

# THE KERALA MUNICIPALITY ACT, 1994\*

(Act 20 of 1994 as amended by Act 8 of 1995, 8 of 1996, 11 of 1999, 14 of 1999, S.R.O. No: 71/2000, Act 14 of 2000, 10 of 2003, 4 of 2005, 6 of 2005, 33 of 2005, 34 of 2005, 35 of 2005, 36 of 2005, 37 of 2005, 12 of 2007, Act 30 of 2009, Act 1 of 2013, Act 25 of 2013, Act 8 of 2014, Act 9 of 2014 & Act 2 of 2015)

An Act to replace the present enactments relating to Municipalities and Municipal Corporations by a comprehensive enactment in line with the Constitution (Seventy Fourth) Amendment Act.

Preamble.—Whereas the Kerala Municipalities Act, 1960 and the Kerala Municipal Corporations Act, 1961, the laws with respect to the functioning of urban local bodies prevailing in the State are not in conformity with the provisions of Part IXA of the Constitution of India inserted by the Constitution (Seventy Fourth Amendment) Act, 1992;

AND WHEREAS it is expedient to replace the said enactments by a comprehensive enactment in line with the Constitution (Seventy Fourth Amendment) Act, 1992 for securing a greater measure of participation of the people in planned development and in local Governmental affairs by constituting Town Panchayats, Municipal Councils and Municipal Corporations;

AND endow such Municipalities with necessary powers and authority to enable them to function as institutions of self-government;

AND entrust such Municipalities with the functions of the preparation of plans and implementation of schemes for economic development and social justice including the implementation of schemes in relation to the matters listed in the Twelfth Schedule to the Constitution;

Be it enacted in the Forty Fifth year of the Republic of India as follows:-

## **\*\*STATEMENT OF OBJECTS AND REASONS OF THE KERALA MUNICIPALITY ACT, 1994 (Act 20 of 1994)**

In order to enshrine in the Constitution certain basic and essential features of Municipal bodies and to impart certainty, continuity and strength to them, a new part, namely part IX A has been added in the Constitution by the Constitution (Seventy-Fourth) Amendment Act, 1992.

The new part provides for the constitution of Municipalities, namely, Nagar Panchayats for areas in transition from rural area to urban area, Municipal Councils for smaller urban areas and Municipal Corporations for larger urban areas; direct elections to all seats in the Municipalities; constitution of Ward Committees in every Municipality having a population of 3 lakhs or more; reservation of seats for Scheduled Castes and Scheduled Tribes and women; representation of Members of Parliament and Members of Legislative Assembly in the Municipality; fixing tenure of 5 years for the Municipalities and holding elections before the expiry of this duration and within a period of six months in the event of dissolution; disqualification of members of the Municipalities; devolution of powers and responsibilities upon the Municipalities with respect to the preparation of plans for economic development and social justice and for the implementation of development schemes; sound finance of the Municipalities by securing authorisation from State Legislature for grant-in-aid

\* Translation in English of the Kerala Municipality Act, 1994, Published as per Notification No.10816/Leg. C/ 95/ Law, in the Kerala Gazette Extraordinary No.1263, dt.14th December 1995.

\*\* See *Bill* No.96, Published in Kerala Gazette No.13, dated 29th March, 1994.

from the Consolidated Fund of the State as also assignment to, or appropriation by the Municipalities of the revenues of designated taxes, duties, tolls and fees; authorising the State Financing Commission to review the financial position of the Municipalities; authorising the State Election Commission for the superintendence, direction and control of the elections to the Municipalities; Constitution of District Planning Committees to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare draft development for the district; Constitution of Metropolitan Planning Committee for every metropolitan area having a population of 10 lakhs or more to prepare draft development plan for the area; powers of the State Legislature to make laws with respect to the elections to the Municipalities and other matters; and continuance of existing inconsistent laws until amended or until one year from the date of commencement of the Constitution (Seventy-Fourth) Amendment Act, 1992.

Provisions in accordance with the Constitution (Seventy-fourth Amendment) Act, 1992 have to be made in the state enactments relating to the Municipal Councils and Municipal Corporations before 31-5-1994. The Government consider that instead of making amendments to the existing Kerala Municipalities Act and the Kerala Municipal Corporations Act, it would be better to enact a new Municipalities Act applicable uniformly to the Municipal Councils, Municipal Corporations and Nagar Panchayats, incorporating the provisions in accordance with the Constitution (Seventy-Fourth) Amendment Act, 1992.

With effect on and from the commencement of this Act, the Government consider it necessary to repeal the Kerala Municipalities Act, 1960 (14 of 1961), the Kerala Municipal Corporations Act, 1961 (30 of 1961), the Guruvayur Township Act, 1960 (43 of 1961) and the provisions of the Kerala Local Authorities (Constitution and Preparation of Electoral Rolls) Act, 1994 (4 of 1994), in so far as they relate to Municipalities.

## **\*THE CONSTITUTION (SEVENTY-FOURTH AMENDMENT) ACT, 1992**

An Act further to amend the Constitution of India

Be it enacted by Parliament in the Forty-third year of the Republic of India as follows:-

**1. Short title and commencement.**— (1) This Act may be called the Constitution (Seventy-Fourth Amendment) Act, 1992.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

**2. Insertion of new part IXA.**— After Part IX of the Constitution, the following Part shall be inserted, namely:—

### **PART IX-A**

#### **THE MUNICIPALITIES**

**2 43-P. Definitions.**— In this part, unless the context otherwise requires, -

(a) "Committee" means a Committee constituted under Article 243;

(b) "district" means a district in a State;

(c) "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Governor by public notification to be a Metropolitan area for the purpose of this Part;

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\* Published in Gazette of India Extraordinary Part 11 section I dated 20th April, 1993. (w.e.f. 1-6-1993)

(d) "Municipal area" means the territorial area of a Municipality as is notified by the Governor;

(e) "Municipality" means an institution of self-government constituted under Article 243-Q;

(f) "Panchayat" means a Panchayat constituted under Article 243-13;

(g) "population" means the Population as ascertained at the last preceding census of which the relevant figures have been published.

**243-Q. Constitution of Municipalities.**— (1) There shall be constituted in every State,-

(a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

(b) a Municipal Council for a smaller urban area; and

(c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this part:

Provided that a Municipality under this clause may not be constituted in such urban area or part thereof as the Governor may, having regard to the size of the area and the municipal services being provided or proposed to be provided by an industrial establishment in that area and such other factors as he may deem fit, by public notification, specify to be an industrial township.

(2) In this article, "a transitional area", "a smaller urban area" or "a larger urban area" means such area as the Governor may, having regard to the population of the area, the density of the population therein, the revenue generated for local administration, the percentage of employment in nonagricultural activities, the economic importance or such other factors as he may deem fit, specify by public notification for the purposes of this Part.

**243-R. Composition of Municipalities.**— (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

(2) The Legislature of a State may, by law, provide-

(a) for the representation in a Municipality of-

(i) persons having special knowledge or experience in Municipal administration;

(ii) the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area;

(iii) the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area;

(iv) the Chairpersons of the Committees constituted under clause 5, of Article 243-S:

Provided that the persons referred to in paragraph (i) shall not have the right to vote in the meetings of the Municipality;

(b) the manner of election of the Chairperson of a Municipality.

**243-S. Constitution and composition of Wards Committees, etc.**— (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to-

(a) the composition and the territorial area of a Wards Committee;

(b) the manner in which the seats in a Wards Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Wards Committee shall be a member of that Committee.

(4) Where a Wards Committee consists of-

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Wards Committee, shall be Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Wards Committees.

**243-T. Reservation of seats.—** (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in Article 334.

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

**243-U. Duration of Municipalities, etc.—** (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer:

Provided that a Municipality shall be given a reasonable opportunity of being heard before its dissolution.

(2) No amendment of any law for the time being in force shall have the effect of causing dissolution of a Municipality at any level, which is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

(3) An election to constitute a Municipality shall be completed,-

(a) before the expiry of its duration specified in clause (1);

(b) before the expiration of a period of six months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Municipality

would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Municipality for such period.

(4) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under clause (1) had it not been so dissolved.

**243-V. Disqualifications for membership.**— (1) A person shall be disqualified for being chosen as, and being, a member of a Municipality-

(a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

Provided that no person shall be disqualified on the ground that he is less than twenty - five years of age, if he has attained the age of twenty-one years.

(b) if he is so disqualified by or under any law made by the Legislature of the State.

(2) If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

**243-W. Powers, authority and responsibilities of Municipalities, etc.**— Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow-

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to-

(i) the preparation of plans for economic development and social justice,

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

**243-X. Power to impose taxes by, and Funds of, the Municipalities.**—The Legislature of a State may, by law,-

(a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;

(b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits,

(c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and

(d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom, as may be specified in the law.

**243-Y. Finance Commission.**— (1) The Finance Commission constituted under Article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to-

(a) the principles which should govern-

(1) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this part and the allocation between the Municipalities at all levels of their respective shares of such proceeds,

(ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;

(iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State.

(b) the measures needed to improve the financial position of the Municipalities,

(c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.

(2) The Governor shall cause every recommendation made by the commission under this article together with an explanatory memorandum as to the action taken of the State.

**243-Z. Audi of accounts of Municipalities.**— The legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the Municipalities and the auditing of such accounts.

**243-ZA. Elections to the Municipalities.**— (1) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Municipalities shall be vested in State Election Commission referred to in Article 243-K.

(2) Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Municipalities.

**243-ZB. Application to Union territories.**— The provisions of this Part shall apply to the Union territories and shall, in their application to a Union territory, have effect as if the references to the Governor of a State were references to the Administrator of the Union territory appointed under Article 239 and reference to the Legislature or the Legislative Assembly of a State were references in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Provided that the President may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof subject to such exceptions and modifications as he may specify in the notification.

**243-ZC. Part not to apply to certain areas.**— (1) Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of Article 244.

(2) Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.

(3) Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purpose of Article 368.

**243-ZD. Committee for district planning.**— (1) There shall be constituted in every State at the district level a District Planning Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

(2) The Legislature of a State may, by law, make provision with respect to-

- (a) the composition of the District Planning Committees;
- (b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

- (c) the functions relating to district planning which may be assigned to such Committees;
- (d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,-

(a) have regard to-

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

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

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

(4) The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

**243-ZE. Committee for Metropolitan planning.**— (1) There shall be constituted in every Metropolitan area Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to-

- (a) the Composition of the Metropolitan Planning Committees;
- (b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area.

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(d) the functions relating to planning and co-ordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,

(a) have regard to-

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and

natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investment likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

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

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

**243-ZF. Continuance of existing laws and Municipalities.**— Notwithstanding anything in this Part, any provisions of any law relating to Municipalities in force in a State immediately before the commencement of the Constitution (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

Provided that all the Municipalities existing immediately before such commencement shall continue till the expiration of their duration, unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having a Legislative Council, by each House of the Legislature of that State.

**243-ZG. Bar to interference by courts in electoral matters.**— Notwithstanding anything in this Constitution.-

(a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243-ZA shall not be called in question in any court;

(b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

#### \* TWELFTH SCHEDULE

(Article 243-W)

1. Urban planning including town planning.
2. Regulation of land use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.



10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds, cremations, cremation grounds and electric crematoriums.
15. Cattle ponds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

**\*\*STATEMENT OF OBJECTS AND REASONS OF THE CONSTITUTION  
(SEVENTY-FOURTH AMENDMENT) ACT, 1992**

In many States local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersessions and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as vibrant democratic units of self-government.

2. Having regard to these inadequacies, it is considered necessary that provisions relating to Urban Local Bodies are incorporated in the Constitution particularly for-

(i) putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to-

- (a) the functions and taxation powers; and
- (b) arrangements for revenue sharing;
- (ii) ensuring regular conduct of elections;
- (iii) ensuring timely elections in the case of supersession; and
- (iv) providing adequate representation for the weaker sections like Scheduled Castes, Scheduled Tribes and women.

3. Accordingly, it is proposed to add a new part relating to the Urban Local Bodies in the Constitution to provide for-

- (a) constitution of three types of Municipalities
  - (i) Nagar Panchayats for areas in transition from a rural area to Urban area;
  - (ii) Municipal Councils for smaller urban areas;
  - (iii) Municipal Corporations for larger Urban areas.

The broad criteria for specifying the said areas is being provided in the proposed article 243Q;

(b) Composition of Municipalities, which will be decided by the Legislature of a State, having the following features:

- (i) persons to be chosen by direct election;
- (ii) representation of Chairpersons of Committees, if any, at ward or other levels in the Municipalities;

(iii) representation of persons having special knowledge or experience of Municipal Administration in Municipalities (without voting rights);

- (c) election of Chairpersons of a Municipality in the manner specified in the State law;
- (d) constitution of Committees at ward level or other level or levels within the territorial area of a Municipality as may be provided in the State law;

(e) reservation of seats in every Municipality-

- (i) for Scheduled Castes and Scheduled Tribes in proportion to their population of which not less than one-third shall be for women;

- (ii) for women which shall not less than one-third of the total number of seats;

(iii) in favour of backward classes of citizens if so provided by the Legislature of the State;

(iv) for Scheduled Castes, Scheduled Tribes and women in the office of Chairpersons as may be specified in the State law;

(f) fixed tenure of 5 years for the Municipality and re-election within six months of end of tenure. If a Municipality is dissolved before expiration of its duration, elections to be held within a period of six months of its dissolution;

(g) devolution by the State Legislature of powers and responsibilities upon the Municipalities with respect to preparation of plans for economic development and social justice, and for the implementation of development schemes as may be required to enable them to function as institutions of self-government;

(h) levy of taxes and duties by Municipalities, assigning of such taxes and duties to Municipalities by State Governments and for making grants-in-aid by the State to the Municipalities as may be provided in the State law;

(i) a Finance Commission to review the finances of the Municipalities and to recommend principles for-

(1) determining the taxes which may be assigned to the Municipalities;

(2) sharing of taxes between the State and Municipalities;

(3) grants-in-aid to the Municipalities from the Consolidated Fund of the State;

(j) audit of accounts of the Municipal Corporations by the Comptroller and Auditor-General of India and laying of reports before the Legislature of the State and the Municipal Corporation concerned,

(k) making of law by a State Legislature with respect to elections to the Municipalities to be conducted under the superintendence, direction and control of the chief electoral officer of the State;

(l) application of the provisions of the Bill to any Union Territory or part thereof with such modifications as may be specified by the President;

(m) exempting scheduled areas referred to in clause (1), and tribal areas referred to in clause (2), of article 244, from the application of the provisions of the Bill. Extension of provisions of the Bill to such areas may be done by Parliament by law;

(n) disqualification for membership of a Municipality;

(j) bar of jurisdiction of Courts in matters relating to elections to the Municipalities.

4. The Bill seeks to achieve the aforesaid Objectives.

## CHAPTER I PRELIMINARY

1. *Short title, extent and commencement.*— (1) This Act may be called the Kerala Municipality Act, 1994.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 30<sup>th</sup> day of May, 1994.

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

(1) “Article” means an Article of the Constitution of India;

(2) “building” includes a house, out-house, stable, latrine, shed, hut, bunk and any other structure whether of masonry, wood, brick, mud, metal or any other material whatsoever;

(3) “building line” means a line which is at the rear of the street alignment and to which the main wall of a building abutting on a street may lawfully extend and beyond which no portion of the building may extend except as provided in the building rules,

(4) "candidate" means a person who has been duly nominated or claimed to have been duly nominated as a candidate for any election;

(5) "casual vacancy" means a vacancy occurring otherwise than by efflux of time;

<sup>1</sup>[(6) "Chairperson" in relation to a Town Panchayat or a Municipal Council means the Chairman of that Town Panchayat or Municipal Council and in relation to a Municipal Corporation the Mayor of that Municipal Corporation;

(6A) "Deputy Chairperson" in relation to a Town Panchayat or a Municipal Council means the Vice-Chairman of that Town Panchayat or Municipal Council and in relation to a Municipal Corporation, the Deputy Mayor of that Municipal Corporation;]

(7) "Collector" means the Collector of the district;

(8) "committee" means a Standing Committee <sup>2</sup>[x x] or a Steering Committee <sup>2</sup>[xx] constituted under this Act or other Committees constituted by the Council for any specific purpose;

(9) "Council" means the Council of a Town Panchayat, a Municipal Council or a Municipal Corporation;

(10) "Company" means a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a foreign company within the meaning of section 591 of that Act, a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) and a firm or association carrying on business in the State whether incorporated or not and whether its principal place of business is situated in the State or not;

(11) "Corrupt practice" means any of the practices specified in section 144;

(12) "Dangerous disease" means a disease specified in the Ninth Schedule or any disease included in the said schedule by Government, from time to time, by notification in the Gazette;

(13) "District Election Officer" means an officer designated or nominated by the State Election Commission;

(14) "Election" means an election to fill any vacancy in any of the wards of any Municipality;

(15) "Elector" in relation to any ward (by whatever name known) means a person whose name is included in the voters list, for the time being in force, in respect of that ward and who is not subject to any of the disqualifications referred to in section 74;

(16) "Electoral right" means the right of a person either to stand or not to stand as a candidate or to withdraw or not to withdraw his candidature or to vote in an election;

(17) "Electoral Registration Officer" means an officer designated or nominated by the State Election Commission to discharge the functions of the Electoral Registration Officer under this Act;

(18) "Filth" includes sewage, excreta, dung, putrid and putrifying substances and all other substances causing danger to public health, if not removed;

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1. Clause (6) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (6) read as under: "Chairperson and Deputy Chairperson" in relation to a Town Panchayat or a Municipal Council means the Chairman and the Vice-Chairman of that Town Panchayat or Municipal Council and, in relation to a Municipal Corporation the Mayor and the Deputy Mayor respectively;"

2. The words "or a Joint Committee" & "or a Ward Committee" omitted by Act 14 of 1999, w.e.f. 24-3-1999.

(19) “hut” means any building which is constructed principally of wood, mud, leaves, grass or thatch and includes any temporary structure of whatever size of any small building of whatever material made which the Municipality may declare to be a hut for the purposes of this Act;

(20) “latrine” means a place set apart for defecating or urinating or both and includes a closet of the dry or water borne type and urinal;

<sup>3</sup>[(21) “Local Authority” or “Local Self Government Institution” means a Municipality constituted under Section 4 or a Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994);]

(22) “lodging house” means a hotel, a boarding house, a choultry, dharmasala or rest house not maintained by the Government or a local authority, or any place where casual visitors are received and provided with sleeping accommodation, with or without food, on payment, but does not include—

- (a) student’s hostel under public control or recognised control; or
- (b) retiring rooms and rest-houses provided by a railway administration and normally used by passengers or railway employees or both; or
- (c) retiring rooms or rest houses provided by the airport authority and normally used by passengers or cabin crew or both; or
- (d) rooms situated within the compound of any place of worship and used by devotees for taking rest;

(23) “market” means any place set apart or ordinarily or periodically used for the assembling of persons for the sale or purchase of grain, fruit, vegetables, meat, fish or other perishable articles of food or for the sale or purchase of live-stock or poultry, or of any agricultural or industrial produce or any raw or manufactured products or any other articles or commodity necessary for the convenience of life, provided that a single shop or group of shops, not being more than six in number, shall not be deemed to be a market;

(24) “nuisance” includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance, disturbance or harassment to the sense of sight, smell, hearing or to rest or sleep or which is, or may be, dangerous to life or injurious to health or property;

(25) “Occupier” includes—

- (a) any person who, for the time being, is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;
- (b) any owner in occupation of or otherwise using his land or building;
- (c) a rent free tenant of any land or building,
- (d) a licensee in occupation of any land or building; and
- (e) any person who is liable to pay the owner damages for the use or occupation of any land or building;

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3. Clause (21) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (21) read as under:  
“(21) “local authority” means a Municipality or a Panchayat at any level”

(26) "owner" includes-

(a) a person who for the time being is receiving or is entitled to receive the amount of lease or the rent of any land or building whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the amount of lease or the rent or be entitled to receive it if the land or building or part thereof were let to a lessee or a tenant on lease or rent;

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

(27) "Political Party" means a political party registered under section 29A of the Representation of the People Act, 1951 (Central Act 43 of 1951);

(28) "polling station" means any place appointed for holding election to a Municipality;

(29) "place of public entertainment" means any place, enclosure, building, tent, booth or other erection, whether permanent or temporary where music, singing, dancing, drama or any diversion or game or the means of carrying on the same is provided and to which the public are admitted, and includes a race course, circus, theatre, music hall, billiard room, bagatelle-room, gymnasium and fencing school;

(30) "prescribed" means prescribed by rules made under this Act;

(31) "private market" means any market other than a public market;

(32) "private street" means any street, road, square, court, alley, passage or riding path which is not a public street, but does not include a path or way made by the owner of premises on his own land to secure access to or the convenient use of such premises;

(33) "public market" means any market owned, constructed, repaired or maintained by a Municipality;

(34) "public street" means any street, road, square, court, alley, passage or riding path over which the public have a right of way, whether a thoroughfare or not, and includes-

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

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

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

(35) "public holiday" means a day which is declared as a holiday by the Government;

(36) "Public water courses, springs, wells and tanks and bunds" include water courses, springs, wells, tanks and bunds used by the public to such an extent as to give a prescriptive right to such use;

(37) "qualified medical practitioner" means a medical practitioner having prescribed qualifications;

(38) "reconstruction" of a building includes-

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

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

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

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

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

(40) "rubbish" means dust, ash, broken bricks, mortar, broken glass, and refuse of any kind which is not filth;

(41) "sanitation worker" means a person employed in collecting or removing filth or in cleaning drains, latrines or slaughter houses;

(42) "Scheduled Castes and Scheduled Tribes" shall have the same meaning as in the Constitution of India;

(43) "Secretary" means the Secretary of a Municipality;

(44) "State" means the State of Kerala;

(45) "State Election Commission" means the State Election Commissioner appointed under Article 243K;

(46) "street alignment" means a line dividing the lands comprised in forming part of a street from the adjoining land;

(47) "vehicle" shall have the same meaning as in the Motor Vehicles Act, 1988 (Central Act 59 of 1988);

(48) "vessel" includes any motor boat, steam launch, steam or motor tug or barge;

(49) "ward" means a ward of a Municipality for the purpose of election of Councillors; <sup>4</sup>[(49A) "Ward Committee" means the Ward Committee constituted under Section 42; (49B) "Ward Sabha" means the Ward Sabha constituted under Section 42A;]

(50) "water course" includes any river, stream, channel or lake whether natural or artificial;

(51) "year" means the financial year.

3. *Interpretation.*— Words and expressions used but not defined in this Act and defined in Part IX A of the Constitution of India shall have the meanings respectively assigned to them in that part.

## CHAPTER II

### CONSTITUTION, ALTERATION AND CONVERSION OF MUNICIPALITIES

4. *Constitution, alteration and conversion of Municipalities.*— (1) The Government shall, by notification in the Gazette, constitute with effect from such date as specified in the notification,-

(a) a "Town Panchayat" for a transitional area;

(b) a "Municipal Council" for a smaller urban area; and

(c) a "Municipal Corporation" for a larger urban area, and specify the names of such Municipalities.

(2) The Government may, by notification,-

(a) exclude any municipal area from the operation of this Act; or

(b) exclude from a municipal area comprised therein and defined in the notification; or

(c) divide any municipal area into two or more municipal areas; or

(d) unite two or more municipal areas; or

(e) unite the territorial area of a Panchayat geographically lying adjacent to a Municipal area, with the Municipality; or

(f) convert a Village Panchayat into a <sup>5</sup>[Town Panchayat or a Municipal Council]; or

(g) convert a Town Panchayat into a Municipal Council; or

(h) convert a Municipal Council into a Municipal Corporation:

(i) <sup>6</sup>[Provided that, before issuing such a notification the requirements under Article 243Q and sub - section (1) shall be fulfilled and the suggestions and opinions of the Village Panchayat or Town Panchayat or Municipal Council or Municipal Corporation concerned, shall be considered.]

Provided further that any notification issued under this sub-section shall not be brought into force except in such a way as to coincide with the expiry of the term of the existing Municipal Council or Village Panchayat in that territorial area.

(3) The Government may at the request of a Municipality or after consultation with the Municipality, at any time, alter the name of a Municipality, after previous publication of the proposal by notification in the Gazette.

(4) Where any Village Panchayat area is constituted as, or included in, a <sup>7</sup>[Municipality], the Government may pass such orders as they may deem fit as to the transfer to the Municipality or disposal otherwise of the assets or institutions of such Panchayat in that area, and as to the discharge of the liabilities if any, of such Panchayat relating to such assets or institutions.

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5. Substituted for the words "Town Panchayat" by Act 14 of 1999, w.e.f. 24-3-1999.

6. First proviso substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution the first proviso read as under: "Provided that before issuing such a notification the requirement under Article 243Q shall be fulfilled and the suggestions and opinion put forward by the existing Municipality in this regard, considered:"

7. Substituted for the words "Town Panchayat" by Act 14 of 1999, w.e.f. 24-3-1999.

(5) Where any village Panchayat area is constituted as, or included in a <sup>8</sup>[Municipality], all taxes, fees or other charges levied in that area under the enactments or regulations then in force shall, from the date of constitution or inclusion, as the case may be, cease to have effect and all such taxes, fees or other charges shall be levied in that area in accordance with the provisions of this Act and the rules, regulations and bye-laws made there under.

(6) Where a Municipality is abolished, this Act and all notifications, rules, regulations, bye-laws, orders, directions and powers issued, made or conferred under this Act shall cease to apply to the area comprised within the Municipality, the balance of the Municipal fund and all other property vested in the Municipality at the time of its abolition shall vest in the succeeding local authority coming into existence or if a local authority does not come into existence in that area, in the Government and the liabilities of the Municipality shall be transferred to such local authority or as the case may be, the Government.

(7) All funds and property vested in the Government under sub-section (6) shall be applied to discharge the liabilities transferred to the Government under that sub-section and for the promotion of the safety, health, welfare or convenience of the inhabitants of the area comprised in the Municipality.

### CHAPTER III CONSTITUTION OF MUNICIPAL AUTHORITIES

**5. Incorporation and Administration of Municipality.**— (1) Every Municipality shall be a body corporate by the name of the Municipality specified in the notification issued under Section 4, shall have perpetual succession and a common seal, and shall, subject to any restriction or alteration imposed by or under this Act or any other law, be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, of entering into contracts, and of doing all things necessary, proper or expedient for the purpose for which it is so constituted.

(2) Every Municipality, shall exercise such powers, perform such duties and functions and shall have such responsibilities and authority as are provided by or under this Act or any other law for the time being in force.

**6. Constitution of Council.**— <sup>9</sup>[(1) The Government shall, in accordance with the criteria

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8. Substituted for the words "Town Panchayat" by Act 14 of 1999, w.e.f. 24-3-1999.

9. Sub-sections (1) to (4) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-sections (1) to (4) read as under:

“(1) A Municipality, other than a Municipal Corporation, shall consist of such number of seats to be represented by Councillors, as notified by the Government in accordance with the following Table:

TABLE

<i>Population</i>	<i>No. of Councillors</i>
Not exceeding 20,000	
Exceeding 20,000 but not exceeding 30,000	20
Exceeding 30,000 but not exceeding 40,000	24
Exceeding 40,000 but not exceeding 50,000	28
Exceeding 50,000 but not exceeding one lakh	32
Exceeding one lakh	36

(2) A Municipal Corporation shall consist of such number of seats to be represented by Councillors as may be notified by the Government, provided that such number shall not be less than forty or more than fifty.

(3) The Councillors of every Municipality shall be chosen by direct election.

(4) The Council may nominate not more than two persons having special knowledge or experience in municipal administration to be special Councillors. The Special Councillors shall have all the rights of a Councillor except the right to vote.”



specified in sub-section (3), notify the total number of seats of the Councillors to be filled up by direct election in a Town Panchayat, Municipality and Municipal Corporation considering the population of the area of the Municipality concerned.

(2) The Government may, after publishing the relevant data according to each census, vary the total number of seats of Councillors in a Municipality notified under sub-section (1) subject to the criteria specified in sub-section (3).

<sup>10</sup>[(3) The number of seats of Councillors notified under sub-section (1) or sub-section (2), shall be,—

(a) In the case of a Town Panchayat or a Municipal Council —

(i) <sup>11</sup>“[twenty-five], where the population in the area of the Town Panchayat or Municipal Council does not exceed twenty thousand, and

(ii) Where the population of the Town Panchayat or Municipal Council exceeds twenty thousand, “[twenty-five] councillors for the population of first twenty thousand, and one each for every two thousand and five hundred of the population exceeding twenty thousand, subject to a maximum of <sup>12</sup>[fifty-two] Councillors;

(b) In the case of a Municipal Corporation, \_\_\_\_

(i) <sup>13</sup>[fifty-five], where the population in the area of the Municipal Corporation does not exceed four lakhs, and

(ii) Where the population exceeds four lakhs, <sup>3</sup>[fifty-five] councilors for the population of first four lakhs and one each for every ten thousand exceeding four lakhs subject to a maximum of one hundred Councillors].

(4) The Councillors of every Municipality shall be elected by direct election].

(5) Specified seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality. The number of seats to be reserved in a Municipality shall be determined by the Government. The number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the municipal area or of the Scheduled Tribes in the municipal area bears to the total population of that area and such seats may be allotted by rotation to different wards in a Municipality as the <sup>14</sup>[the State Election Commission or an officer authorised by it] may, determine for each general election:

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10. Sub-section (3) substituted by Act 6 of 2005, w.e.f. 9-3-2005. Prior to the substitution it read as under:

“(3) The number of seats of Councillors notified under sub-section (1) or sub-section (2) shall be

(a) In the case of a Town Panchayat or a Municipal Council,—

(i) Twenty, where the population in the area of the Town Panchayat or Municipal Council does not exceed twenty thousand, and <sup>7</sup>

(ii) Where the population of the Town Panchayat or Municipal Council exceeds twenty thousand, twenty, for the population of first twenty thousand, and one each for every two thousand and five hundred of the population exceeding twenty thousand, subject to a maximum of fifty Councillors;

(b) In the case of a Municipal Corporation,—

(i) fifty, where the population in the area of the Municipal Corporation does not exceed four lakhs, and

(ii) Where the population exceeds four lakhs, fifty, for the population of first four lakhs and one each for every ten thousand exceeding four lakhs subject to a maximum of one hundred Councillors;

11. The words “twenty-two” substituted by Act 30 of 2009, w.e.f. 7-10-2009.

12. The words “fifty” substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

13. The words “fifty-two” substituted by Act 30 of 2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

14. Substituted for the words “Government or an officer authorised by the Government” by Act 14 of 1999, w.e.f. 24-3-1999

Provided that where the population of the Scheduled Castes or the Scheduled Tribes in a municipal area is not sufficient to make them eligible for the reservation of any seat, one seat shall be reserved in that Municipality for the Scheduled Castes or the Scheduled Tribes having higher population.

(6) <sup>15</sup>[Fifty per cent (in the case of fraction, it shall be fixed to the next higher integer)] of the total number of seats reserved under sub-section (5) shall be reserved for women belonging to the Scheduled Castes, or as the case may be, the Scheduled Tribes:

Provided that where the number of seats reserved for the Scheduled Castes or as the case may be, the Scheduled Tribes under sub-section (5) is only one, that seat need not be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(7) <sup>16</sup>[Fifty percent (in the case of fraction, it shall be fixed to the next higher integer)] (including the number of seats reserved for women belonging to the Scheduled Castes and Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved by the Government for women and such seats may be allotted by rotation to different wards in a Municipality as the <sup>14</sup>[the State Election Commission or an officer authorised by it] may, by notification in the Gazette, determine for each general election.

(8) Nothing contained in sub-sections (5) to (7) shall be deemed to prevent persons belonging to the Scheduled Castes, Scheduled Tribes or Women from being a candidate to the election to the unreserved seats in a Municipality.

<sup>17</sup>[(9) The officer authorised in this behalf by the State Election Commission shall, by draw of lots determine the wards to which seats reserved for Scheduled Castes and Scheduled Tribes under sub-section (5) and for Women under sub-sections (6) and

(7) are to be allotted by rotation at such time and on such date and at such place as may be notified by the Commission.

(10) Immediately after deciding the reserved wards under sub-section (9), the State Election Commission shall notify the list of wards so reserved, in the manner prescribed.]

**7. Duration of Municipalities and filling up of vacancies.—** (1) Every Municipality, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer.

(2) An election to constitute a Municipality shall be completed,-

- (a) before the expiry of its duration specified in sub-section (1); or
- (b) before the expiration of a period of six months from the date of its dissolution; as the case may be:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election for constituting the Municipality for such period.

(3) A Municipality constituted upon the dissolution of a Municipality before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (1), had it not be so dissolved.

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15. The words “not less than one-third” substituted by Act 30 of 2009, K.GEx. No. 1844, dt. 7-10-2009.

16. Substituted for the words “Government or an officer authorised by Government” by Act 14 of 1999, w.e.f. 24.03.1999.

17. Sub-sections (9) & (10) added by Act 14 of 1999, w.e.f. 24-03-1999.

<sup>18</sup>[(3A) A casual vacancy in the office of a Councillor shall be reported directly by the Secretary concerned to the State Election Commission within seven days from the date of occurrence of that vacancy and the Secretary who fails to report so without proper reason shall be punishable with a fine which may extend to one thousand rupees and for which the State Election Commission shall have power to initiate the prosecution steps.]

(4) Election to fill a casual vacancy in the office of a Councillor shall be held by the State Election Commission <sup>19</sup>[within six months], after the occurrence of that vacancy:

Provided that it shall not be necessary to hold an election to fill a vacancy, the duration of which is less than six months.

(6) A Councillor elected to fill a casual vacancy shall be eligible to hold office for the remaining term of the person in whose place he was elected.

**8. Procedure where no Councillor is elected from any ward of a Municipality.—**

(1) Where, for any reason, a Councillor could not be elected from any of the wards, at an election the State Election Commission shall hold an election within three months to elect a Councillor from that ward.

(2) The term of office of a Councillor elected under sub-section (1) shall be co - terminus with the term of the Municipality to which he is elected.

**9. Reservation to be subject to Article 334.—** Notwithstanding anything contained in section 6 and section 10, reservation of seats in the Municipalities and in the offices of Chairman or Mayor thereof, as the case may be, for the Scheduled Castes or the Scheduled Tribes shall cease to have effect on the expiration of the period fixed in Article 334 for the reservation of seats for the Scheduled Castes and the Scheduled Tribes in the State Legislative Assembly:

Provided that nothing in this section shall affect any such reservation in a then existing Municipality until the expiration of its duration or its dissolution, as the case may be.

**10. Mayor or Chairman of a Municipality.—** (1) There shall be a Chairman in every Town Panchayat and Municipal Council and a Mayor in every Municipal Corporation who shall be elected by the elected Councillors of the respective Municipalities from among themselves, in such manner as may be prescribed. <sup>20</sup>[The Chairperson shall be a full-time functionary of the Municipality.]

(2) Such number of the offices of Chairmen of Town Panchayats, Chairmen of Municipal Councils and Mayor of Municipal Corporations shall be reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes by the Government and the offices of the Chairmen of the Town Panchayats, Chairmen of the Municipal Councils and Mayor of the Municipal Corporations so reserved may be allotted by rotation to different Town Panchayats, Municipal Councils or, as the case may be, the Municipal Corporations as the <sup>21</sup> [State Election Commission] may, by notification in the Gazette, determine for each general election.

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18. Sub-section (3A) added by Act 14 of 1999, w.e.f. 24-03-1999

19. Substituted for "within three months" by Act 8 of 1996, w.e.f. 28-3-1996

20. Added by Act 14 of 1999, with effect from 1-10-2000.

21. Substituted for the words "Government or an officer authorised by them" by Act 14 of 1999, w.e.f. 24-3-1999.

(3) The total number of offices of Chairmen in the Town Panchayats, Chairmen in the Municipal Councils or Mayor of the Municipal Corporations, as the case may be, to be reserved for the Scheduled Castes and the Scheduled Tribes under sub-section (2) shall bear as nearly as may be, the same proportion to the total number of offices of Chairmen in the Town Panchayats, Chairmen of the Municipal Councils or Mayor of the Municipal Corporations, as the case may be, as the population of the Scheduled Casts or as the case may be, the Scheduled Tribes, in the Municipalities in the State bear to the total population of the Municipalities.

(4) <sup>22</sup>[Fifty per cent (in the case of fraction, it shall be fixed to the next higher integer)] of the offices of the Chairpersons in the Town Panchayats, Municipal Councils and Municipal Corporations reserved under sub-section (2), shall be <sup>23</sup>[set apart by Government for women belonging to Scheduled Castes, or as the case may be, Scheduled Tribes and for each general election the seats so reserved shall be allotted by the State Election Commission, by notifications in the Gazette, to different Town Panchayats or Municipal Councils or Municipal Corporations, as the case may be, by rotation]:

(5) Provided that where the number of offices of Chairpersons reserved for the Scheduled Castes or as the case may be, the Scheduled Tribes under sub-section (2) is one, that seat need not be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.

(6) <sup>24</sup>[Fifty per cent (in the case of fraction, it shall be fixed to the next higher integer)] of the total number of offices of the Chairpersons in the Town Panchayats, Municipal Councils and Municipal Corporations, <sup>25</sup>[shall be reserved for women by the Government and the seats so reserved <sup>26</sup>[shall be allotted] by the State Election Commission] <sup>27</sup>[including those reserved under sub-section (4)], by rotation to different Town Panchayats, Municipal Councils and Municipal Corporations, as the case may be.

(7) Procedure of rotation under sub-section (2) and sub-section (5) shall begin from the Municipality having the highest percentage of population of the Scheduled Castes or Scheduled Tribes or women as the case may be, and thereafter to the Municipality having the next higher percentage of population and shall be so continued in like manner:

Provided that if the Municipality, the office of Chairperson of which is eligible for reservation for women is the same as the Municipality the office of Chairperson of which is to be reserved for the Scheduled Castes or Scheduled Tribes, then, in reserving the office of Chairperson priority shall be given to persons belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes and in lieu, the office of the Chairperson of the Municipality, having the next higher percentage of women population in turn shall be reserved for women.

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22. Substituted for the words "not less than one-third" by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

23. Substituted for the words "set apart for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes" by Act 14 of 1999, w.e.f. 24-3-1999.

24. **Substituted for the The words "not less than one-third" by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.**

25. **Substituted for the words "as the case may be, shall be reserved for women and may be allotted by the Government" by Act 14 of 1999, w.e.f. 24-3-1999.**

26. **Substituted for the words "may be allotted by the Government" by Act 14 of 1999, w.e.f. 24-3-1999.**

27. **Inserted by Act 8 of 1995.**

<sup>28</sup>[Provided further that in Municipalities where the office of the Chairperson is to be reserved for women belonging to Scheduled Castes or Scheduled Tribes and in Municipalities the highest percentage of population is women, the office of the Chairperson shall be reserved for women belonging to Scheduled Castes or Scheduled Tribes by rotation.]

<sup>29</sup>[(6a) In the case of an election to the office of the Chairperson reserved for Scheduled Castes or Scheduled Tribes, a Councillor, if he is not a person elected from a seat reserved for Scheduled Castes or Scheduled Tribes, as the case may be, shall not be eligible for election to the office of the Chairperson, unless he produces before the Returning Officer a Community Certificate issued by a competent officer stating that he is a member of Scheduled Caste or Scheduled Tribe;

(6b) A Councillor elected to the office of the Chairperson reserved for Scheduled Castes or Scheduled Tribes who has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, and declared as such he shall not be entitled to continue in the office of the Chairperson from the date of such declaration and his office as Councillor shall stand forfeited and the State Election Commission shall declare the offices, of the Chairperson the Councillor to be vacant.]

(8) No person shall be eligible for being elected as Chairperson unless-

- (i) he is elected as Councillor;
- (ii) in the case of offices of Chairpersons reserved for the Scheduled Castes or the Scheduled Tribes, he himself is a member of any of the Scheduled Castes or the Scheduled Tribes;
- (iii) in the case of office of Chairperson reserved for women, such person is a woman.

<sup>30</sup>[(8) The term of office of a Chairperson shall be co-terminus with that of his term as a Councillor unless he resigns or becomes disqualified to hold the office of a Councillor.]

**11. Deputy Chairpersons of the Municipalities.—** (1) There shall be a Vice-Chairman in every Town Panchayat and Municipal Council and a Deputy Mayor in every Municipal Corporation who shall be elected by the elected Councillors of the respective Municipalities from among themselves in such manner as may be prescribed.

<sup>31</sup>[(1a) In a Municipality where the office of the Chairperson has not been reserved for women, the office of the Deputy Chairperson shall be reserved for women and the offices so reserved for Deputy Chairpersons shall be published by notification in the Gazette before the date of publication of notification for each General Election by the State Election Commission.]

- (2) A Deputy Chairperson shall be deemed to have vacated his office-
- (i) on his ceasing to be a Councillor on the expiry of his term of office or otherwise; or
  - (ii) on his election as Chairperson.

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28. Further proviso added by Act 14 of 1999, w.e.f. 24-3-1999.

29. Inserted by Act 30 of 2009, w.e.f. 7\*10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

30. Sub-section (8) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (8) read as under:  
“(8) The term of office of a Chairperson shall be co-terminus with the term of the Municipality unless he resigns sooner or is removed from office or becomes disqualified to hold the office of a Councillor.”

31. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

(3) Where the office of a Chairperson is vacant, the Deputy Chairperson shall exercise the powers and discharge the duties of the Chairperson until a newly elected Chairperson assumes office.

(4) (a) Where the office of a Chairperson is vacant and there is vacancy in the office of Deputy Chairperson or the Deputy Chairperson has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, the Chairman of the Standing Committees in the order referred to in sub-section (1) of section 20 shall, until a new Chairperson or Deputy Chairperson is elected and assumes office, or the Deputy Chairperson returns to jurisdiction or recovers from his incapacity, as the case may be, shall exercise the powers and perform the functions of the Chairperson.

(b) Where a Chairperson has been continuously absent from jurisdiction for more than fifteen days or is incapacitated and there is vacancy in the office of the Deputy Chairperson or the Deputy Chairperson has been continuously absent from jurisdiction for more than fifteen days or is incapacitated and <sup>32</sup>[x x x], the Chairmen of the Standing Committees in the order referred in sub-section (1) of section 20 shall exercise the powers and perform the functions of the Chairperson until the Deputy Chairperson returns to jurisdiction or recovers from his incapacity, as the case may be.

(c) Where there are no Chairmen of Standing Committees to hold the office of the Chairpersons as provided under clauses (a) and (b), an elected Councillor nominated by the Government shall exercise the powers and perform the duties of the Chairperson of the Municipality for the period referred to in the said clause.

**12. Election of the Chairperson and Deputy Chairperson.**— (1) The meeting to elect the Chairperson or Deputy Chairperson shall be convened within three weeks from the date of publication of the names of the elected Councillors, by the State Election Commission, on such date as may be fixed by the State Election Commission.

(2) The State Election Commission shall designate or nominate an officer of the Government as the returning officer for the election of the Chairperson or Deputy Chairperson.

(3) It shall be the duty of the returning officer to do all such acts and things as are necessary for the efficient conduct of the election, in the manner prescribed.

<sup>33</sup>[(3A) Election shall be by means of open ballot and the Councillor who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper.]

(4) The State Election Commission shall publish the result of the election of the Chairperson and Deputy Chairperson, in such manner as may be prescribed.

(5) Where the Chairperson or the Deputy Chairperson could not be elected at an election conducted in accordance with this Act, a fresh election <sup>34</sup>[shall be conducted within forty-five days] for the election of the Chairperson or Deputy Chairperson, as the case may be.

(6) Where any dispute arises as to the validity of the election of the Chairperson or Deputy Chairperson of a Municipality any Councillor of that Municipality may file a petition before the District Court having jurisdiction over the area of the headquarters of that Municipality, for decision and such decision shall be final.

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32. The words “the Chairperson has not delegated his functions to any Councillor under sub-section (3) of section 18” omitted by Act 14 of 1999, w.e.f. 24-3-1999.

33. Sub-section (3A) added by Act 11 of 1999, w.e.f. 2-10-1995.

34. Substituted for the words “shall be conducted within six months” by Act 14 of 1999, w.e.f. 24-3-1999.

<sup>35</sup>[(6A) The validity of election of the Chairperson or Deputy Chairperson shall not be called in question on the ground of any vacancy of the office of the Councillors or any of the Councillor was absent in the election meeting.]

(7) Every petition referred to in sub-section (6) shall be disposed of in accordance with the procedure prescribed to be followed while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908).

(8) Any casual vacancy in the office of the Chairperson or Deputy Chairperson of a Municipality shall be reported by the Secretary to the State Election Commission, in such manner as may be prescribed, and the State Election Commission shall, in accordance with the provisions of this Act, take steps for the election of a Chairperson or Deputy Chairperson, as the case may be.

<sup>36</sup>[(8A) The State Election Commission may declare the office of the Chairperson or Deputy Chairperson; as vacated on his own motion where the person has not entered upon his office, without sufficient cause, by taking oath or affirmation within a period of fifteen days from the date he was declared elected as such as Chairperson or Deputy Chairperson.]

<sup>37</sup>[**13. <sup>38</sup>[Honorarium and Allowances] to Chairperson, Deputy Chairperson and Councillors of Municipalities.**— (1) The Chairperson, Deputy Chairperson and other Councillors of a Municipality shall be paid <sup>38</sup>[honorarium and allowances] of such rates as may be prescribed.

(2) The Chairperson and Deputy Chairperson of a Municipality shall be eligible while travelling in public purpose for travelling allowances and daily allowance at such rates as may be prescribed.]

**14. Functions of the Chairperson.**— The Chairperson of a Municipality shall-

(a) convene the meetings of the Council;

(b) exercise the powers and discharge the duties specifically conferred or imposed on him by this Act; and

(c) exercise overall supervision over the working of the Municipality and shall co-ordinate the functions of the Municipality, the Secretary and the Committees thereof.

**15. Powers of Chairperson.**— (1) Subject to the provisions of this Act, the Chairperson shall have powers of inspection and may give such directions and orders as he thinks fit with regard to the implementation of any resolution of the Council or Committees in the discharge of any function of a Municipality and the Secretary shall be bound to comply with such direction.

(2) Except as otherwise provided in this Act or thereunder, the administrative powers to implement the provisions of this Act and the resolutions passed by a Council, shall be vested in the Chairperson and he shall be directly responsible for the proper discharge of the functions imposed by or under this Act.

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35. Sub-section (6A) added by Act 14 of 1999, w.e.f. 24-3-1999.

36. Sub-section (8A) inserted by Act 34 of 2005, w.e.f. 24-8-2005.

37. Substituted by Act 8 of 1995.

38. Substituted for "allowances" by Act 8 of 1996, w.e.f. 1-10-1995.

(3) Without prejudice to the generality of the foregoing provisions the Chairperson shall-

(a) preside over and control the proceedings of the meetings of the council of the Municipality of which he is the Chairperson;

(b) supervise and control the acts done and steps taken by the officers and employees of the Municipality, prepare the confidential report of the Secretary and also review the confidential reports prepared by the Secretary in respect of other employees;

(c) meet the contingent expenses to such extent, as may be fixed by the Government from time to time;

(d) authorise the payment and repayment of money relating to the Municipality;

(e) cause to be prepared the statements and reports required to be prepared by or under this Act;

(f) exercise such other powers and perform such other functions that may be conferred or entrusted under the provisions of this Act or the rules made thereunder.

(4) The Chairperson may, in emergent circumstances, direct the execution of any work or performance of any act, in respect of which sanction of the Council is necessary and in his opinion the immediate execution or performance of which is necessary for the safety of the public and may also direct that the expenses incurred for the execution of such work or performance of such act be paid from the fund of the Municipality;

Provided that,--

(a) no act shall be done under this section in contravention of any decision of the Council prohibiting the execution of any work or the performance of any particular act; and

(b) the steps taken under this sub-section and the reasons therefore shall be reported at the next meeting of the Council and its approval obtained.

<sup>39</sup>[(5) The Chairperson shall call the Secretary or any officer or employee under the control of Municipality including the Government Officer or employee transferred by the Government to the service of the Municipality to discuss with him on any matters relating to the functions and administration of the Municipality which are vested in or delegated to the Municipality by or under this Act, and it shall be the duty of such officer or employee to attend such discussion or the meetings convened by the Chairperson.

(6) The Chairperson shall have the power to suspend from service any officer or employee in the service of Municipality if necessary, other than the Secretary and other Government Officers in the Gazetted rank, transferred to the service of the Municipality, where disciplinary action have to be taken against them, on grounds of gross negligence of duty, dereliction of duty and violation of rules and standing orders:

Provided that the Chairperson shall place the order of suspension before the Council in its next meeting and get the order ratified by the Council, failing which the order shall stand invalid.



(7) The Chairperson shall have the power to call for from the Secretary or any other officer under the Municipality, any file and record in writing relating to the administration of the Municipality and issue directions and orders thereon in accordance with the provisions of this Act, rules or standing orders made thereunder:

Provided that the Chairperson shall not call for the files and records which are related to the exercise of statutory functions regarding Municipal Administration vested only in the Secretary or any other officer.

(8) The Chairperson shall refer to the Government for decision at once, any resolution passed by the council which in his opinion has not been legally passed or is in excess of power conferred by this Act or any other law or if carried out is likely to endanger human life or health or public safety.]

**16. Access to records and channel of correspondence.**— (1) The Chairperson shall have power to inspect all records of the Municipality and direct the Secretary to submit such records as he thinks necessary, for inspection.

<sup>40</sup> [(2) All official correspondence from the Secretary to the Government and to any other authority not below the rank of district level officer of the Government and vice-versa, shall be routed through the Chairperson:

Provided that all correspondences to the Government or other local authorities except that the Chairperson by general or special order authorises the Secretary in this behalf shall have the approval of Signature of the Chairperson:

Provided also that where the correspondences are in respect of a resolution of the council passed in contravention to any of the provisions in this Act or Rules and to furnish any information or statement or record as requested by the Government, the Secretary may address the Government directly.]

(3) The Chairperson shall be bound to transmit all the communications addressed through him by the Secretary to the Government or other authority, as the case may be, and *vice versa*, as early as possible.

**17. The Chairperson to be a member of every Committee.**— The Chairperson shall be an *ex-officio* member of every Committee of a Municipality and shall have all powers of a member of such Committee except the right to vote.

**18. Delegation and devolution of functions of Chairperson.**— (1) The Chairperson may, by order in writing, delegate any of his functions to the Deputy Chairperson:

Provided that he shall not delegate any of his functions which the Council expressly prohibits him from delegating.

(2) Where the Chairperson is continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions shall, during such absence or incapacity, devolve on the Deputy Chairperson:

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40. Sub-section (2) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (2) read as under:

“(2) All official correspondence from the Secretary to the Government and to other authorities, not below the rank of Collector and *vice versa*, shall be through the Chairperson.”

Provided that where the Chairperson is within the State during such absence and is on business connected with the affairs of the Municipality, his functions shall not devolve on the Deputy Chairperson.

(3) Where the Deputy Chairperson also is continuously absent from jurisdiction for more than fifteen days or is incapacitated or the office of the Deputy Chairperson is vacant,<sup>41</sup>[the Chairperson shall, by an order in writing, delegate his functions to Chairman of Standing Committee] in the order specified in sub-section (1) of Section 20.

(4) Every order made under sub-section (3) shall be communicated forthwith to the Council.

(5) Where an order of delegation of functions of Chairperson made under sub-section (3) is in force, no further delegation of any function shall be made in favour of any Chairman of Standing Committee other than the Councillor in whose favour such order was made.

(6) The discharge of <sup>42</sup>[the functions delegated under sub-section (1) or sub-section (3) and of the functions devolved under sub-section (2)], shall be subject to such restrictions, limitations and conditions, as may be laid down by the Chairperson and shall also be subject to his control and revision.

(7) The Chairperson may, by an order in writing, delegate to the Secretary the powers and functions vested in him to meet the expenses relating to administration.

**19. Motion of no-confidence.**— (1) A motion expressing want of confidence in the Chairperson or Deputy Chairperson <sup>43</sup>[x x x] may be moved in accordance with the procedure laid down in this section.

(2) Written notice of the intention to make the motion in such form, as may be prescribed, signed by such number of elected Councillors as shall constitute not less than one-third of the sanctioned strength of the Council together with a copy of the motion which is proposed to be made, shall be delivered by any one of the Councillors signing the notice, in person to the officer authorised by the <sup>44</sup>[State Election Commission] in this behalf.

(3) The Officer authorised under sub-section (2) shall, thereupon, convene a meeting of the elected Councillors of the Council for consideration of the motion, to be held at the office of the Municipality at a time appointed by him which shall not be later than fifteen days from the date on which the notice under the said sub-section was delivered to him. He shall give to the elected Councillors notice of not less than ten clear days of such meeting and of the time appointed therefor and shall exhibit the said notice in the Municipal Office.

<sup>45</sup>[(4) The meeting convened under this section shall be presided over by an officer authorised by the “State Election Commission” under sub-section (2)].

<sup>46</sup>[(4A) x x x]

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41. Substituted by Act 8 of 1995.

42. Substituted for “the functions delegated under sub-section (1) and of the functions devolved under sub-section (2) or sub-section (3)” by Act 14 of 1999, w.e.f. 24-3-1999.

43. The words “or the Chairman of a Standing Committee” omitted by Act 14 of 1999, w.e.f. 24-3-1999.

44. Substituted for “Government” by Act 14 of 2000, w.e.f. 18-1-2000.

45. Sub-section (4) Substituted by Act 14 of 2000, w.e.f. 18-1-2000.

46. Sub-section (4A) omitted by Act 14 of 2000, w.e.f. 18-1-2000. Prior to the substitution sub-section (4A) as inserted by Act 14 of 1999, w.e.f. 24-3-1999 read as under:

“(4A) The Officer authorised under sub-section (2) shall attend the meeting convened as per this Section as an observer.”

(5) A meeting convened for considering a motion under this section shall not except for reasons beyond control, be adjourned.

(6) As soon as the meeting commences, the person presiding shall read at the meeting the motion for the consideration of which it has been convened, and declare it to be open for debate.

(7) A debate under sub-section (6) shall not, except for reasons beyond control, be adjourned.

<sup>47</sup>[(8) The officer presiding over the meeting shall not speak on the merits and de-merits of the motion and shall not be entitled to vote].

(9) The debate shall automatically terminate on the expiry of four hours from the time appointed for the commencement of the meeting, if it is not concluded earlier. Upon the conclusion of the debate or upon the expiry of the said period of four hours, as the case may be, the motion shall be put to vote, <sup>48</sup>[which shall be by means of open ballot and the Councillor who casts his vote shall write his name and affix his signature on the reverse side of the ballot paper.]

(10) On the conclusion or the termination, as the case may be, of the meeting, a copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon <sup>49</sup>[and a report on the proceedings of the meeting shall forthwith be forwarded to the Government by the officer authorised under sub-section (2)] by the person who presided over the meeting to the Government.

<sup>50</sup>[(11) If the resolution is passed with the support of the majority of the sanctioned strength of Councillors of the Municipality notified under Section 6, after that the Chairperson or the Deputy Chairperson, as the case may be, shall cease to hold office and such office shall be deemed to fall vacant forthwith and the officer authorised under sub-section (2) shall report to the Government and the State Election Commission the vacancy in the said posts and shall cause to publish the fact in the notice board of the Municipality and the Government immediately on receipt of such report shall notify in the Gazette, the cessation of office by the Chairperson or Deputy Chairperson as the case may be.]

(12) If the motion is not carried by a majority as specified in sub-section (11), or if the meeting could not be held for want of quorum, no notice of any subsequent motion expressing want of confidence in the same Chairperson or the Deputy Chairperson <sup>51</sup>[x x x], as the case may be, shall be entertained until after the expiry of six months from the date of the meeting.

(13) No notice of a motion under this section shall be entertained within six months of the assumption of office by a Chairperson or a Deputy Chairperson <sup>52</sup>[x x x], as the case may be.

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47. Sub-section (8) substituted by Act 33 of 2005, w.e.f. 24-8-2005. Prior to the substitution it read as under:  
“(8) The person presiding over the meeting shall not speak on the merits of the motion but shall be entitled to vote thereon without the right to exercise casting or a second vote”

48. Substituted for “which shall be by means of secret ballot” by Act 11 of 1999, w.e.f. 2-10-1995.

49. Substituted for the words “shall forthwith be forwarded” by Act 14 of 1999, w.e.f. 24-3-1999.

50. Sub-section (11) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (11) read as follows: “If the motion is carried with the support of more than one half of the sanctioned strength of the Council of the Municipality, the Chairperson or the Deputy Chairperson or Chairman of the Standing Committee, as the case may be, shall thereafter cease to function as such and the Government shall, notify the fact of his removal from office.”

51. The words “or the Chairman of the Standing Committee” omitted by Act 14 of 1999, w.e.f. 24-3-1999.

52. The words “or the Chairman of a Standing Committee” omitted by Act 14 of 1999, w.e.f. 24-3-1999.

## STANDING COMMITTEES

<sup>53</sup>[20. Standing Committees.— In every Municipality there shall be constituted Standing Committees as follows, namely:—

- (A) in a Town Panchayat (1) Standing Committee for Finance  
(2) Standing Committee for Development  
(3) Standing Committee for Welfare  
<sup>54</sup>[(4) Standing Committee for Health and Education]
- (B) in a Municipal Council (1) Standing Committee for Finance  
(2) Standing Committee for Development  
(3) Standing Committee for Welfare  
<sup>55</sup>[(4) Standing Committee for Health]  
(5) Standing Committee for Works  
<sup>56</sup>[(6) Standing Committee for Education, Arts and Sports]
- (C) in a Municipal Corporation (1) Standing Committee for Finance  
(2) Standing Committee for Development  
(3) Standing Committee for Welfare  
<sup>57</sup>[(4) Standing Committee for Health]  
(5) Standing Committee for Works  
(6) Standing Committee for Town Planning  
(7) Standing Committee for Appeal relating to Tax  
<sup>58</sup>[(8) Standing Committee for Education]

<sup>59</sup>[21. **Constitution and Election to the Standing Committee.**— <sup>60</sup>[(1) Every Standing Committee shall consist of such number of members including its Chairperson as may be prescribed and in every Standing Committee, of the members to be elected under sub-section (3), one place shall be reserved for women and all other councillors except the Chairperson and the Deputy Chairperson, shall be elected as a member in any of the Standing Committee.]

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53. Section 20 substituted by Act 14 of 1999 with effect from 1-10-2000. Prior to the substitution Section 20 read as under:

“20. Standing Committees.— (1) In every Municipality there shall be constituted; Standing Committees as follows, namely:-

- (A) in a Town Panchayat One Standing Committee;  
(B) in a Municipal Council (1) The Standing Committee for Taxation, Finance and Accounts;  
(2) The Standing Committee for Public Works;  
(3) The Standing Committee for matters relating to Health and matters relating to Environment.
- (C) in a Municipal Corporation (1) The Standing Committee for Taxation, Finance and Accounts;  
(2) The Standing Committee for Public Works;  
(3) The Standing Committee for Health;  
(4) The Standing Committee for Town Planning, Tradition and Heritage;  
(5) The Standing Committee for Appeals relating to Tax.

(2) Notwithstanding anything contained in sub-section (1) the Government may, if considered necessary so to do, constitute a Standing Committee for Appeals relating to Tax and Town Planning in a Municipality other than a Municipal Corporation, in such manner as they may deem fit.”

54. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt 7-10-2009

55. The word “Standing Committee for Health Education” substituted by Act 30 of 2009, w.e.f. 7-10-2009.

56. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844 dt. 7-10-2009.

57. The words “Standing Committee for Health Education” substituted by Act 30 of 2009, w.e.f. 7-10-2009.

58. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

59. Section 21 substituted by Act 14 of 1999 with effect from 1-10-2000.

60. Sub-section (1) substituted by Act 30 of 2009, w.e.f. 7-10-2009.

(2) <sup>61</sup>[x x x]

(3) In every Standing Committee, there shall be members elected by the councillors from among themselves under the proportional representation system by single transferable vote and no Councillor shall be a member of more than one Standing Committee at the same time.

<sup>62</sup>[(3a) The members to be elected for each Standing Committee shall be elected under the guidance, supervision and control of the State Election Commission as prescribed and the State Election Commission shall designate or nominate thereto an officer of the Government or Local Self Government Institution to be the Returning Officer.]

(4) The Chairman of any Standing Committee other than the Standing Committee for Finance shall be elected by the members of the respective Standing Committee from among themselves.

<sup>63</sup>[4a) In a Town Panchayat where the office of the Deputy Chairperson is reserved for women, the office of Chairman of a Standing Committee except that of the Standing Committee for Finance and in a Town Panchayat, where the office of the Deputy Chairperson is not reserved for women, the offices of Chairmen of the two Standing Committees except that of the Standing Committee for Finance shall be reserved for women.

(4b) In a Municipal Council where the office of the Deputy Chairperson is reserved for women, the offices of Chairmen of two Standing Committees except that of the Standing Committee for Finance and in a Municipal Council, where the office of the Deputy Chairperson is not reserved for women, the offices of Chairmen of the three Standing Committees except that of the Standing Committee for Finance shall be reserved for women.

(4c) In a Municipal Corporation where the office of the Deputy Mayor is reserved for women, the offices of Chairmen of the three Standing Committees except that of the Standing Committee for Finance and in a Municipal Corporation where the office of the Deputy Mayor is not reserved for women, the offices of Chairmen of the Four Standing Committees except that of Standing Committee for Finance shall be reserved for women.

(4d) The State Election Commission shall after each General Election, distribute the offices of Chairmen of the Standing Committees reserved among the different Standing Committees by rotation, in the order of Standing Committees specified in Section 20.

(4e) The Chairman of any other Standing Committee except that of the Standing Committee for Finance shall be elected under the guidance, supervision and control of the State Election Commission as prescribed and the State Election Commission shall designate or nominate thereto an officer of the Government or Local Self Government Institution to be the Returning Officer.]

(4) The Deputy Chairperson shall be the ex-officio member and the Chairman of the Standing Committee for Finance.

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61. Sub-section (2) Omitted by Act 30 of 2009, w.e.f. 7-10-2009.

62. Sub-section (3a) inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

63. Sub-section (4a) to (4e) inserted by Act 30 of 2009, w.e.f. 7-10-2009.

(5) The Chairperson shall be an ex-officio member of every Standing Committee without any right to vote.

(6) A Councillor elected as a member or Chairman of a Standing Committee shall hold office as the member or Chairman of that Committee till the expiry of his term of office as Councillor unless he resigns from such office.

(7) The election to fill up a casual vacancy of a member of the Standing Committee shall be held within thirty days from the date of occurrence of such vacancy:

Provided that in cases where the vacancy in a Standing Committee cannot be filled up due to the vacancy in the place of a Councillor, the vacancy in the Standing Committee shall be filled up within thirty days from the date of filling up of the vacancy of the Councillor.

(8) Subject to the conditions and proceedings prescribed, a motion of no-confidence in respect of the Chairman of Standing Committee, other than the Standing Committee for Finance may be moved and such a motion, if passed, with the support of not less than a majority of the total number of members of the Standing Committee, the Chairman of that Standing Committee shall cease to hold office and he shall be deemed to have vacated the office of the Chairman of that Standing Committee]

<sup>64</sup>[**22. Function of the Standing Committee.**— (1) The powers and functions of the Standing Committees of the Municipality shall be as follows, namely:—

- (a) The Standing Committee for Finance in a Town Panchayat,
  - (i) shall supervise the utilisation of the budget grants and watch carefully the timely assessment and collection of taxes, fees, rents or other sums due to the Town Panchayat;
  - (ii) shall inspect frequently the, accounts of the Town Panchayat;
  - (iii) shall watch carefully the release of the grant by the Government and its proper utilisation;
  - (iv) shall conduct monthly audit of the accounts and check the monthly demand, collection and balance and abstract of receipts and expenditure of the preceding month as furnished by the Secretary.
  - (v) may, subject to such rules as may be prescribed, write off such sums due to the Council as appears to the Committee as irrecoverable;
  - (vi) shall scrutinise the annual statement of accounts, demands collection and balance;
  - (vii) shall prepare and present the budget estimates before the council as provided under Section 286;
  - (viii) shall verify whether any amount prepared to be expended by the Town Panchayat is within the budget provision approved by the Council and whether there is sufficient fund for this purpose;
  - (ix) shall enquire in to the allegations against the employees of the Town Panchayat, if directed by the Council and to bring the result of it into the notice of the Council;

(x) shall dispose of appeals on taxation and to give directions to the Secretary to levy tax in respect of cases which escaped assessment and to reassess undervalued cases.

(b) The Standing Committee for Development of the Town Panchayat shall deal with matters of agriculture, soil conservation, social forestry, "dairy development, animal husbandry, minor irrigation, fisheries, small scale industry, institutional finance, public works, housing, town planning including regulation of building constructions, environment, electricity, water supply, drainage and sewage and shall prepare the development plan for the Town Panchayat integrating socio-economic and spatial plans;

<sup>65</sup>[(c) The Standing Committee for the Welfare of the Town Panchayat shall deal with the matters of development of women and children, development of Scheduled Castes and Scheduled Tribes, social welfare, social security pensions and financial assistance, slum improvements, poverty eradication and public distribution system;

(ca) The Standing Committee for Health and Education of the Town Panchayat shall deal with the matters of public health and health services, sanitation, education, arts and culture and sports.]

(d) The Standing Committee for Finance of Municipal Council,—

(i) shall supervise the utilization of the budget grants and watch carefully the timely assessment and collection of taxes, fees, rents and other sums due to the Municipal Council;

(ii) shall inspect frequently the accounts of the Municipal Council;

(iii) shall watch carefully the release of grants by the Government and its proper utilization

(iv) shall conduct monthly audit of accounts and check the monthly demand, collection and balance and abstract of receipts and expenditure of the preceding month as furnished by the Secretary;

(v) may, subject to such rules as may be prescribed, write off such sums due to the Council as appear to the Committee as irrecoverable;

(vi) shall scrutinize the annual accounts, demands, collection and balance;

(vii) shall prepare and present the budget estimate before the council under Section 286;

(viii) shall verify whether any amount proposed to be expended by the Municipal Council is within the budget provision approved by the Council and whether there is sufficient fund for this purpose;

(ix) shall enquire into the allegations against the employees of the Municipal Council if directed by the Council and to bring the result of it to the notice of the Council;

(x) shall dispose of appeals on taxation and to give directions to the Secretary to levy tax in respect of cases which escaped assessment and to reassess undervalued cases.

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65. Clause (c) substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009. Prior to the substitution clause (c) read as under:

"(c) The Standing Committee for Welfare of the Town Panchayat shall deal with matters relating to the Welfare of Women and Children, development of scheduled caste and scheduled tribes, social welfare, social security pensions and financial assistance, slum improvement poverty alleviation, public distribution system, public health and health services sanitation, education, arts and culture and sports;

(e) The Standing Committee for Development of the Municipal Council shall deal with matters of agriculture, soil conservation, social forestry, animal husbandry, dairy development, minor irrigation, fisheries, small scale industry, co-operation and institutional finance and shall prepare the development plans for the Municipal Council integrating the proposals of other Standing Committees;

(f) The Standing Committee for Welfare of the Municipal Council shall deal with matters relating to the welfare of women and children, development of scheduled castes and scheduled tribes, social welfare, social security pension and financial assistance, poverty alleviation, slum improvement and public distribution system;

<sup>66</sup>[(g) The Standing Committee for Health of the Municipal Council shall deal with the matters of public health, health services, sanitation and control of dangerous and offensive trade;]

(h) The Standing Committee for Works of the Municipal Council shall deal with matters of public works, housing, town planning including regulation of building constructions, environment, electricity, water supply, drainage and sewerage;

<sup>67</sup>[(ha) The Standing Committee for Education, Arts and Sports of the Municipal Council shall deal with matters of education, art, culture and sports.]

(i) The Standing Committee for Finance of the Municipal Corporation,—

(i) shall supervise the utilization of budget grants and watch carefully the timely assessment and collection of taxes, fees, rents and other sums due to the Municipal Corporation;

(ii) shall inspect frequently the accounts of Municipal Corporation;

(ii) shall watch carefully the release of grants from the Government and its proper utilization;

(iv) shall conduct monthly audit of accounts and check the monthly demand, collection and balance and abstract of receipts and expenditure of the preceding month as furnished by the Secretary;

(v) may, subject to such rules as may be prescribed, write off the sums due to the Council as appears to the Committee as irrecoverable;

(vi) shall scrutinise the annual accounts, demands, collection and balance;

(vii) shall prepare and present the budget estimate before the Council under Section 286;

(viii) shall verify whether any amount proposed to be expended by the Municipal Corporation is within the budget provisions approved by the Council and whether there is sufficient fund for this purpose;

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66. Clause (g) substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009. Prior to the substitution clause (g) read as under:

“(g) The Standing Committee for Health and Education of the Municipal Council shall deal with the matters of public health and health services, sanitation, control of dangerous and offensive trade, education, art, culture and sports etc.”

67. Clause (ha) Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.



(ix) shall enquire into the allegations against the employees of the Municipal Corporation if directed by the Council and bring the result of it to the notice of the Council;

(j) The Standing Committee for development of the Municipal Corporation shall deal with matters of agriculture, soil conservation, social forestry, animal husbandry, dairy development, minor irrigation, fisheries, small scale industries, co-operation, institutional finance and prepare the development plans of the Municipal Corporation integrating the proposal of other Standing Committees;

(k) The Standing Committee for Welfare of the Municipal Corporation shall deal with matters of Welfare of women and children, development of Scheduled Caste and Scheduled Tribe, Social Welfare, Social Security Pension and Financial Assistance, Slum improvement<sup>68</sup>[poverty eradication] and Public distribution system;

<sup>69</sup>[(l) The Standing Committee for Health of the Municipal Corporation shall deal with the matters of public health, health services, sanitation and control of dangerous and offensive trade.]

(m) The Standing Committee for Works of the Municipal Corporation shall deal with matters of public works, housing, electricity, water supply, drainage and sewerage;

(n) The Standing Committee for Town-Planning of the Municipal Corporation shall deal with matters of town planning including regulation of building constructions, environment, urban beautification, promotion of art and culture and preservation of monuments and places and buildings of archaic importance; heritage value and natural beauty;

(o) The Standing Committee for Appeal relating to Tax of the Municipal Corporation shall dispose of appeals on taxation and give directions to the Secretary to levy tax in respect of cases which escaped assessment and to reassess undervalued cases.

<sup>70</sup>[(p) The Standing Committee for Education and sports of the Municipal Corporation shall deal with matters of education and sports.]

(2) The Standing Committee of the Municipalities may, exercise such other powers and discharge such other functions as entrusted to it by the Council in the respective subjects in addition to the powers and functions conferred on it under sub-section (1).

(3) Every resolution passed by the Standing Committee shall be placed in the next meeting of the Council and the Council shall have power to modify the same if found necessary].

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68. Inserted by Act 33 of 2005, w.e.f. 24-8-2005.

69. Clause (I) substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009. Prior to the substitution clause (I) read as under:  
“(I) The Standing Committee for Health and Education of the Municipal Corporation shall deal with matters of public health and health services, sanitation, education and sports.”

70. Clause (p) inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dated 07-10-2009.

**23. Steering Committee.**— <sup>71</sup>[(1) In every Municipality there shall be a Steering Committee consisting of the Chairperson, Deputy Chairperson, and Chairmen of Standing Committees and Chairperson shall be the Chairman of the said Committee.]

(2) Steering Committee shall,-

(a) co-ordinate and monitor the functioning of the Standing Committees,

<sup>72</sup>[(b) x x x]

(c) discharge the powers and functions entrusted to it by the Council.

<sup>73</sup>[24. x x x]

**25. Committee's power to call for records etc.**— Notwithstanding anything contained in this Act, a Standing Committee may, for the discharge of the functions assigned to it, require the Secretary or any other employee of the Municipality to produce any record, report, return, document and other particulars and may require him to be present at the meeting of the Committee for seeking further information, as it may deem fit, and he shall be bound to comply with such requisition.

**26.**<sup>74</sup>[**Functions of the Chairman of the Standing Committee.**— <sup>75</sup>[(1),(2) xxx]

<sup>76</sup>[( 1)] The Chairman of a Standing Committee shall preside at its meetings and in his absence, a member chosen by the members present from among themselves shall preside over the meeting.

(2) A member presiding at a meeting of the Standing Committee shall, while so presiding, have all the powers and be subject to all the obligations of the Chairman.

(3) The person presiding over the meeting shall control the meeting and shall decide all points of order and procedure arising at or in connection with a meeting.

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71. Sub-section (1) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (1) read as under:

"(1) In every Municipal Corporation there shall be a Steering Committee consisting of the Mayor, Deputy Mayor and Chairman of the Standing Committee and the Mayor shall be the Chairman of the said Committee."

72. Clause (b) omitted by Act 14 of 1999, w.e.f. 24-3-1999. The omitted clause (6) read as under:

"(b) examine the functioning of the ward committees and give them guidelines"

73. Section 24 omitted by Act 14 of 1999, w.e.f. 24-3-1999. The omitted Section 24 read as under:

"24. Joint Committee.— A Municipal Council may, if considered necessary, constitute a Joint Committee of the Standing Committees for any purpose in respect of which they may be jointly interested and the Chairperson may nominate the Chairman of any Standing Committee as the Chairman of the Joint Committee."

74. Substituted for the marginal heading "Election of Chairman of Standing Committee and its Presidency" by Act 14 of 1999, w.e.f. 24-3-1999.

75. Sub-section (1) & (2) omitted by Act 14 of 1999, w.e.f. 24-3-1999.

76. Sub-sections (3), (4) & (5) renumbered as Sub-sections (1) (2) & (3) after omitting sub-section (1) & (2) by Act 14 of 1999. w.e.f. 24-3-1999.

**27. Term of office of Chairman of Standing Committee.**— (1) The Chairman of a Standing Committee,<sup>77</sup>[other than that of a Standing Committee for Finance] may, unless sooner resigns, hold office as such so long as he continues as a member of that Committee.

(2) Where a vacancy occurs in the office of a Chairman referred to in sub-section (1), the Standing Committee shall at its next meeting, elect a member to be its Chairman.

(3) A member elected under sub-section (2) shall hold office for the remaining term of office of the person in whose place he was elected.

(4) Where a vacancy occurs in the office of Chairman<sup>78</sup>[of a Standing Committee for Finance], a member chosen by the members of that Committee from among themselves shall act as Chairman until a person to fill the vacancy is elected.

<sup>79</sup>**[28. Power to resign.**— (1) A member other than an ex-officio member of a Standing Committee and the Chairman of a Standing Committee other than the Standing Committee for Finance may resign his Chairmanship or membership, as the case may be, of the Standing Committee by tendering resignation to the Secretary in the form prescribed and the resignation shall take effect from the date of its receipt by the Secretary and the Secretary shall report the fact forthwith to the Chairperson and the Council<sup>80</sup>[and the State Election Commission].

(2) The person who resigns his membership or chairmanship of the Standing Committee may, either tender his resignation directly or send through registered post if such resignation letter is attested by a gazetted officer, as the case may be, to the Secretary and the Secretary shall acknowledge receipt of the same.

(3) If a Standing Committee cannot function effectively due to the resignation of the majority of the members therefrom, or due to any other reason, the powers and functions of that Standing Committee shall vest in the Steering Committee till its reconstitution]

## THE COUNCIL

**29. Administration of Municipality.**— Subject to the provisions of this Act, the Administration of the Municipality shall vest in the Council, and the Council shall, if necessary, be entitled to exercise, in the manner prescribed, the functions expressly assigned by or under this Act or any other law to the Chairperson, the Secretary, a Standing Committee or any other Committee.

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77. Substituted for “other than that of a Standing Committee for Taxation, Finance and Accounts” by Act 14 of 1999, w.e.f. 24-3-1999.

78. Substituted for “of a Standing Committee for Taxation, Finance and Accounts” by Act 14 of 1999, w.e.f. 24-3-1999.

79. Section 28 substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 28 read as under: “28. Power to resign.— (1) A member of a Standing Committee, other than the Chairman, may resign from the Committee by giving notice to the Chairman of that Standing Committee.

(2) The Chairman of a Standing Committee may resign from his office by giving notice to the Chairperson of the Municipality.

(3) A resignation under sub-section(1) or sub-section (2) shall take effect from the date on which it is received by the Chairman of the Standing Committee or the Chairperson of the Municipality, as the case may be.”

80. Added by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

**30. Powers, functions and responsibilities of Municipality.—** <sup>81</sup>(1) The administration of a Municipal area in respect of the matters enumerated in the First Schedule shall, subject to the provisions of this Act and such other provisions as may be prescribed in this behalf and the provisions of other Acts and the rules made thereunder vest in the Municipality and it shall have the power and responsibility to prepare and implement schemes for economic development and social justice in relation to the matters enumerated in the First Schedule:

Provided that, it shall be the duty of the Municipality to render necessary service to the inhabitants of the Municipal area in respect of the matters enumerated as mandatory functions in the First Schedule];

(2) Municipality shall have such powers, authority and responsibilities of the Government <sup>82</sup>[as prescribed], to enable it to function as an institution of self government in respect of the matters entrusted to it.

(3) The Government shall, as soon as may be after the coming into force of this Act, transfer all institutions, schemes, buildings, other properties, assets and liabilities connected with the matters mentioned in the First Schedule, to the Municipalities concerned.

(4) The Central and State Plan allocations, for the time being in force and the annual budget allocation in respect of the subjects transferred to the Municipalities by the Government shall be wholly allotted to the respective Municipalities.

<sup>83</sup>(5) The municipality shall manage to institutions and administer the schemes transferred to it, subject to the guidelines and technical directions from the Government and in accordance with the State and National policies.

(6) Every institutions transferred by Government to the Municipality shall be in the name of that Municipality and shall be known accordingly.

(7) The Municipality shall not have power to sell, transfer, alienate or mortgage any property transferred to it under sub-section (3).

(8) Government may resume any property transferred to the Municipality, if it is no more required by the Municipality for the purpose for which it was so transferred.

(9) There shall be constituted a Managing Committee consisting of not more than fifteen members including its chairman in the prescribed manner for public health institutions transferred to the Municipality.

(10) Where any scheme, project or plan involves selection of beneficiaries, the criterion for the eligibility and priority for such selection shall be determined by the Municipality subject to the terms and conditions of the scheme, project or plan and such criteria shall be published in the prescribed manner and shall be intimated to the Ward Committee or the Ward Sabha concerned.

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81. Sub-section (1) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (1) read as under:

“(1) Subject to the provisions of this Act and to such conditions as may be prescribed, the Administration of a municipal area in respect of the matters enumerated in the First Schedule shall vest in the Municipality”

82. Substituted for “as may be necessary” by Act 14 of 1999, w.e.f. 24-3-1999.

83. Sub-sections (5) to (13) added by Act 14 of 1999, w.e.f. 24-3-1999.

(11) The Municipality shall invite applications for the selection of beneficiaries and prepare the draft priority list after making enquiry on the applications received in this behalf and send it for the consideration of the Ward Committee or the Ward Sabha concerned.

(12) The Ward Committee or the Ward Sabha shall scrutinise the draft priority list for the selection of beneficiaries in a meeting convened inviting the applicants also and prepare the final list and forward it for the approval of the council.

(13) The Council shall not alter the priority of the list prepared by the Ward Committee or the Ward Sabha.]

**31. Rights and Powers of Councillors.**— (1) Every Councillor of a Municipality shall have the right -

(a) <sup>84</sup>[to call the attention of the Chairperson or Secretary of the Municipality to any neglect in the execution of municipal work, to any waste of municipal property, or to the needs of any locality in the municipal area, to inspect the works or schemes conducted by the Municipality] and may suggest improvements which may appear to him desirable;

(b) to move resolutions and to interpellate the Chairperson on matters connected with the Administration of a municipality subject to such regulations, as may be framed by the Council;

(c) of access to the records of the Municipality during office hours after due notice to the Secretary, provided that the secretary may, with the approval of the Chairperson, for reasons given in writing, refuse such access.

**32. Council's power to call for records.**— The Council may, at any time, require the Secretary to produce any record or document, in his custody relating to the Municipality.

**33. Council's power to call for records of Committees.**— The Council may, at any time, call for any extract from the proceedings of the Standing Committees or of any other committees or any return, statement, account or report relating to any matter which such committee is empowered to deal with and every such requisition shall be complied with by the Secretary.

**34. Obligation of the Standing Committee etc., to carry out Council's resolutions.**— Every Standing Committee, other committees and the Secretary shall be bound to give effect to every resolution of the Council unless such resolution is suspended or cancelled.

**35. Appointment of Committees.**— (1) The Council may, subject to the provisions of the Act, constitute Committees for the purpose of exercising such powers, discharging such duties or performing such functions, as may be delegated to them, and may appoint any Councillor or Committee to enquire into and report or advise on any matter referred to him or it.

(2) The Council may specially invite as members of any Committee, persons who are not Councillors but who may, in the opinion of such council, possess special qualifications for serving in such Committee:

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84. Substituted for the words "to call the attention of the Chairperson or Secretary of the Municipality to any neglect in the execution of municipal work, to any waste of municipal property, or to the needs of any locality in the municipal area" by Act 14 of 1999, w.e.f. 24-3-1999.

Provided the number of persons so invited shall not, in any case, exceed one- third of the total number of the members of that Committee.

**36. Rules and Regulations for proceedings of the Council, the Standing Committees and other Committees.**— (1) The proceedings of the Council, the Standing Committees and other Committees of a Municipality shall be governed by such rules, as may be prescribed, and such regulations, as may be made by such Council in accordance with the model Regulations provided by the Government.

(2) The rules and regulations made under sub-section (1) may contain the following matters, namely:-

- (a) the time and place of meetings;
- (b) the manner in which notice of meetings shall be given;
- (c) the preservation of order and the conduct of proceedings at meetings and enforcing decisions on points of order and taking decisions on disputes and the powers, the Chairperson or Chairman, as the case may be, may exercise;
- (d) the division of duties among the members of the Council;
- (e) the constitution and procedure of Committees;
- (f) fixing the quorum of the Council and Committees;
- (g) the delegation of powers, duties or functions to the Chairperson, Chairman, Councillor, or an officer or an employee of the Municipality or to a Committee or to its Chairman or to any of its members; and
- (h) any other matter as may be necessary for regulating the proceedings.

(3) Every matter coming before the council for decision shall be decided by the majority of votes of the elected Councillors present and in all cases of an equality of votes, the person presiding over the meeting shall have a casting vote, unless otherwise provided in this Act.

<sup>85</sup>[(4) Every Councillor present at the meeting, if voted against any resolution passed by the Council, shall have the right to present to the Secretary a dissenting note regarding such resolution, within forty-eight hours of the conclusion of the meeting.

(5) A copy of the minutes of every meeting of the Municipality and copy of the dissenting note, if any, received under sub-section (4) shall be forwarded by the Secretary within ten days after the date of the meeting, to the Government or to the officer authorised by the Government in this behalf.]

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85. Sub-section (4) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (4) read as under:

“(4) A copy of the minutes of every meeting of a Municipality and a copy of the notes of dissent regarding such proceedings received within 48 hours of the conclusion of the meeting from any Councillor present at the meeting, shall, with the approval of the Chairperson, be forwarded by the Secretary, within seven days after the date of the meeting, to the officer authorised by the Government in this behalf.”

**37. Constitution and proceedings of a Joint Committee.**— (1) The Council of a Municipality may, <sup>86</sup>[if the Local Self Government Institutions so decide or if so required by the Government], <sup>87</sup>[join with any other Local Self Government Institutions] to constitute a Joint Committee for any purpose in which they are jointly interested or for any matter for which they are jointly responsible.

<sup>88</sup>[(2) The Joint Committee shall not include any person as member who is not a Councillor or a member of a Panchayat, but any person who in the opinion of the Committee, possesses special qualifications for serving in that Committee, may be allowed to participate as special invitees in the meetings of the committee.]

(3) The Constitution and proceedings of a Joint Committee shall be governed by such regulations as may be made by <sup>89</sup>[the Local Self Government institutions concerned with their mutual agreement], which shall include provisions for all or any of the following matters namely:-

- (a) the total number of members of a Joint Committee;
- (b) the number of Councillors and other persons who shall be members of the Joint Committee;
- (c) quorum of the Joint Committee;
- (d) the appointment of the Chairman of the Joint Committee and the manner of appointment;
- (e) the term of office of the members and the Chairman;
- (f) the powers <sup>90</sup>[of the Local Self Government Institution concerned] which may be exercised by the Joint Committee; and
- (g) the procedure to be followed by the Joint Committee.

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86. Substituted for the words “if so required by the Government” by Act 14 of 1999, w.e.f. 24-3-1999.

87. Substituted for the words “join with a Council of any other Municipality” by Act 14 of 1999, w.e.f. 24-3-1999.

88. Sub-section (2) substituted by Act 14 of 1999, w.e.f. 24-3-1999.

89. Substituted for the words “the Municipalities concerned, with the prior approval of Government” by Act 14 of 1999, w.e.f. 24-3-1999.

90. Substituted for the words “of Municipalities concerned” by Act 14 of 1999, w.e.f. 24-3-1999.

(4) <sup>1</sup>[The Local Self Government Institutions concerned may, with their mutual agreement], vary or revoke regulations made under sub-section (3).

(5) Notwithstanding anything contained in sub-section (3), Government may issue such directions as they think necessary or desirable in respect of all or any of the matters referred to therein and the Joint Committee shall be bound to comply with such directions.

(6) Where any dispute or difference of opinion arises between <sup>2</sup>[the Local Self Government Institutions] in respect of the constitution or functioning of a Joint Committee under this section it shall be referred to the Government, whose decision thereon shall be final.

**38. Presidency of Council.-** (1) Every meeting of the Council of a Municipality shall be presided over by the Chairperson or in his absence by the Deputy Chairperson or <sup>3</sup>[the Chairman of the Standing Committees in the order specified in sub-section (1) of section 20 and in that absence], by a Councillor chosen by the Councillors present from among themselves:

Provided that, where two or more Councillors are proposed and seconded the Secretary, or, in his absence, the officer authorised to perform the functions of the Secretary shall conduct the election in such manner, as may be prescribed.

(2) The Chairperson or the person presiding shall control the meeting and shall decide all points of order arising at or in connection with a meeting. There shall be no discussion on a point of order and the decision taken by the Chairperson or the person presiding shall, save as otherwise provided in this Act, be final.

(3) Where any member behaves in a disorderly manner and causes obstructions to the Conduct of a meeting, the Chairperson or the person presiding shall direct such member to withdraw forthwith and if disobeyed, he shall be suspended from the meeting <sup>4</sup>[for the day by the Chairperson or the person presiding] and the member suspended shall, immediately thereafter withdraw from the meeting, failing which he shall be removed by using reasonable force, if necessary:

<sup>5</sup>[x x x]

(9) The person presiding shall, while so presiding, have all the powers of the Chairperson.

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1 Substituted for the words “The Municipalities concerned may, with the prior approval of the Government” by Act 14 of 1999, w.e.f. 24-3-1999.

2. Substituted for “the Municipalities “ by Act 14 of 1999, w.e.f. 24-3-1999.

3. Substituted by Act 8 of 1995, w.e.f. 5-8-1995.

4. Substituted for the words “for such period as the Chairperson or the person presiding may decide” by Act 14 of 2000, w.e.f. 18-1-2000.

5. Proviso omitted by Act 14 of 2000, w.e.f. 18-1-2000. The omitted proviso read as under: “Provided that the Chairperson or the person presiding may, at any time at his discretion, and shall, at the instance of the council supported by a resolution passed to that effect, cancel the order of suspension.”



**39. Councillor when to abstain from taking part in discussion and voting.—**

(1) No Councillor shall vote on, or take part in, a discussion on any question coming up for consideration at a meeting of the Council or any Committee, in which he has any direct or indirect interest.

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

(3) Such Councillor may challenge the decision of the Chairperson who shall, thereupon, put the question to the meeting for a decision which shall be final.

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

(5) The councillor concerned or the Chairperson shall not be entitled to vote on a question referred to in sub-section (2) or on a motion referred to in sub-section (4), as the case may be.

*Explanation.*— Chairperson in this section includes a person presiding over the meeting of a Council or a Standing Committee or any other Committee.

**<sup>6</sup>[40. The resignation of the Chairperson, Deputy Chairperson or Councillor.—**

(1) The Chairperson, Deputy Chairperson or any other Councillor of a Municipality may resign his office by tendering resignation to the Secretary of the Municipality in the form prescribed and the resignation shall take effect from the date of its receipt by the Secretary and the Secretary shall report the fact forthwith to the Council and to the State Election Commission.

(2) The Chairperson, Deputy Chairperson or the Councillor who resigns his office may, either tender his resignation directly or send through registered post if such resignation letter is attested by a Gazetted Officer, as the case may be, to the Secretary and the Secretary shall acknowledge receipt of the same.

(3) Where any dispute arises in respect of any resignation, it shall be referred to the State Election Commission for decision and its decision thereon shall be final:

Provided that no such dispute referred after the expiry of fifteen days from the date of effect of the resignation shall not be considered by the State Election Commission].

**41. Duty of Chairperson, Deputy Chairperson, etc., vacating office to hand over charge of office.—** (1) When a new Chairperson or Deputy Chairperson or Chairman of a Standing Committee is elected or when a special officer or Administrative Committee is appointed, the Chairperson or the Deputy Chairperson or the Chairman of a Standing Committee or Special Officer or Administrative Committee vacating office shall, as the case may be, hand over charge of their office to the above mentioned persons concerned and shall hand over all records and properties belonging to the Municipality which are in their custody to the persons who so assume charge.

(2) The provisions of sub-section (1) shall, *mutatis mutandis*, apply to the handing over the charge of office by a Councillor vacating his office.

## **WARD COMMITTEE**

<sup>7</sup>[42. **Constitution of Ward Committees.**— In every Municipality where the population exceeds one lakh, there shall be constituted a Ward Committee for each ward of that Municipality as provided in Section 43, within three months from the date of its constitution.

**42A. Constitution of Ward Sabhas.**— (1) In every Municipality where the population does not exceed one lakh, there shall be a Ward Sabha for each of its Ward and all persons included in the electoral roll of that ward shall be members of that Ward Sabha.

(2) The Councillor who represent a Ward shall be Convener of that Ward Sabha, but due to any reason, physical or otherwise, the Convener is unable to perform his function as such the Chairperson may appoint a Councillor representing any adjacent ward as the Convener.

(3) The Ward Sabha shall meet at least once in three months at a specified place and every meeting of the Ward Sabha shall be presided over by the Chairperson or in his absence, Deputy Chairperson or any Standing Committee Chairman authorised by the Chairperson or in their absence by the Convenor.

(4) The Convenor of the Ward Sabha shall convene an extraordinary meeting of the Ward Sabha within fifteen days when a request is made in writing by not less than ten per cent of the electors in the ward for discussing the matters raised in the request:

Provided that such special meeting shall be convened only once during the period between two ordinary meetings.

(5) The quorum of a ward sabha shall be ten per cent of its total members:

Provided that the quorum of a meeting of a Ward Sabha, postponed for want of quorum, shall be fifty when convened subsequently.

(6) The Convenor shall place before the Ward Sabha, a report on the development programmes relating to the ward during the preceding year and that are proposed to be undertaken during the current year and the expenditure involved therein and a statement of the annual accounts and the administration report of the preceding year.

(7) The officers of the Municipality shall attend the meeting of the Ward Sabha as required by the Chairperson and an officer nominated by the Council as the co-ordinator of the Ward Sabha, shall assist the convenor in convening its meetings, recording its decisions in the minutes book and also in taking follow up action thereon.

(8) The procedure for convening and conducting the meeting of the Ward Sabha shall be such as may be prescribed.

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7. Section 42 substituted by Sections 42, 42A & 42B by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 42 read as under:  
“42. **Constitution of Ward Committees.**— There shall be constituted in every Municipality \*[xxx] a Ward Committee for every Ward in that Municipality. \* The words “omitted by Act 8 of 1995. w.e.f. 4-8-1995.

(9) The Ward Sabha may constitute sub-committees consisting of not less than ten members to assist the implementation of any scheme, policy or decision of the Ward Sabha generally or specially and in furtherance of the rights and responsibilities of Ward Sabha.

(10) Resolution may be passed on majority basis in the meetings of the Ward Sabha in respect of any issue coming within the jurisdiction of the Ward Sabha, but, as far as possible, effort should be made to take decision on the basis of consensus.

**42B. Convening of meetings of the voters.**— A Councillor representing a ward in any Municipality having a population of more than one lakh may convene the meeting of the voters whose names are included in the voters list of each ward for giving proposals to the Municipality regarding the formulation of development schemes.]

<sup>8</sup>**[43. Composition of Ward Committee.**— The Ward Committee shall consist of the following members, namely:—

- (a) the Councillor of that ward who shall be its Chairman;
- (b) fifteen persons to be elected in the manner prescribed, from among the members of the resident's association of that Ward, which are registered in the Municipality;
- (c) twenty members to be elected in the manner prescribed from among the members of the registered neighbourhood groups of that Ward which are registered in the Municipality;
- (d) one person each nominated by every political party having representation in the Municipality;
- (e) the Heads of all recognised educational institutions functioning in that Ward;
- (f) twenty persons nominated jointly by the Chairperson and Councillor of the Ward, of whom,—
  - (i) ten shall be from the persons representing the cultural organisations, voluntary organisations, educational institutions, industrial-commercial establishments which are functioning in that ward;
  - (ii) five shall be from persons representing those working in that ward as professionals (experts in agriculture, industry, health, education, engineering etc.); and
  - (iii) five shall be from persons in the registered trade unions:

Provided that, the members nominated under items (i) and (ii) need not be the residents of that ward].

**44. Meeting of the Ward Committee.**— (1) The Ward Committee shall meet at least once in three months for discharging the duties and performing the functions as may be assigned to it by the Council, from time to time.

(2) The meeting of a Ward Committee shall be convened by its Chairman.

(3) The Chairman, or in his absence, a member chosen, by the members present, from among themselves, shall preside over the meeting.

(4) The Secretary and the Heads of Departments in the services under the Municipality shall attend the meetings of the Ward Committee and produce any document or furnish any information or report required by that Committee.

(5) The procedure to be followed in respect of quorum and details of a meeting shall be such, as may be prescribed.

<sup>9</sup>[45. **Functions of Ward Committees and Ward Sabhas.**— (1) Ward Committee or Ward Sabha shall subject to such manner and procedure as may be prescribed, exercise and perform the following powers and functions, namely:—

(a) assist the collection and consolidation of details necessary for the formulation of development schemes for the Municipality;

(b) formulate proposals on development schemes to be implemented in the Municipal area, determine the priority and make available information regarding the functional schemes for the next three months;

(c) prepare the final list of eligible beneficiaries in the order of priority by finding out eligible applicants from the Ward area based on the criterion prescribed in respect of the beneficiary oriented schemes and to submit the same to the Municipality;

(d) render necessary assistance for the effective implementation of development schemes providing necessary local facilities;

(e) seek and obtain detailed informations regarding the development programmes implementing in the Ward and observe its implementation in accordance with the directions;

(f) provide and mobilise voluntary service and assistance in cash or kind for social welfare programmes;

(g) prepare the order of priority as to the location of street lights, water taps etc. and of public sanitation Units in the street or at other public places, irrigation facilities and other public utility schemes;

(h) discuss and formulate literacy programmes necessary for the Ward area, formulate schemes for imparting awareness regarding matters of public interest like sanitation, environment protection, pollution control etc. and to give protection from social evils like corruption, false and fabricated transactions etc;

(i) to promote harmony and unity among the people belonging to different sections in the Ward area and to organise arts and sports festivals for promoting goodwill among the people of that area;

(j) to observe and assist the beneficiary committees which are conducting developmental programmes in the Ward;

(k) to verify the eligibility of persons getting various kinds of welfare assistance from Government such as pension and subsidy etc.;

(l) to make aware the people for the prompt payment of taxes, fees, rents and other sums due to the Municipality;

(m) to co-operate with the employees of Ward area in the sanitation arrangements of the area and rendering voluntary service in the removal of garbage;

(n) to encourage the residents of the ward area to plant kitchen gardens and to engage in horticulture activities;

(j) to identify the deficiencies in the systems of water supply, street lighting etc. in the Ward area and to suggest remedial measures;

(p) to identify the lacunae and lapses in following the building rules and in implementing spatial planning;

(q) to assist the activities of the parent-teacher associations in the schools in the Ward area;

(r) to assist the functioning of public health centres in the ward area;

(s) to perform other functions as may be prescribed.

(2) The Ward committee or the Ward Sabha as the case may be, may in its ordinary meeting or in a special meeting convened for the purpose, discuss the development programmes of the previous year and it is entitled to know the amount earmarked in the budget, the details about the plan out-lay and the object-wise allocation of funds and also the details of the estimates and cost of materials of the works executed or proposed to be executed in the Ward.

(3) The audit report or performance audit report coming for the consideration of the Ward Committee or Ward Sabha shall be discussed in its meeting and its opinion, recommendations, and suggestions be communicated to the council concerned.]

<sup>10</sup>**[46. Duties and rights of Ward Committees and Ward Sabhas.—** (1) The Ward Committees and Ward Sabhas shall have the following duties, namely:—

(1) disseminate information regarding the development and welfare activities;

(ii) participate and propagate the programmes regarding health and literacy and other similar time-bound development, programmes;

(iii) Collect essential Socio-economic basic data;

(iv) provide information by collecting the progress regarding development activities;

(v) adopt moral means for payment of taxes, repayment of loans, improvement of environmental cleanliness and maintenance of social harmony;

(vi) mobilise, resources locally to augment the financial sources of the Municipality;

(vii) supervise development activities as voluntary groups;

(viii) make arrangements to report immediately the occurrence of epidemics, natural calamities etc.;

(ix) co-ordinate and implement the activities for the protection of nature to impart knowledge to the people on environmental problem.

(2) The Ward Committee and the Ward Sabha shall have the following rights, namely:—

(i) to get information regarding the services to be rendered and the activities proposed to be carried by the officers concerned during the next three months;

(ii) to get information on the detailed estimate regarding the works proposed to be undertaken;

(iii) to know whether each decision of the council of the Ward area is logical;

(iv) to know about the follow up actions taken, decision of the Ward Sabha and the Ward Committee, as the case may be, and about the detailed reasons for not implementing any decision;

(v) to get information regarding detailed town planning schemes building construction permits etc. in the ward.]

**47. Duration of the Ward Committee.—** The duration of a Ward Committee constituted in a Municipality shall be co-terminus with that of the Municipality.

## **THE SECRETARY**

**48. The Secretary of Municipality.—** (1) For every Municipality there shall be a Secretary appointed by the Government, in consultation with that Municipality, who shall be an officer of the Government borne on such cadre, as may be prescribed, and shall be the Executive Officer of the Municipality and the other officers and employees of the Municipality shall be subordinate to him.

(2) The Secretary shall not without the sanction of the Municipality or the Government, undertake any work unconnected with his office.

(3) The pay and allowances of the Secretary, as fixed by the Government from time to time, shall in the first instance to be paid from the State funds. The whole of the pay and allowances paid to the Secretary and the contributions towards his leave salary and pension to the extent required shall be credited monthly to the State funds by the Municipality.

(4) The Government may grant leave to the Secretary and appoint a substitute or nominate an officer to hold charge of his office during his absence.

(5) The Secretary shall be the custodian of all Municipal properties and records including all papers and documents connected with the proceedings of the Council and the Standing Committees and other Committees, and shall arrange for the performance of such functions, as may be entrusted to him by the said bodies.

(6) The Government may, at any time, transfer the Secretary, from a Municipality and if the Council, on the strength of a resolution, passed at a special meeting convened for this purpose, by a simple majority vote of the approved strength of the Council, recommends a transfer, the Government shall do so.

<sup>11</sup> [Provided that before considering such a resolution by the council the Secretary shall be given an opportunity to give a representation and if requested of being heard by the Council or the Chairperson.]

(7) The Council shall, subject to the rules that may be made in this behalf, be competent to impose minor penalties on its Secretary.

(8) An appeal may be filed against the order of the Council imposing any minor penalty, before the authority (referred below as the authority) authorised by the Government in this behalf.

(9) An appeal under sub-section (8) shall be in the prescribed form and shall be submitted in such manner and within such date, as may be prescribed.

(10) On receipt of an appeal under sub-section (8), the authority, after giving the person filing the appeal an opportunity of being heard, may either confirm, cancel or revise the order against which the appeal is preferred or pass such other order as it deems fit.

(11) The Government may, either *suo motu* or on application, call for the records of any order passed by the authority under sub-section (10) and may review such order and pass such order in that regard, as it deems fit:

<sup>12</sup>[(12) Where disciplinary proceedings have to be initiated against the Secretary, the Chairperson shall have the power to conduct an enquiry against him and in the case of imposition of a major penalty, to report to the Government with approval of the council to take further action under the rules applicable to the Secretary and the Government shall as soon as the report is received, take appropriate action and intimate the final decision taken thereon, in writing to the Chairperson.

(13) The Government may by a general or special order designate any officer of the Government transferred to the service of the Municipality as an *ex-officio* Secretary and the person so appointed shall have all the powers and functions of the Secretary, in respect of the subjects dealt with by them.]

Provided that no application for review shall be entertained if it is preferred after 30 days from the date of receipt by the applicant of the order sought to be reviewed:

Provided further that the Government shall not pass any order affecting any party if that party had not been given an opportunity for submitting a representation:

Provided also that the Government shall not *suo motu* review an order, if more than one year has elapsed since the date of the order sought to be reviewed.

**Explanation.**—In this section minor penalty has the same meaning as is given to minor penalty in the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.

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11. Proviso inserted by Act 14 of 1999, w.e.f. 24-3-1999.

12. Sub-section (12) & (13) added by Act 14 of 1999, w.e.f. 24-3-1999.

**49. Functions of the Secretary.**— <sup>13</sup>[(1) Subject to the provisions of this Act and the rules made thereunder, the Secretary shall,—

(a) record his opinion in writing on all matters with which he is concerned and which require the decision of the Chairperson, the Council or the Standing Committee; and

(b) implement the resolutions of the Council and the Standing Committee:

Provided that where the Secretary is of opinion that any resolution has not been legally passed or exceeds the powers conferred by this Act or by any other law or by the rules made thereunder or that if carried into effect it may endanger communal harmony or public safety or it is contrary to the Central State Policy, the Secretary shall request the council in writing to review the matter and express his views during review by the council and if the council sticks on to its earlier decision, he shall refer it to the Government for appropriate action and decision, after intimating the matter to the Chairperson:

Provided further that where, on review of the resolution, the council decides to implement the same and the decision of the Government have not been intimated within fifteen days from the date of reference to the Government, the Secretary shall implement the said resolution and the matter be intimated to the Government:

Provided also that no approval of the Chairperson is required for the Secretary to refer the matter to the council or the Government as aforesaid, but he shall give a copy of the report sent to the Government, to the Chairperson;

(c) furnish periodical reports to the council and the standing committees, as the case may be, regarding the action taken or progress made in implementing the resolutions of the council or the standing committees;

(d) implement the directions of the Chairperson:

Provided that where the Secretary is of opinion that any direction given by the Chairperson is in excess of the powers conferred under the provisions of this Act or any other law or the rules made thereunder, he may first bring the matter to the notice of the Chairperson and if the Chairperson repeats his direction and if the Secretary sticks on to his earlier opinion, he shall report that matter to the council in the manner as may be prescribed;

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13. Sub-section (1) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the subn. sub-section (1) read as under: “(1) Subject to the provisions of this Act and the rules made thereunder the Secretary shall,

(a) carry into effect the resolutions of the council:

Provided that where the Chairperson or the Secretary, considers that the resolution has not been passed in accordance with the law or that it exceeds the powers conferred under this Act, or that if carried into effect, it will endanger the life or health of man or public safety, the Secretary or Chairperson shall refer the matter to the officer authorised by the Government in this behalf and from his decision there shall be an appeal to Government;

(b) furnish to the Council such periodical reports regarding the progress made in carrying into effect the resolutions of the Council relating to the collection of taxes as the Council may direct; and

(c) implement all the directions of the Chairperson:

Provided that, where the Secretary is of opinion that, any direction given by the Chairperson is ultra vires the provisions of this Act or any other law for the time being in force, he shall report the matter to the Council within such time, as may be prescribed;

(d) exercise the powers and discharge the duties specially conferred or imposed on the Secretary by or under this Act;

(e) incur expenditure authorised by the Chairperson;

(f) make payments for all kinds of expenditure authenticated by the Municipality either by cheque or by cash;

(g) maintain and keep the accounts of receipts and expenditure of the Municipality;

(h) be responsible for the safe custody of the Municipal fund; and

(i) maintain the records in respect of the meetings and procedure of the Council.

\*[(j) have the right to take disciplinary action against municipal employees with the knowledge of the Chairperson \* Clause O') added by Act 8 of 1995, w.e.f. 5-8-1995.



(e) exercise such of the powers and perform such of the functions as may be specifically conferred or delegated by or under this Act;

(f) incur the expenditure authorised by the council or the Chairperson, subject to the budgetary provision;

(g) make payments for all kinds of expenditure authorised by the Municipality, either by cheque or in cash;

(h) maintain and keep the accounts as to the receipts and expenditure of the Municipality;

(i) be responsible for the safe custody of the Municipal fund;

(j) keep the records in respect of the meetings and proceedings of the council, standing committees and other committees;

(k) take disciplinary action against the Municipal employees with the knowledge of the Chairperson; and

(l) assist the Chairperson and the council to co-ordinate the functions of the officers and institutions transferred to the Municipality.]

(2) All litigations for or against the Municipality shall be conducted by or against the Secretary.

**50. Rights and duties of Secretary.**— (1) The Secretary shall attend the meetings of the Council and the meetings of the Standing Committee or any other Committee of a Municipality and may take part in the discussions thereat; as an advisor, but shall not have the right to move any resolution or to vote.

(2) Subject to any direction given or any restriction imposed by the Government or the Municipality, the Secretary may, by order in writing, delegate any of his functions to any officer or employee of the Municipality who shall be bound to carry out such functions. The discharge of the functions so delegated shall be subject to such restrictions, limitations and conditions as may be laid down by the Secretary and shall also be subject to his control and revision.

(3) The officer or employee to whom the power is delegated under sub-section

(2) shall have all the rights, privileges and authority of the Secretary with respect to such functions and shall like-wise be subject to all liabilities arising out of the exercise of such powers, privileges or authority.

<sup>14</sup>[(4) The Secretary shall for the discharge of his functions vested in him by or <sup>15</sup>[under this Act or in any other law], have the power after informing the Chairperson to incur expenditure not exceeding Rs. 25,000 out of the Municipal fund.]

<sup>16</sup>[(5) The Secretary shall give the required information regarding the functions of the Municipality to the Government or to the officers or to the agency authorised by it.

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14. Sub-section (4) added by Act 8 of 1995, w.e.f. 5-8-1995.

15. Substituted for the words "under this Act" by Act 14 of 1999, w.e.f. 24-3-1999.

16. Sub-sections (5), (6) & (7) added by Act 14 of 1999, w.e.f. 24-3-1999.

(6) The Secretary shall be responsible for furnishing necessary information to the Legislative Committee or answer the Legislative Assembly interpellations and in order to avoid delay, such information may be sent directly to the Government or to the officer authorised by it in this behalf and thereafter submit to the Chairperson for information.

(7) The Secretary shall take follow up action on performance audit reports and other audit reports.]

#### **CHAPTER IV PREPARATION AND EXECUTION OF DEVELOPMENT PLANS**

**51. Preparation of Development plans by Municipalities.**— <sup>17</sup>[(1) Ward Committee or Ward Sabha as the case may be] shall prepare every year in such form, as may be prescribed, a development plan for the ward along with an estimate of the expenditure therefor, for the next year and after finalising it in a meeting held three months before a financial year, submit the same to the Municipality concerned.

<sup>18</sup>[(2) Every Municipality shall prepare every year a development plan for the succeeding year considering the development plans submitted by the Ward Committees or Ward Sabhas of the Municipality in the prescribed manner for that Municipal area and submit the same to the District Planning Committee before such date as prescribed].

*Explanation.*— For the purpose of this section “development plan” means a development plan for economic development, social justice <sup>19</sup>[Improvement of living conditions, creation of employment opportunities and increase of production capacity] in relation to matters enumerated in the Twelfth Schedule to the Constitution including the matters to which the administrative power vests in the Municipality under the provisions of this Act or any other law.

<sup>20</sup>[(3) Every Municipality shall prepare a master plan for its development in the prescribed manner with focus on scientific spatial planning taking into account its resources and as per the fiscal investment and submit the same to the District Planning Committee.

(4) Municipality shall have the power to prepare and implement detailed town planning schemes as per the laws relating to Town Planning for the time being in force subject to the master plan approved by the Government.]

**52. Entrustment of Schemes to Municipalities for implementation.**—(1) Notwithstanding anything contained in any law for the time being in force, the Government may, subject to the condition, as they may think fit to impose, entrust by an order published in the Gazette to a Municipality, implementation of such schemes of economic development and social justice including the schemes in relation to the matters enumerated in the Twelfth Schedule to the Constitution, as they deem fit.

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17. Substituted for the words “Every Ward Committee” by Act 14 of 1999, w.e.f. 24-3-1999.

18. Sub-section (2) except the explanation substituted by Act 14 of 1999, w.e.f. 24-3-1999.

“(2) Every Municipality shall prepare every year in such form as may be prescribed, a development plan for the Municipal area for the next year having regard to the development plans submitted to it by the Ward Committee, if any, in the Municipality, and submit the same before such date, as may be prescribed, to the District Planning Committee.”

19. Substituted for the words “and improvement of living conditions” by Act 14 of 1999, w.e.f. 24-3-1999

20. Sub-section (3) & (4) substituted by Act 14 of 1999, w.e.f. 24-3-1999.

(2) Where the Government entrust a scheme under sub-section (1) to a Municipality, they shall allot to that Municipality such fund and staff as may be necessary to enable the Municipality to implement the scheme.

(3) Where disciplinary action has to be initiated against any officer as referred to in sub-section (2), the Chairperson concerned shall have the right to conduct enquiry against such officer or employee and report the same to Government.

(4) Notwithstanding anything contained in sub-section (3) a Municipal Council shall, subject to the rules as may be made in this behalf, have power to impose minor penalties on any such officer or employee.

**Explanation.**—In this section ‘Minor penalty’ has the same meaning as is given to ‘minor penalty’ in the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960.

<sup>21</sup>[**52A. Regulation of Municipal electrical undertakings.**— The administration of Municipality on any of the undertakings for generating, transmitting, supplying and consuming the electrical energy shall not be contrary to the <sup>21A</sup>[ Indian Electricity Act, 2003 (Central Act 36 of 2003)] or Electricity (Supply) Act, 1948 (Central Act 54 of 1948) or the rules made under these Acts or the conditions in the licence issued to the Municipality, and shall be subject to the conditions as may be prescribe].

**53. District Planning Committee.**— (1) The Government shall constitute in every district, a District Planning Committee at the district level to consolidate the plans prepared by the Panchayats and the Municipalities in a district and to prepare a draft development plan for the district as a whole.

(2) The Committee shall consist of fifteen members of whom-

(a) twelve members shall be elected, in such manner as may be prescribed, by and from amongst the elected members of the Panchayats at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district:

(b) the President of the District Panchayat in that district;

(c) one shall be a person having considerable experience in administration and planning, nominated by the Government;

(d) the District Collector concerned, *ex-officio*.

<sup>22</sup>[Provided that fifty per cent of the members to be elected under clause (a) shall be women and two members belonging to Scheduled Caste or Scheduled Tribe and among them one shall be a woman].

(3) In sub-section (2),-

(i) the members mentioned in clause (a) shall be elected under the guidelines, supervision and control of the State Election Commission;

(ii) the President of the District Panchayat mentioned in clause (b) shall be the Chairman of the Committee;

(iii) <sup>23</sup>[x x x] and

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21. Section 52A inserted by Act 14 of 1999, w.e.f. 24-3-1999.

21 A. Indian Electricity Act, 1910 was replaced by the Indian Electricity Act, 2003.

22. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

23. Omitted by Act 8 of 1995

(iv) the District Collector referred to in clause (d) shall be the Secretary of the Committee.

(4) The district level officers of the departments of the Government in the District shall be the Joint Secretaries of the Committee.

(5) The Members of the House of the People (Lok Sabha) and the members of the Legislative Assembly of the State, representing any area comprised in a district shall be permanent invitees of the District Planning Committee of that district:

Provided that where the area which a Member of the House of the People (Lok Sabha) or a member of the Legislative Assembly of the State represents, comprises partly in one district and partly in another district, he shall be a permanent invitee to the District Planning Committee of both the districts in which the area he represents is comprised.

(6) A member of the Council of States (Rajya Sabha) representing the State shall be a permanent invitee to the District Planning Committee of the district in which he is registered as elector in the electoral roll of any Municipality or Panchayat.

(7) A member nominated to the Legislative Assembly of the State shall be a permanent invitee to the District Planning Committee of the district in which he ordinarily resides.

(8) Where a Member of Parliament or a Member of the Legislative Assembly of the State is appointed as Minister or elected as Speaker or Deputy Speaker or appointed as the Government Chief Whip or recognised as Leader of the Opposition, he may nominate a person from the area he represents as Member to represent him in the District Planning Committee or the District Planning Committees of the district or districts to which he was a permanent invitee.

(9) The Committee shall consolidate the plans prepared by the Panchayats and the Municipalities in the district and prepare a draft development plan for the district as a whole and perform such other functions relating to district planning, as may be assigned to it by the Government, from time to time, by notification in the Gazette.

(10) The Committee shall, in preparing the draft development plan,-

(a) have regard to-

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

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

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

(11) The Chairman shall forward the development plan, as recommended by the Committee, to the Government for approval.

<sup>24</sup>[(11A) The Government shall, while preparing the State Plan consider the proposal and priorities included in the draft development plans prepared for each districts by the District Planning Committee.

(11B) The District Planning Committee shall monitor the quantitative and qualitative progress, especially its physical and financial achievements, in the implementation of the approved district planning schemes and State plans relating to the district and it shall evaluate the action programmes already completed.]

(12) The procedure to be followed in the meeting of the Committee, including the quorum for such meeting, shall be governed by such rules as may be prescribed.

**54. Metropolitan Planning Committee.**— (1) The Government shall, by notification in the Gazette, constitute a Metropolitan Planning Committee in a Metropolitan area to prepare a draft development plan for such area as a whole.

(2) The Metropolitan Planning Committee shall consist of fifteen members of whom.-

(a) ten shall be elected, <sup>25</sup>[of whom one shall belong to Scheduled Caste or Scheduled Tribe and five persons shall be women] in such manner as may be prescribed, by and from amongst, the elected members of the Municipalities and the Presidents of the Village Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and Village Panchayats in that area;

(b) five shall be nominated by the Government of whom-

(i) one shall be an officer of the rank of a Secretary to Government or an eminent person having experience in local administration or public administration;

(ii) one shall be an officer not below the rank of Senior Town Planner of the Town Planning Department;

(iii) one shall be an officer not below the rank of Superintending Engineer of the Public Works Department;

(iv) one shall be an officer of any Government Department not below the rank of a Deputy Secretary to Government; and

(v) one shall be the Collector of the district in which the metropolitan area is comprised or where more than one district is comprised in the metropolitan area one of the Collector of such districts as the Government may determine.

(3) The members mentioned under clause (a) to sub-section (2) shall be elected under the guidelines, supervision and control of the State Election Commission and one among them shall be elected as the Chairman.

(4) The officer nominated under item (iv) of clause (b) of sub-section (2) shall be appointed as the Member Secretary of the Committee.

(5) Where the Government are of opinion that representation of the Central or State Government and of any organisation or institution is necessary for carrying out the functions assigned to the Metropolitan Planning Committee, they may provide for the inclusion <sup>26</sup>[as invitees] of the representatives of the Government, either of the Central or the State, and of such organisation or institution in the Committee for the limited purpose of carrying out the functions so assigned to it.

(6) The Metropolitan Planning Committee shall prepare draft development plan for the Metropolitan area as a whole and perform such other functions relating to planning and co-ordination for the Metropolitan area as may be assigned to it by the Government, from time to time.

(7) The Metropolitan Planning Committee shall, in preparing the draft development plan-

(a) have regard to -

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and Panchayats including the co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set out by the Central or the State Government;

(iv) the extent and the nature of investments likely to be made in the Metropolitan area by agencies of the Central and the State Governments and other available resources, whether financial or otherwise;

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

(8) The Secretary shall forward the development plan, as recommended by the Metropolitan Planning Committee, to the Government for approval.

(9) The procedure to be followed in the meeting including the quorum for such meeting shall be governed by such rules as may be prescribed.

<sup>27</sup>[55. **State Development Council.**— (1) The Government shall, by notification in the Gazette, constitute a State Development Council and it shall consist of the following members,—

(a) the Chief Minister who shall be its Chairman;

(b) members of the Council of Ministers of the State, the Leader of Opposition of the State Legislative Assembly, who shall be its Vice-Chairman;

(c) the Chairmen of the District Planning Committees;

(d) the Mayors of the Municipal Corporations;.

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26. Inserted by Act 8 of 1995.

27. Section 55 substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:

“55. High Level Committee.— (1) There shall be a high level committee for each Metropolitan area.

(2) The high level committee for the metropolitan area covering the State Capital may be known as the high level committee for the capital region.

(3) The function of the high level committee is to co-ordinate and monitor the urban development activities of the Government and other agencies.

(4) The high level committee shall consist of,-

(a) the Chief Minister, who shall be the Chairman;

(b) the Minister in charge of Local Administration who shall be the Vice-Chairman;

(c) the Ministers in charge of Transport, Water Supply, Finance, Electricity and Public Works;

(d) the Chief Secretary to Government;

(e) the Secretaries in charge of Finance, Local Administration, Transport, Public Works, Water Supply and Electricity;

(f) the Chairman of the Metropolitan Planning Committee, concerned;

(g) the Chairman of the District Planning Committee; and

(h) the members of the House of People and the members of the State Legislative Assembly, the constituencies represented by whom lie in part or in whole within the respective metropolitan area.

(i) the nominated member of the State Legislative Assembly who is registered as an elector in the electoral roll of any Local Authority within the metropolitan area;

(j) the President of the District Panchayat of the district in which the metropolitan area is comprised;

(k) the Mayor of the Municipal Corporation within the metropolitan area; and

(l) the Chairman of Development Authority in the metropolitan area.”

(e) two Chairpersons of the Municipal Council, two Chairpersons of the Town Panchayat two Presidents of the Block Panchayat and two presidents of the Grama Panchayat, nominated by the Government;

(f) the Vice-chairman of the State Planning Board; and

(g) the Chief Secretary who shall be its Member-Secretary.

<sup>28</sup>[Provided that of the members nominated by the Government under clause (e), one person from each category shall be a woman and one shall be person belonging to Scheduled Caste or Scheduled Tribe.]

(2) The State Development Council shall,-

(a) formulate policy for local level development and regional level development;

(b) co-ordinate the District Plans and the State Plans;

(c) formulate policy necessary for strengthening Local Self Government Institutions;

(d) deal with common issues concerning development, among the districts.

(3) The State Development Council shall meet at least once in six months].

## CHAPTER V

### <sup>29</sup>[FUNCTIONS OF THE GOVERNMENT]

**56. Power of Government for purposes of control.—** (1) Government or the officer authorised by them in this behalf may inspect any office under the control of the Municipality or any movable property kept therein or any immovable property or any work which is in progress.

(2) The Government or the officer authorised by them in this behalf may-

(a) call for any document in the Custody of the Municipality;

(b) require the “[Chairperson or the Secretary] to furnish any return, plan, estimate, statement, account or statistics;

(c) require the “[Chairperson or the Secretary] to furnish any information or report or any matter relating to the Municipality; and

(d) record in writing any observation for the consideration of the Council, Chairperson or Secretary, as the case may be, in regard to the proceedings or functions of the Council, Chairperson or Secretary.

<sup>31</sup> [(3) The Chairperson, Secretary and other officers shall be liable for facilitating the exercise of the powers under sub-section (1) and for fulfilling the requirements under sub-section (2).

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28. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No.1844, dt. 7-10-2009.

29. Chapter heading substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under - "CONTROL"

30. Substituted for "Chairperson" by Act 14 of 1999, w.e.f. 24-3-1999

31. Sub-section (3) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section(3) read as under:  
"(3) Every Municipality its Chairperson, Secretary and other officers shall be bound to facilitate the exercise the functions under sub-sections (1) and (2)"

(4) The Government or the officer authorised by them under sub-section (2) shall return to the Municipality any document, register or records received from it within ninety days from the date of its receipt and if necessary, the Government may keep certified copies of the same.

(5) The Government may arrange for the conduct of periodical performance audits with respect to the administration of the Municipality and the works and schemes implemented or being implemented by the Municipality in the manner prescribed.]

<sup>32</sup>[57. **Power to suspend and cancel resolutions etc.**— (1) The Government may, suo-motu or on a reference by the Chairperson the Secretary, or a Councillor of the Municipality or on a petition received from a citizen, cancel or amend a resolution passed or a decision taken by the council, which in their opinion,-

(a) has not been legally passed or taken; or

(b) is in excess or abuse of the powers conferred by this Act or any other law; or

(c) is likely to endanger human life, health safety, communal harmony or public peace, or is likely to lead to a riot or quarrel; or

(d) has violated the guidelines issued by the Government in the matter of implementation of plans, schemes or programmes or the conditions of grants.

(2) Before cancelling or amending a resolution or decision under sub-section (1), the Government shall refer the matter for the consideration of the Ombudsman constituted under Section 271 G of the “Kerala Panchayat Raj Act, 1994(13 of 1994) or to the Tribunal for the Local Self Government Institutions constituted under Section 271 S of the said Act and the Tribunal shall, after giving the Municipality an opportunity of being heard, furnish a report to the Government with its finding based on which the Government may cancel, amend or approve that resolution or decision.

(3) The Government shall not entertain any petition for cancellation or amendment of any resolution or decision of the council if an alternate redressal is available to the petitioner through the Tribunal under section 509.

(4) Where the Government are of opinion that a resolution or a decision of the Council shall be cancelled or amended under sub-section (1), they may temporarily stay the implementation of such resolution or decision and may direct the council to keep its implementation in abeyance till it is finally disposed of by completing the procedure under sub-section (2)].

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32. Section 57 substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution section 57 read as under: “57. **Power to suspend or cancel resolutions, etc.**— The Government may by order, for reasons to be recorded in writing, amend, cancel or suspend for a period of not more than three months any resolution passed, order issued, licence or permission granted or prohibit the doing of any act by the Municipality, if in its opinion,-  
(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised: or  
(b) such resolution, order, licence, permission or act is in excess of the powers conferred by or under this Act or any other law; or  
(c) such resolution, order, licence, permission or act may cause or likely to cause any pecuniary loss or damage to the Municipality or affect the financial interest of the Municipality: or  
(d) the execution of such resolution or order, the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or affray: Provided that the Government shall, before taking action under the section, give the Municipal authority or the person concerned an opportunity for reconsideration and explanation.”



<sup>33</sup>[58. **Power of the Government to issue direction to Municipality.**— (1) Notwithstanding anything contained in this Act, the Government shall have the power to issue directions to the Municipality in accordance with the National and State policies in matters of finance, maintenance of accounts, office management, selection of schemes, sites and beneficiaries, proper functioning of Ward Sabhas and Ward Committees, welfare programmes, environment control etc. and the Municipality shall comply with such directions.

(2) Where default or abuse of power in the implementation of schemes or maintenance of accounts is reported or specific complaint has been received in the matter, the Government may arrange for such enquiry as it deems fit and the Municipality shall co-operate with that enquiry.

(3) After such enquiry, the Government may take actions which are necessary and permissible under this Act].

**59. Delegation of powers etc.**— (1) The Government may, by notification in the Gazette, authorise one or more officers to exercise any of the powers vested in them under this Act, except the power to make rules, in respect of any Municipality or all Municipalities and in like manner withdraw such authorisation.

(2) The exercise of any of the powers delegated under sub-section (1) shall be subject to such restrictions and conditions as may be specified in the notification. The Government shall also have the power to control or review the acts or proceedings of any person so authorised.

<sup>34</sup>[60 xxx]

**61. Action by Government in default of Municipal Authority.**— <sup>35</sup>[(1)] Where, at any time, it appears to the Government that a Municipal authority has made default in performing any duty imposed on it by or under this Act or any other law for the time being

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33. Section 58 substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution Section 58 read as under: “58. **Power to issue directions to Municipal Authorities.**— (1) Notwithstanding anything contained in this Act, where the Government, or the officer authorised by them upon information furnished to them under section 56 or otherwise and after such further enquiry, if necessary, is satisfied that any action taken or any order issued or licence or permission granted by any Municipal Authority-

(a) is erroneous, improper or against the financial or other interests of the Municipality or is likely to cause financial loss to it; or

(b) causes or is likely to cause injustice to or denies the legal right of, any person; or

(c) causes or is likely to cause undue hardship, damage or injury to any person; or

(d) wilfully or otherwise omits to discharge a legal duty or fails to fulfil an obligation cast upon it by any law; or

(e) is against public interest and better administration of a Municipality- they may issue to such authority such order or direction, as they may deem fit, in the circumstance of the case:

Provided that no order or direction shall be issued without giving the Municipal authority or the person affected thereby an opportunity of being heard:

Provided further that where immediate action is necessary, the Government, or the officer authorised by them may issue such interim order or direction, as the case may be.

(2) A Municipal authority to whom an order or direction has been issued under sub-section (1) shall be bound to comply such order or direction, whether interim or otherwise, within such time as may be specified in the order or direction.”

34. Section 60 omitted by Act 14 of 1999, w.e.f. 24-3-1999. The omitted Section 60 read as under

“60. **Control over municipal electrical undertakings.**— The administration by a Municipality of any undertaking for the generation, transmission, supply or use of electrical energy shall be subject to such conditions as may be prescribed, not inconsistent with the Indian Electricity Act, 1910 (Central Act 9 of 1910) or the Electricity (Supply) Act, 1948, (Central Act 54 of 1948), the rules made under those enactments and the terms of the licence granted to the Municipality.”

in force, they may, by order in writing, direct such authority to perform the duty within such period, as may be specified, therein, and such authority shall be bound to comply with such direction.

<sup>35</sup>[(2) If such duty is not performed or such order is not carried out within the period specified under sub-section (1), the Government may, after giving a reasonable opportunity to the Municipality, to its chairperson or to the Secretary, as the case may be, to show cause why further action should not be taken under this section, appoint any officer or authority to perform the duty or to carry out the functions and the expenses to be incurred for that shall be paid from the funds of the Municipality within such time as determined by the Government.

(3) If the expenses directed by the Government to be paid from the fund of the Municipality under sub-section (2) is not paid in the manner specified orders may be passed directing the person having the custody of the said fund to pay it in priority to any other charge against that fund, except service charges of authorised loans, or deduct that amount from the share of taxes or any grant due to the Municipality.

(4) The person referred to in sub-section (3) shall, as far as the funds in the account of the Municipality permits be liable to comply with the order passed by the Government under that sub-section.]

**62. Power of Government to undertake certain works.**— The Government may, with the consent of a Municipality, undertake on its behalf the construction of water supply, drainage or any other work, appoint any officer or person to carry out the construction of such works and direct that the expenses including the pay and allowances of such officers be paid from the Municipal fund in priority to any charges except charges for the service of authorised loans.

**“[63. Annual Administration Report.**— (1) Every Municipality shall in accordance with the provisions of this section publish a report of its administration in each year in such form and with such details as the Government may direct, within the thirtieth day of September of the succeeding year and where the report is not published within the said time limit, the Government may withhold the payment of grants due to the Municipality thereafter.

(2) The draft of the Administration Report in respect of the institutions, offices and officers under the control of the Municipality shall be prepared by the heads of such institutions and offices and furnish to the Secretary of the Municipality and he shall prepare the draft of the administration report of that Municipality in consultation with the Chairperson and place it before the Standing Committee for Finance for scrutiny and then to the Council for approval.

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35. Section 61 renumbered as sub-section (1) of that section and added sub-section (2) (3) & (4) by Act 14 of 1999, w.e.f. 24-3-1999.

36. Section 63 substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution section 63 read as under: “63. Annual Administration Report.— (1) As soon as may be after the first day of April in every year and not later than 30<sup>th</sup> day of June of that year every Municipality shall submit to the officer authorised by the Government on this behalf, a report on its administration during the preceding year in such form and with such details, as the Government may direct.

(2) The report under sub-section (1) shall be prepared by the Secretary, considered by the Council and forwarded to the officer referred to in the said sub-section with the resolution of the Council thereon, if any.

(3) Such officer shall before 30<sup>th</sup> day of September every year submit a consolidated report to the Government.

(4) The Government shall, as soon as may be after receipt of the consolidated report cause the same to be laid before the Legislative Assembly.”

(3) The Administration Report of the Municipality as approved Council and published shall be forwarded to the officer authorised by the Government and that officer shall before the thirty first day of December every year submit to Government a consolidated report containing abstracts of the administration reports of the Municipalities.

(4) The Government shall, as soon as may be, after the receipt of the consolidated report lay the same, along with a review report of the Government before the Legislative Assembly in its next session and such laying shall be within forty-five days from the first day of the session.]

**64. Power of Government to dissolve Municipality.**—<sup>37</sup>[(1) Before the expiry of a financial year, if the council fails to approve the budget of the Municipality for the succeeding financial year, and if, for that reason, there is financial crisis to the Municipality or if the majority of the councillors resign or have been disqualified, the Government may, by notification in the Gazette, dissolve the Municipality from such date as may be specified therein and shall forward a copy thereof to the State Election Commission.

Provided that before such dissolution, the Municipality shall be given a reasonable opportunity of being heard.

(1A) Where the Government are of opinion that a Municipality consistently makes default in performing the duties imposed on it by law or in carrying out the orders or directions issued in accordance with law by the Government or exceeds or abuses its powers, they may, by notification in the Gazette, dissolve the said Municipality and shall forward a copy thereof to the State Election Commission:

Provided that the Government shall, before such dissolution communicate to the Municipality their intention to dissolve the Municipality giving reasons therefore and give the Municipality a reasonable opportunity to show cause against the same and consider its objection or explanation, if any:

Provided further that if, after considering the objection or explanation of the Municipality, it is considered that the Municipality shall be dissolved the advice of the Ombudsman constituted under Section 271 G of the Kerala Panchayat Raj Act 1994 (Act 13 of 1994) shall be sought and the final decision shall be taken on the basis of that advice.]

(2) A Municipality dissolved <sup>38</sup>[under sub-section (1) or sub-section (1A)] shall be reconstituted within such time as the Government may specify in that behalf which shall not be later than six months from the date of dissolution:

Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than six months, it shall not be necessary to hold any election for reconstituting the Municipality for such period.

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37. Sub-section (1) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution sub-section (1) read as under:  
“(1) Where the Government are of opinion that a Municipality persistently makes default in performing the duties imposed on it by law, or in carrying out the orders or directions lawfully issued by the Government, or exceeds or abuses its powers, the Government may, by notification in the Gazette, dissolve the Municipality from such date as may be specified in the notification and forward a copy thereof to the State Election Commission.”

38. Substituted for “under sub-section (1)” by Act 14 of 1999, w.e.f. 24-3-1999.

<sup>39</sup>[(3) x x x]

(4) Upon the dissolution of a Municipality <sup>40</sup>[under sub-section (1) or sub-section (1A)] all the Councillors, including the Chairperson and the Deputy Chairperson shall forthwith be deemed to have vacated their offices.

<sup>41</sup> [(5) x x x]

(6) A Municipality which is constituted upon dissolution before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Municipality would have continued had it not been so dissolved.

(7) Every notification issued <sup>42</sup>[under sub-section (1) or sub-section (1A)] shall, as soon as may be, after it is issued, be laid before the Legislative Assembly while it is in session and if it is not in session, at the commencement of the ensuing session and the approval of the g obtained.

**65. <sup>43</sup>[Appointment of Special Officer or Administrative Committee for the administration of Municipality] — <sup>44</sup>[(1) Where the term of a Municipality has been expired and a new Municipality has not been constituted or where a Municipality has been dissolved under Section 64, Government shall, by notification in the Gazette, appoint a Special Officer or an Administrative Committee consisting of not less than three members who are Government employees for the period as may be specified in the notification for the administration of the Municipality:**

Provided that, the term of appointment shall, not in any case be exceeded six months.]

<sup>45</sup>[(1A)xxx]

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39. Sub-section (3) omitted by Act 14 of 1999, w.e.f. 24-3-1999. The omitted sub-section (3) read as under:

“(3) Before publishing a notification under sub-section (1), the Government shall communicate to the Municipality concerned the grounds on which they propose to do so, give the Municipality a reasonable period to show cause against the proposal and consider its explanation or objection, if any.” by Act 14 of 1999, w.e.f. 24-3-1999.

40. Substituted for “under sub-section (1)” by Act 14 of 1999, w.e.f. 24-3-1999.

41. Sub-section (5) omitted by Act 14 of 1999, w.e.f. 24-3-1999. The omitted sub-section (5) read as under:

“(5) During the interim period between the dissolution and the reconstitution of a Municipality, all powers, functions and duties of a Municipality including those of the Chairperson, the Deputy Chairperson, the Standing Committees and other Committees thereof shall be exercised, performed or discharged by the Secretary or such other officer as may be authorised by the Government in that behalf.”

42. Substituted for “under sub-section (1)” by Act 14 of 1999, w.e.f. 24-3-1999.

43. Substituted for the marginal heading “Appointment of Administrative Committee or Special Officer on failure to constitute Municipality.—” by Act 14 of 1999, w.e.f. 24-3-1999.

44. Sub-section (1) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution it read as under:

“(1) Where the duration of a Municipality has expired and a new Municipality has not been constituted or where the Councillors of a Municipality have resigned, enbloc or where there are vacancies in the Council of a Municipality either by resignation or otherwise of the Councillors and the number of remaining Councillors cannot constitute the quorum for the meeting of the Council, the Government may, by notification in the Gazette, appoint-

(i) an Administrative Committee and a Chairman thereof; or

(ii) a Special Officer, for such period as may be specified in the notification:

Provided that the period of appointment shall, in no case, exceed six months.”

45. Sub-section (1A) omitted by Act 14 of 1999, w.e.f. 24-3-1999. The omitted sub-section (1A) read as under:

\*[“(1 A) Notwithstanding anything contained in sub-section (1), in respect of Municipalities first constituted under this Act, the term of office of the Administrative Committee or Special Officer may be extended by the Government till the elected Councillors of such Municipality assume office under this Act or till the 30th September, 1995, whichever occurs earlier.”] \*Sub-section (1A) added by Act 8 of 1995, w.e.f. 1-10-1994.

(2) The Administrative Committee or the Special Officer appointed under sub-section (1) shall, subject to the control of the Government and to such instructions or directions as the Government may issue, from time to time, have all the powers and functions of the Council, the Chairperson, the Deputy Chairperson and the Committees of the Municipality and take all such actions as may be required in the interests of the Municipality.

(3) The Administrative Committee or the Special Officer appointed under sub-section (1) shall, notwithstanding that the period of appointment under the said sub-section has not expired, cease to hold office <sup>46</sup>[with effect from the date of reconstitution of the Municipality].

66. <sup>47</sup>[x x x]

67. <sup>48</sup>[xxx]

## CHAPTER VI

### ELECTION TO MUNICIPALITIES

**68. Elections to Municipalities.**— The superintendence, direction and control of the preparation of electoral rolls, for, and the conduct of, all elections to the Municipalities shall vest in the State Election Commission.

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46. Substituted for the words “on the date of reconstitution of the Municipality or filling up of vacancies to constitute the quorum for the meeting of the Council, as the case may be.” by Act 14 of 1999, w.e.f. 24-3-1999.

47. Section 66 omitted by Act 14 of 1999, w.e.f. 24-3-1999. The omitted Section 66 read as under:

“66. Removal of Chairperson, Deputy Chairperson or Councillor from Office.— (1) The Government may, on the recommendation of the prescribed authority remove from office any Councillor of a Municipality, the Chairperson or, as the case may be, the Deputy Chairperson, thereof after giving him an opportunity of being heard and after such inquiry as it deems necessary, if such Councillor, Chairperson or, as the case may be, Deputy Chairperson has been guilty of misconduct in the discharge of his duties and abuses his powers or makes persistent default in the performance of his duties and functions under this Act and the rules or lawful orders made thereunder or has become incapable of performing his duties and functions under this Act and the rules made thereunder. The Chairperson or, as the case may be, the Deputy Chairperson so removed may at the discretion of the Government also be removed from the Councillorship of the Municipality concerned.

(2) The Government, may, after following the procedure laid down in sub-section (1), disqualify for a period not exceeding five years any person who has resigned his office as a Councillor, Chairperson or Deputy Chairperson, or otherwise ceased to hold any such office and has been guilty of misconduct specified in sub-section (1):

Provided that an action under this sub-section shall be taken within six months from the date on which the person resigns or ceases to hold any such office.”

48. Section 67 omitted by Act 14 of 1999, w.e.f. 1-10-2000. The omitted Section 67 read as under:

“67. Liability of the Chairperson, the Deputy Chairperson, the Chairman of Standing Committee, the Secretary, and the members with respect to the loss, wastage and misuse of property.— (1) The Chairperson, the Deputy Chairperson, the Chairman of Standing Committee, the Secretary or, as the case may be, any member, shall be personally liable for any loss, wastage or misuse of money or other property of the Municipality arising from his misconduct or wilful negligence or which has been facilitated or caused by him.

(2) Where the Government is satisfied that any loss, wastage or misuse of any money or other property of the Municipality was caused as a direct consequence of the misconduct of the Chairperson, the Deputy Chairperson, the Chairman of Standing Committee, the Secretary or the member concerned, the Government may, after giving him a reasonable opportunity of showing cause against such action in writing, direct such Chairperson or the Deputy Chairperson or the Chairman of Standing Committee or the member or the Secretary, as the case may be, to remit the amount of loss caused to the Municipality arising out of such loss, wastage or misuse, to the Municipal Fund within a specified date.

(3) Where such amount has not been so remitted it shall be realised as if it were an arrear of revenue due on land and credited to the Municipal Fund.

(4) Any person aggrieved by an order under sub-section (2) may, within thirty days from the date of receipt by him of such order, apply to the District Court to modify or annul such order and that Court may, after taking such evidence as it thinks fit, confirm, amend or remit such amount realised under such order and may also pass such orders as to costs as it thinks fit, taking into account the circumstances of the case.”

**69. Division of Municipalities into wards for election, reservation etc.—** (1) For the purpose of election of Councillors to Municipalities, <sup>49</sup>[the Delimitation Commission constituted by Government under sub-section (1) of Section 10 of the Kerala Panchayat Raj Act, 1994] shall, after previous publication of the proposals inviting objections or suggestions, if any and after considering the same, divide the Municipalities into as many wards as there are number of seats as notified under section 6 <sup>50</sup>[and determine the boundaries thereof]:

Provided that the population of each ward in a Municipality shall, as far as practicable, be equal.

(2) Copies of the proposals published and final orders issued under sub-section

(1) shall be published by affixing copies thereof on the notice board of the office of the Municipality concerned, and in such conspicuous places within the concerned municipal area. The fact of such publication shall be published in the Gazette and in two local newspapers having wide circulation within the municipal area concerned.

<sup>50A</sup>[(2A) Every order issued by the Delimitation Commission with regard to the division of wards and the determination of their boundaries under this section shall be published in the Gazette and it shall have the force of law.]

(3) Only one Councillor shall be elected for each ward and election shall be by secret ballot.

(4) A person whose name has been included in the electoral roll of a ward shall be entitled to vote in an election to that ward.

(5) No delimitation of wards or change of wards for the purpose of reservation shall be made in a Municipality after its constitution except for the purpose of general election to that Municipality and no such delimitation or change of wards shall, in any manner, affect the existing Municipality.

<sup>51</sup>[69A. xxx]

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49. Substituted for “\*[State Election Commission or the officer authorised by it in this behalf by Act 4 of 2005, w.e.f. 10-1-2005.

\* Substituted for “State Election Commission” Act 14 of 2000, w.e.f. 18-1-2000.

50. Substituted for the words “and fix the boundaries thereof and determine the wards which shall be reserved for the Scheduled Castes or the Scheduled Tribes or the women in the Municipalities” by Act 14 of 1999, w.e.f. 24-3-1999.

50A. Sub-section (2A) inserted by Act 25 of 2013, w.e.f. 14-6-2010

51. Section 69A omitted by Act 4 of 2005, w.e.f. 10-1-2005. Prior to the substitution it read as under:

“69A. Review of Final orders by the State Election Commission.— (1) The State Election Commissions may, either suo moto or on application, review any order passed under section 69 and pass such orders as it may deem fit.

(2) An application for review under sub-section (1) shall be submitted within fifteen days from the date of passing of the final order on which the complaint is based:

Provided that the time taken for obtaining a copy of the order against which the complaint has been filed shall be excluded from calculating the said fifteen days.

(3) Any order issued by the State Election Commission under sub-section (1) shall be published, as soon as may be after it is issued, by affixing in the notice board of the concerned Municipality and in a conspicuous place within such Municipal area and the fact of such publication shall be published, in the Gazette and in two local newspapers having wide circulation in the concerned Municipal area”.

**70. Validity of delimitation etc.**— The validity of any law relating to the delimitation of wards or allotment of seats to such wards shall not be called in question in any court.

**71. District Election Officers.**— (1) The State Election Commission shall, in consultation with the Government, designate or nominate an officer of the Government or of the local authority as a District Election Officer for each District:

Provided that if the State Election Commission is satisfied that the duties of such office cannot be satisfactorily performed by one such officer, it may, in consultation with the Government designate or nominate more than one such officers for a District.

(2) Where more than one District Election Officers are designated or nominated for a district, the State Election Commission shall, specify, in the order designating or nominating the District Election Officers the area within which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the State Election Commission, each District Election Officer shall co-ordinate and supervise all functions in connection with the conduct of the election, including the preparation and renewal of voters list with respect to each ward coming under his jurisdiction.

(4) The District Election Officer shall perform such other functions in connection with the election, as may be entrusted to him by the State Election Commission.

**72. Electoral Registration Officers.**— (1) An Electoral Registration Officer shall prepare and renew the voters list with respect to each ward of a Municipality, in such manner as may be prescribed and he shall be an officer of the Government or a local authority designated or nominated by the State Election Commission in consultation with the Government.

(2) The Electoral Registration Officer may, subject to such restriction as may be prescribed, depute competent teachers including those of aided schools or Government employees or employees of local authorities, to prepare and revise the voters list of the wards.

(3) The State Election Commission may designate one or more persons as Assistant Electoral Registration Officers to assist the Electoral Registration Officer in the discharge of his functions:

Provided that each such person shall be an officer of the Government or of a Municipality.

(4) Each Assistant Electoral Registration Officer shall, subject to the control of the Electoral Registration Officer, be competent to discharge all or any of the functions of the Electoral Registration Officer.

**73. Electoral rolls for the Municipality.**— There shall be an electoral roll for every ward in a Municipality which shall be prepared in accordance with the provisions of this Act and under the superintendence, direction and control of State Election Commission.

**74. Disqualifications for registration in electoral roll.**— (1) A person shall be disqualified for registration in an electoral roll if he-

(a) is not a citizen of India; or

(b) is of unsound mind and stands so declared by a competent court; or

(c) is for the time being, disqualified from voting under the provisions of any law relating to corrupt practices and other offences in connection with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off from the electoral roll in which it is included:

Provided that the name of any person struck off from the electoral roll of a ward by reason of disqualification under clause (c) of sub-section (1), shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorising such removal of disqualification.

**75. No person to be registered in the electoral roll for more than once.**— No person shall be entitled to be registered in the electoral roll for a ward in a Municipality more than once and a person registered in the electoral roll for a ward in a Municipality shall not be entitled to be registered in the electoral roll for any other ward in that Municipality or any other Municipality or any constituency in a Village Panchayat.

**76. Conditions of registration.**— Subject to the provisions of sections 74 and 75, every person who—

(a) is not less than eighteen years of age on the qualifying date; and

(b) is ordinarily resident in a ward in a Municipality, shall be entitled to be registered in the electoral roll for that ward.

*Explanation.*— For the purposes of this section and section 78, “qualifying date” in relation to the preparation or revision of an electoral roll, means the first day of January of the year in which it is so prepared or revised.

**77. Meaning of “ordinarily resident”.**— (1) A person shall not be deemed to be ordinarily resident in a ward in a Municipality on the ground only that he owns or is in possession of a dwelling house therein.

(2) A person absenting himself temporarily from his place of ordinary residence shall not, by reason thereof, cease to be ordinarily resident therein.

(3) A Member of the Parliament or of the State Legislative Assembly or the Chairperson or Deputy Chairperson of a Municipality shall not, during the term of his office, cease to be ordinarily resident in the ward, in the electoral roll of which he is registered as an elector at the time of his election as such Member, Chairperson or Deputy Chairperson, by reason of his absence from that ward in connection with his duties as such Member of Chairperson or Deputy Chairperson, as the case may be.

(4) A person who is a patient in any establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or who is detained in prison or other legal custody at any place shall not, by reason thereof, be deemed to be or ordinarily resident therein.

(5) Where a question arises as to whether a person is ordinarily resident at a place at any relevant time, the question shall be determined by the State Election Commission with reference to all the facts of the case and to such rules as may be made in this behalf.

<sup>51A</sup>[**77A. Special provision for the non-resident Indians to get themselves registered in the electoral roll.**— Notwithstanding anything to the contrary contained in other provisions of this Chapter, any citizen of India as stated in Section 20A of the Representation of the People Act, 1950 (Central Act 43 of 1950) shall be entitled to get himself registered as an elector in the electoral roll to the constituency in which his place of residence in India as indicated in his passport is located.]



**78. Preparation and revision of electoral rolls.**— (1) The electoral roll for each ward in a Municipality shall be prepared by the Electoral Registration Officer in the prescribed manner with reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The said electoral roll shall,—

(a) unless otherwise directed by the State Election Commission, for reasons to be recorded in writing, be revised by the Electoral Registration Officer in the prescribed manner with reference to the qualifying date—

(i) before each ordinary election to a Municipality; and

(ii) before each bye-election to fill a casual vacancy in a Council;

(b) be revised in any year in the prescribed manner with reference to the qualifying date if such revision has been directed by the State Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity of continued operation of the said electoral roll shall not thereby be affected.

(3) Notwithstanding anything contained in sub-section (2), the State Election Commission may, at any time, for reasons to be recorded in writing, direct a special revision of the electoral roll for a ward or part thereof in such manner as it may think fit:

Provided that, subject to the other provisions of this Act, the electoral roll for a ward as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.

**79. Correction of entries in electoral roll.**— If the Electoral Registration Officer, on application made to him or on his own motion, is satisfied after such enquiry as he thinks fit, that any entry in an electoral roll,-

(a) is erroneous or defective in any particulars; or

(b) should be transposed to another electoral roll on the ground that the person concerned has changed his place of ordinary residence; or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be an ordinarily resident in a ward or is otherwise not entitled to be registered in that roll, the Electoral Registration Officer shall amend, transpose or delete the entry, as the case may be:

Provided that before taking any action on any ground under clause (a) or clause

(b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in a ward or, that he is otherwise not entitled to be registered in an electoral roll, the Electoral Registration Officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

**80. Inclusion of names in electoral roll.**— (1) Any person whose name is not included in the electoral roll for a ward may apply to the Electoral Registration Officer for the inclusion of his name in that roll.

(2) The Electoral Registration Officer shall, if he is satisfied that the applicant is entitled to be registered in the electoral roll, direct that his name be included therein:

Provided that if the applicant is already registered in any other electoral roll, the Electoral Registration Officer shall where he himself is concerned with the preparation or

revision of that other electoral roll, strike off the applicant's name from that electoral roll or where he is not concerned with the preparation or revision of that other electoral roll, he shall inform such inclusion to the Electoral Registration Officer concerned who shall, on receipt of the information, strike off the applicant's name from that roll.

(3) No amendment, transposition or deletion of any entry under section 79 nor any inclusion of a name, in the electoral roll under this section shall be made after the last date for making nomination for an election and before completion of that election.

**81. Appeals.**— An appeal shall lie to the District Election Officer concerned within such time and in such manner as may be prescribed from any order of the Electoral Registration Officer under section 79 or section 80.

**82. Fee for applications and appeals.**— Every application under section 79 or section 80 and every appeal under section 81 shall be accompanied by such fee as may be prescribed which shall, in no case, be refundable.

**83. Special provision for adopting the electoral roll of legislative constituency.**— (1) Notwithstanding anything contained in this Act, the State Election Commission may, if it deems necessary, for the purpose of election under this Act, prepare the electoral rolls of the Municipality by adopting the existing electoral rolls of the legislative assembly constituency, without conducting an enumeration.

(2) The electoral rolls of the legislative assembly constituency adopted under sub-section (1) shall be divided into separate parts for each ward of the Municipalities and all voters included in the electoral rolls of the legislative assembly constituency relating to it shall be included in the electoral rolls of the Municipality concerned.

*Explanation.*— In this section “legislative assembly constituency” means, the constituency for the purpose of election to the State Legislative Assembly.

(3) While preparing the electoral rolls, under sub-section (1), the State Election Commission shall observe the procedure prescribed for the preparation of electoral rolls under this Act and the rules made thereunder, with necessary modifications.

**84. Making false declaration.**— If any person makes in connection with—

- (a) the preparation, revision or correction of an electoral roll, or
- (b) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which <sup>52</sup>[may extend to five thousand rupees] or with both.

<sup>53</sup>**[84A Breach of official duty in connection with the preparation etc. of electoral rolls.**— (1) If any Electoral Registration Officer or Assistant Electoral Registration Officer or any other person required by or under this Act to discharge any official duty in connection with preparation, revision or correction of an electoral roll, or the inclusion or exclusion of any entry in or from that roll is, without reasonable cause, guilty of any act or omission in breach of such official duty, he shall be punishable with fine which shall not be less than one thousand rupees.

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52. Substituted for “may extend to two thousand rupees” by Act 14 of 1999, w.e.f. 24-3-1999.

53. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

(2) No suit or other legal proceedings shall lie against any such officer or other person for damages in respect of any such act or omission as aforesaid.

(3) No court shall take cognizance of any offence punishable under sub-section (1) except on a complaint made by order of, or under authority from, the State Election Commission.]

**85. Qualification of candidates.**— No person shall be qualified for election as a Councillor of a Municipality unless he possesses the following qualifications-

(a) the name of such person appears in the electoral roll in any of the wards in that Municipality;

(b) he has completed twenty first year of age on the date of submission of nomination;

(c) in the case of a seat reserved for the Scheduled Castes or the Scheduled Tribes, he is a member of any of the Scheduled Castes or the Scheduled Tribes, as the case may be;

(d) in the case of a seat reserved for women, such person is a woman;

(e) he has not been disqualified under any other provisions of this Act;

(f) he makes and subscribes before the Returning Officer or any other person authorised by the State Election Commission an oath or affirmation in the form set out in the Second Schedule.

<sup>54</sup>[Provided that even if a candidate has omitted any word or words inadvertently when he makes and subscribes signature in such oath or affirmation and he has subsequently been elected as Councillor and assumed office on oath or affirmation made in the Third Schedule he shall not be considered as disqualified for the mistake happened earlier.]

**86. Disqualification of officers and employees of Government, local authorities etc.**— (1) No officer or employee in the service of a State or Central Government or a local authority or a Corporation owned or controlled by a State or the Central Government or of a company in which a State or Central Government or local authority has <sup>55</sup>[not less than fifty one per cent share] or of Boards or any University established under a State enactment shall be qualified for election as, or for holding the office of Councillor of a Municipality.

<sup>56</sup>[**Explanation 1**].— For the purpose of this section, company means a Government Company as defined in section 617 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a Co-operative Society registered or deemed to have been registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969).]

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54. Proviso inserted by Act 10 of 2003, w.e.f. 24-3-1999.

3. Validation.-Notwithstanding anything contained in the Kerala Municipality Act, 1994 (20 of 1994) or in any other law, or in any judgement or order of any Court, where a person has been elected as a Councillor of a Municipality and has assumed office after making and subscribing oath or affirmation as per the Third Schedule of the principal Act, 1994, he shall not deemed to be disqualified for being a Councillor or his election shall not be considered as invalid for the only reason that while presenting nomination paper he has omitted any word or words in the oath or affirmation made or subscribed before the returning officer or any other authority and shall continue to be the Councillor.

55. Substituted by Act 8 of 1995, w.e.f. 5-8-1995.

56. Inserted by *ibid.* This explanation was renumbered as “Explanation 1” and inserted “Explanation 2” by Act 25 of 2013, w.e.f. 14-6-2010.

<sup>56</sup>[**Explanation 2.**— For the purpose of this section, the part time employees and persons receiving honorarium except the anganwadi employees, Balawadi employees and Asha workers shall be deemed to be employees].

(2) Any officer or employee referred to in sub-section (1) who has been dismissed for corrupt practices or disloyalty shall be disqualified for a period of five years from the date of such dismissal for election as, or for holding office of, Councillor of a Municipality.

**87. Disqualification of persons convicted for certain offences.**— Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code, 1860 (Central Act 45 of 1860) or under any other provisions of law referred to in section 8 of the Representation of the People Act, 1951 (Central Act 43 of 1951) or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of Councillor of a Municipality for a period of six years from the date of his conviction.

**88. Disqualification on ground of corrupt practices.**— (1) The case of every person found guilty of a corrupt practice by an order under section 177 shall be submitted, as soon as may be after such order takes effect, by such authority as the Government may specify in this behalf, to the Governor for determination of the question as to whether such person shall be disqualified and if so, for what period:

Provided that the period for which any person may be disqualified under this sub-section shall in no case exceed six years from the date on which the order made in relation to him under section 177 takes effect.

(2) Before giving his decision on any question under sub-section (1) the Governor shall obtain the opinion of the State Election Commission on that question and shall Act according to such opinion.

<sup>57</sup>[**89. Disqualification on account of failure to submit account of election expenses.**— **If the State Election Commission is satisfied that a person:-**

(a) has failed to submit an account of election expenses within the time and in the manner prescribed and has no sufficient reason or justification for such failure or

(b) has submitted false accounts;

(c) has incurred election expenses in excess of the limit prescribed,

it shall, by order published in the Gazette, declare him to be disqualified and such person shall be disqualified for being elected as the Councillor “[for a period of five years from the date of such order.]

**90. Disqualifications of candidates.**— (1) A person shall be disqualified in the following circumstances for being chosen as and for being a Councillor of a Municipality if he-

(a) is so disqualified under any provision of the Constitution or by or under any law for the time being in force relating to elections to the State Legislative Assembly; or

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57. Section 89 substituted by Act 14 of 1999, w.e.f. 24-3-1999.

58. Substituted for the words “till the expiry of the period of the Council from the date of the order” by Act 14 of 2000, w.e.f. 18-1-2000.

<sup>59</sup>[(aa) has been proved at any later time, that the community Certificate produced before the Returning Officer or the declaration submitted along with the nomination paper under sub-section (2) of section 108 for contesting to a seat reserved for Scheduled Castes and Scheduled Tribes was false or bogus or that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force and declared as such and six years have not elapsed from the date of such declaration; or]

<sup>60</sup>[(b) (i) has been sentenced by a Court or a Tribunal with imprisonment for a period of not less than three months for an offence involving moral turpitude; or

(ii) has been found guilty of corruption by the competent authority under any law in force, or

(iii) has been held personally liable for maladministration by the Ombudsman constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994), or]

(c) has been adjudged to be of unsound mind; or

(d) has voluntarily acquired the citizenship of a foreign state; or

(e) has been sentenced by a criminal court for any electoral offence punishable under section 160 or <sup>61</sup>[x x] of section 162 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election and six years have not elapsed from the date of such sentence or disqualification; or

(f) is an applicant for being adjudicated as an insolvent or is an undischarged insolvent; or

(g) is interested in subsisting contract made with, or any work being done for the Government or <sup>62</sup>[any Local Self Government Institution] except as a shareholder (other than a Director) in a company or except as permitted by rules made under this Act.

*Explanation.*— A person shall not, by reason of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Government or <sup>62</sup>[any Local Self Government Institution], or by reason of his holding a debenture or being otherwise concerned in any loan raised by <sup>63</sup>[Government or Local Self Government Institution or on behalf of the Government or Local Self Government Institution], be disqualified under this clause; or

<sup>64</sup>[(h) is employed as a paid legal practitioner on behalf of that Municipality; or]

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59. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

60. Clause (b) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (b) read as under: “(b) has been sentenced by a criminal court to imprisonment for a period of more than one year for any offence other than an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned) while he is undergoing the sentence and for six years from the date of expiration thereof: or” by Act 8 of 1995, w.e.f. 5-8-1995.”

61. Omitted by Act 8 of 1995.

62. The words “Municipality Concerned” substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

63. Substituted for “or on behalf of the Municipality” by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009. There seems to be some mismatch of words in this part of the amendment.

64. Clause (h) substituted by Act 33 of 2005, w.e.f. 24-8-2005. Prior to the substitution it read as under:

“(h) is employed as a paid legal practitioner on behalf of the Municipality or as a legal practitioner against the Municipality: or”

(i) is already a Councillor whose term of office as such will not expire before his fresh election can take effect or has already been elected as Councillor whose term of office has not yet commenced; or

(j) is in arrears of any kind due by him <sup>65</sup>[to the Government or to the Local Self Government Institution upto and inclusive of the previous year] (otherwise than in a fiduciary capacity) in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired; or

(k) is dismissed or removed from any of the services referred to in section 86 and five years have not elapsed from the date of such dismissal or removal; or

<sup>66</sup>[(kk) has been disqualified under the provisions of The Kerala Local Authorities (Prohibition of Defection) Act, 1999 and six years have not elapsed since the date of his disqualification; or]

(l) is debarred from practising as an Advocate or Vakil; or

(m) is a deaf-mute; or

(n) is disqualified under any other provisions of this Act; or

(o) is black-listed consequent on defaulted performance under any contract or auction with the Government; <sup>67</sup>[or]

<sup>68</sup>[(p) has been found by the Ombudsman that there is loss, wastage or misuse of money or property of the Municipality.]

(2) If any question arises as to whether the candidate has become subjected to any of the disqualifications mentioned in sub-section (1), the question shall be referred to for the decision of the State Election Commission and the decision of the State Election Commission on such question shall be final.

**91. Disqualification of Councillors.**— <sup>68A</sup>[(1)] Subject to the provisions <sup>63</sup>[of section 92 or Section 178], a Councillor shall cease to hold office as such if he-

<sup>70</sup>[(a) is found guilty under clause (b) of sub-section (1) of Section 90 or is sentenced for such an offence; or]

<sup>71</sup>[(aa) has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, and declared as such in the case of a member elected to an office reserved for Scheduled Castes or Scheduled Tribes; or]

(b) has been adjudged to be of unsound mind; or

(c) has voluntarily acquired the citizenship of a foreign State; or

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65. The words " to the Municipality upto and inclusive of the previous year" substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

66. Clause (kk) added by Act 11 of 1999, w.e.f. 2-10-1995.

67. Added by Act 14 of 1999, w.e.f. 24-3-1999.

68. Clause (p) added by Act 14 of 1999, w.e.f. 24-3-1999.

68A. Existing section renumbered as sub-section (1) by Act 12 of 2009, w.e.f. 5-5-2007.

69. Substituted for "of section 93" by Act 14 of 1999, w.e.f. 24-3-1999.

70. Clause (a) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitution clause (a) read as under: "(a) is sentenced by a criminal court to such punishment and for such offence as is described in clause (b) of section 90; or"

71. Inserted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

(d) has been sentenced by a criminal court for any electoral offence punishable under section 160 or <sup>72</sup>[xx] section 162 or has been disqualified from exercising any electoral right on account of corrupt practices in connection with an election, and six years have not elapsed from the date of such sentence of disqualification; or

(e) has applied for being adjudicated, or is adjudicated, as an insolvent; or

(f) acquires any interest in any subsisting contract made with, or work being done for the Government or the <sup>73</sup>[any Local Self Government Institution] except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act <sup>74</sup>[or enters into the contract or work <sup>75</sup>[with the Local Self Government Institution] as a Convener of the beneficiary committee which undertake the project or work <sup>76</sup>[of any Local Self Government Institution], as per any rules made under this Act.]

**Explanation.**— A person shall not, by reason of his having a share or interest in any newspaper in which any advertisement relating to the affairs of the Government or the <sup>73</sup>[any Local Self Government Institution] may be inserted, or by reason of his holding a debenture or being otherwise concerned, in any loan raised <sup>77</sup>[by or on behalf of the Local Self Government Institution] concerned be disqualified under this clause; or

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

(h) ceases to reside in the Municipality; or

(i) is debarred from practising as an Advocate or Vakil; or

(j) is in arrears of any kind due by him (otherwise than in a fiduciary capacity) <sup>78</sup>[to the Government or to the Local Self Government Institutions upto and inclusive of the previous year] in respect of which a bill or notice has been duly served upon him and the time if any, specified therein, has expired; or

(k) <sup>79</sup>[absents himself without the permission of the Municipality concerned from the meetings of the council of the Standing Committee as the case may be, for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of the restoration to a office, as member under sub-section (1) of Section 93, as the case may be or if within the said period of three months,] less than three meetings have been held, absents himself from three consecutive meetings held after the said date:

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72. Omitted by Act 8 of 1995.

73. The words "the Municipality concerned" substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.G.Ex. No. 1844, dt. 7-10-2009.

74. Inserted by Act 33 of 2005, w.e.f. 24-8-2005.

75. The words "of that Municipality" substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K G Ex No 1844 dt. 7-10-2009.

76. The words "with the Municipality" substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K GEx No 1844 dt. 7-10-2009.

77. The words "by or on behalf of the Government or theMunicipality " substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.GEx. No. 1844, dt. 7-10-2009.

78. The word "to the Municipality upto and inclusive of the previous year" substituted by Act 30 of 2009, w.e.f. 7-10-2009, published in K.GEx. No. 1844, dt. 7-10-2009.

79. Substituted for the words "absents himself, without the permission of the Municipality,concernedfrom the meetings of the Council or any Committee thereof for a period of three consecutive months reckoned from the date of commencement of his term to office, or of the last meeting which he attended, or of the restoration of office, as member under sub-section(1) of section 93, as the case may be, or, if within the said period" by Act14 of 1999, w.e.f. 24-3-1999.

Provided that no meeting from which a Councillor absented himself shall be counted against him under this clause if-

- (i) due notice of that meeting was not given to him; or
- (ii) the meeting was held after giving shorter notice than that prescribed for an ordinary meeting; or
- (iii) the meeting was held on a requisition by the Councillors;<sup>80</sup>[xx]

<sup>81</sup>[Provided further that the Municipality in no case, shall give permission to a Councillor from not attending the meetings of the council or the Standing Committee for a continuous period exceeding six months; or]

(l) is disqualified under any provision of the Constitution or by or under any law, for the time being in force, relating to election to the State Legislative Assembly; or

<sup>82</sup>[(ll) has been disqualified under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act, 1999; or]

(m) is disqualified under any other provisions of this Act.

<sup>83</sup>[(n) is responsible for the loss or wastage or misuse of money and properties of the Municipality; or

(o) has failed, twice consecutively, to convene once in three months the meeting of the Ward Committee or the Ward Sabha of which he is the Convenor; or

(p) has failed to file declaration of assets within the time limit prescribed in Section 143A; or

(q) has been declared disqualified, as per Section 89.]

<sup>84</sup>[(2) Notwithstanding anything contained in clause (p) of sub-section (1), a member who had committed default in filing a statement of his assets and liabilities within the time limit prescribed under Section 143A on the date on which the Kerala Municipality (Amendment) Act, 2007 came into force, shall not be deemed to be disqualified if he files such statement before the concerned authority within 90 days from the date on which the said Act came into force.]

<sup>85</sup>**[91A. Cessation of membership.—** (1) No Councillor shall be a member of the Parliament or of the State Legislature at the same time and accordingly,—

(a) If a member of the Parliament or of the State Legislature is elected as a Councillor has not resigned his membership before entering such office; or

(b) Where a Councillor elected or nominated to the Parliament or to State Legislature on entering upon such office the office of Councillor to that person shall become vacant.]

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80. The word “or” omitted by Act 14 of 1999, w.e.f. 24-3-1999.

81. Proviso added by Act 14 of 1999, w.e.f. 24-3-1999.

82. Clause (I I) added by Act 11 of 1999, w.e.f. 2-10-1995.

83. Clauses (n), (o), (p) & (q) added by Act 14 of 1999, w.e.f. 24-3-1999.

84. Inserted by Act 12 of 2007 dated 05-05-2007.

85. Section 91A inserted by Act 14 of 1999, w.e.f. 1-10-2000



**92. Determination of subsequent disqualification of a Councillor.**- (1) Whenever a question arises as to whether a Councillor has become disqualified under section 86 <sup>86</sup>[or section 91, except clause (II)] after having been elected as such Councillor, any Councillor of a Municipality concerned or any other person entitled to vote at the election in which the Councillor was elected, may file a petition before the State Election Commission, for decision.

<sup>87</sup>[Provided that the Secretary or any Officer authorised by the Government in this behalf may refer such a dispute to the State Election Commission for decision.]

(2) The State Election Commission shall, after making such enquiry as it considers necessary, decide whether such Councillor has become disqualified or not and the decision shall be final, <sup>88</sup>[so, however, that the State Election Commission may pass an interim order as to whether the Councillor shall continue to hold his office or not, till a decision is taken or on the petition or reference referred to in sub-section (1).]

(3) <sup>89</sup>[the Petition or reference under] in sub-section (1) shall be disposed of in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) when trying a suit.

**93. Restoration of Councillors.**— (1) Where a person ceases to be a Councillor under section 87 or clause (a) of section 91, he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision and any person elected to fill the vacancy in the interim shall, on such restoration, vacate office

(2) Where a person ceases to be a Councillor under clause (k) of section 91 the Secretary shall at once intimate the fact in writing to such person and report the same to the Council, at its next meeting. If such person applies for restoration to the Council on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the Council may at the meeting next after the receipt of such application restore him to his office of Councillor:

Provided that a Councillor shall not be restored more than once during his term of office.

## CHAPTER VII

### NOTIFICATION OF GENERAL ELECTIONS AND ADMINISTRATIVE MACHINERY FOR THE CONDUCT OF ELECTIONS

**94. Notification for general election to Municipalities.**— (1) A general election shall be held for the purpose of constitution or reconstruction of new Municipalities before the expiration of the duration of the existing Municipalities or on dissolution

(2) For the said purpose, the Government shall, by one or more notifications published in the Gazette on such date or dates, as may be recommended by the State Election Commission, call upon Municipalities in the State to elect Councillors in accordance with the provisions of this Act and of the rules and orders made thereunder.

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85. Section 91A inserted by Act 14 of 1999, w.e.f. 1-10-2000.

86. Substituted for "or section 91 " by Act 11 of 1999, w.e.f. 2-10-1995.

87. Proviso added by Act 14 of 1999, w.e.f. 24-3-1999.

88. Substituted for the words "so, however, that pending such decision, the Councillor shall be entitled to act as if he were not disqualified" by Act 14 of 1999, w.e.f. 24-3-1999.

89. Substituted for the words "Every petition referred to" by Act 14 of 1999, w.e.f. 24-3-1999

**95. Delegation of functions of State Election Commission.**— The functions of the State Election Commission under the Constitution of India, and this Act or the rules made thereunder, may, subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, be performed also by the Secretary to the State Election Commission.

**96. General duties of District Election Officers.**— Subject to the superintendence, direction and control of the State Election Commission, the District Election Officer, shall co-ordinate and supervise all work in connection with the conduct of all elections to the Municipalities within his area of jurisdiction, and also performed such other functions as may be entrusted to him by the State Election Commission.

<sup>90</sup>**[96A. Election observers.**— (1) For observing the election in every Municipality the State Election Commission may, in consultation with the Government nominate a higher officer of the Government as Election Observer.

(2) The Election Observer nominated under sub-section (1) shall assist the State Election Commission to ensure a fair and equitable election and shall discharge such other functions entrusted by the Commission.]

**97. Returning Officers.**— For every Municipality and for every election to fill a seat or seats in a Municipality, the State Election Commission shall in consultation with the Government, designate or nominate <sup>1</sup>[one or more Returning Officers] who shall be an officer of the Government or of a local authority:

Provided that nothing in this section shall prevent the State Election Commission from designating or nominating the same person to be the Returning Officer for more than one Municipality.

**98. Assistant Returning Officers.**— (1) The State Election Commission may appoint one or more Assistant Returning Officers who shall be officers of the Government or of the local authorities to assist any Returning Officer in the performance of his functions.

(2) Every Assistant Returning Officer shall, subject to the control of the Returning Officer, be competent to perform all or any of the functions of the Returning Officer:

Provided that no Assistant Returning Officer shall perform any of the functions of the Returning Officer relating to the scrutiny of nominations unless the Returning Officer is unavoidably prevented from performing the said function.

**99. Returning Officer to include Assistant Returning Officers performing the functions of the Returning Officer.**—References in this Act to the Returning Officer shall, unless the context otherwise requires, be deemed to include an Assistant Returning Officer performing any function which he is authorised to perform under sub-section (2) of section 98.

**100. General duty of the Returning Officer.**— It shall be the general duty of the Returning Officer at any election to do all such acts and things as may be necessary for effectively conducting the election in the manner provided by this Act and the rules or orders made thereunder.

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90. Section 96A inserted by Act 14 of 1999, w.e.f. 24-3-1999.

1. Substituted for “a Returning Officer” by Act 14 of 1999, w.e.f. 24-3-1999.

**101. Provision of polling stations.**— The District Election Officer shall, with the previous approval of the State Election Commission, provide sufficient number of polling stations for every Municipality within the area of his jurisdiction, and shall publish in such manner as the State Election Commission may direct, a list showing the polling stations so provided and the polling areas or group of voters for which they have respectively been provided.

**102. Appointment of Presiding Officers for polling stations.**— (1) The District Election Officer shall appoint a Presiding Officer for each polling station and such Polling Officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or in relation to election:

Provided that if a Polling Officer is absent from the polling station, the Presiding Officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or in relation to the election, to be the Polling Officer during the absence of the former officer, and inform the District Election Officer accordingly:

Provided further that nothing in this sub-section shall prevent the District Election Officer from appointing the same person to be Presiding Officer for more than one polling station in the same premises.

(2) A Polling Officer shall, if so directed by the Presiding Officer, perform all or any of the functions of a Presiding Officer under this Act or any rules or orders made thereunder.

(3) If the Presiding Officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such Polling Officer as has been previously authorised by the District Election Officer to perform such functions during any such absence.

(4) References in this Act to the Presiding Officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.

**103. General duty of the Presiding Officer.**— It shall be the general duty of the Presiding Officer at a polling station to keep order thereat and to see that the poll is fairly taken.

**104. Duty of a Polling Officer.**— It shall be the duty of the Polling Officer at a polling station to assist the Presiding Officer for such station in the performance of his functions.

<sup>2</sup>[**104A. The Returning Officer, Presiding Officer etc. be deemed to be on deputation to the Election Commission.**— The Returning Officer, Assistant Returning Officer, Presiding Officer, Polling Officer and any other officer, Police Officer and Election observer designated for the time being to conduct a general election or bye-election under the provisions of this Act shall be deemed to be on deputation to the State Election Commission for the period from the date of notification for such election to the date of declaration of the results of such election accordingly such officers shall be subject to the control, supervision and command of the State Election Commission during that period.]

CHAPTER VIII  
CONDUCT OF ELECTIONS

**105. Appointment of dates for nominations etc.**— As soon as a notification for an election is issued, the State Election Commission shall, by notification in the Gazette, appoint-

(a) the last date for making nominations, which shall be the seventh day after the date of publication of the first mentioned notification or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations, which shall be the day immediately following the last day for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last day for the withdrawal of candidature, which shall be the second day after the date for the scrutiny of nomination or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date or dates of which a poll shall, if necessary, be taken, which or the first of which shall be a date not earlier than <sup>3</sup>[the fourteenth day] after the last date for the withdrawal of candidature; and

(e) the date before which the election shall be completed.

**106. Public notice of election.**— On the issue of a notification under section 105, the Returning Officer shall give public notice of the intended election in such form and manner, as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

**107. Nomination of candidates for election.**—Any person may be nominated as a candidate for election to fill a seat if he is qualified to be chosen to fill that seat under the provisions of this Act:

<sup>4</sup>[Provided that a person nominated as a candidate for filling up a seat in a Municipality shall not be nominated as candidate in another ward of the same Municipality]

**108. Presentation of nomination paper and requirements for a valid nomination.-**  
(1) On or before the date appointed under clause (a) of section 105 each candidate shall, either in person or by his proposer, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon deliver to the Returning Officer at the place specified in this behalf in the notice issued under section 106 a nomination paper completed in the prescribed form and signed by the candidate and by an elector of the ward as proposer.

<sup>5</sup>[(1A) Every candidate submitting nomination under sub-section (1) shall not be deemed to be qualified to be elected to fill that post unless he submits along with such nomination the details regarding his educational qualification, criminal cases in which he is involved at the time of submission of nomination, property owned by him and other members of his family, liabilities including arrears due from him to any Public Sector Undertaking or Government or Local Self Government Institutions and whether disqualified for defection under the Kerala Local Authorities (Prohibition of Defection) Act, 1999 in the form and manner as may be prescribed.]

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3. The words “the twentieth day” substituted by Act 30 of 2009, K.G.Ex..No:1844, w.e.f. 7-10-2009
  4. Proviso added by Act 8 of 1995, w.e.f. 5-8-1995.
  5. Sub-section (1A) inserted by Act 37 of 2005, w.e.f. 24-8-2005.

(2) In a ward where the seat is reserved for the Scheduled Castes or the Scheduled Tribes a candidate shall not be deemed to be qualified to be chosen to fill that seat 6[unless a Community Certificate specifying the particular caste or tribe of which he is a member issued by the competent Officer is produced along with his nomination paper contains a declaration in respect of his caste].

(3) Where the candidate is a person who, having held any office referred to in section 86 has been dismissed or removed and a period of five years has not elapsed since the dismissal or removal, such person shall not be deemed to be duly nominated as a candidate unless his nomination paper is accompanied by a certificate issued in the prescribed manner by the State Election Commission to the effect that he has not been dismissed or removed for corruption or disloyalty.

(4) On the presentation of a nomination paper, the Returning Officer shall satisfy himself that the names and electoral roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral roll:

Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such person or place in any case where the description in regard to the name of the person or place is such as to be commonly understood; and the Returning Officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and were necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.

(5) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper:

Provided that not more than three nomination papers shall be presented by or on behalf of any candidate or accepted by the Returning Officer.

**109. Deposits.**— (1) A candidate shall not be deemed to be duly nominated for election from a ward in a Municipality unless he deposits or causes to be deposited such sum as may be prescribed:

Provided that in the case of candidates belonging to the Scheduled Castes or the Scheduled Tribes, the amount of deposit shall be fifty percent of the amount prescribed-

Provided further that where a candidate has been nominated by more than one nomination paper, not more than one deposit shall be required of him under this sub-section.

(2) Any sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless, at the time of delivery of the nomination paper under sub-section (1) of section 108 the candidate has either deposited or caused to be deposited that sum with the Returning Officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the office of such authority as may be notified by the Government

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6. The words “unless his nomination paper contains a declaration by him specifying the particular caste or tribe of which he is a member” substituted by Act 30 of 2009, w.e.f. 7-10-2009.

**110. Notice of nominations and the time and place for their scrutiny.-** The Returning Officer shall, on receiving the nomination paper under sub-section (1) of section 108 inform the person or persons delivering the same, of the date, time and place fixed for the scrutiny of nominations and shall enter on the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter cause to be affixed in some conspicuous place in his office a notice of the nomination containing descriptions similar to those contained in the nomination paper, both of the candidate and for the proposer.

**111. Scrutiny of nominations.—** (1) On the date fixed for the scrutiny of nominations under section 105 the candidates, their election agents, one proposer of each candidate and one other person duly authorised in writing by each candidate, but no other person may attend at such time and place as the Returning Officer may appoint and the Returning Officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and the manner laid down in section 108.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry if any, as he thinks necessary, reject any nomination on any of the following grounds, namely:-

(a) that on the date fixed for the scrutiny of nominations, the candidate is either not qualified or is disqualified for being chosen to fill the seat under any of the provisions of this Act;

(b) that there has been failure to comply with any of the provisions of section 108 or section 109; or

(c) that the signature of the candidate or the proposer on the nomination paper is not genuine.

(3) Nothing contained in clause (b) or clause (c) of sub-section (2) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of section 105 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case an objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(7) For the purpose of this section, a certified copy of an entry in the electoral roll for the time being in force for a ward shall be conclusive evidence of the fact that the person

referred to in that entry is an elector in that ward, unless it is proved that he is subject to a disqualification mentioned in section 74.

(8) Immediately after all the nomination papers have been scrutinised and decisions accepting or rejecting the same have been recorded, the Returning Officer shall prepare a list of candidates whose nominations have been found valid and affix it to his notice board.

**112. Withdrawal of candidature.—** (1) Any candidate may withdraw his candidature by a notice in writing which shall contain such particulars as may be prescribed and shall be subscribed by him and delivered before three O'clock in the afternoon on the day fixed under clause (c) of section 105 to the Returning Officer either by such candidate in person or by his proposer, of election agent who has been authorised in this behalf in writing by such candidate.

(2) No person who has given a notice of withdrawal of his candidature under sub-section (1) shall be allowed to cancel the notice.

(3) The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1) cause the notice to be affixed in some conspicuous place in his office and in the office of the Municipality concerned.

**113. Publication of list of contesting candidates.—** (1) Immediately after the expiry of the period within which candidature may be withdrawn under sub-section (1) of section 112 the Returning Officer shall prepare and publish in such form and manner as may be prescribed a list of contesting candidates.

(2) The said list shall contain the names in Malayalam alphabetical order and the addresses of the contesting candidates as given in the nomination papers together with such other particulars, as may be prescribed.

**114. Election agents.—** A candidate at an election may appoint in the prescribed manner a person to be his election agent and when any such appointment is made notice of the appointment shall be given in the prescribed manner, to the Returning Officer.

**115. Disqualification for being an election agent.—** A person who is for the time being disqualified under this Act for being a Councillor shall be disqualified for being an election agent at any election.

**116. Revocation of the appointment, or death of an election agent.—** (1) Any revocation of the appointment of an election agent, shall be signed by the candidate, and shall operate from the date on which it is lodged with the Returning Officer.

(2) In the event of such a revocation or of the death of an election agent, whether that event occurs before or during the election, or after the election but before the account of the candidate's election expenses has been lodged in accordance with the provisions of section 142 the candidate may appoint in the prescribed manner another person to be his election agent and when such appointment is made notice of the appointment shall be given in the prescribed manner to the Returning Officer.

**117. Functions of election agents.—** An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.

**118. Appointment of polling agents.—** A contesting candidate or his election agent may appoint, in the prescribed manner, such number of agents and relief agents, as may be

prescribed, to act as polling agents of such candidate at each polling station provided under section 101.

**119. Appointment of counting agents.**— A contesting candidate or his election agent may appoint, in the prescribed manner one or more persons, but not exceeding such number, as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the Returning Officer.

**120. Revocation of the appointment or death, of a polling agent or counting agent.**— (1) Any revocation of the appointment of a polling agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with such officer as may be prescribed, and in the event of such a revocation or of the death of a polling agent before the close of the poll, the candidate or his election agent may appoint, in the prescribed manner another polling agent at any time before the poll is closed and shall forthwith give notice of such appointment, in the prescribed manner, to such officer as may be prescribed.

(2) Any revocation of the appointment of the counting agent shall be signed by the candidate or his election agent and shall operate from the date on which it is lodged with the Returning Officer, and in the event of such a revocation or of the death of a counting agent before the commencement of counting of votes, the candidate or his election agent may appoint, in the prescribed manner another counting agent at any time before the counting of votes is commenced and shall forthwith give notice of such appointment, in the prescribed manner, to the Returning Officer.

**121. Functions of polling agents and counting agents.**— (1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act, to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.

**122. Attendance of a contesting candidate or his election agent at polling stations, and performance by him of the functions of a polling agent or counting agent.**—

(1) At every election where a poll is taken, each contesting candidate at such election and his election agent shall have a right to be present at any polling station provided under section 101 for the taking of the poll.

(2) A contesting candidate or his election agent may himself do any act or thing which any polling agent or the counting agent of such contesting candidate, if appointed, would have been authorised by or under this Act to do, or may assist any polling agent or the counting agent of such contesting candidate in doing any such act or thing.

**123. Non-attendance of polling or counting agents.**— Where any act or thing is required or authorised by or under this Act to be done in the presence of the polling or counting agents, the non-attendance of any such agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

**124. Death of candidate before poll.**— Where a candidate whose nomination has been found valid on scrutiny under section 111 and who has not withdrawn his candidature under section 112 dies and a report of his death is received before the publication of the list of contesting candidates under section 113 or where a contesting candidate dies and a report of his death is received before the commencement of the poll, the Returning Officer shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the State Election Commission and also to the Government and all proceeding with reference to the



election shall be commenced anew in all respects as if for a new election:

Provided that no further nomination shall be necessary in the case of a person who was a contesting candidate at the time of the countermanding of the poll:

Provided further that no person who has given a notice of withdrawal of his candidature under sub-section (1) of section 112 before the countermanding of the poll shall be <sup>7</sup>[ineligible] for being nominated as a candidate for the election after such countermanding.

**125. Procedure in contested and uncontested elections.—** (1) Where the number of contesting candidates for a ward is more than one, a poll shall be taken.

(2) Where there is only one candidate for a ward, the Returning Officer shall declare him to be duly elected.

(3) Where there is no candidate, election proceedings shall be started afresh for filling up the vacancy in all respects as if for a new election.

**126. Fixing time for poll.—** The State Election Commission shall fix the hours during which the poll will be taken; and the hours so fixed shall be published in such manner, as may be prescribed:

Provided that the total period allotted on any one day for polling at an election in a ward shall not be less than eight hours between 7 a.m. and 5 p.m.

**127. Adjournment of poll in emergencies.—** (1) If at an election the proceeding at any polling station provided under section 101 for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the poll at any polling station on account of any natural calamity, or any other sufficient cause, the Presiding Officer for such polling station or the Returning Officer presiding over such place, as the case may be, shall announce an adjournment of the poll to a date to be notified later, and were the poll is so adjourned by a Presiding Officer, he shall forthwith inform the Returning Officer concerned.

(2) Whenever a poll is adjourned under sub-section (1), the Returning Officer, shall immediately report the circumstances to the State Election Commission, and shall, as soon as may be, with the previous approval of the State Election Commission, appoint the day on which the poll shall recommence, and fix the polling station or place at which, and hours during which the poll will be taken, and shall not count the votes cast at such election until such adjourned poll shall have been completed.

(3) In every such case as aforesaid, the Returning Officer shall notify in such manner as the State Election Commission may direct the date, place and hours of polling fixed under sub-section (2).

**128. Fresh poll in the case of destruction, etc., of ballot boxes.—** (1) If at any election-

(a) any ballot boxes used at a polling station or at a place fixed for the polls is unlawfully taken out of the custody of the Presiding Officer or the Returning Officer, or is accidentally or intentionally destroyed or lost, or is damaged or tampered with, to such an extent, that the result of the poll at that polling station or place cannot be ascertained; or

<sup>8</sup>[(aa) any voting machine develops a mechanical failure during the course of recording votes; or,]

(b) any such error or irregularity in procedure as is likely to vitiate the poll is committed at a polling station or at a place fixed for the poll, the Returning Officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon the State Election Commission shall, after taking all material circumstances into account; either-

(a) declare the poll at that polling station or place to be void, appoint a day, and fix the hours; for taking a fresh poll at that polling station or place and notify the day so appointed and the hours so fixed in such manner as it may deem fit; or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election or that the error or irregularity <sup>9</sup>[or the mechanical failure developed in the voting machine] in procedure is not material, issue such directions to the Returning Officer as it may deem proper for the further conduct of and completion of the election.

(3) The provisions of this Act and of any rules or orders made there under shall apply to every such fresh poll as they apply to the original poll.

**129. Adjournment of poll or countermanding of election on the ground of booth-capturing.**— (1) If at any election-

(a) booth-capturing has taken place at a polling station or at a place fixed for the poll (hereafter in this section referred to as a place) in such a manner that the result of the poll at that polling station or place cannot be ascertained; or

(b) booth-capturing takes place in any place for counting of votes in such a manner that the result of the counting at that place cannot be ascertained, the Returning Officer shall forthwith report the matter to the State Election Commission.

(2)The State Election Commission shall, on receipt of a report from the Returning Officer under sub-section (1) and after taking all material circumstances into account, either-

(a) declare that the poll at that polling station or place be void, appoint a day, and fix the hours, for taking fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b) if satisfied that in view of the large number of polling stations or places involved in booth-capturing, the result of the election is likely to be affected, or that booth-capturing had affected counting of votes in such a manner as to affect the result of the election, countermand the election.

**Explanation.**— In this section, “booth-capturing” shall have the same meaning as in section 161.

**130. Manner of voting at elections.**— At every election where a poll is taken, votes shall be given by ballot in such a manner as may be prescribed, and no vote shall be received by proxy.

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8. Clause (aa) inserted by Act 33 of 2005, w.e.f. 1-9-2000.

9. Inserted by Act 33 of 2005, w.e.f. 1-9-2000.

<sup>10</sup>[**130A. Use of voting machine in elections.**- Notwithstanding anything contained in this Act or rules made thereunder, the system of giving vote and recording of vote by using voting machine as may be prescribed may be adopted in every election decided by the State Election Commission considering the circumstances in each region.

**Explanation:-** For the purpose of this section “voting machine” means any electronic machine or any other machine used for giving or recording of votes and it shall also be construed that any reference as to ballot box or ballot paper in this Act or the rules made thereunder save as otherwise provided shall include the reference to a voting machine which is being used in any election.]

**131. Special procedure for preventing personation of electors.**— With a view to preventing personation of electors.—

(a) the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station shall be marked with indelible ink, in such manner as may be prescribed, before delivery of such paper or papers to him;

(b) no ballot paper shall be delivered to any person for voting at a polling station and proceedings shall be initiated against such person in accordance with law, if at the time such person applies for such paper, he already has such a mark on his thumb or any other finger.

**132. Right to vote.**— (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll for a ward shall be entitled to vote in that ward.

(2) No person shall vote at an election if he is subject to any of the disqualifications referred to in Section 74.

(3) No person shall vote at a general election in more than one ward, and if a person votes in more than one ward, his votes in all such wards shall be void.

(4) No person shall at any election vote in the same ward more than once, notwithstanding that his name may have been registered in the electoral roll for that more than once, and if he does so vote, all his votes shall be void.

(5) No person shall vote at any election if he is confined in a prison under a sentence of imprisonment or otherwise, or is in the lawful custody of the police:

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

**133. Counting of votes.**— At every election where a poll is taken, votes shall be counted by, or under the supervision and direction of the Returning Officer and each contesting candidate, his election agent and his counting agents, shall have the right to be present at the time of counting.

**134. Destruction, loss etc., of ballot papers at the time of counting.** — (1) If, at any time before the counting of votes is completed any ballot paper used at a polling station or at a place fixed for the poll is unlawfully taken out of the custody of the Returning Officer or is accidentally or intentionally destroyed or lost or is damaged or tampered with, to such an extent that the result of the poll at the polling station or place cannot be ascertained, the Returning Officer shall forthwith report the matter to the State Election Commission.

(2) Thereupon, the State Election Commission shall, after taking all material circumstances into account, either.-

(a) direct that the counting of votes shall be stopped, declare the poll at that polling station or place to be void, appoint a day, and fix the hours, for taking a fresh poll at that polling station or place and notify the date so appointed and hours so fixed in such manner as it may deem fit; or

(b) if satisfied that the result of a fresh poll at that polling station or place will not, in any way, affect the result of the election, issue such directions to the Returning Officer as it may deem proper for the resumption and completion of the counting and for the further conduct and completion of the election in relation to which the votes have been counted.

(3) The provisions of this Act and of any rules or orders made thereunder shall apply to every such fresh poll as they apply to the original poll.

**135. Equality of votes.**— If, after the counting of the votes is completed, an equality of votes is found to exist between any candidates, and the addition of one vote will entitle any of these candidates to be declared elected, the Returning Officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls received an additional vote.

**136. Declaration of results.**— When the counting of the votes has been completed, the Returning Officer shall, in the absence of any direction by the State Election Commission to the contrary forthwith declare the result of the election in the manner provided by this Act or the rules made thereunder.

**137. Report of the result.**— As soon as may be after the result of an election has been declared, the Returning Officer shall report the result to the Municipality concerned, to the State Election Commission and to the Government and the State Election Commission shall cause to be published in the Gazette the declarations containing the names of the elected candidates. The name or names of the elected candidate or candidates shall also be published on the notice board of the Municipality concerned.

**138. Date of election of candidates.**— For the purposes of this Act the date on which a candidate is declared by the Returning Officer under the provisions of section 125 or section 136 to be elected to a Municipality shall be the date of election of that candidate.

**139. Publication of results of general elections to the Municipality.**— Where a general election is held for the purpose of constituting or reconstituting a Municipality, there shall be notified by the State Election Commission in the Gazette, as soon as may be, after the results of the elections in all the wards, other than those in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 105 or for which the time for completion of the election has been extended under the provisions of section 200 have been declared by the Returning Officer under the provisions of section 125 or, as the case may be, section 136, the names of the members elected for those wards and upon the publication of such notification, the Councillors shall be deemed to be duly elected:

Provided that the publication of such notification shall not be deemed-

(a) to preclude -

(i) the taking of the poll and the completion of the election in any ward or wards in which the poll could not be taken for any reason on the date originally fixed under clause (d) of section 105; or

(ii) the completion of the election in any ward or wards for which time has been extended under the provisions of Section 200; or

(b) to affect the duration of the Municipality, if any, functioning immediately before the issue of the said notification.

**140. By-elections to fill casual vacancies.**— (1) Where a Municipality is dissolved before its duration specified in article 243U or where the seat of a Councillor elected to a Municipality becomes vacant or is declared vacant or his election to the Municipality is declared void, the State Election Commission shall, subject to the provisions of sub-section (2), by a notification in the Gazette, call upon the wards in such Municipality or the ward concerned, as the case may be, to elect Councillors or Councillor for the purpose of constituting the Municipality or filling the vacancy, as the case may be, before such date as may be specified in the notification and the provisions of this Act and of the rules and orders made thereunder shall apply in relation to such election.

(2) Where the vacancy is in a seat reserved for the Scheduled Castes or for the Scheduled Tribes or for a woman, the notification issued under sub-section (1) shall specify that the person to fill that vacancy shall belong to the Scheduled Castes or to the Scheduled Tribes or be a woman, as the case may be.

**141. Account of election expenses and maximum thereof.**— (1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorised by him or by his election agent between the date on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

**Explanation I.**— Any expenditure incurred or authorised in connection with the election of a candidate by a political party or by any other association or body of persons or by any individual (other than the candidate or his election agent) shall not be deemed to be expenditure in connection with the election incurred or authorised by the candidate or by his election agent for the purposes of this sub-section;

**Explanation II.**— For the removal of doubt, it is hereby declared that any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of local authority and of the Government belonging to any of the classes mentioned in clause (8) of section 144 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed.

**142. Lodging of account with <sup>11</sup>[the officer authorised by the State Election Commission].**— Every contesting candidate at an election shall, within thirty days from the date of election of returned candidate, lodge with the <sup>11</sup> [the officer authorised by the State Election Commission], an account of his election expenses with connected records which shall be a true copy of the account kept by him <sup>12</sup>[or by his election agent under Section 141 and such officer, as soon as possible, after the expiry of the said 30 days shall forward the account of election expenses received by him together with the list of candidates who have not submitted the account of election expenses to the officer authorised by the Commission].

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11. Substituted for "District Election Officer" by Act 14 of 1999, w.e.f 24-3-1999.

12. Substituted for "or by his election agent under section 141" by Act 14 of 1999, w.e.f. 24-3-1999.

## OATH OR AFFIRMATION

**143. Oath or affirmation.** — <sup>13</sup>[(1) The Government, after each general election shall nominate a member elected as Councillor for convening the first meeting of the Municipality and before convening such meeting he shall make and subscribe an oath or affirmation in the form specified in the Third Schedule for the purpose before the officer nominated by the Government in this behalf.

Provided that the member nominated by the Government shall, as far as possible, be the eldest among the Councillors elected in the Municipality.

(1A) All other Councillors shall before assuming charge of their office, make and subscribe an oath or affirmation, in the form set out for this purpose in the Third Schedule, before the Councillor nominated under sub-section (1), on the date specified by the Government and before the date fixed by the State Election Commission for conducting the election of the Chairperson under sub-section (1) of Section 12.

(1B) A Councillor who was not able to make an oath or affirmation under sub-section (1A) or a Councillor elected in the bye-election may make such oath or affirmation before the Chairperson.]

(2) The Chairperson and the Deputy Chairperson shall also, before entering upon their offices, make and subscribe an oath or affirmation in the form set out in the said Schedule. The Chairperson shall make and subscribe such oath or affirmation before the Officer authorised by the Government in this behalf, and the Deputy Chairperson shall make and subscribe such oath or affirmation before the Chairperson after the Chairperson has been elected.

(3) No Councillor who has not taken an oath or affirmation <sup>14</sup>[under sub-section (1 A) or under sub-section (1B)] shall vote or take part in the proceedings of any meeting of the Municipality, nor shall be included as a member of any of the Committee constituted by the Municipality.

<sup>15</sup>[(4) The Government may by notification in the Gazette, declare the office of Councillor as vacated in his own motion where such a Councillor has not assumed charge of his office by making an oath or affirmation without sufficient cause within a maximum period of thirty days from the date by which he was elected as a Councillor.]

<sup>16</sup>**[143A. Councillors to declare assets.—** (1) A Councillor shall within <sup>17</sup>[fifteen months] from the date of assuming his office submit a statement of assets and liabilities of himself and of other members of his family in the prescribed form, before the competent authority as may be authorised by the Government by notification in this behalf:

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13. Sub-section (1) substituted by Act 14 of 1999, w.e.f. 24-3-1999. Prior to the substitutions it read as under:

“(1) Every Councillor shall, before taking his seat make and subscribe before the Officer authorised by the Government in this behalf an oath or affirmation in the form set out in the Third Schedule. If the Chairperson <sup>has</sup> been elected, such oath or affirmation shall be made or subscribed by the Councillors before the Chairperson “

14. Substituted for “under sub-section (1)” by Act 14 of 1999, w.e.f. 24-3-1999.

15. Sub-section (4) added by Act 14 of 1999, w.e.f. 24-3-1999.

16. Section 143A inserted by Act 14 of 1999, w.e.f. 24-3-1999.

17. Substituted for “three months” by Act 1 of 2013, w.e.f. 1-11-2010.

Provided that a person who is a Councillor at the time when this Act comes into force, shall submit such a statement before the competent authority, before the date specified by the Government in this behalf.

(2) Where a Councillor after submitting a statement under sub-section (1), acquires any further assets in his name or in the name of any other members of his family, or disposes of or mortgages any property specified in the statement, he shall submit a statement to that effect before the competent authority within three months from the date of such acquisition or disposal or mortgage; as the case may be.

(3) A Councillor who makes a statement under sub-section (1) and sub-section (2) which is false or which he knows or believes to be false or does not believe to be true; shall be liable to be produced against that Councillor in accordance with law for giving such false declaration.

(4) Where a Councillor fails to submit the statement before the competent authority within the date specified under sub-section (1) and sub-section (2), action may be taken to disqualify him from continuing as a Councillor under Section 91.

**Explanation 1.**— For the purpose of this section “family” of a Councillor means wife or husband of the Councillor, and his parents and unmarried sisters and children depending on him”.

**Explanation 2.**— For the purpose of this section “asset” means all immovable properties and movable properties worth more than rupees ten thousand].

## CHAPTER IX

### CORRUPT PRACTICES AND ELECTORAL OFFENCES

**144. Corrupt practices.**- The following shall be deemed to be corrupt practices for the purposes of this Act-

(1) “Bribery”, that is to say,—

(A) Any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent of any gratification to any person whomsoever, with the object, directly or indirectly of inducing,-

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being a candidate at an election, or withdraw from

(b) an elector to vote or refrain from voting at an election, or as a reward to-

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) The receipt of, or agreement to receive, any gratification, whether as a motive or a reward-

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

**Explanation.**— For the purposes of this clause the term “gratification” is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses bonafide incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in Section 141.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate:

Provided that no symbol allotted under any rules made under this Act to a candidate shall be deemed to be a religious symbol or a national symbol for the purpose of this clause.

(4) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his election agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.



(5) The publication by a candidate or his agent or by any other person, with the consent of the candidate or his election agent of any statement of fact which is false and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature or withdrawal, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent, or the use of such vehicle or vessel for the free conveyance of any elector (other than the candidate himself, the members of his family or his agent) to or from any polling station provided under section 101:

Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport, vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

**Explanation.**— In this clause, the expression 'Vehicle' means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The incurring or authorising of expenditure in contravention of section 141

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his election agent, any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election, from any person in the service of a local authority or of Government belonging to any of the following classes, namely-

- (a) gazetted officers;
- (b) members of the police forces;
- (c) excise officers;
- (d) revenue officers; and

(e) such other class of persons in the service of the Government as may be prescribed:

Provided that where any person, in the service of a local authority or of the Government and belonging to any of the classes aforesaid, in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, in relation to, any candidate or his election agent or any other person acting with the consent of the candidate or his election agent (whether by reason of the office held by the candidate or for any other reason), such arrangements facilities or acts or things shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

(9) Booth-capturing by a candidate or his agent or other person acting with the consent of the candidate or his election agent.

**Explanation I.**— In this section the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

**Explanation II.**— For the purposes of clause (8), a person shall be deemed to assist in the furtherance of the prospects of a candidate's election if he acts as an election agent of that candidate.

**Explanation III.**— For the purposes of clause (8), notwithstanding anything contained in any other law, the publication in the Gazette of the appointment, resignation, termination of service, dismissal or removal from service of a person in the service of the Government or of a local authority shall be conclusive proof-

(i) of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be; and

(ii) where the date of taking effect of such appointment, resignation, termination of service, dismissal or removal from service, as the case may be, is stated in such publication, also of the fact that such person was appointed with effect from the said date, or in 'the case of resignation, termination of service, dismissal or removal from service, such person ceased to be in such service with effect from the said date.

**Explanation IV.**— For the purposes of clause (9), "booth-capturing" shall have the same meaning as in section 161.

**145. Promoting enmity between classes in connection with election.**— Any person who, in connection with an election under this Act, promotes or attempts to promote on grounds of religion, race, caste, community or language, feelings of enmity or hatred, between different classes of the citizens of India shall be punishable with imprisonment for a term which may extend to three years, or with fine, which may extend to ten thousand rupees or with both.

**146. Prohibition of public meetings on the day preceding the election day and on the election day.**— (1) No person shall convene, hold or attend any public meeting within a ward during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for an election in that ward.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

**147. Disturbances at election meetings.**— (1) Any person who at a public meeting to which this section applies, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees, or with both.

(2) This section applies to any public meeting of a political character held in any ward between the date of the issue of a notification under this Act calling upon that ward to elect a Councillor and the date on which such election is held.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (1) he may, if requested so to do by the chairman of the meeting, require that person to declare to him immediately his name and address, and if that person refuses or fails so to declare his name and address, or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

**148. Restrictions on the printing of pamphlets, posters, etc.**— (1) No person shall print or publish, or cause to be printed or published, any election pamphlet or poster which does not bear on its face the names and addresses of the printer and the publisher thereof.

(2) No person shall print or cause to be printed any election pamphlet or poster-

(a) unless, a declaration as to the identity of the publisher thereof, signed by him and attested by two persons to whom he is personally known, is delivered by him to the printer in duplicate; and

(b) unless within a reasonable time after the printing of the document, one copy of the declaration is sent by the printer, together with one copy of the document printed to such officer as may be authorised by the State Election Commission in this behalf.

(3) For the purposes of this section,-

(a) any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression 'printer' shall be construed accordingly; and

(b) "election pamphlet or poster" means any printed pamphlet, hand bill or other document distributed for the purpose of promoting or prejudicing the election of a candidate or a group of candidates or any placard or poster having reference to an election, but does not include any hand bill, placard or poster merely announcing the date, time, place and other particulars of an election meeting or routine instructions to election agents or workers.

(4) Any person who contravenes any of the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

**149. Maintenance of secrecy of voting.—** (1) Every officer, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine which shall not be less than one thousand rupees or with both.

**150. Officers etc., at election not to act for candidates or to influence voting.—** (1) No person who is a District Election Officer or a Returning Officer or an Assistant Returning Officer or a Presiding or Polling Officer at an election, or an officer performing any duty in connection with an election shall, in the conduct or the management of the election, do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour-

(a) to persuade any person to give his vote at an election, or

(b) to dissuade any person from giving his vote at an election, or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to three years or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

**151. Prohibition of canvassing in or near polling station.—** (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely:-

- (a) canvassing for votes; or
- (b) soliciting the vote of any elector; or
- (c) persuading any elector not to vote for any particular candidate; or
- (d) persuading any elector not to vote; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees.

**152. Penalty for disorderly conduct in or near polling stations.**— (1) No person shall, on the date or dates on which a poll is taken at any polling station-

- (a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

- (b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof.

so as to cause annoyance to any person visiting the polling station for the poll, or so as to interfere with the work of the officers and other person on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, the provisions of sub-section (1) shall be punishable with imprisonment which may extend to three months or with fine which shall not be less than one thousand rupees or with both.

(3) Any police officer may take such steps and use such force as may be reasonably necessary for preventing any contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

**153. Penalty for misconduct at the polling station.**— (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) Where any person who has been so removed from a polling station re-enters the polling station without the permission of the Presiding Officer, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(4) An offence punishable under sub-section (3) shall be cognizable.

**154. Penalty for failure to observe procedure for voting.**— Where any elector to whom a ballot paper has been issued, refuses to observe the procedure prescribed for voting the ballot paper issued to him shall be liable for cancellation.

**155. Penalty for illegal hiring or procuring of conveyances at elections.**— Where any person is guilty of any such corrupt practice as is specified in clause (6) of Section 144 at or in connection with an election, he shall be punishable with fine which may extend to one thousand rupees.

**156. List of officers and staff of the Government Departments, local authorities<sup>18</sup>[or other authorities and Educational Institutions] to be furnished.**— (1) Every<sup>19</sup>[head of office or departmental including educational institutions of the Government and every local authority or other authority and headmasters of aided schools and Principal of Private affiliated Colleges] shall, on requisition by the State Election Commission or an officer authorised by him, furnish to him a list of<sup>20</sup>[officers and staff of such office or educational institutions] within such time as may be specified in the requisition, for performing any duty in connection with an election to a Municipality.

Explanation.— For the purpose of this section and section 202 “other authority” means any authority by whatever name called, constituted or established by the Government by or under any law for the time being in force.

(2) If any person to whom a requisition under sub-section (1) is made by the State Election Commission or an officer authorised by him, fails to furnish the list of officers and staff within such time as may be specified in such requisition, he shall be punishable with fine which may extend to five hundred rupees.

**157. Breaches of official duty in connection with elections.**— (1) Where any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall be punishable with fine which may extend to five hundred rupees.

- (2) No suit or other legal proceedings, shall lie against such person for damages in respect of any such act or omission as aforesaid.
- (3) The persons to whom this section applies are the District Election Officers Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other person appointed to perform any duty in connection with the receipt of nominations or withdrawal of candidature, or the recording or counting of votes at an election; and the expression ‘official duty’ shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Act.

**158. Requisitioning of premises etc., for election purposes.**— (1) If it appears to the State Election Commission or the District Election Officer that in connection with an election-

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken, or

(b) any vehicle or vessel is needed or is likely to be needed for the purpose of transport of ballot boxes to or from any polling station, or transport of members of the police force for maintaining order during the conduct of such election, or transport of any officer or other person for the performance of any duties in connection with such election,

the State Election Commission, or as the case may be, the District Election Officer may by order in writing requisition such premises or such vehicle or vessel as the case may be, and may make such further orders as may appear to him to be necessary or expedient in connection with the requisitioning:

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18. Substituted by Act 8 of 1995.

19. Substituted by Act 8 of 1995.

20. Substituted by Act 8 of 1995.

Provided that no vehicle or vessel which is being lawfully used by candidate or his agent for any purposes connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election

(2) The requisition shall be effected by an order in writing addressed to the person, deemed by the State Election Commission or, as the case may be, the District Election Officer to be the owner or person in possession of the property.

(3) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

(4) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both.

(5) In this section-

(a) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(b) "vehicle" means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise;

(c) "vessel" means any vessel used or capable of being used for the purpose of water transport, whether propelled by mechanical power or otherwise.

**159. Penalty for Government servants or employees of a local authority for acting as election agent, polling agent or counting agent.—** Where any person in the service of the Government or of a local authority acts as an election agent or a polling agent or a counting agent of a candidate at an election, he shall be punishable with imprisonment for a term which may extend to three months or with fine or with both. -

**160. Removal of ballot papers from polling station to be an offence.—**(1) Any person who, at any election, fraudulently takes, or attempts to take, a ballot paper, out of a polling station, or wilfully aids or abets the doing of any such act, shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to one thousand rupees or with both.

(2) Where the Presiding Officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station, arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the Presiding Officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

**161. Offence of booth-capturing.—** Whoever commits an offence of booth-capturing shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine, and where such offence is committed by a person in the service of the Government or a local Authority, he shall be punishable with

imprisonment for a term which shall not be less than three years but which may extend to five years and with fine.

**Explanation.**— For the purposes of this section, ‘booth-capturing’ includes, among other things, all or any of the following activities, namely:-

(a) seizure of a polling station or a place fixed for the poll by any person or persons, making polling authorities surrender the ballot papers or voting machines and doing of any other act which affects the orderly conduct of elections;

(b) taking possession of a polling station or a place fixed for the poll by any person or persons and allowing only his or their own supporters to exercise their right to vote and prevent others from voting;

(c) threatening any elector and preventing him from going to the polling station or a place fixed for the poll to cast his vote;

(d) seizure of a place for counting of votes by any person or persons, making the counting authorities surrender the ballot papers or voting machines and the doing of anything which affects the orderly counting of votes;

(e) doing by any person in the service of the Government or a local authority of all or any of the aforesaid activities or aiding or conniving at, any such activity in the furtherance of the prospects of the election of a candidate.

**162. Other offences and penalties therefor.**— (1) A person shall be guilty of an electoral offence, if at any election he-

(a) fraudulently defaces or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a Returning Officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper or any declaration of identity or official envelop used in connection with voting by postal ballot; or

(d) without due authority supplies any ballot paper to any person, or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

<sup>21</sup> [(h) refuses to grant leave to a person entitled under section 202A].

(2) Any person guilty of an electoral offence under this section shall,-

(a) if he is a Returning Officer or an Assistant Returning Officer or a Presiding Officer at a polling station or any other officer or employee on official duty in connection with the election, be punishable with imprisonment for a term which may extend to two years or with fine or with both;

<sup>22</sup>[(aa) if he has committed an offence under section 202A, shall be punishable with a fine which may extend to five hundred rupees.]

(b) if he is any other person, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election, but the expression 'official duty' shall not include any duty imposed otherwise than by or under this Act.

## CHAPTER X

### DISPUTES REGARDING ELECTION

**163. Election petitions.**— No election shall be called in question except by an election petition presented in accordance with the provisions of this chapter.

**164. The Court competent to try election petitions.**—The court having jurisdiction to try an election petition shall be the Munsiff's Court having jurisdiction over the place in which the office of the Municipality is located.

**165. Presentation of petitions.**— (1) An election petition calling in question any election may be presented on one or more of the grounds specified in section 178 and section 179, to the Munsiff's Court by any candidate at such election or any elector within thirty days from, but not earlier than, the date of election of the returned candidate.

**Explanation.**— In this sub-section, "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

**166. Parties to the petition.**— A petitioner shall join as respondents to his petition,-

(a) where the petitioner, in addition to claiming a declaration that the election of the returned candidate is void, claims a further declaration that he himself or any other candidate has been duly elected, all the contesting candidates other than the petitioner, and where no such further declaration is claimed, the returned candidate; and

(b) any other candidate against whom allegations of any corrupt practice are made in the petition.

**167. Contents of petition.**— (1) An election petition,—

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the verification of pleadings:



Provided that were the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

**168. Relief that may be claimed by the petitioner.**— A petitioner may, in addition to claiming a declaration that the election of the returned candidate is void, claim a further declaration that he himself or any other candidate has been duly elected.

**169. Trial of election petitions.**— (1) The Court shall dismiss an election petition which does not comply with the provisions of Section 165 or Section 166 or Section 191.

**Explanation.**— An order of the court dismissing an election petition under this sub-section shall be deemed to be an order made under Clause (a) of Section 176.

(2) Where more election petitions than one are presented to the court in respect of the same election, the court may, in its discretion, try them separately or in one or more groups.

(3) Any candidate not already a respondent shall, upon application made by him to the court within fourteen days from the date of commencement of the trial and subject to any order as to security for costs which may be made by the court, be entitled to be joined as a respondent.

**Explanation.**— For the purposes of this sub-section and section <sup>23</sup>[175], the trial of a petition shall be deemed to commence on the date fixed for the respondents to appear before the court and answer the claim or claims made in the petition.

(4) The court may upon such terms as to cause and otherwise as it may deem fit, allow the particulars of any corrupt practice alleged in the petition to be amended or amplified in such manner, as may, in its opinion, be necessary for ensuring a fair and effective trial of the petition, but shall not allow any amendment of the petition which will have the effect of introducing particulars of a corrupt practice not previously alleged in the petition.

(5) Every election petition shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date on which the election petition is presented to the court for trial.

**170. Procedure before the court.**— (1) Subject to the provisions of this Act and of any rules made thereunder, every election petition shall be tried by the court, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) to the trial of suits:

Provided that the court shall have the discretion to refuse, for reasons to be recorded in writing, to examine any witness or witnesses if it is of the opinion that the evidence of such witness or witnesses is not material for the decision of the petition or that the party tendering such witness or witnesses is doing so in frivolous ground or with a view to delay the proceedings.

(2) The provisions of the Indian Evidence Act, 1872 (Central Act 1 of 1872), shall, subject to the provisions of this Act, be deemed to apply in all respects to the trial of an election petition.

**171. Documentary evidence.**— Notwithstanding anything in any enactment to the contrary, no document shall be inadmissible in evidence at the trial of an election petition on the ground that it is not duly stamped or registered.

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23. The figure "176" substituted by Act 30 of 2009, w.e.f. 07-10-2009, published in K.G.Ex. No. 1844, dt. 07-10-2009

**172. Secrecy of voting not be infringed.**— No witness or other person shall be required to state for whom he has voted at an election.

**173. Answering of criminating questions and certificate of indemnity.**— (1) No witness shall be excused from answering any question as to any matter relevant to a matter in issue in the trial of an election petition upon the ground that the answer to such question may criminate or may tend to criminate him, or that it may expose or may tend to expose him to any penalty or forfeiture:

Provided that-

(a) a witness, who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity from the court;

(b) an answer given by a witness to a question put by or before the court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him in any civil or criminal proceeding.

(2) Where a certificate of indemnity has been granted to any witness it may be pleaded by him in any court and shall be a full and complete defence to or upon any charge under Chapter IX A of the Indian Penal Code (Central Act 45 of 1860), or Chapter IX of this Act arising out of the matter to which such certificate relates, but it shall not be deemed to relieve him from any disqualification in connection with an election imposed by this Act or any other law.

**74. Expenses of witnesses.**— The reasonable expenses incurred by any person in attending to give evidence may be allowed by the court to such person and shall, unless the court otherwise directs, be deemed to be part of the costs.

**175. Recrimination when seat claimed.**— (1) Where in an election petition a declaration that any candidate other than the returned candidate has been duly elected is claimed, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented calling in question his election:

Provided that the returned candidate or such other party, as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of commencement of the trial, given notice to the court of his intention to do so and has also given the security and the further security referred to in sections 191 and 192 respectively.

(2) Every notice referred to in sub-section (1) shall be accompanied by the statement and particulars required by section 167 in the case of an election petition and shall be signed and verified in like manner.

**176. Decision of Court.**— At the conclusion of the trial of an election petition the court shall make an order-

(a) dismissing the election petition; or

(b) declaring the election of the returned candidate to be void; or

(c) declaring the election of the returned candidate to be void and the petitioner or any other candidate to have been duly elected.

**177. Other orders to be made by court.**— At the time of making an order under section 176, the court shall also make an order-

(a) where any charge is made in the petition of any corrupt practice having been committed at the election, recording-

(i) a finding whether any corrupt practice has or has not been proved to have been committed at the election, and the nature of that corrupt practice; and

(ii) the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice; and

(b) fixing the total amount of costs payable and specifying the persons by and to whom costs shall be paid:

Provided that a person who is not a party to the petition shall not be named in the order under sub-clause (ii) of clause (a) unless,-

(i) he has been given notice to appear before the court and to show cause why he should not be so named; and

(ii) if he appears in pursuance of the notice, he has been given an opportunity of cross examining any witness who has already been examined by the court and has given evidence against him, of calling evidence in his defence and of being heard.

**178. Grounds for declaring election to be void.**— (1) Subject to the provisions of sub-section (2) if the court is of opinion-

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under this Act; or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

<sup>24</sup>[(ca) that the details furnished by the elected candidate under sub-section (1A) of section 108 were fake; or]

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected-

(i) by the improper acceptance of any nomination; or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent; or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void; or

(iv) by any noncompliance with the provisions of this Act or of any rules or orders made thereunder,

the court shall declare that the election of the returned candidate to be void.

(2) If in the opinion of the court, a returned candidate has been guilty by an agent, other than his election agent, of any corrupt practice but the court is satisfied -

(a) that no such corrupt practice was committed at the election by the candidate or his election agent, and every such corrupt practice was committed contrary to the orders, and without the consent, of the candidate or his election agent;

(b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at the election; and

(c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his agents, then, the court may decide that the election of the returned candidate is not void.

**Explanation.-** In this section the term ‘agent’ has the same meaning as in Section 114.

**179. Grounds on which a candidate other than the returned candidate may be declared to have been elected.—** Where any person who has lodged a petition has, in addition to calling in question the election of the returned candidate, claimed a declaration that he himself or any other candidate has been duly elected and the court is of opinion-

(a) that in fact the petitioner or such other candidate received a majority of the valid votes; or

(b) that, but for the votes obtained by the returned candidate by the corrupt practices, the petitioner or such other candidate would have obtained a majority of the valid votes,

the court shall after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

**180. Procedure in case of an equality of votes.—** When during the trial of an election petition it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then-

(a) any decision made by the returning officer under the provisions of this Act shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

(b) in so far as that question is not determined by such a decision the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

**181. Communication of orders of court.—** The court shall, as soon as may be after the conclusion of trial of an election petition, intimate the substance of the order of the State Election Commission and the Chairperson of the Municipality concerned and, as soon as may be, thereafter, shall send to the State Election Commission an authenticated copy of the order.

**182. Transmission of order to the appropriate authority, etc., and its publication.—** As soon as may be after the receipt of any order made by the court under section 176 or section 177, the State Election Commission shall forward copies of the order to the Chairperson of the Municipality concerned and, shall cause the order to be published in such manner as the State Election Commission may deem fit.

**183. Effect of orders of the court.—** (1) An order under section 176 or section 177 shall take effect as soon as it is pronounced by the court.

(2) Where by an order under section 176 the election of a returned candidate is declared to be void, acts and proceedings of a Municipality in which that returned candidate has, before the date thereof, participated as Councillor shall not be invalidated by reason of that order, nor shall such candidate be subjected to any liability or penalty on the ground of such participation.

**184. Withdrawal of election petitions.—** (1) An election petition may be withdrawn only by leave of the court and on an application made in that behalf.

(2) Where an application for withdrawal is made under sub-section (1) notice thereof fixing a date for the hearing of the application shall be given to all parties to the petition and to the Municipality concerned which shall publish the same in the office of that Municipality.

**185. Procedure for withdrawal of election petition.**— (1) Where there are more petitioners than once, on application to withdraw an election petition shall be made except with the consent of all the petitioners.

(2) No application for withdrawal shall be granted if, in the opinion of the court, such application has been induced by any bargain or consideration which ought not to be allowed.

(3) Where the application is granted-

(a) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the court may think fit;

(b) the court shall direct that the notice of withdrawal shall be published in the office of the court and also in the office of the Municipality concerned;

(c) a person who might himself have been a petitioner may, within fourteen days of such publication apply to be substituted as petitioner in the place of the party withdrawing, and upon compliance with the conditions, if any, as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the court may deem fit.

**186. Report of withdrawal by the court to the State Election Commission.**— Where an application for withdrawal is granted by the court and no person has been substituted as petitioner under clause (c) of sub-section (3) of section 185 in the place of the party withdrawing, the court shall report the fact to the State Election Commission.

**187. Abatement of the election petitions.**— (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners.

(2) Where an election petition abates under sub-section (1), the court shall cause a notice of the abatement be published in the office of the court, in the office of the State Election Commission and in the office of the Municipality concerned.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner and upon compliance with the conditions, if any, as to security shall be entitled to be so substituted and to continue the proceedings upon such terms as the court may deem fit.

**188. Abatement or substitution on death of respondent.**— Where, before the conclusion of the trial of an election petition, the sole respondent dies or gives notice that he does not intend to oppose the petition or any of the respondents dies or gives such notice and there is no other respondent who is opposing the petition, the court shall cause notice of such event to be published in the office of the court, in the office of the State Election Commission and in the office of the Municipality concerned and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to be substituted in place of such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the court may think fit.

**189. Appeals.**— (1) Any person aggrieved by an order made by the court under section 176 or section 177 may prefer an appeal to the District Court on any question whether of law or of fact.

(2) Every appeal under this section shall be preferred within a period of thirty days from the date of the order of the court under section 176 or section 177:

Provided that the District Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within such period.

**190. Procedure in appeal.**— (1) Subject to the provisions of this Act and of the rules, if any made there under the District Court may dispose of the appeal in accordance with the procedure laid down in the Code of Civil Procedure, 1908 (Central Act 5 of 1908) for the hearing of appeals and the decision of the District Court in the appeal shall be final.

(2) As soon as an appeal is decided, the District Court shall intimate the substance of the decision to the State Election Commission and the Chairperson of the Municipality concerned and as soon as may be, thereafter shall send to the State Election Commission an authenticated copy of the decision; and upon its receipt, the State Election Commission shall-

(a) forward a copy thereof to the Chairperson of the Municipality concerned.

(b) cause the decision to be published in such manner as the State Election Commission may deem fit.

**191. Security for costs.**— (1) At the time of presenting an election petition, the petitioner shall deposit in the Munsiff's Court a sum of one thousand rupees as security or enclose with the petition a Government treasury receipt showing that the deposit of the said amount has been made by him in a Government treasury in favour of the Munsiff as security for the costs of the petition.

(2) During the course of the trial of an election petition, the court may, at any time, call upon the petitioner to give such further security for costs as it may direct and if the petitioner fails to do so dismiss the petition.

**192. Security for costs from a respondent.**— No person shall be entitled to be joined as a respondent under sub-section (3) of section 169 unless he has given such security for costs as the court may direct.

**193. Costs.**— Costs shall be in the discretion of the court, provided that where a petition is dismissed under clause (a) of section 176, the returned candidate shall be entitled to the costs incurred by him in contesting the petition and accordingly the court shall make an order for costs in favour of the returned candidate.

**194. Payment of costs out of security deposits and return of such deposits.** — (1) Where in any order as to costs under the provisions of this Chapter there is a direction for payment of costs by any party to any person, such costs shall, if they have not been already paid, be paid in full or so far as possible, out of the security deposit and the further security deposit, if any, made by such party under this Chapter on an application made in writing in that behalf within a period of one year, from the date of such order to court by the person in whose favour the costs have been awarded.

(2) Where there is any balance left out of any of the said security deposits after payment under sub-section (1) of the costs referred to in that sub-section, such balance, or where no costs have been awarded or no application as aforesaid has been made within the said period of one year the whole of the said security deposits may, on a application made in that behalf in writing to the court by the person by whom the deposits have been made, or if such person dies after making such deposits, by e g representative of such person, be returned to the said person or to his legal representative , as the case may be.

**195. Execution of orders as to costs**— Any order as to costs under the provisions of this Chapter may be produced before the Principal civil court of original jurisdiction within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business, and such court shall execute the order or cause the same to be

executed in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit:

Provided that where any such costs or any portion thereof may be recovered by an application made under sub-section (1) of section 194 no application shall lie under this section within a period of one year from the date of such order unless it is for the recovery of the balance of any costs which has been left unrealised after an application has been made under that sub-section owing to the insufficiency of the amount of the security deposits referred to in that sub-section.

## **CHAPTER XI**

### **GENERAL PROVISIONS REGARDING ELECTIONS**

**196. Powers of the State Election Commission.—** (1) The State Election Commission shall in the performance of its functions under this Act have all the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or a copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents

(2) The State Election Commission shall also have the power to require any person subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as in the opinion of the Commission may be useful for, or relevant to, the subject matter of the inquiry.

(3) The State Election Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179 section 180 or section 228 of the Indian Penal Code (Central Act 45 of 1860), is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code (Central Act 45 of 1860).

<sup>25</sup>[(5) Notwithstanding anything contained in this Act or in any other law where the State Election Commission is satisfied on enquiry that any petition filed before him against any person is frivolous and is baseless and not in good faith, the Commission may direct the petitioner to pay such costs for conducting such enquiry by the opposite party.]

**197. Statements made by persons to the State Election Commission.**— No statement made by a person in course of giving evidence before the State Election Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement-

(a) is made in reply to a question which he is required by the State Election Commission to answer; or

(b) is relevant to the subject matter of the inquiry.

**198. Procedure to be followed by the State Election Commission.**— The State Election Commission shall have the power to regulate its own procedure, including the fixing of places and times of its sittings and deciding whether to sit in public or in private.

**199. Protection of action taken in good faith.**— No suit, prosecution or other legal proceedings shall lie against the State Election Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the forgoing provisions of this Chapter or of any order made thereunder or in respect of the tendering of any opinion by the Commission to the Governor or to the Government or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.

**200. Extension of time for completion of election.**— It shall be competent for the State Election Commission for reason which it considers sufficient, to extend the time for the completion of any election by making necessary amendments in the notification issued by it under section 105.

**201. Return or forfeiture of candidate's deposit.**— (1) The deposit made under section 109 shall either be returned to the persons making it or his legal representative or be forfeited to the Municipality concerned in accordance with the provisions of this section.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list of contesting candidates, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if at an election where a poll has been taken, the candidate is not elected and the number of valid votes polled by him does not exceed one-sixth of the total number of valid votes polled by all the candidates.

**202. Staff to be made available.**— Every department of the Government and every local authority or other authority and every educational institutions including aided schools and private affiliated colleges in the State shall, when so requested by the State Election Commission or the District Election Officer, make available-

(a) to the Electoral Registration Officer, such staff as may be necessary for the performance of any duties in connection with the preparation and revision of electoral rolls; or

(b) to any Returning Officer such staff as may be necessary for the performance of any duties in connection with an election.



<sup>26</sup>[**202A. Grant of paid holiday to employees on the day of general election.—** (1) Every person engaged in the work in any industrial establishment or trade establishment or commercial establishment or in any other establishment in the private sector who is eligible to vote in the Municipality election shall be granted leave on the day of general election.

(2) The wages of any such person shall not be reduced or disallowed on account of the leave granted as per sub-section (1), even though such person is appointed on the basis that wage will not ordinarily be paid for such date, he shall be paid the wages that would have been received by him on such date, had he not been granted leave for that day.

(3) This section shall not be applicable where, the absence of the voter may be injurious or causes substantial loss to the work in which he is engaged.]

**203. Jurisdiction of civil courts barred.—** No Civil Court shall have jurisdiction-

(a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll of a ward in a Municipality; or

(b) to entertain any question on the legality of any action taken by or under the authority of an electoral registration officer or of any decision given by any other person appointed under this act for the revision of any such roll; or

(c) to entertain any question on the legality of any action taken or of any decision given by the Returning Officer or by any other person appointed under this Act in connection with an election.

**204. Expenses in connection with elections.—** Funds to meet all expenses in connection with the elections including those in relation to the preparation of the electoral rolls therefor shall be met by the Government at the first instance and such expenses shall be reimbursed to the Government by the Municipalities concerned in such manner as may be prescribed.

**SECOND SCHEDULE**  
[See section 85(f)]  
**FORM OF OATH OR AFFIRMATION**

I..... a candidate for election as a member in Ward No of the.....Municipality do swear in the name of God/solemnly affirm that I <sup>27</sup>[will bear true faith and allegiance and maintain sovereignty and integrity of India] to the Constitution of India as by law established, and that if elected I will duly and faithfully to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour or affection or illwill.

**THE THIRD SCHEDULE**  
[See section 143 (1)]  
**FORM OF OATH OR AFFIRMATION**

I.....having been elected Councillor/Mayor/Deputy Mayor/Chairman/Vice Chairman of .....Municipal Corporation/.....Municipal Council/.....Town Panchayat do swear in the name of God/solemnly affirm that I <sup>28</sup>[will bear true faith and allegiance and maintain sovereignty and integrity of India] to the Constitution of India as by law established and I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour or affection or illwill.

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27. Substituted for “will bear true faith and allegiance” by Act 14 of 1999, w.e.f. 24-3-1999

28. Substituted for “will bear true faith and allegiance” by Act 14 of 1999, w.e.f. 24-3-1999