tax or taxes or rent and the costs, shall be restored to the owner or joint owner of the property so sold :

[11,48 of 1971]

Provided, however, that whenever it is necessary to seize and sell the property of any person making default in the payment of any rate or tax or rent, it shall be the duty of the officer acting under the Commissioner's warrant as aforesaid to observe, so far as the same may be applicable, the order and course prescribed by the Police Ordinance or by any other enactment to be in that behalf hereafter enacted.[* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Surplus of sale.

257. If no demand shall be made for any surplus accruing from any sale made in pursuance of section 256 by the owner or joint owner of the property sold within twelve months from the date of such sale, the Commissioner shall pay the amount of such surplus to the credit of the Municipal Fund, and no person thereafter shall be entitled to demand or receive the same.

Power to break open house.

258. The person to whom any warrant under this Part is addressed may break open in the day-time any house or building for the purpose of seizing property in pursuance of such warrant.

Certificate of sale-

[13, 48 of 1971]

259. Where land or other immovable property is sold under any warrant issued under this Part, a certificate substantially in the form set out in the Seventh Schedule, signed by the Commissioner, shall be sufficient to vest the property in the purchaser free from all encumbrances. Every such certificate shall be liable to the stamp duty leviable on conveyances of immovable property and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser:

Provided, however, that it shall be lawful for a mortgagee of any land or other immovable property seized by virtue of any warrant issued under this Part to pay and discharge the amount of rate or tax and costs due under and by virtue of such warrant. [* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.- See section 76 thereof]

Rights of mortgagee. **260.** Upon any payment and discharge by a mortgagee under section 259, such mortgagee shall be entitled to add the amount so paid and discharged to the sum due upon his mortgage, and the amount so added shall be deemed to be secured by such mortgage.

Power of Council to purchase land sold for non-payment of rates or taxes. **261.** Where land or other immovable property is seized and sold for non-payment of rates or taxes, it shall be lawful for any person authorized in that behalf by the Commissioner, to bid at the sale for, and to purchase, such land or other property for and on behalf of the Council. [* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Council may take credit to extent of rate or tax and costs due. **262.** Where a Municipal Council purchases any land or other immovable property which has been seized and sold for non-payment of rates or taxes, the Council shall not be required to pay the whole of the purchase money, but shall be entitled to take credit for the amount due under the warrant and the costs aforesaid, and shall only be required to pay the balance, if any, after deducting such amount, to the owner or person entitled to the property sold :

Provided that where the proceeds of any such sale are less than the amount due to the Council under the warrant and as costs as aforesaid, nothing herein contained shall preclude the Council from recovering in accordance with the provisions of this Ordinance, the balance of any amount which may be due to it after deducting the amount realized by such sale. the Council. [* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Form of conveyance to the council. **263.** Where land or other immovable property is purchased by a Municipal Council under the provisions of section 261, a certificate substantially in the form set out in the Eighth Schedule, signed by the Commissioner, shall vest the property sold absolutely in the Council free from all encumbrances -, and such certificate shall be received in all courts as conclusive evidence of the title of the Council to such land or other immovable property. Every certificate shall be liable to the stamp duty leviable on conveyances of immovable property and to the charges payable for the registration thereof.

Sale of property vested in the Council to the person who would be entitled to such property but for the title thereto vesting in the Council. **263A.** A Municipal Council shall sell and convey any immovable property vested in the Council under section 263 to the person who would be entitled to such property but for the title thereto vesting in the Council, if-

[7, 15 of 1957]

(a) within twelve months reckoned from the date on which such property vested in the Council, such person makes a written application in that behalf to the Council, and

(b) within such period reckoned from the date of the receipt of the application as may be determined by the Council and notified to such person, he pays to the Council a sum equivalent to the price paid by the Council for the purchase of such property and the

amounts and costs which, if such property were sold and conveyed by the Council under section 264, would be deducted under subsection (2) of that section from the surplus referred to in that subsection.

Power to sell **264.**
property vested
property vested in
the Council.
[8,15 of 1957]

(1) A Municipal Council, for properly vested valuable consideration, may sell and convey to any person any land or other immovable in it under section 263 if such land or other property has not already been sold and conveyed by the Council under section 263A.

(2) Any surplus accruing from any such sale and conveyance (whether made and executed before or after the 4th day of August, 1933) shall, after deducting the amounts and costs specified in subsection (5), be paid on demand to the person entitled to the land or immovable property.

(3) No such surplus shall be so paid unless the said demand is made within ten years from the date of the sale and conveyance; Provided that where the surplus is payable either to a fideicommissary who is not entitled to possession at that date or to a person who is then a minor, the said period shall not commence to run until the right to possess accrues or majority is attained respectively.

(4) If no demand is made within the said ten years, the Council shall pay such surplus to the credit of the Municipal Fund, and no person shall thereafter be entitled to demand or receive the same.

(5) The amount and costs which may be deducted under subsection (2) are as follows;-

(a) the amount of the rates or taxes, if any, remaining unpaid in respect of the period prior to the seizure and sale of the land or property, including costs on the issue of the warrant;

(b) the amount of the rates or taxes which would have been due and payable at the date of such sale and conveyance, if the land or property had not been seized and sold, together with an additional ten per centum of such amount; and

(c) the costs incurred by the Council in connexion with the seizure, purchase, surveying, vesting, maintenance, improvement, and the sale and conveyance of the land or property.

(6) After any payment is made in accordance with this section no further claim in respect of such surplus shall be allowed against the Council at the instance of any person whomsoever:

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or part of any such surplus to pay the same to the person lawfully entitled thereto.

(7) For the purposes of this section, the expression " person entitled" means the person who would have occupied such

position in respect of the land or immovable property sold and conveyed, but for the title thereto vesting in the Council under section 263. [* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Procedure where the Council retains property vested in the Council.

[9, 15 of 1957]

264A. Where a Municipal Council decides to retain any immovable property vested in it under section 263, the value of such property at the time such property became vested in the Council shall be assessed by the Council, and thereupon the provisions of subsections (2) to (7), both inclusive, of section 264 shall apply in the case of such property subject to the following modifications:-

(a) subsection (2) of that section shall have effect as if there were substituted in that subsection, for all the words from " Any surplus " to " shall," the following :-

" Where the value of any land or other immovable property assessed by the Council under section 264A exceeds the price paid by the Council for the land or other immovable property under section 262, the excess (hereafter in this section referred to as the surplus) shall, ";

(b) subsection (3) of that section shall have effect as if there were substituted in that subsection, for the words " sale and conveyance : ", the words " assessment of the value of the land or other immovable property by the Municipal Council: ";

(c) subsection (5) of that section shall have effect as if-

(i) there were inserted, immediately after paragraph (b) of that subsection, the following new paragraph :-

"(bb) the amount paid by the Council under section 262 in respect of the land or property,"; and

(ii) there were substituted, in paragraph (c) of that subsection, for all the words from " improvement, and " to the end of that paragraph, the words " improvement, assessment of the value, and conveyance of the land or property."; and

(d) subsection (7) of that section shall have effect as if there were substituted, for the words "sold and conveyed," the words " retained by the Council,".

Registration of mortgages and notices of sale.

265.

(1) It shall be the duty of each Municipal Council to make provision by means of by Law for the registration of mortgages of immovable property situated within the Municipality and of the addresses of the mortgagees thereof.

(2) Before any property, in respect of which any mortgage has been registered under this section, and which has been seized for the recovery of any rates and taxes, is offered for sale, the Council, at least twenty-one days before the sale, shall cause a

notice of the sale to be posted to the registered address of the mortgagee. [* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

Termination of
tenancy of tenants
of the council. **266.**

(1) The Council may cause a tenant of the Council who has failed to pay rent within fourteen days after the same has become due to be served with a notice determining the tenancy and requiring the tenant to quit on or before the expiration of one month from the date of service.

(2) Every notice under subsection (1) shall be in the form set out in the Ninth Schedule with such variations as circumstances may require.

(3) Where a tenant fails to quit in accordance with a notice served on him under subsection (1), the Council may by warrant authorize an officer of the Council named therein and his assistants to eject from the rented premises the tenant and all persons occupying the premises under, or with the permission of, the tenant.

(4) Every warrant under subsection (3) shall be in the form set out in the Tenth Schedule with such variations as circumstances may require.

(5) A tenant upon whom a notice under subsection (1) is served may, within ten days of the service of the notice, apply by petition to the Primary Court having jurisdiction in the area where the premises are situated for an order staying ejection.

(6) Upon such application being made the Primary Court shall, after notice to the Council, hold a summary inquiry and make an order staying ejection altogether or for a stated period or refusing to stay ejection as in the circumstances may appear fit. Every such order shall be final and conclusive and there shall be no appeal therefrom

Waiver of
sums due to
the Council
[\[60.39 of 1986\]](#) **266A.** The Council may by resolution waive the whole or any part of any sum of money (not being a sum for the waiver of which provision is made by subsection (2) of section 252) due to the Council from any person if it appears to the Council that the amount to be waived is inconsiderable or irrecoverable or that it should be written off on the ground of the poverty of the person liable therefor. Every such resolution relating to the waiver of an amount exceeding one thousand rupees shall be subject to the approval of the Minister."

PART XIII

BY-LAWS

Power to **267.**
make by-
laws.

[\[10.61 of
1981\]](#)

(1) Every Municipal Council may, from time to time, make and when made may revoke or amend, such by-laws as may appear necessary for the purpose of carrying out the principles and provisions of this Ordinance.

(2) Every contravention of a by-law made by a Municipal Council shall be an offence under this Ordinance.

[\[10.61 of 1981\]](#)

(3) Such by-laws may provide penalties for the contravention thereof as follows :

(a) in the case of a first offence, a fine not exceeding one thousand rupees ; - '

(b) in the case of a second or subsequent offence, a fine not exceeding two thousand rupees; and

(c) in the case of a continuing offence, an additional fine not exceeding two hundred and fifty rupees for every day during which the offence is continued after a conviction or after service of a written notice from the Mayor directing attention to such contravention.

Approval and publication of by-laws. **268.**

(1) No by-law shall have effect until it has been approved by the Minister, confirmed by Parliament, and notification of such confirmation is published in the Gazette.

(2) Every by-law shall upon the notification of such confirmation be as valid, and effectual, as if it were herein enacted.

" Power to compound offences. **268A.**

[\[11.61 of 1981\]](#)

(1) Where any person contravenes any by-law made under subsection (5) of section 272, and where such person has not been previously convicted under section 267, the Mayor shall compound such offence, if so requested by the offender, for a sum of money equal to one-fourth of the maximum fine imposable for such offence under section 267, and where a prosecution has been entered against any such offender, the Mayor shall compound such offence at any time before judgment with the consent of court.

(2) Any sum of money accepted by the Mayor under subsection (1) shall be credited to the Municipal Fund."

Additional provisions of by-laws. **269.**

(1) A Municipal Council may provide for the observance of any by-laws by enacting therein such provisions as it thinks necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out, construct, or alter any street, building, drain, or other work, as to inspection by the officers of the Council, and as to the power of such officers (subject to the provisions of this Ordinance) to remove, alter, or pull down any work begun or done in contravention of such by-laws:

Provided that no requirements of any bylaws relative to the construction or alteration of streets, buildings, drains, or other works shall apply to any such works which were so constructed or altered, as the case may be, before such by-laws came into force, except where expressly stated therein to the contrary.

(2) A Council may make by-laws which shall be in force in any specified place or premises outside the Municipality if such place, or premises, or the administration or management thereof, is or are vested in the Council.

Application of
Municipal Dairies
and Laundries
Ordinance.

270. Where a Municipal Council has made by-laws to the satisfaction of the Minister in respect of any matter for the Copies regulation of which provision is already Ordinance. made in the Municipal Dairies and Laundries Ordinance, the Minister may, by notification in the Gazette, declare that the provisions of that Ordinance shall not, to such extent as may be specified therein, apply within the Municipality.

Copies of By-
Laws to be kept at
Municipal office.

271. Copies of all by-laws made by a Municipal Council shall be kept at the Municipal office, and shall be available for sale to the public. regulation of which provision is already made in the Municipal Dairies and Laundries Ordinance, the Minister may, by notification in the Gazette, declare that the provisions of that Ordinance shall not, to such extent as may be specified therein, apply within the Municipality.

Matters with
respect to
which by-laws
may be made.

272. In particular and without prejudice to the generality of the powers conferred by the preceding sections, by-laws may be made by a Municipal Council for and with respect to all or any of the following matters, namely:-

[\[4,19 of 1987\]](#)

(1) officers and servants, and procedure, including-

(a) the creation of posts or offices (other than the posts or offices of Mayor, Deputy Mayor, Municipal Commissioner, Charity Commissioner and Municipal Magistrate);

(b) appointments to posts or offices in the service of the Council, not being posts in the Local Government Service; [Vide also Sections 2 (2) and 19 (2) of the Local Government Service Law]

(c) the payment of salaries, allowances and remuneration to officers and servants of the Council who are not members of the Local Government Service;

[\[2.5 of 1983\]](#)

(d) the erection of hoardings and other temporary structures, or any decoration of any type, on or abutting any street, and the charging of fees for any permits issued in that connection ;

(e) the due performance of their several duties by officers and servants in the service of the Council;

(f) the regulation of Council and committee meetings;

(g) the form in which all estimates, budgets, statements, and returns incidental to Municipal business shall be drawn up;

(h) the form in which Municipal accounts shall be kept;

(i) the form of any books, registers or documents required to be kept or used for the purposes of this Ordinance.

(2) Buildings, building operations and works, including-

- (a) the alignment, level, width and construction of new streets;
- (b) the structure and stability of walls, foundations, roofs, and chimneys of new buildings, the prevention of fires and purposes of health;
- (c) the structure of hearths and staircases, and the height and ventilation of rooms to be used for human habitation, and the structure and levels of floors ;
- (d) the sufficiency of space about buildings to secure a free circulation of air and the ventilation of buildings;
- (e) the paving of yards and open spaces in connexion with buildings;
- (f) the quality of materials to be used;
- (g) the line of frontage with neighbouring buildings;
- (h) the front elevation of buildings where the building is one of a row of contiguous buildings abutting on a street;
- (i) the levy of fees for the examination and consideration of plans for new buildings or for alterations to existing buildings.

(3) Drainage, including-

- (a) the laying out, construction or alteration of drains, water-closets, urinals, sinks, baths and sanitary appliances, the flushing of water-closets, the paving of floors and courtyards and open spaces;
- (b) the charging, levying, and recovering of fees for the inspection and cleansing of all drains, water-closets, and other sanitary appliances;
- (c) the issue of licences to persons carrying out drainage work, and the conditions under which such licences may be issued and used, the manner in which such work shall be carried out; and the imposition and recovery of fees for such licences;
- (d) the provision of proper and sufficient means of sewerage, and the drainage for new streets and roads or for existing streets and roads, not being streets and roads constructed by, vested in, or maintained by the Council;
- (e) the regulation of the use of public latrines and as to the decent conduct of persons using such latrines.

(4) Waterworks, including-

- (a) the prevention of waste, misuse, undue consumption, or contamination of the water supplied by the Council for public or private use;
- (b) the direction of the use, and prescribing the size, nature, strength, and materials, and the mode of arrangement, position, alteration, removal, renewal, and repair of the pipes, valves, cocks, cisterns, soil pans, water-closets, and other apparatus and receptacles or any of them to be used respectively for carrying, delivering,

regulating, and storing water ;

(c) the regulation of the public supply of water by stand-pipes, and the use of the same;

(d) the regulation of the supply of water by private services, and the materials and fittings to be used;

(e) the regulation of the supply of water by measurement, and the materials, meters, appliances, and fittings used for such a purpose or in connexion therewith;

(f) the regulation of the terms and conditions subject to which water will be supplied for other than domestic purposes, and the price to be paid for water so supplied;

(g) the prescribing of the procedure for the recovery of moneys due for the supply of water; and

(h) every other purpose relating to the supply or control of water supplied from the waterworks as to the Council may appear necessary.

(5) Sanitation, including-

(a) the prevention and abatement of nuisances;

(b) the removal and disposal of night-soil, and the charging, levying, and recovering of fees for such removal and disposal;

(c) the inspection, regulation, maintenance, and cleansing of all drains, privies, earth-closets, cesspools, ash-pits, and sanitary appliances, the closing of buildings or parts of buildings unfit for human habitation, and the prohibition of their use for such habitation;

(d) the conservancy of private premises;

(e) the regulation of any houses or places established for the reception of persons suffering from infectious disease, and for the imposing and recovering of fees for the use and occupation of such houses or places;

(f) the cleansing, disinfection, and destruction of temporary buildings and infected articles, and the cleansing and disinfection of buildings;

(g) the regulation and control of swine:

(h) the prevention of malaria and the destruction of mosquitoes and other disease-bearing insects;

(i) the licensing, regulation, inspection and control of stables and cattle galas;

(j) washing and bathing, including the regulation, supervision, inspection and control of bathing places (other than bathing places established by the Council) and places for washing animals (other than places for washing animals established by the Council).

(6) Streets, including-

(a) the improvement, making, repairing, cleaning, watering, and lighting of streets;

- (b) the prevention and abatement of obstructions and encroachments on streets, roads and canals; in
- (c) the regulation of traffic streets;
- (d) the erection of hoardings and other temporary structures, and the charging of fees for the same.

(7) Land and property, including-

(a) the classification and assessment of buildings, lands, and tenements within the Municipality;[Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.- See section 76 thereof]

(b) the registration at the Municipal office of the names and addresses of the owners of lands and buildings within the Municipality, the inspection of the registers in which such names and addresses are registered, and the imposition and recovery of fees for such registration and inspection;

(c) the registration at the Municipal office of mortgages over immovable property situated within the Municipality, and of the addresses of mortgagees, the inspection of the register in which such mortgages are registered and the imposing and recovery of fees for such registration and inspection;

(d) the posting of notices in writing to such registered mortgagees of the sale of immovable property seized for the recovery of rates or taxes;[Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.-See section 76 thereof]

(e) the putting up and preservation of boundaries and offences of lands, whether private or public;

(f) the care and regulation of common pasture lands, and the levy of fees for the use of such lands.

[10,15 of 1957] (8) Markets, fairs, bakeries, and provisions, including-

(a) the licensing, regulation, management, conduct, and inspection of bakeries and the persons employed therein, and of the manufacture and quality of bread;

(b) the establishment of markets and fairs, private as well as public, including marts for the sale of cattle and other livestock, and the regulation, control, and use of such markets, and fairs, and the buildings, shops, sheds, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein or in the immediate approaches thereto;

[10,15 of 1957] (c) the seizure, forfeiture, and removal and destruction of unwholesome flesh, fish, or other provisions introduced into the Municipality, and the prevention of the sale exposure for sale thereof; or

(d) the prohibition of the holding of cattle markets except in duly licensed places, and the granting of licences for holding such markets, or the withdrawal of such licences for breach of the conditions thereof;

(e) the seizure and removal of articles exposed for sale in contravention of any by-law ;

(f) the preparation and publication of a list of current prices;

(g) the regulation of the mode of sale of articles, whether by measure, weight, tale, or piece;

[10,15 of 1957] (gg) the fixing of the price (both wholesale and retail) above which any article of food shall not be sold in any market or fair, whether public or private;

(h) the regulation, supervision, inspection and control of the sale of living animals.

(9) The management and control of slaughterhouses, including the levy and recovery of fees for the use thereof, and the prevention of cruelty to animals therein.

(10) Stray cattle, including the fixing, levying, and recovery of charges for the occupation of pounds for stray cattle, and the cost of the keep of the animals impounded.

[\[4,19 of 1987\]](#)

(11) the maintenance and regulation of quarantine stations for cattle, the levying of fees for the occupation thereof, the provision of facilities for the vaccination and immunization of livestock and dogs;

(12) Revenue, including the assessment of property, and the collection of rates and taxes. [Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. - See section 76 thereof]

(13) The prescribing of fees and the fixing of charges to be levied or made for any act, matter or thing required under this Ordinance to be done or observed.

(14) The licensing, regulation, inspection and control of hairdressers' and barbers' shops and saloons.

(15) The regulation, supervision, inspection and control of offensive or dangerous trades or businesses.

(16) The licensing of money-changers.

(17) The licensing of accountants and auditors (other than auditors who are registered under the Companies Ordinance)[t Repealed and replaced by the Companies Act, No. 17 of 1982.]

(18) The licensing, regulation, inspection and control of places of public entertainment, including the protection of the public from danger from fire.[| Vide also section 5 (2) of the Public Performances Ordinance]

(19) The regulation, supervision, inspection and control of the sale, or the storage or manufacture for the purposes of sale, of articles of food or drink including the sale, or the storage or manufacture for the purposes of sale, of such articles at hotels, shops and places other than markets.

(20) Itinerant vendors, including-

- (a) the supervision or control of itinerant vendors;
- (b) the issue of licences for the purposes of such supervision or control, and the conditions to be attached to such licences;
- (c) the regulation or prohibition of the sale of any specified article or the sale of articles in any specified place or area.

(21) Laundries and washing, including-

- (a) the regulation, supervision and control of laundries (other than public laundries established by the Council) and laundry men;
- (b) the inspection of such laundries, and the medical examination of those engaged in laundry work;
- (c) the lighting, ventilation, cleansing, drainage, and water supply to laundries;
- (d) the prevention of infection and contagion through articles in the charge of laundry men;
- (e) facilitating inquiries in connexion with the spread of infectious and contagious diseases through laundries, and articles sent thereto and distributed therefrom.

(22) The licensing, registration, and regulation of lodging-houses, restaurants, eating houses and tea and coffee boutiques.

(23) Dairies, including-

- (a) the licensing, registration and regulation of dairies, cow sheds, milk shops, milk stores, dairymen, cow-keepers and purveyors of milk;
- (b) the inspection of dairies and dairy cattle, and the medical examination of those engaged in dairies or in the distribution of milk for sale;
- (c) the lighting, ventilation, cleansing, drainage, and water supply of dairies and cow sheds in the occupation of persons following the trade of cow-keepers or dairymen;
- (d) the cleanliness of premises in which milk is kept, and of milk shops, and of vessels used for containing milk for sale;
- (e) the precautions to be taken by purveyors of milk and persons selling milk by retail against infection and contamination;
- (f) the standardization of milk and the prevention of the sale of milk below the prescribed standard;
- (g) the determination of the deficiency in any of the normal constituents of genuine milk (including condensed and curdled milk), cream, butter, or cheese, or what addition of extraneous matter, or proportion of water, in any sample of milk, cream, butter, or cheese

which shall, for the purposes of any enactment, by-law, or regulation for the time being in force, raise a presumption until the contrary is proved that the milk, cream, butter, or cheese is not genuine or is injurious to health;

(h) facilitating inquiry in connexion with the spread of infectious or contagious diseases through dairies.

(24) the registration of cows kept in premises other than licensed dairies, the cleanliness and drainage of the buildings or parts of the buildings in which such cows are kept, and the levy of fees for the registration of such cows.

(25) the establishment, maintenance, and regulation of tolls.

(26) The regulation of the terms and conditions on which the assistance of the fire brigade may be obtained and the charging and recovering of fees for such assistance.

(27) The prohibition or the regulation and control of advertisements displayed or exhibited so as to be visible from any street, road, canal or lake, and the charging of fees in respect of advertisements displayed or exhibited in accordance with by-laws made in that behalf.

(28) The establishment, maintenance, working and supply, and the recovery of charges in connexion therewith of the following public services;-

(a) water supply;

(b) the lighting of streets, public places, and public buildings;

(c) the supply of electric light or power;

(d) markets;

(e) public baths, bathing places, laundries and places for washing animals;

(f) any other form of public service which the Council has resolved to provide.

[\[4.19 of 1987\]](#) (29) The prohibition of fishing in waters polluted by refuse and sewage and removal of obstruction to coastal fishing

(30) The abatement of nuisances, including the prohibition, regulation and control of the operation of gramophones, loudspeakers, amplifiers and other instruments automatically or mechanically producing or reproducing sound. 7.42 of 1979]

(30A) Taxation, including the rendering of all returns and information that may be required for the purposes of any tax payable, or for the issue of any licence, under this Ordinance.

[\[4.19 of 1987\]](#) (30B) the regulation and control of industrial waste

(31) The issue of licences in respect of any act, matter or thing for the licensing, regulation, supervision or control of which the Council is authorized to make by-laws, the conditions to be attached to such licences, the refusal of such licences whether in the absolute discretion of the issuing authority or in prescribed circumstances and the cancellation or suspension of such licences for any non-compliance with such by-laws.

[2,18 of 1977] (32) The control of parking of motor vehicles within the Municipality by providing parking places and collecting the prescribed fee for parking such motor vehicles in such places: Provided that the preceding provisions of this paragraph shall not apply in respect of motor vehicles of the Sri Lanka Transport Board.

Approval or disapproval of plans. **273.** Where a notice, section, plan, or other document is required by any by-law to be laid before the Mayor, he shall within a reasonable time after the same has been delivered or sent to him signify in writing to the person by or for whom any work is proposed to be executed his approval or disapproval of the proposals submitted ; and if the work is commenced after such notice of disapproval or without such approval, and is in any respect not in conformity with any by-law, the Council may cause so much of the work to be pulled down or removed as is not in conformity with such by-law.

Continuing offence. **274.** In any case where a Municipal Council may under section 273 pull down or remove any work begun or executed in contravention of any by-law, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable under any by-law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the by-law shall be deemed to be a daily continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the first day when the offence was committed or the by-law was broken.

Recovery of expenses. **275.** In any case where a Municipal Council incurs expenses in consequence of a breach of any by-laws under this Ordinance by the act or default of any person, the Council may recover the amount of such expenses in the manner provided in this Ordinance from the said person.

Right of entry. **276.** In any case where the provisions of this Ordinance are contravened any person authorized under the provisions of this Ordinance may, subject to such provisions, enter upon private property, execute any work, and recover any expenses without prejudice to the powers conferred upon such person by any by-laws made hereunder.

PART XIV CENTRAL CONTROL

Powers of Minister **277.**

to dissolve Council for in competency, & c.

[111,24 of 1977]

(1) If at any time the Minister is satisfied that there is sufficient proof of-

- (a) incompetence or
- (b) persistent default in the performance of the duties imposed by this Ordinance or any other written law; or
- (c) persistent refusal or neglect to comply with any provisions of law; or
- (d) abuse of the powers conferred by this Ordinance or any other written law; or
- (e) persistent refusal to hold or attend meetings or to vote or to transact business at any meeting to be held,

on the part of the Mayor, or on the part of any Municipal Council, or of any of the Councillors thereof the Minister may as the circumstances of each case may require by Order published in the Gazette-

- (i) remove the Mayor from office; or
- (ii) remove all or any of the Councillors of the Council from office and the provisions of section 13 (3) shall thereupon apply; or
- (iii) dissolve the Municipal Council;

and such Order shall as soon as may convenient be laid before Parliament.

[111,24 of 1977] (IA) The Minister shall, before making an Order under subsection (1), appoint for the purpose of satisfying himself in regard to any of the matters referred to in subsection (I), a retired judicial officer to inquire into and report upon such matter within a period of three months, and the person so appointed shall in relation to such inquiry have the powers of a commission of inquiry appointed under the Commissions of Inquiry Act.

[111,24 of 1977] (IB)

(a) When the Minister appoints a retired judicial officer under subsection (I A) to inquire into any matter the Minister may, as the circumstances of each case may require, by Order published in the Gazette-

- (i) suspend the Mayor from office and direct the Deputy Mayor or, where the office of the Deputy Mayor is vacant or where the Deputy Mayor has been suspended from office, the Municipal Commissioner to exercise the powers and perform the duties of the Mayor; or
- (ii) suspend any Councillor from office; or
- (iii) suspend the Council and direct the Municipal Commissioner to exercise the powers and duties of the Council and its Mayor.

(b) Upon the receipt of the report of the person appointed under subsection (IA), the Minister may make an Order under subsection (1) or revoke the Order made under paragraph (a) of this subsection.

[111,24 of 1977] (IC) Where the Minister removes the Mayor of a Municipal Council from office by Order under subsection (1), the Mayor shall also cease to be a Councillor and the provisions of the Local Authorities Elections Ordinance shall thereupon apply with regard to the filling of such vacancy.

(2) By any subsequent Order published in like manner-

[2,8 of 1974] (a) the President may appoint for a stated period or, from time to time, a Special Commissioner or Special Commissioners to have, exercise, perform and discharge such of the rights, privileges, powers, duties and functions conferred or imposed upon, or vested in, the Council or the Mayor by this Ordinance or other written law as may be set forth in such Order, or in any Order or Orders amending the same ; or

(b) the Minister may direct that a new Municipal Council in accordance with the provisions of this Ordinance shall be constituted for the Municipality in place of the dissolved Council.

(3) Every Order made under this section shall contain such directions as may be necessary for the purpose of giving effect to the Order, and shall, on publication in the Gazette, have the force of law.

[2,8 of 1974] (3A) At any time after the dissolution of the Council and after the appointment of a Special Commissioner or Special Commissioners under subsection (2), the Minister may by Order published in the Gazette direct that a new Municipal Council in accordance with the provisions of this Ordinance shall be constituted for the Municipality in place of the dissolved Council.

[2,12 of 1959]
[[3,42 of 1968] (4) Whenever, in consequence of the exercise of the powers conferred by this section, it becomes necessary for any period of time to elapse between the dissolution of the Council and the appointment of a Special Commissioner or Special Commissioners or the constitution of a new Council, or between the cessation of the holding of office by the Special Commissioner or Special Commissioners who was or were appointed and the constitution of a new Council, the Municipal Commissioner shall during such period-

(a) have, exercise, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the Council, the Mayor, or the Deputy Mayor, by this Ordinance or by any other written law, and

(b) be the successor of the dissolved Council or the Special Commissioner or Special Commissioners, as the case may be.

[3,42 of 1968] (4A) The Special Commissioner or Special Commissioners appointed under] subsection (2) upon the dissolution of a Council shall-

(a) if the appointment was made immediately after the dissolution of the Council, be the successor or

successors of the dissolved Council, and
(b) if the appointment was made after the Municipal Commissioner under subsection (4) had had, exercised, performed, and discharged the rights, privileges, powers, duties and functions referred to in that subsection, be the successor or successors of the Municipal Commissioner,

[3,42 of 1968] (4B) The provisions of section 325 with the necessary modifications shall-

(a) in the case of a Municipal Commissioner who under subsection (4) of this section is the successor of a Council which was dissolved, or of a Special Commissioner or Special Commissioners, apply in the same manner as if all references to any local authority in the aforesaid section 325 were references to the dissolved Council or to the Special Commissioner or Special Commissioners, as the case may be, and as if all references to a Municipal Council in the aforesaid section 325 were references to the Municipal Commissioner, and

(b) in the case of a Special Commissioner who under subsection (4A) of this section is the successor of a Council which was dissolved or of the Municipal Commissioner, apply in the same manner as if all the references to any local authority in that aforesaid section 325 were references to the Council which was dissolved or to the Municipal Commissioner, as the case may be, and as if all the references to a Municipal Council in the aforesaid section 325 were references to the Special Commissioner

[3, 42 of 1968] (5) Where, after the dissolution of the Municipal Council for any Municipality, a new Municipal Council is constituted for that Municipality, the new Council shall be the successor of the person or persons who immediately prior to the constitution of the new Council had had, exercised, performed and discharged the rights, privileges, powers, duties and functions conferred or imposed upon, or vested in, the Council by this Ordinance or other written law, and the provisions of section 325 shall apply with the necessary modifications in the case of the constitution of the new Council in the same manner as if all the references to any local authority in that section were references to such person or persons, as the case may be, and as if all the references to a Municipal Council in that section were references to the new Council.

Power of Minister to call for extracts from proceedings. **278.** The Minister may by written order require any Municipal Council to furnish him with any extract from any proceedings of the Council, or of any standing or special committee of the Council and the Council shall comply with the requirements of such order without unreasonable delay.

Power of **279.** The Minister may at all times call for such statistics connected with the

Minister to call working, income, and expenditure of any Municipal Council as he deems fit; for statistics. and the Council shall comply with the requirements of such notice without unreasonable delay.

Power of Minister to make inquiry, **280.** If at any time it appears to the Minister that any Municipal Council is omitting to fulfil any duty or to carry out any work imposed upon it by this Ordinance or any other written law he may give notice to the Council that unless, within fifteen days, the Council shows cause to the contrary, he will appoint a special officer to inquire into and report to him the facts of the case, and to recommend what steps such officer thinks necessary for the purpose of fulfilling such duty or carrying out such work. Such inquiry shall be conducted, as far as may be practicable, in an open manner.

Power of Minister to make order requiring Council to do the necessary work- **281.** On the receipt of the report of the officer appointed under section 280, or of any special officer appointed under section 142, the Minister may determine what duty or work shall be done or executed, and make an order requiring the Council, within a time to be specified in such order, to fulfil such duty or carry out such work.

Power to enforce order. **282.** Where any Municipal Council fails to comply with any order made under section 281, within the time specified therein, the Minister may direct the Mayor or appoint any other person to fulfil such duty or carry out such work, and may fix the remuneration to be paid to such person, and may direct that such remuneration and the cost of such work shall be defrayed out of the Municipal Fund.

Power to direct the levy of a tax or the raising of a loan. **283.**

(1) For the purpose of fulfilling any duty or carrying out any work referred to in section 281, the Minister may direct a Municipal Council to raise funds by any one or more or all of the following methods, namely, the levy of any tax under this Ordinance or the levy of any such tax at a higher rate than previously in force or the raising of a loan.

(2) Where the Minister by virtue of the powers conferred by subsection (1) directs a Council to raise a loan, the provisions of Part X and of any regulations made thereunder (except the provision of section 191 which requires the sanction of the Minister for the raising of a loan) shall apply to such loan in like manner and to the same extent as they apply to a loan raised under that Part.

(3) Nothing in the preceding provisions of this section shall be deemed or construed to authorize a Council to levy any tax at a rate higher than the maximum rate authorized by or under this Ordinance.

Power of Minister to vary limits of Municipality or wards and number of **284.** The Minister may, at any time, by Order published in the Gazette-

members and to dissolve and
replace Council.
[112, 24 of 1977]

- (a) vary the limits of any Municipality ;
- (b) vary the number of Councillors prescribed for any Municipal Council;
- (c) dissolve any existing Municipal Council and direct that it shall be replaced by a new Municipal Council to be constituted in accordance with the provisions of this Ordinance, in lieu of such existing Council, whenever it appears to him to be expedient so to do upon any variation of the limits of the Municipality for which the existing Council was constituted ;
- (d) dissolve any Municipal Council for the purpose of constituting any other local authority in its place.

Effect of
dissolution of
Council under
section 284.

286.

(1) Where the Minister in pursuance of the provisions of section 284 dissolves any existing Municipal Council and directs that it shall be replaced by a new Municipal Council to be constituted in accordance with the provisions of this Ordinance, the existing Council shall, without prejudice to anything already done by it, be dissolved from such date as may be specified by the Minister and shall, from that date, cease to have, exercise, perform and discharge any of the rights, privileges, powers, duties and functions conferred or imposed upon it or vested in it, by this Ordinance or by any other written law.

(2) The Minister may in the Order under section 284 dissolving the existing Council or in any subsequent Order under that section give such directions as may be necessary for the purpose of giving effect to the Order and such directions shall, on publication in the Gazette, have the force of law.

(3) During the period that elapses between the dissolution of a Council under section 284 and the constitution of a new Council in its place, the Commissioner shall have, exercise, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the Council, the Mayor or Deputy Mayor by this Ordinance or by any other written law.

(4) The new Council shall, from the date of the Constitution thereof, be the successor of the dissolved Council for all purposes relating to the Municipality and all the provisions of section 325 shall apply, with the necessary modifications, in the case of the constitution of the new Council, in the same manner as if all references to any local authority in that section were references to the dissolved Council and as if all references to a Municipal Council in that section were references to the new Council.[* Section 285 is repealed by Law No. 24 of 1977]

Amendment of
Schedules.

287.

(1) The provisions of any Schedule to this Ordinance may be amended or rescinded by Order made by the Minister and published in the Gazette.

(2) All references in this Ordinance or in any other written law to the said Schedules shall be construed as references to the Schedules in force for the time being.

Additional Powers of Minister.

288. The powers and duties conferred or imposed upon the Minister by this Ordinance shall be in addition to and not in derogation of any powers or duties conferred or imposed upon him by any other written law.

Power to make regulations. 1977]

289.

(1) The Minister may make regulations generally for the purpose of giving effect to the principles and provisions of this Ordinance and in respect of any matter for which regulations are authorized or required by this Ordinance to be made or required by this Ordinance to be prescribed.

(2) No regulation made under this section shall have effect unless it has been approved by Parliament and notification of such approval is published in the Gazette.

(3) Every regulation made under this section shall, upon the notification of such approval, be as valid and effectual as if it were herein enacted.

PART XV

GENERAL

Exercise of Powers, &c, conferred by Local Government Service Law.

290. Nothing in this Ordinance shall be deemed or construed to prohibit the exercise, discharge or performance by any Municipal Council or the Mayor, Deputy Mayor, Commissioner or other officer of any such Council of any power, function or duty vested in, assigned to or imposed on it or him by the Local Government Service Law or any regulation made thereunder.

Information to be given by landlords to tenants.

291.

(1) The landlord of every such house within the Municipality as is let at a rent not exceeding the prescribed rent shall deliver in writing to the tenant of that house, at the commencement of the tenancy and before any rent is demanded or collected, the landlord's name and address and, if the landlord is not directly responsible for keeping that house in all respects reasonably fit for human habitation, the name and address of the person who is so responsible.

(2) Where there is any failure to comply with the provisions of subsection (1) in respect of any house, the landlord of that house and any person who while such failure continues demands or collects any rent in respect of that house shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five rupees.

(3) In this section-

"landlord", in relation to any house, means the person for the

time being entitled to receive the rent of that house, and includes any tenant who lets that house or any part thereof to any subtenant; and

" prescribed rent" means the rent prescribed by the Minister, for the purposes of this section, by Order published in the Gazette.

Service of **292.**
notices, &
c.

(1) Every notice, order or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be served on any person may be served-

(a) by the delivery thereof to such person, or by the delivery thereof at the last known place of abode of such person to some adult member or servant of his family ;

(b) by the delivery thereof at the usual or last known place of abode or business of such person in a cover addressed to such person; or

(c) by the dispatch thereof by registered post in a letter addressed to such person at his usual or last known place of abode or business:

Provided always that where the Council has made provision for the registration of owners of property and any owner of property has registered his name and address in accordance therewith, every such document shall be served upon him by the dispatch thereof in a letter sent by registered post to that address.

(2) Every notice, order or other document dispatched by registered post shall be deemed to have been served at the time when the letter containing the document would be delivered in the ordinary course of post; and in proving such service it shall be sufficient to prove that the letter containing the document was properly addressed and put in the post.

(3) A notice, order or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the it owner " or " occupier " of such premises without the addition of his name or any further description.

(4) A notice, order or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be served on the owner or occupier of any premises may be served by the delivery thereof or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom the document can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

(5) Any notice, application or other document required or authorized by this Ordinance or any by-law, regulation or rule made thereunder to be given, made or delivered to a Municipal Council, shall be deemed to have been given, made or delivered to the Council if such notice application, or other document is given, made or delivered to

the secretary of the Council.

Execution of works and recovery of expenses.

293. Whenever under the provisions of this Ordinance or any by-law or regulation or rule made thereunder any work is required to be executed by the owner or occupier of any house, building, or land, and default is made in the execution of such work, the Council, whether any penalty is or is not provided for such default, may cause such work to be executed, and the expenses thereby incurred shall be paid by the person by whom such work ought to have been executed, and, in case of default, shall be recoverable as hereinafter provided.

Power to levy charges on occupier.

294.

(1) Where the owner of any house, building, or land makes default in the payment of any expenses referred to in section 293, the Council may, by way of additional remedy, whether an action or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of such expenses from the person who then, or at any time thereafter, occupies the house, building, or land under such owner.

(2) The whole or any part of any expenses referred to in subsection (1) shall, in default of payment by such occupier on demand, be levied by distress of the goods and chattels of such occupier.

(3) Every occupier who pays any expenses or from whom any expenses are recovered under the preceding provisions of this section shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses, and to retain possession of the house, building, or land until such expenses are fully reimbursed to him.

Limitation of occupier's liability.

295.

(1) No occupier of any house, building, or land shall be liable to pay more money in respect of any expenses charged by this Ordinance on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglects or refuses, upon application made to him for that purpose by the Council, truly to disclose the amount of his rent, and the address of the person to whom such rent is payable.

(2) The burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier.

(3) Nothing herein contained shall be taken to affect any special contract made between any owner and occupier respecting the payment of the expenses of any such works as aforesaid.

Occupier, in default of **296**.
owner, may execute
works and deduct
expenses from the rent.

(1) Whenever default is made by the owner of any house, building, or land in the execution of any work required to be executed by him, the occupier of such house, building, or land may, with the approval of the Council, cause such work to be executed, and the expenses thereof shall be paid to him by the owner, or the amount may be deducted out of the rent, from time to time, becoming due from him to such owner.

(2) The owner of any house, building, or land shall not be entitled to eject the occupier thereof until any expenses incurred by the occupier under subsection (1) have been fully paid or deducted as provided by that subsection.

Obstruction **297**. If the occupier of any house, building, or land prevents the owner thereof
by occupiers. from carrying into effect, in respect of such house, building, or land, any of the
[\[61. 39 of 1986\]](#) provisions of this Ordinance or of any by-law, or regulation or rule made thereunder, after notice of his intention so to do has been given by the owner to such occupier, a Magistrate or Municipal Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such house, building, or land, as may be necessary for carrying into effect the provisions of this Ordinance or of any by-law, or regulation or rule made thereunder, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order such occupier continues to refuse to permit such owner to execute such works, such occupier shall be guilty of an offence, and shall be liable on conviction thereof to a fine not exceeding five hundred rupees for every day during which he so continues to refuse, and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Remedy if neither **298**. If neither the owner nor the occupier of any house, building, or land
owner nor pays the expenses incurred by the Council, the amount of the expenses
occupier pays shall be a first charge upon the house, building, or land in respect of
expenses. which the expenses were incurred, and shall be recoverable as such by the Council.

Provisions **299**.
regarding entry of
premises by
Mayor ;c
[\[62. 39 of 1986\]](#)

(1) For the purpose of carrying out the provisions of this Ordinance or of any by-law, regulation or rule made thereunder, it shall be lawful for the Mayor, the medical officer of health or any officer generally or specially authorized in that behalf by the Mayor or by the medical officer of health, at any time between sunrise and sunset, and after giving reasonable notice to the occupants, to enter any building within the Municipality and make such inspection and examination of the premises as may appear necessary.

(2) Whenever the Mayor or other person is empowered by this

Ordinance or by any by-law, regulation or rule made thereunder to enter any premises for the purpose of inspection or for any other purpose, the Mayor or such other person may enter such premises at any time between sunrise and sunset but shall give the owner or occupier (except in cases where it is expressly provided by this Ordinance that notice need not be given) reasonable notice of his intention to enter the premises.

(3) Every person who prevents or attempts to prevent the Mayor or any other person authorized as aforesaid from entering any premises, or refuses admittance thereto, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding five hundred rupees.

Damage to property of Council to be made good in addition to penalty. **300.** If on account of any act, neglect, default or omission any person is convicted of an offence under this Ordinance, and by reason of the said act, neglect, default or omission of that person, damage is caused to any property of a Municipal Council, he shall, in addition to any other penalty that may be imposed for the offence, be liable to make good such damage and the amount of such damage shall in case of dispute be determined by the court by which the person is convicted, and the amount of such damage shall be recovered as if it were a fine imposed by the court.

Recovery of expenses on account of improvement to private property. **301.** Where a Municipal Council shall have incurred any expense in executing any of the works which under this Ordinance or any by-law, regulation or rule made thereunder the owner of any house, building, or land is required to execute, the Council may either recover the amount of such expenses in the manner hereinbefore provided, or if it thinks fit, may take engagements from the said owner for payment by instalments of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of nine per centum per annum, within a period not exceeding five years and such sums when due may be recovered by the same process by which rates may be recovered under this Ordinance.

Payment of compensation. **302.** A Municipal Council may make compensation out of the Municipal Fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Council, its officers or servants by or under this Ordinance.

Determination of compensation. **303.**

(1) Except as herein otherwise provided, in all cases where compensation, damages, costs, or expenses are payable under the provisions of this Ordinance or any by-law, regulation or rule made thereunder, the amount, in case of dispute, and, if necessary, the apportionment of the same, shall be ascertained and determined in the following manner: -

(a) where the amount claimed does not exceed one hundred rupees, by a Magistrate or a Municipal Magistrate after summary inquiry into the claim;

(b) where the amount claimed exceeds one hundred rupees and does not exceed one thousand five hundred rupees, by the Primary Court having local jurisdiction;

(c) where the amount claimed exceeds one thousand five hundred rupees, by the District Judge having local jurisdiction.

(2) In the cases referred to in paragraphs (b) and (c) of subsection (1) the claim shall be made by instituting a civil action therefor. Such action shall be heard and determined according to the procedure prescribed by the law for the time being in force regulating the hearing and determination of actions brought in Primary Courts and District Courts respectively.

(3) Any person aggrieved by a decision of a Magistrate under paragraph (a) of subsection (1) may appeal therefrom to the Court of Appeal in accordance with the provisions of section 320 of the Code of Criminal Procedure Act.

(4) Any person aggrieved by a decision under paragraph (b) or paragraph (c) of subsection (1) may appeal therefrom to the Court of Appeal. Every such appeal shall be subject to the provisions relating to appeals to the Court of Appeal contained in the Primary Courts' Procedure Act and in Chapter LVIII of the Civil Procedure Code respectively.

Recovery of **304**. If the amount of compensation, damages, costs, or expenses determined under section 303 are not paid by the person liable to pay the same within seven days after the demand, such default may be reported to the Magistrate, and the amount thereof shall be recovered in the same way as if it were a fine imposed by such Magistrate.

Fees for **305**.
licences. &

c.

[8, 42 of 1979]

(1) Where permission is given by the Council or the Mayor or the Commissioner for making any temporary erection or for putting up any projection, the Council may charge a fee for such licence or permission, and the rates of the fees, to be so charged shall be, from time to time, determined by the Council;

Provided that no such fee shall exceed the sum of one thousand rupees and the fees shall all be taken to the credit of the Municipal Fund.

(2) Where permission is given or any licence is granted for the temporary occupation of any ground belonging to the Council, the Council may charge rent for such ground, according to the time the occupation continues, at such rates as may, from time to time, be fixed by the Council.

Legal and other **306**.
Proceedings.

(1) The Council may direct any prosecution for any nuisance whatsoever, and may order proceedings to be taken for the recovery of any fines and penalties, and the punishment of any

persons offending against the provisions of this Ordinance or of any by-law, regulation or rule made thereunder, and may order the expenses of such prosecution or other proceedings to be paid out of the Municipal Fund.

(2) Where any person complains of the existence of a nuisance to the Mayor, the Council shall enquire into the complaint so made, and may make order for abating or remedying such nuisance.

(3) Nothing herein contained shall be held to preclude any person from proceeding against the Mayor or the Council by mandamus or other proceeding, to compel him or it to put the provisions of this Ordinance or of any by-law, regulation or rule made thereunder in force for abating or remedying a nuisance or in any other respect, or to restrain him or it from an undue or illegal exercise of authority.

Limitation of actions against Council. **307.**

(1) No action shall be instituted against any Municipal Council, or the Mayor or any Councillor or any officer of the Council or any person acting under the direction of the Council or Mayor for anything done or intended to be done under the provisions of this Ordinance or of any by-law, regulation or rule made thereunder until the expiration of one month next after notice in writing shall have been given to the Council or to the defendant, stating with reasonable certainty the cause of such action, and the name and the place of abode of the intended plaintiff and of his proctor or agent, if any, in the action.

(2) Every action referred to in subsection (1) shall be commenced within three months next after the accrual of the cause of action and not afterwards.

(3) If any person to whom notice of action is given under subsection (1) shall, before action is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought, and the defendant shall be entitled to be paid his costs by the plaintiff.

(4) If no tender of amends is made under subsection (3) it shall be lawful for the defendant in such action, by leave of the court before which such action is pending, at any time before issue is joined, to pay into court such sum of money as he may think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Limitation of prosecutions. **308.** No person shall be liable to any fine or penalty under this Ordinance or any by-law, regulation or rule made thereunder for any offence triable by a Judge of the High Court or Magistrate or Municipal Magistrate, unless the complaint respecting such offence is made within six months next after the commission of such offence :

Provided that in respect of an offence under section 234 the complaint may be made at any time within twelve months next after its commission.

Protection of Councillors, & **309.** No matter or thing done or omitted to be done, and no contract entered into by any Municipal Council, and no matter or thing done or omitted to be c.

done under the direction of the Council, by any Councillor or officer of the Council or by any other person whomsoever shall, if the matter or thing so done or omitted to be done or the contract or thing so entered into was done or omitted to be done or entered into bona fide for the purpose of carrying out the provisions of this Ordinance or any other enactment relating to the powers and duties of the Council, the Mayor, the Deputy Mayor, or the Commissioner, or of any by-law, regulation or rule made thereunder, subject any Councillor or any such officer or other person personally to any action, liability, claim or demand whatsoever, and any expenses incurred by the Council, or by any Councillor; or officer of the Council or other person acting as aforesaid shall be borne and repaid out of the Municipal Fund :

Provided that nothing in this section shall exempt any Councillor from liability to be surcharged with the amount of any payment which may be disallowed upon the audit of the accounts of the Council and which such Councillor authorized or joined in authorizing,

Defendant's costs, **310.** Subject and without prejudice to any other powers, a Municipal & c, may paid from Council, where the defendant in any action, prosecution or other Municipal Fund.

proceeding is a Councillor or an officer, agent or servant of the Council, may, if it thinks fit, except so far as the court before which the action, prosecution or other proceeding is heard and determined otherwise directs, pay out of the Municipal Fund all or any part of any sums payable by the defendant in or in consequence of the action, prosecution or proceeding, whether in respect of costs, charges, expenses, damages, fines or otherwise.

Councillors and others to be public servants. **311.** Every Councillor, and every officer or servant of the Council duly appointed, and every contractor or agent to whom the collection of any municipal rate, tax, rent or toll, or any payment on account of, or in connexion with, Municipal land is entrusted by or on behalf of the Council, and every servant or other person employed by such contractor or agent, shall be deemed to be a public servant within the meaning of the Penal Code.

Penalty for offence. **312.** Except where otherwise provided, every person who is guilty of an offence under the provisions of this Ordinance shall be liable for every such offence, to a fine not exceeding one thousand rupees, and in the case of a continuing offence to a further fine not exceeding two hundred and fifty rupees "for each day during which the offence is continued after conviction or after service of a written notice from the Mayor directing attention to such offence.

Prosecutions to be before Magistrate. **313.** Every prosecution under this Ordinance shall be instituted before a Magistrate or Municipal Magistrate, and shall be governed by the provisions of the Code of Criminal Procedure Act and it shall be lawful for such Magistrate to impose the full fine or penalty herein or in any by-law provided, notwithstanding that such fine or penalty exceeds the limits of his ordinary powers of jurisdiction.

Application of fines. **314.** The Magistrate by whom any fine is imposed by virtue of this Ordinance may award any portion, not being more than one-half of the amount recovered, to the informer, and shall order the remainder, or, if he makes no award to the informer, the whole of such fine to be paid to the Council.

Powers and liability when extinguishing a

315.

(1) The Superintendent or other officer in charge of the fire

fire.

brigade maintained by any Municipal Council under the provisions of this Ordinance may, subject to such orders as the Council may, from time to time issue, take command of the firemen of such brigade and of any other persons who voluntarily place their services at his disposal and by himself or through those so under his command for the purpose of putting an end to a fire-

(a) remove any persons who interfere by their presence with the operations of the brigade;

(b) break into or through or take possession of or pull down any premises doing as little damage as possible;

(c) shut off the water from the mains and pipes of any district and utilize the water of any well or tank; and

(d) generally do all things and take all measures that appear expedient for the protection of life and property.

(2) Any damage occasioned in the due exercise of the powers under subsection (1) shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

Expenses of police. **316.** The annual expenses of the police force of any Municipality, exclusive of the salaries of the Inspector-General of Police, the Superintendents, and the cost of barracks, hospitals, arms, and medical attendants, shall be paid out of the Municipal Fund of the Council: Provided that it shall be lawful for the Minister in charge of the subject of Police to fix the numerical strength and cost of such force, and without his sanction no reduction therefrom shall be made by the Council.

Annual report of Commissioner of Local Government on affairs of each Municipal Council.

317.

(1) The Commissioner of Local Government shall prepare and transmit to the Mayor of each Municipal Council a report containing a general survey of the affairs of the Council in each year, and the Mayor shall cause such report to be tabled for the information of the Councillors at the next meeting of the Council held after the receipt of such report.

(2) For the purpose of preparing the report referred to in subsection (1), the Commissioner of Local Government or any officer generally or specially authorized in that behalf by him may-

(a) inspect any public building, immovable property or institution used, occupied or carried on by or on behalf of any Municipal Council, or any work in progress under the direction of any Municipal Council;

(b) call for and inspect any book or document in the possession or under the control of any

Municipal Council; and
(c) require any Municipal Council to furnish accounts of income and expenditure, reports or copies of documents relating to the proceedings or duties of the Council or any committee of the Council, and such other information as may be considered necessary by the Commissioner of Local Government.

PART XVI

TRANSITIONAL ARRANGEMENTS AND MISCELLANEOUS PROVISIONS

Existing Municipalities to continue. **318.** The Municipalities of Colombo, Kandy and Galle, respectively, existing at the date of the commencement of this Ordinance shall continue to be Municipalities subject to the provisions of this Ordinance and shall be deemed for all purposes to have been declared to be Municipalities under section 2 of this Ordinance,

Existing Municipal Councils to continue. **319.** The Municipal Councils of Colombo, Kandy and Galle, respectively, constituted and existing at the date of the commencement of this Ordinance shall be deemed for all purposes to have been constituted under section 3 of this Ordinance, and the term of office of the members of each such Council shall be determined in like manner as if this Ordinance had been in operation at the time of the general election at which the members were elected.

Existing by-laws, & c. , to continue. **320.** All proclamations, orders, notifications, rules, regulations, and by-laws of or affecting the Municipalities of Colombo, Kandy and Galle, and published under any repealed enactment, and all posts, offices, appointments, contracts, assessments, valuations, documents, licences and permission created or made or granted, rates and taxes imposed, by the Municipal Councils of Colombo, Kandy and Galle, under any such enactment shall, so far as they are not inconsistent with the provisions of this Ordinance, continue in force and be deemed for all purposes to have been published, created, made, granted, or imposed, as the case may be, under this Ordinance.

Special provisions relating to property, & c, of Councils of Colombo, Kandy and Galle-

321.

(1) All property of any kind whatsoever, movable or immovable, and all interests therein, which by virtue of any repealed enactment was vested in or held in trust for the Municipal Councils of Colombo, Kandy and Galle, respectively, with all rights which were enjoyed by such Councils, shall continue to be vested in or held in trust for the said Councils for the purposes of this Ordinance.

(2) The Municipal Councils of Colombo, Kandy and Galle, respectively, may continue to take and receive the tolls heretofore taken and received by them respectively.

(3) The Municipal Council of Colombo shall be entitled to take and receive for the Municipal Fund all stamp duties payable for and in respect of the licences issued under or by virtue of the Excise Ordinance to sell by retail arrack and rum at taverns situated within the Municipality of Colombo.

Loans by Government **322.** Nothing in this Ordinance shall be deemed to affect the right of to Galle and Kandy the State to demand and receive every several sum or instalment of Councils for money lent under the provisions of any enactment authorizing the waterworks. grant of a loan, to either of the Municipal Councils of Kandy and Galle for the construction of waterworks, but the said several sums or instalments of money shall continue to be charged on the rates and taxes, rents and all other income and property of the Council to which the same were lent as aforesaid.

Application of certain **323.**
portions of the Colombo
Municipal Council
Waterworks Ordinance to
Galle.

[2,38 of 1973]

(1) Sections 9, 10, 12, 17. 18, 19, 20, 21, 22, 23, 24, 33 and 34 of the Colombo Municipal Council Waterworks Ordinance shall apply to the Municipality of Galle.

(2) In the application of the above-named sections of the said Ordinance the following modifications shall have effect:-

(a) for the expression " the Waterworks Engineer " the word " Mayor " shall be substituted;

(b) so long as a rate shall be leviable under the provisions of the Galle Waterworks Ordinance, or any amendment thereof, section 18 of the Colombo Municipal Council Waterworks Ordinance shall be read as if there were substituted for the words " the Municipal Councils Ordinance " the words " the Galle Waterworks Ordinance. 1891 "

(c) in section 33 of the Colombo Municipal Council Waterworks Ordinance the expression " the regulations made hereunder " shall be taken to refer to by-laws made or deemed to have been made under this Ordinance.

[2,38 of 1973] (3) The Municipal Council of Galle may by means of by-laws made and published in manner provided by this Ordinance apply to the Municipality of Galle, with such modifications as circumstances may require, any of the regulations contained in the Schedule to the said Colombo Municipal Council Waterworks Ordinance.

Application of certain **323A.**
provisions of the Colombo
Municipal Council
Waterworks Ordinance to
Kandy.

[3,38 of 1973]

(1) Sections 3, 4, 7 and sections 9 to 44 (inclusive) of the Colombo Municipal Council Waterworks Ordinance and the regulations set out in the Schedule thereto shall apply to the Municipality of Kandy, subject to the modifications set out in the Eleventh Schedule hereto.

(2) In the event of any conflict or inconsistency between the provisions made applicable to the

Municipality of Kandy by subsection (1) and the provisions of any by-laws relating to waterworks applicable to such Municipality, the provisions made applicable by subsection (1) shall prevail over the provisions of such by-laws to the extent of such conflict or inconsistency.

Power of Minister to apply provisions of Colombo Municipal Council Waterworks Ordinance to Municipal Councils.

[3,38 of 1973]

Construction of **324.** other written law.

323B. The Minister may, by Order published in the Gazette, apply to any Municipality all or any of the provisions of the Colombo Municipal Council Waterworks Ordinance with such modifications, to meet the requirements of that Municipality, as may be set out in the Order.

(1) Every reference, direct and indirect, in any written law which is applicable, or in any document or writing to any Municipality or any Municipal Council or to the Chairman, Assistant Chairman, members, officers or servants of any such Council shall, subject to the provisions of subsection (3), be construed respectively as references to the Municipality, or Council, or the Mayor, Deputy Mayor, members, officers or servants of the Council, as the case may be, constituted, elected, or appointed by or under the provisions of this Ordinance or of any other written law for the time being applicable in that behalf.

(2) All powers, duties or functions conferred or imposed upon, or vested in, the Council or the Chairman, Assistant Chairman, Mayor, Deputy Mayor, members, officers or servants thereof by any other written law shall be exercised, performed and discharged subject to the provisions of this Ordinance.

(3) All powers, duties or functions which are required by any written law in force at the date of the commencement of this Ordinance to be exercised, performed or discharged, by the Chairman or by the Assistant Chairman shall on and after that date be exercised, performed, or discharged, subject to the provisions of this Ordinance, by the Council:

Provided that the preceding provisions of this subsection shall not be deemed to affect the powers of delegation vested in any Municipal Council by section 32.

Municipal Councils to be successors of local authorities.

[29, 48 of 1971]

325.

(1) In any case where a Municipality for which a Municipal Council is constituted in accordance with the provisions of this Ordinance comprises the whole of the administrative area under the control of any local authority established under the Urban Councils Ordinance or the Town Councils Ordinance or the Village Councils Ordinance-

(a) the Municipal Council shall be the successor of such local authority for all purposes relating to such

administrative area from the date of the constitution of the Council and such local authority shall be deemed to be dissolved on the date immediately preceding that date ;

(b) all licences and permits duly issued or granted by such local authority and in force at the said date, shall so far as they are not inconsistent with the provisions of this Ordinance be deemed to have been duly issued or granted by the Municipal Council under this Ordinance;

(c) all officers and servants in the service of such local authority at the date on which it is deemed to be dissolved as aforesaid, shall, subject to the provisions of the Local Government Service Law or of any regulations made thereunder, become officers and servants of the Municipal Council and shall, subject to the provisions aforesaid, hold their offices as nearly as practicable by the same tenor and upon the same terms and conditions as under the local authority:

Provided that the Municipal Council may abolish any post or office which it may deem unnecessary subject to-

(i) in any case where the holder of the office or post at the time of its abolition is not a member of the Local Government service, the payment of such compensation as such holder would have been entitled to receive in like circumstances if his office or post had been abolished by such local authority or as may be determined by the Municipal Council; or

(ii) in any case where such holder is a member of the Local Government service, the payment of such compensation or other award as he may be entitled to receive under the Local Government Service Law;

(d) all the rights, powers, duties, functions, privileges, responsibilities, protections, and immunities of or belonging to, or vested in, such local authority at the said date, shall, subject to the provisions of this Ordinance, be transferred and belong to, or be vested in, the Municipal Council in direct succession to such local authority and the Municipal Council shall in all respects whatsoever be deemed to be the successor of such local authority;

(e) all by-laws made by such local authority under the Urban Councils Ordinance or the Town Councils

Ordinance, or the Village Councils Ordinance, as the case may be, and in force at the said date shall, in so far as they are not inconsistent with the provisions of this Ordinance, continue in force and shall be deemed for all purposes to be by-laws made by the Municipal Council under this Ordinance:

[29,48 of
1971]

Provided that, notwithstanding anything in this paragraph, any by-law made by any Urban Council or Town Council or Village Council prescribing the quorum for meetings of such Council shall not continue in force, and shall be taken not to have been in force on or after the 1st day of January, 1951, in relation to the Municipal Council which is or was the successor of the aforesaid Urban Council or Town Council or Village Council;

[29,48 of
1971]

(f) all proclamations, orders, notifications, rules, regulations and by-laws of or affecting such local authority and published or made under any written law other than the enactment under which such authority was constituted, and in force at the said date shall, so far as they are not inconsistent with the provisions of this Ordinance, continue in force as if they had been published or made with relation to or in the exercise of the powers of the Municipal Council under this Ordinance, subject nevertheless to revocation or alteration by the Minister or by the Municipal Council, as the case may be ;

(g) all debts, liabilities and obligations incurred, and all contracts, deeds, bonds, agreements and other instruments executed or entered into, and all matters and things engaged to be done by, with or for, such local authority at the said date shall be deemed to have been incurred, executed, entered into or engaged to be done by, with or for the Municipal Council;

(h) all rates, taxes, rents, tolls, fines, penalties and sums of money due to such local authority at the said date shall be deemed to be due to the Municipal Council;

(i) all suits, prosecutions, appeals or other legal proceedings, civil and criminal, instituted, or which might have been instituted, by or against such local authority at the said date may, subject to the provisions of this Ordinance and of any other written law, be continued or instituted by or against the Municipal Council;

(j) all decrees or orders made by any competent court in favour of, or against, such local authority prior to the said date shall be deemed to have been made in favour of, or against, the Municipal

Council;

(k) the balance standing to the credit of the local fund of such local authority at the said date, and all interest or profits arising from any investment or transaction in connexion therewith, together with the total amount of any such investments, shall be transferred to and vested in the Municipal Fund of the Municipal Council;

(l) all assessments, valuations, measurements and divisions made by such local authority at the said date shall be deemed to have been respectively passed and made by the Municipal Council;

(m) all property movable or immovable which has been vested in, or legally purchased or acquired by, or leased to, or placed at the disposal of, or in any other manner transferred to such local authority, or which is held in trust for such local authority, or is in its possession or control at the said date shall be held by or in trust for the Municipal Council subject to the trusts, charges, liabilities, reservations, servitudes or other incumbrances and on the terms and conditions appertaining, attaching or applicable thereto at the said date;

(n) such local authority shall, during the last year of its term of office, settle and adopt the budget and assess and impose all rates, taxes and licence duties for the ensuing year in accordance with the provisions of the enactment under which such authority was constituted, and such budget, rates, taxes and duties shall, so far as they are not inconsistent with the provisions of this Ordinance, be deemed for all purposes to have been passed, assessed or imposed, as the case may be, by the Municipal Council under this Ordinance.

[29,48 of 1971] (2) In any case where a Municipality for which a Municipal Council is constituted in accordance with the provisions of this Ordinance does not comprise the whole of the administrative area under the control of any local authority established under the Urban Councils Ordinance or the Town Councils Ordinance, or the Village Councils Ordinance, the Minister may, by Order published in the Gazette, direct that the provisions of subsection (1) shall apply with such exceptions, adaptations and modifications, if any, as may be specified in the Order, and, in particular, without prejudice to the generality of the preceding provisions of this subsection, the Minister may, by any such Order, issue all such directions as he may deem necessary with a view to providing for any unforeseen or special circumstances, or to determining or adjusting any question or matter for the determination or adjustment of which no provision or no effective provision is

made by this Ordinance.

(3) For the purposes of this section-
" local authority "-

(a) in relation to the Urban Councils Ordinance,
means an Urban Council;

(b) in relation to the Town Councils Ordinance,
means a Town Council.

[29, 48 of
1971]

(c) in relation to the Village Councils Ordinance,
means a Village Council.

Orders for
transitional
period. **326.**

(1) It shall be lawful for the Minister to make Orders providing for any unforeseen or special circumstances, or for determining or adjusting any question or matter, that may arise in connexion with the administration of the affairs of any Municipality or any Municipal Council for which no provision or no effective provision is made in this Ordinance.

(2) All such Orders shall, upon publication in the Gazette, have the force of law and shall be as valid and effectual as if they were herein enacted.

Interpretation. **327.**

[\[2.33 of 1981\]](#)

[\[2.35 of 1987\]](#)

(1) In this Ordinance, unless the context otherwise requires-
"annual value" means the annual rent which a tenant might reasonably be expected, taking one year with another, to pay for any house, building, land, or tenement if the tenant undertook to pay all public rates and taxes, and if the landlord undertook to bear the cost of repairs, maintenance and upkeep, if any, necessary to maintain the house, building, land, or tenement in a state to command that rent:

Provided that in the computation and assessment of annual value no allowance or reduction shall be made for any period of non-tenancy whatsoever;'

" any repealed enactment" means any enactment repealed by the Municipal Councils Ordinance, No. 29 of 1947 ;

"bridge" includes any culvert, sluice. dam or bund

" building " includes any house, hut, shed or roofed enclosure, whether used for the purposes of a human habitation or otherwise, and also any wall;

" canal" includes the full extent of waterway from bank to bank, together with the sides, towing paths, embankments, drains and ditches belonging thereto ;

" cart" means every vehicle drawn by a bullock or bullocks, or by a buffalo or buffaloes;

" Commissioner", in relation to any Municipality, means the Municipal Commissioner of the Municipal Council constituted or deemed to be constituted under this Ordinance for that Municipality and includes any Deputy or Assistant Municipal Commissioner of such Council and any person appointed to act as

such Municipal Commissioner or such Deputy or Assistant Municipal Commissioner, and any officer of such Council empowered by or under this Ordinance to exercise, perform or discharge any of the powers, duties or functions of the Commissioner to the extent to which such officer is so empowered

;

" Commissioner of Local Government" includes any Deputy Commissioner of Local Government;

" Council" or " Municipal Council ", in relation to any Municipality, means the Municipal Council constituted or deemed to be constituted under this Ordinance for that Municipality;

" Councillor" means a member of any Council;

" elections officer", in relation to any Municipality, means the elections officer appointed, under the provisions of the Local Authorities Elections Ordinance, for the administrative district in which such Municipality is situated and includes any assistant elections officer so appointed;

" Local Government service " means the Local Government service constituted by the Local Government Service Law;

" Magistrate" means any Magistrate having jurisdiction within a Municipality;

[115,24 of 1977] " Mayor " and " Deputy Mayor " means respectively the Mayor and Deputy Mayor elected in accordance with the provisions of the Local Authorities Elections Ordinance.

" medical officer of health" means any medical officer of health of a Council and includes any assistant medical officer of health of such Council and any person appointed to act as such medical officer of health or such assistant medical officer of health;

" Municipality "" means any area declared or deemed to have been declared to be a Municipality under section 2 of this Ordinance;

" Municipal Magistrate", in relation to any Municipality, means the Municipal Magistrate appointed for such Municipality under this Ordinance and includes any additional Municipal Magistrate so appointed;

" nuisance " includes any act, omission, or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger, or damage to the sense of sight, smell, or hearing, or which is or is likely to be dangerous or injurious to health or property;

" owner " includes the person for the time being receiving the rent of the premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would receive the same if such premises were let to a tenant;

" premises" includes all messages, buildings, lands, and servitudes, and all servitudes shall be deemed to be part of the property to which they appertain, or in connexion with which they are enjoyed ;

" prescribed " means prescribed by any by-law made or deemed to have been made under this Ordinance ;

" private market" means any place (not being a public market) ordinarily used as a market for the sate of animals, or of meat,

fish, fruit, vegetables, or other perishable articles of food for human consumption;

" proper officer" means the officer in charge of any work executed or to be executed on or in connexion with any street by direction of a Municipal Council;

" public" when applied to any drain, culvert, gutter, or watercourse, means vested in the Council;

" public market " means any place which has heretofore been a public market under any repealed enactment or which may hereafter be declared to be a public market by resolution of the Council;

" river" includes all public navigable streams, lakes, and all towing paths and embankments thereto belonging;

" street" includes any road, square, court, alley, lane, or passage, river or canal, whether a thoroughfare or not, over which the public have a right of way, together with the land (not being State property or private property), whether covered or not by any pavement, verandah, or other structure, which lies between the roadway and the main wall of any house adjacent thereto, as well as all drains, embankments, and ditches belonging or appertaining thereto, also all public open places, and also the roadway over any public bridge or causeway within a Municipality, and such waste land adjoining any street or road as may have been reserved for its protection or benefit;

" vehicle" includes any carriage, cart, coach, or tram car, and every artificial contrivance, not being a mechanically propelled vehicle, used or capable of being used as a means of transportation on land ;

" work" includes the partial or total constructing, reconstructing, pulling down, opening, cutting into, adding to, and altering any building, wall, retaining wall, chimney stack, flue, scaffold, ground, road, well, drain, pier, wharf, fence, or any other like operation whatsoever.

2.For the purposes of this Ordinance-

(a) a person shall be deemed to reside in, or to be a resident of, any place, if he has, and from time to time uses, a sleeping apartment in any building therein;

(b) a person shall not be deemed to cease to reside in, or to be a resident of, such place because he is sometimes absent from the said building or has, or from time to time uses, a sleeping apartment in a building in another place : Provided that he is at liberty to return, and has not abandoned the intention of returning to such first-mentioned building at any time; and

(c) a reference to an Ordinance or enactment includes any enactment amending the Ordinance or enactment referred to, and any Ordinance or enactment substituted for it, and also rules, regulations, by-laws, notifications or orders made under any of such Ordinances or

enactments and for the time being in force.

(3) For the purposes of this Ordinance-

(a) the construction or making of any street, building, drain, or work includes-

(i) every increase in the length or width or alteration in the level of any street;

(ii) every alteration which involves new foundations or increased superstructure on existing foundations;

(iii) the reconstruction of any building pulled down to or below the ground floor, or of any frame building, of which only the framework is left down to the ground floor, or of which one-half of the cubic capacity has been removed ;

(iv) the conversion into a dwelling house of any building not originally constructed for the habitation of any human being other than in the capacity of a caretaker;

(v) the conversion into more than one dwelling house of a building originally constructed as one dwelling house only ;

(vi) every increase in the length or alteration of the size of any drain, or any addition to the appliances connected therewith, or the re-laying of any drain or appliance; and

(b) the alteration of any street, building, drain, or other work includes every alteration in regard to any matter provided for under this Ordinance or under any by-law, regulation or rule in force at the time of such alteration.

[2,4 of 1969]

(4) In determining for the purposes of this Ordinance the annual value of any premises to which the Rent Act applies, and in assessing the annual rent of such premises for the purposes of such determination, a Municipal Council shall not have regard to the provisions of that Act.