

**The Daman and Diu Municipalities  
(Amendment) Regulation, 1994**

*(Relevant Chapters Only)*

**THE DAMAN AND DIU  
MUNICIPALITIES (AMENDMENT)  
REGULATION, 1994**

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**MINISTRY OF LAW AND JUSTICE AND COMPANY AFFAIRS**

(Legislative Department)

New Delhi, the 23rd May, 1994/Jyaistha 2, 1916 (Saka)

**THE DAMAN AND DIU MUNICIPALITIES (AMENDMENT ) REGULATION, 1994**

**NO. 6 OF 1994**

Promulgated by the President in the Forty-fifth year of the  
Republic of India

A Regulation further to amend the Goa, Daman and Diu  
Municipalities Act, 1968

- [1] A regulation to consolidate and amend the law relating to municipalities in the Union Territory of [.....] Daman and Diu.

Whereas it is expedient to provide a Municipal pattern in consonance with the one in force in the rest of the country for the constitution, administration and powers of municipalities in the Union Territory of Daman and Diu to make better provisions therefore;

- \* In exercise of the powers conferred by article 240 of the Constitution the President is pleased to promulgate the following Regulation made by him :-

CHAPTER I

PRELIMINARY

[2]. 1 Short Title, extent and commencement -

(1) This Regulation may be called the Daman and Diu Municipalities (Amendment) Regulation, 1994.

(2) It extends to the whole of the Union territory of Daman and Diu.

(3) It shall come into force on the first day of June 1994.

2. Definitions :- In this Regulation, unless the context otherwise requires :-

(1) "Administrative Tribunal " means the Administrative Tribunal constituted under the Goa, Daman and Diu Administrative Tribunal Act, 1965.

3. (1A) "Administrator " means the Administrator of the Union territory of Daman & Diu appointed by the President under article 239 of the Constitution;

(2) "appointed day " in relation to an area, means the date on which the relevant provisions of this Regulation come into force in that area;

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[1] Omitted vide amendment, 1994

[\*] Substituted vide Amendment, 1994

[2] Substituted vide Amendment, 1994

[3] Inserted vide Amendment, 1994

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- (3) "building" includes, a house, out-house, stable shed, hut and other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as human dwelling or otherwise, and also includes verandahs, fixed platforms, plinths, door steps, walls (including compound walls ) and fencing and the like;
- (4) "bye law " means a bye-law made or deemed to be made by the Council under this Regulation;
- (5) "Cesspool" includes a tank for the reception or disposal of foul matter from buildings;
- (6) "Chief Officer ", means the person appointed or deemed to be appointed under this Regulation to be the Chief Officer of a Municipal area;
- [4] (7) "Collector " means the Collector of Daman or the Collector of Diu;
- (8) "Council " means a Municipal council constituted or deemed to be constituted under this Regulation for a municipal area ;
- [5] (9) "Councillor " means a person who is duly elected as a member of the Council;
- (10) "dairy " includes any farm, cattle-shed, cow-house, milk-store, milk-shop or other place from which milk is supplied for sale, or in which milk is kept for purposes of sale or manufactured into butter, ghee, cheese, curds, dried, sterilized or condensed or toned milk, but does not include -
- (A) a shop of other-place in which milk is sold for consumption on the premises only or,
- (B) a shop, or other place from which milk is sold or supplied in hermetically closed and un-opened receptacles in the same original condition in which it was first received in such shop or other place;

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[4] Substituted vide Amendment, 1994

[5] Omitted vide Amendment, 1994

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(11) "Director" means the person appointed by the Government to be the Director of Municipal Administration under this Regulation;

[6] (11A) "district " means a district in the Union territory

(12) " drain " includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern, flush-tank, septic- tank or other devise for carrying off or treating sewage, offensive matter, polluted water sullage, waste water, rain water or sub-soil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;

(13) " eating house " means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain or any person owning or having an interest in or managing such premises;

[7] (14) "election " means an election to a Council and include bye-election ;

(14 A) " Election Commission " means the Commission referred to in section 5 ;

(15) " factory " means a factory as LXIII of 1948 defined in the Factories Act, 1948;

(16) " filth " includes sewage, night-soil and all offensive matter.

[8] (16A) "Finance Commission " means the Commission referred to in section 142 A;

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[6] Inserted vide Amendment, 1994  
[7] Inserted vide Amendment, 1994  
[8] Inserted vide Amendment, 1994

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receptacle for filthy or polluted matter, to servants of the Council or to persons employed in the cleansing thereof or in the removal of such matter therefrom :

(22) "land " includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and right ceteated by legislative enactment over any street :

(23) "local authority" means a municipality or village panchayat as the case may be, constituted under any law for the time being in force in the Union Territory ;

(24) "lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration, and includes a loding house for pilgrims whether lodging is provided for or without any monetary consideration;

(25) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale; live-stock or food for livestock or meat, fish, fruit, vegetables, drinks, animals intended for human food or any other articals of human food whatsoever with or without the consent of the owner of such place, not with standing that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person ;

(26) "milk" includes cream, skimmed milk, separated milk and condensed, sterilized, desiccated or toned milk ;

(27) "municipal area" means any local area declared or deemed to be declared as municipal area by or under this Act ;

(28) "municipal market" or "municipal slaughter-house" means a market or a slaughter house, as the case may be, which belongs to or is maintained by the Council ;

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

(30) " 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) an owner living in or otherwise using his land or building,

(c) a rent free tenant,

(d) a licensee in occupation of any land or building; and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

[10]

(31) Omitted

(32) "offensive matter " includes animal careasses, dung, dirt and putrid or putrifying substances other than sewage;

(33) "officer or servant, of the Council" means the officer or servant appointed by the Councillor any other competent authority subordinate to it any includes any Government Officer or servant who is for the time being, serving under the Council;

(34) " official year " or " financial year " means the year commencing on the first day of April;

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[10] Omitted vide Amendment 1994.  
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(35) "owner" means,--  
(a) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes--

(i) an agent or trustee who receives such rent on account of the owner;

(ii) any person who is liable to pay to the owner damages for the use and occupation of any land or building, or who would be liable to pay such damages if the land or building were let, and includes--

(iii) any person who is liable to pay to the owner damages for the use and occupation of any land or building, or who would be liable to pay such damages if the land or building were let, and includes--

(iv) any person who is liable to pay to the owner damages for the use and occupation of any land or building, or who would be liable to pay such damages if the land or building were let, and includes--

(v) any person who is liable to pay to the owner damages for the use and occupation of any land or building, or who would be liable to pay such damages if the land or building were let, and includes--

(vi) any person who is liable to pay to the owner damages for the use and occupation of any land or building, or who would be liable to pay such damages if the land or building were let, and includes--

(vii) any person who is liable to pay to the owner damages for the use and occupation of any land or building, or who would be liable to pay such damages if the land or building were let, and includes--

(ii) an agent or trustee who receives the rent of or is entrusted with or concerned for any premises devoted to religious or chair table purposes ;

(iii) a receiver sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises ; and

(iv) a mortgagee in possession ; and

(b) when used with reference to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;

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

(37) "Premises" includes messuages, buildings and land of any tenure, whether open or enclosed, whether built on or not and whether public or private ;

(38) "Prescribed" means prescribed by rules ;

(39) "President" and "Vice President" means the President and Vice-President of the Council;

(40) "private market" means a market which is not a municipal market, but does not include a market established for the purposes of any law for the time being in force regulating the marketing of agriculture and other produce in such market ;

(41) "Private slaughter-house" means a slaughter-house which is not a municipal slaughter-house ;

(42) "Private street" means a street which is not a public street ;

(43) "Privy" means a place set apart for defecating or urinating or both, together with the structure comprising such place the receptacle therein for human excreta and the fittings and apparatus, if any, connected therewith, and includes a closet of the dry type and aqua privy, a latrine and a urinal ;



(44) "public place " includes any public park or garden or any ground to which the public have or are permitted to have access;

(45) "public securities" means --

(a) securities of the Central Government and of any State Government;

(b) securities, stocks, debentures or shares the interest whereon has been guaranteed by the Central or State Government;

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by any enactment for the time being in force in any part of the territory of India; or

(d) securities expressly authorised by an order which the Government makes in this behalf;

(46) "public street" means any street --

(a) over which the public have a right of way;

(b) heretofore levelled, paved, metalled, channelled, sewered, or repaired out of municipal or other public funds; or

(c) which under the provisions of this Act becomes, or is declared, a public street;

(47) "rubbish" includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse and refuse of any kind which is not offensive matter or sewage;

(48) "rules" means rules made by the Government under this Act;

(49) "Scheduled Castes " means such castes, races or tribes or parts of, or groups within, such castes, races or tribes as are deemed to be Scheduled Castes in relation to the Union territory under article 341 of the Constitution of India;

(50) "Scheduled Tribes " means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the Union territory under article 342 of the Constitution of India;

(51) " Sewage" means night-soil and other contents of water closets latrines, privies, urinals, cesspools or drains and polluted water from sinks, bath rooms, stables, cattle-sheds and other like places, and includes trade effluent and discharges from manufactories of all kinds;

(52) "street " means any road, foot-way square court-alley, or passage, accessible whether permanently or temporarily to the public, whether a throughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to or from any public place or throughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid;

[11] (53) Omitted

[12] (54) "Union territory" means Union territory of Daman & Diu;

(55) "Vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-car, and every wheeled conveyance which is used or is capable of being used on a street ;

[13] (55A) "ward" means the territorial constituency of the municipal area ;

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[11] Omitted vide Amendment, 1994  
[12] Substituted Vide Amendment, 1994  
[13] Inserted vide Amendment, 1994

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(56) "water closet" means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

(57) " water connection " includes --

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on a private property and connected with a water-main or pipe belonging to the Council ; and

(b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water-main or pipe ;

(58) "water work " includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine, water truck, hydrant, stand-pipe, conduit, and machinery, land, building or thing for supplying or used for supplying water or for protecting sources of water supply;

**CHAPTER II**

**Municipal Councils**

(1) **Municipal areas and their classification.**

**3. Areas to be declared as municipal areas -**

[14] (1) After making such enquiries as it deems fit, the Government may, by notification in the Official Gazette, declare any local area to be a municipal area in accordance with the provisions of clause (2) of article 234 Q of the constitution.

(2) Every notification issued under sub-section (1) shall define the limits of the municipal area to which it relates and such areas shall be called the municipal area-.

(3) Before the publication of a notification under sub-section (1), the Government shall cause to be published in the Official Gazette and also in at least one newspaper circulating in the area to be specified in the notification, a proclamation announcing the intention of the Government to issue such notification, and inviting all persons who entertain any objection to the said proposal to submit the same in writing with the reasons therefor to the Collector of the District within two months from the date of the publication of the proclamation in the Official Gazette.

(4) The Collector shall, with all reasonable despatch, forward any objection so submitted to the Government.

(5) No such notification as aforesaid shall be issued by the Government unless the objections, if any, so submitted are in its opinion insufficient or invalid.

**4. Constitution of Municipalities for Daman & Diu.**

[15] 1. There shall be constituted a Municipality each for the Daman Municipal area and the Diu Municipal area to be known respectively as the Daman Municipal Council and Diu Municipal Council.

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[14] Inserted vide Amendment, 1994.

[15] Substituted vide Amendment, 1994.

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[16] (2) notwithstanding anything contained in the sub-section(1) and subject to the provisions of section 298 the Daman Municipal council and the Diu Municipal Council existing immediately before the commencement of the Daman and diu Municipalities (Amendment) Regulation, 1994 shall continue to function till the term of the Council under section 42 of the Act expires.

[17] 5. Election Commission :

(1) With effect from such date as the President may by notification, specify, the Election Commission constituted under section 185 of the Andaman and Nicobar islands (Panchayats) Regulation, 1994 shall be the Election commission for the superintendence, directions and control of the preparation of electoral rolls for, and the conduct of all elections to the Council in the Union Territory of Daman and Diu.

[18] (2) The Administrator shall when so requested by the Election Commission, make available to that commission such staff which the Administrator consider necessary for discharge of the functions conferred on the Election Commission by sub-section (1).

6. Alteration of the limits of a municipal area; --

(1) The Government may by notification in the official Gazette --

(a) alter the limits of a municipal area so as to include therein or to exclude therefrom such local area as may be specified in the notification;

(b) amalgamate two or more municipal areas so as to form one municipal area;

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

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[16] Substituted vide Amendment, 1994  
[17] Substituted vide Amendment, 1994  
[18] Substituted vide Amendment, 1994

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(d) declare that the whole of any local area comprising a municipal area shall cease to be a municipal area;

Provided that no such notification shall be issued by the Government under any of the clauses of this sub-section without consulting the Municipal Council or Councils and other local authorities concerned.

(2) Prior to the publication of a notification under sub-section(1), the procedure prescribed in sub-section (3), (4) and (5) of section 3 shall mutatis mutandis be followed.

(2) Municipal Authorities and Establishment of Councils.

7. Municipal authorities charged with execution of the Regulation.-The municipal authorities charged with carrying out the provisions of this Regulation for each municipal area are --

- (a) the Council ;
- (b) the President ;
- (c) the Standing Committee ;
- (d) the subjects Committees, if any, and
- (e) the Chief Officer.

8. Establishment and incorporation of Councils. --

For every municipal area there shall be Municipal Council. Every such council shall be a body corporate by the name of " The ... Municipal Council" and shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property, and to enter into contracts and may by the said name sue, or be sued, through the Chief Officer.



[19]

**9. Composition of Councils.**

(1) Save as otherwise provided by this Regulation, all the seats ;in a Council shall be filled by persons chosen by direct election from the wards determined under section 10 by the Election Commission;

Provided that the number of such seats shall not be less than ten and more than fifteen in a Council, the exact number of seats for each Council being determined by the Administrator by order published in the official Gazette.

(2) In a Council representation shall be provided for --

(i) two persons who are not less than twenty five years of age and who have special knowledge or experience in municipal administration to be nominated by the Administrator, but they shall not have the right to vote in the meetings of the Council and;

(ii) the Member of Lok Sabha representing the Union territory,

[20]

**9A. Reservation of seats :-** (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Council 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 Council 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, the number of such reserved seats being determined by the Administrator by order, published in the Official Gazette.

(2) Seats shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, from among the seats reserved for the Scheduled Castes or the Scheduled tribes, as the case may be, the number of such seats being determined by the Administrator by order published in the Official Gazette, which shall not in less than one-third of the total number of seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be.

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[19] Substituted vide Amendment, 1994.

[20] Added vide Amendment, 1994.

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(3) Seats shall be reserved for women, the number of seat being determined by the Administrator by order published in the Official Gazette, which shall not be less than one third ( 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 a Council.

(4) The seats reserved for the Scheduled Castes or the Scheduled Tribes or the women under sub-section (1) (2) and (3) shall be allotted by rotation to different wards in a Council in such manner as the Election Commission may, by order, published in the Official Gazette direct in this behalf.

(5) Nothing in this section shall be deemed to prevent persons belonging to the Scheduled Castes or the Scheduled Tribes or women for whom seats are reserved in any Council, from standing for election and being elected to any of the seats which are not so reserved.

(6) The reservation of seats for the Scheduled Castes or the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution;

Provided that nothing in this sub-section shall render any person elected to any such reserved seat ineligible to continue as a Councillor during the term of the Council for which he was duly elected by reason only of the fact that the reservation of seats has so ceased to have effect

10. Division of municipal area into wards and reservation of wards for women, Scheduled Castes and Scheduled Tribes :-

[21] (1) For the purpose of election of Councillor, each municipal area shall be divided into single-member wards in such manner that the population of each ward shall, so far as practicable, be the same throughout the municipal area.

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[21] Substituted vide Amendment, 1994  
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[22] (2) The Election Commission shall by order in the Official Gazette, determine. -

- (a) the numbers of wards,
- (b) the extent of each ward;
- (c) the wards in which seats shall be reserved for Scheduled Castes;
- (d) the wards in which seats shall be reserved for Scheduled Tribes;
- (e) the wards in which seats shall be reserved for women and
- (f) the manner in which seats shall be rotated under section (4) of section 9A.

(3) Every order issued under sub-section (1) shall take effect for the purpose of the next general election immediately following the date of such order.

(4) Nothing in this section shall be deemed to prevent women or person belonging to the Scheduled Castes or Scheduled Tribes for whom seats are reserved in any Council, from standing for election and being elected to any of the seats which are not reserved.

[22] Substituted vide Amendment, 1994.

[23] 11. List of voters :

(1) The electoral roll of the Daman and Diu House of the People constituency prepared under the provision of the Representation of the People Act 1950 and for the time being in force as is included in a municipal area shall be divided by such officer of the Council or by such other authority as may be designated by the Election Commission in this behalf into different sections corresponding to the different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by such officer or authority shall be the electoral roll for each ward which shall be deemed to be the authentic electoral roll for all elections under this Act.

(2) At least one month before the last date fixed for nomination of candidates for every general election, such officer shall keep open for public inspection at the municipal office and at such other places in the municipal areas the Council may fix, copies of the lists of voters of each ward maintained under sub-section (1)

[23] Substituted vide Amendment, 1994

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The list of voters maintained under section 11 shall be divided into different sections corresponding to the different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by such officer or authority shall be the electoral roll for each ward which shall be deemed to be the authentic electoral roll for all elections under this Act.  
At least one month before the last date fixed for nomination of candidates for every general election, such officer shall keep open for public inspection at the municipal office and at such other places in the municipal areas the Council may fix, copies of the lists of voters of each ward maintained under sub-section (1)  
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12. Right to vote.--- (1) Every person whose name is in the list of voters maintained under the last preceding section shall be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a Councillor for the ward to which such list pertains.

(2) The list of voters maintained under the last preceding section shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to vote, as the case may be, at any election.

13. Manner of voting.--- (1) The voting at an election shall be by ballot, and no votes shall be received by proxy.

(2) A voter shall be entitled to one vote, which he may give to any one candidate.

14. Other restrictions on voting.--- (1) No person shall be entitled to vote a general election in more than one ward, notwithstanding that his name may appear in the list of voters for more than one ward, and if a person votes in more than one ward his votes in all wards shall be void.

(2) No person shall be entitled to vote at any election in the same ward more than once, notwithstanding that his name may appear in the list of voters for that ward more than once, and if he does so vote all his votes in that ward shall be void.

15. Qualifications for candidates.--- (1) Every person whose name is included in the list of voters maintained under section 11 and who is not less than twenty-five years of age and who is not disqualified for being elected a Councillor under this Act or any other law for the time being in force shall be qualified, and every person whose name is not included in the list or who is less than twenty-five year of age or who is so disqualified for being a Councillor shall not be qualified, to be elected as a Councillor at any election.

(2) Subject to the provisions of sub section (1), the list of voters maintained under section 11 shall



be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to be elected, as the case may be, at any election.

**16. Disqualifications for becoming a Councillor.**--- (1) No person shall be qualified to become a Councillor, who ---

(a) has been convicted by a court in India, or by a court in Daman and Diu before the 20th day of December, 1961, of any offence and sentenced to imprisonment for not less than two years, unless a period of five years has elapsed since his release; or

(b) has been removed from office under section 44 and five years have not elapsed from the date of such removal;

(c) has been disqualified under section 45 or under sub-sections (4) and (6) of section 46 and five years have not elapsed from the date of such disqualification; or

(d) has been disqualified under sub-section (11) or (12) of section 22 and the period for which he has been disqualified has not elapsed from the date of such disqualification; or

(e) is an undischarged insolvent; or

(f) is of unsound mind and stands so declared by a competent Court; or

(g) has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance or adherence to a foreign State; or

(h) is a Judge; or

(i) is a subordinate officer or servant of the Government or any local authority or holds an office of profit under the Government or any local authority; or

(j) is in arrears (otherwise than as a trustee) of any sum due by him to the Council after the presentation of a bill thereof to him under section 145; or



(k) save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the Council or in any contract with or under or by or on behalf of the Council; or

(l) save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any transaction of loan of money advanced to or borrowed from, any officer or servant of the Council.

(2) A Person shall not be deemed to have incurred disqualification under clause (k) of sub-section (1) by reason only of his -

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

(b) having a share or interest in any company or co-operative society which contracts with or be employed by or behalf of the Council; or

(c) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Council may be inserted; or

(d) holding debentures or being otherwise interested in any loan raised by or on behalf of the Council; or

(e) having a share or interest in the occasional sale to the Council of any article in which he regularly trades, or in the purchase from the Council of any article, of a value in either case not exceeding in any official year two thousand rupees, or such higher amount not exceeding ten thousand rupees as the Council with the sanction of the Government may fix in this behalf; or

(f) having share or interest in the occasional letting out on hire to the Council or in the hiring from the Council of any article for an amount not exceeding in any official year two hundred rupees, or such higher amount not exceeding one thousand rupees as the Council with the sanction of the Collector may fix in this behalf; or

(g) being a party to any agreement made with the Council for paying fixed charges or lumpsum in lieu of any taxes or for construction of any drainage or water connections for his premises.

(3) A person shall not be deemed to have incurred disqualification under clause (e) of subsection (1) by reason only of his being an officer or member of a co-operative society which advances or has advanced a loan of money to, or borrows or has borrowed money from, any officer or servant of the Council.

[26] **17. Question of disqualification to be decided by Administrator**

(1) If any question arises as to whether a person has become subject to any disqualification referred to in section 16, the question shall be referred for the decision of the Administrator and his decision shall be final.

(2) Before giving any decision on any such question, the Administrator shall, obtain the opinion of the Election Commission and shall act according to such opinion.

**18. Power to make rules regulating elections. -**

(1) The Government may make rules generally to provide for, or to regulate, matters in respect of elections to be held under this Act.

(2) Without prejudice to the generality of the foregoing powers, the Government may make rules with regard to all or any of the following matters, namely:-

(a) the maintenance of list of voters;

(b) the fixation of dates, time and places for various stages of elections;

[26] Substituted vide Amendment, 1994



- (c) the appointment and duties of returning officers, presiding officers and other staff appointed for elections;
- (d) the nomination of candidates, form of nomination paper, objections to nominations, scrutiny of nominations and appeals against acceptance or rejection of nomination papers;
- (e) the deposits to be made by candidates and circumstances under which such deposits may be refunded to candidates or forfeited to the Council;
- (f) the assignment of symbols to candidates,
- (g) the withdrawal of candidature;
- (h) the appointment of agents of candidates
- (i) the form of ballot paper;
- (j) the procedure in contested and uncontested elections;
- (k) the steps to be taken to prevent personation of voters;
- (l) the manner of recording votes;
- (m) the procedure to be followed in respect of challenged votes and tendered votes;
- (n) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes.
- (o) the custody and disposal of papers relating to elections;
- (p) the circumstances in which poll may be suspended or held afresh;
- (q) any other matter relating to elections which is to be or may be prescribed under this Act.

[27] 19. Failure to elect. -

If at a general election or bye-elections, no Councillor is elected from the ward, a fresh election shall be held to elect a Councillor from that ward;

[28] 20. Declaration of results of elections. -

(1) As soon as possible after the counting of votes in a ward, if it is a bye-election, and in all the wards, if it is a general election, in a municipal; area is over, the Election Commission shall publish the results in the Official Gazette.

[\*] (2) If at a general election the poll could not be taken in any ward or wards for any reason on the date originally fixed for the purpose but it was taken on that date in more than two - third of the wards, the Election Commission shall, as soon as possible, after the counting of the votes in the said ward is over, publish the available results in the Official Gazette, and as regards the remaining ward or wards the Elections Commission shall subsequently publish the results in the Official Gazette as and when the poll is taken and the counting of the votes therein is over :

Provided that in determining the two-third of the number of wards a fraction shall be ignored.

(3) After every general election, upon the publication of the results or, as the case may be, upon the first publication of the results in the Official Gazette under this section, the Council shall be deemed to be duly elected.

- [27] Substituted vide Amendment, 1994
- [28] Substituted vide Amendment, 1994
- [\*] Substituted vide Amendment, 1994

1991, Amendment vide Section 1991, Amendment vide Section 1991, Amendment vide Section



(4) if a person is elected in more than one ward, he shall by notice in writing signed by him and delivered to the Collector within a period of seven days from the date of publication of the results under sub-section (1) or, as the case may be, the date of subsequent publication of the results thereunder in which his name is included, choose any one of the wards which he shall serve and the choice shall be final.

[29] (5) When such choice is made, fresh election shall be ordered in the remaining ward or wards within a period of six months from the date of making such choice.

(6) In case such persons fails to notify his choice within the period specified in sub-section (4), his election to all such seats shall be void, and thereupon a fresh election shall be ordered in the wards from which such person had been elected.

[30] 21. Publication of names of co-opted and nominated Councillors in the Official Gazette. --

(1) [.....] Omitted.

(2) The names of nominated Councillors (if any) shall be published in the Official Gazette by the Government.

(4) Disputes in respect of election, co-option or nomination of Councillors.

22. Disputes in respect of election, co-option or nomination of Councillors.--

[31] (1) No election [....] of a Councillor may be called in question, except by a petition presented to the District Court by a candidate at the election or by any persons entitled to vote at the election, within ten days after the publication of the names of the Councillors in the Official Gazette under section 20.[.....]

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[29] Added vide Amendment, 1994  
[30] Omitted vide Amendment, 1994  
[31] Omitted vide Amendment, 1994

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- (2) Any such petition -
- a) shall contain a concise statement of the material facts on which the petitioner relies.
  - [\*] b) shall, with sufficient particulars, set forth the ground or grounds on which the election [.....] is called in question, and
  - c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure 1908 for the verification of pleadings.

(3) A petitioner may claim all or any one of the following declarations, namely :-

- (a) that the election of all or any of the returned candidates is void; or
- (b) that the election of all or any of the returned candidates is void and that he himself or any other candidate has been duly elected;
- [32] (c) Omitted.

[31] Omitted vide Amendment 1994  
 [32] Omitted vide Amendment 1994

(7) For the trial of such petitions, the Judge shall have all the powers of a civil court including the powers in respect of the following matters, namely:-

(d) enforcing the attendance of witnesses, and requiring the deposit of their expenses;

(e) compelling the production of documents;

(f) but not to award costs.

the petitioner or such other candidate would have obtained a sufficient number of valid votes to have been elected,



(4) A petitioner shall join as respondents to his petition ---

(a) where the petitioner claims a declaration under clause (a) of sub-section (3), the returned candidate or candidates in respect of whom such declaration is claimed;

(b) where the petitioner claims a declaration under clause (b) of sub-section (3), all the contesting candidates other than the petitioner;

(c) any other candidate against whom allegations of any corrupt or illegal practice are made in the petition;

33.

(d) [.....] Omitted.

Explanation.--- The expression "returned candidate" means a candidate whose name has been published in the Official Gazette under section 20.

(5) Such petition shall be inquired into and disposed of by the District Judge or by any Judge not lower in rank than a Civil Judge Senior Division to whom the case or such cases generally may be referred to by the District Judge.

(6) All petitions under sub-section (1), in which the validity of the election of the same Councillor elected to represent the same ward is in question shall be heard together.

(7) For the trial of such petition, the Judge shall have all the powers of a civil court including powers in respect of the following matters, namely:-

(a) discovery and inspection;

(b) enforcing the attendance of witnesses, and requiring the deposit of their expenses;

(c) compelling the production of documents;

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[33] Omitted vide Amendment 1994  
-----

(d) examining witnesses on oath ;

(e) granting adjourments ;

(f) reception of evidence on affidavit ; and

(g) issuing commissions for the examination of witnesses ;

and the Judge may summon and examine suo motu any person whose evidence appears to him to be material. The Judge shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the code of Criminal Procedure, 1898. V of 1898

(8) Notwithstanding anything contained in the Code of Civil Procedure, 1908, V of 1908 the Judge shall not permit

(a) any application to be compromised or withdrawn, or

(b) any person to alter or amend any pleading,

unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is bona fide and not collusive.

(9) The Judge after such inquiry as he deems necessary, may pass suitable order and his order shall be conclusive.

(10) If the petitioner 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 Judge is satisfied that -

(a) the petitioner or such other candidate received sufficient number of valid votes to have been elected ; or

(b) but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a sufficient number of valid votes to have been elected,



the Judge may, after declaring the election of the returned candidate void declare the petitioner or such other candidate to have been duly elected :

Provided that -

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

(ii) after such computation, if any equality of vote is found to exist between any candidates and the addition of one vote would entitle any of the candidate to be declared elected, one additional vote shall be added to the total number of valid votes found to have been recorded in favour of the candidate, selected by lot drawn in the presence of the Judge in such manner as he may determine.

(11) Where any charge is made in the petition of any corrupt practice, the Judge shall make an order recording the names of all persons including any candidates, if any who have been proved at the trial to have been guilty of any corrupt practice and the nature of that practice and may disqualify any such person for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order as the Judge may specify in the order :

Provided that no person shall be named in such order unless -

(a) he has been given notice to appear before the Judge and to show cause why he should not be so named ; and

(b) 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 Judge and has given evidence against him, of calling evidence in his defence and of being heard.

(12) If the Judge sets aside the election of a candidate on the ground that a corrupt practice has been committed by the returned candidate or his election agent or by any other person with the consent of the candidate or his election agent and if such candidate's name has not been included in any order made under sub-section (11), the Judge shall declare such candidate disqualified for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order, as the Judge may specify in the order.

(13) The Judge may also make an order fixing the total amount of cost payable and specifying the person by and to whom costs shall be paid. Such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure 1908.

V of 1908

(5) Corrupt practice and other electoral offences.

23. Corrupt Practices:- The following shall be deemed to be corrupt practices. for the purpose of this Regulation :-

(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 in indirectly, of inducing ---

(a) a person to stand or not to stand as or to withdraw from being a candidate at an election : or

(b) a voter 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 his candidature ; or



(ii) a voter 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 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 voter to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation - For the purposes of this clause the term "gratification" is not restricted to pecuniary gratifications or gratification estimable in money and it includes all forms of entertainment and all form of employment for reward, but it does not include the payment of any expenses bonafide incurred at, or for the purpose of any election.

(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 voter or any person in whom a candidate or a voter is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community ; or

(ii) induces or attempts to induce a candidate or a voter to believe that he, or any person in whom he is intrested, 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 voter 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 grounds of his religion, race, caste, community or language or the use of, or appeal to, religion symbols, or the use of, or appeal to, national symbols, such as national the national flag or the national emblem, for the furtherance of the projects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The publication by a candidate or his agent or by any other person, with the consent of a 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 projects of that candidate election.

(5) 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 for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station :

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll 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 :



(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 grounds of his religion, race, caste, community or language or the use of, or appeal to, religion symbols, or the use of, or appeal to, national symbols, such as national the national flag or the national emblem, for the furtherance of the projects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The publication by a candidate or his agent or by any other person, with the consent of a 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 election.

(5) 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 for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station :

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll 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 :



(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 grounds of his religion, race, caste, community or language or the use of, or appeal to, religion symbols, or the use of, or appeal to, national symbols, such as the national flag or the national emblem, for the furtherance of the projects of the election of that candidate or for prejudicially affecting the election of any candidate.

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(5) 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 for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station :

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll 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 voter at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll 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 machinical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his election agent or by any other person with the consent of a 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 the Government or Council.

**(24.) Prohibition of public meetings on the election day.-** (1) No person shall convene, hold attend any public meeting within a ward of a municipal area on the date or dates on which poll is taken for an election from the ward.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

**25. Disturbances at election meeting.-** (1) This section applies to any public meeting in connection with an election held in a municipal area after the programme for the election from any ward of the municipal area is announced.

(2) 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, on conviction, be punished with fine which may extend to two hundred and fifty rupees.



Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any voter at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll 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 machinical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his election agent or by any other person with the consent of a 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 the Government or Council.

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25. Disturbances at election meeting.- (1) This section applies to any public meeting in connection with an election held in a municipal area after the programme for the election from any ward of the municipal area is announced.

(2) 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, on conviction, be punished with fine which may extend to two hundred and fifty rupees.



(3) If any police officer reasonably suspects any person of committing an offence under sub section (2) 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.

**26. Prohibition of canvassing in or near polling stations.--** (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 voter ; or
- (c) Persuading any voter not to vote for any particular candidate; or
- (d) Persuading any voter not to vote at the election ; or
- (e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes any provision of sub section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

**27. 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 persons on duty at the polling station.

(2) Any person who contravenes, or wilfully aids or abets the contravention of, any provision of subsection (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under this section, he may direct any police officer to arrest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing and contravention of the provisions of sub-section (1), and may seize any apparatus used for such contravention.

**28. Penalty for misconduct at polling station.-**

(1) Any person who during the hours fixed for 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 voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If 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 on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.



(4) An offence under sub-section (3) shall be cognizable.

**29. Penalty for illegal hiring or procuring of conveyances at election.** - If any person is guilty of any such corrupt practice as is specified in clause (5) of section 23 at or in connection with an election he shall, on conviction be punished with fine which may extend to two hundred and fifty rupees.

**30. Maintenance of secrecy of voting.** - (1) Every officer, clerk, 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 any provision of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine, or with both.

**31. Officers, ect. at election not to act for candidates or to influence voting.**- (1) No person who is a returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform 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 an an election ; or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes any provision of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine , or with both.



**32. Breaches of official duty in connection with election.-** (1) If 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 on conviction, be punished with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The person to whom this section applies are the returning officers, presiding officers, polling officers and any other persons appointed to perform any duty in connection with the preparation of a municipal voters list, the receipt of nominations or withdrawals of candidatures or the recording or counting of votes at any 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 Regulation.

**33. 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 on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If 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.

34. Other electoral 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

(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.

(2) Any person guilty of an offence under this section shall. -

(a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection with the election. on conviction, be punished with imprisonment for a term which may extend to two years. or with fine, or with both ;



(b) if he is any other person, on conviction be punished 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 Regulation.

(4) An offence punishable under clause (b) of sub section (2) shall be cognizable.

**35. Prosecution regarding certain offences.-** No Court shall take cognizance of any offence punishable under section 31 or under section 32 or under clause (a) of sub-section (2) of section 34 unless there is a complaint made by an order of, or under authority from, the "Election Commission".

[34]

(6) Powers of requisitioning for election purposes.

**36. Requisitioning of premises, vehicles, etc, for election.-** (1) If it appears to the Collector or an officer authorised by the Collector (hereinafter referred to as "the requisitioning authority") 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, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to, or from, any polling station or transport of member of the police force for maintaining order during the conduct of such election, or transport of any office or other person for the performance of any duties in connection with such election.

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[34] Substituted vide Amendment 1994.  
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the requisitioning authority may by order in writing requisition such premises, or such vehicle, vessel or animal, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning :

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purpose 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 requisitioning authority to be the owner or person in possession of the property, and such order shall to be served on the person to whom it is addressed in the manner prescribed for the service of a notice under section 310.

(3) Any person to whom such order is addressed shall be bound to deliver possession of such premises or such vehicle, vessel or animal to the requisitioning authority or to such other officer as may be specified in the order.

(4) 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.

Explanation. - For the purpose of this section "premises" means any land building, or part of a building and includes a hut, shed or other structure or any part thereof.

(5) Any person who contravenes any order made under this section shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

37. Payment of compensation. - (1) Wherever in pursuance of the last preceding section, the requisitioning authority requisitions any premises or any vehicle, vessel or animal, the Council shall pay to the person interested compensation, the amount of which shall be determined by the requisitioning



authority taking into consideration the following namely :-

- (a) in the case of premises,-
  - (i) the rent payable in respect of the premises or if no rent is payable the rent payable for similar premises in the locality ;
  - (ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ;
- (b) in the case of any vehicle, vessel or animal, the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal.

(2) Any person interested or any person who claims to be entitled to receive compensation, being aggrieved by the order of the requisitioning authority as to-

- (i) the amount of compensation determined, or
- (ii) the title of any person entitled to receive compensation, or
- (iii) the apportionments of the amount of compensation among two or more persons,

may, within one month from the receipt of the order under sub-section (1), or if the order is not addressed to him, within one month from the date of the order appeal to the Administrative Tribunal and the decision of the Administrative Tribunal on such appeal shall be final.

Explanation - For the purpose of this section the expression person interested means,

- (a) in the case of premises,-
  - (i) the person who was in actual possession of the premises immediately before the requisition ; or
  - (ii) when no person was in actual possession the owner of such premises ;



(b) in the case of any vehicle, vessel or animal the owner thereof ; and

(c) any other person who is entitled to receive compensation :

Provided that where immediately before the requisitioning, any vehicle or vessel was, by virtue of a hire-purchase agreement, in the possession of a person other than the owner, the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement in such manner as the requisitioning authority may decide.

38. Power to Obtain Information. - (1) The requisitioning authority may with a view to requisitioning any property under section 36 or determining the compensation payable under section 37 by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

(2) If any person to whom such order is addressed refuses to furnish such information or wilfully furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

39. Eviction from requisitioned premises. - (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 36 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove, or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

40. No civil court to have jurisdiction. - No civil court shall have jurisdiction to question the



authority taking into consideration the following  
namely :-

- (a) in the case of premises,-
- (i) the rent payable in respect of the premises or if no rent is payable the rent payable for similar premises in the locality ;
  - (ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change ;
- (b) in the case of any vehicle, vessel or animal, the fares or rates prevailing in the locality for the hire of such vehicle, vessel or animal.

(2) Any person interested or any person who claims to be entitled to receive compensation, being aggrieved by the order of the requisitioning authority as to-

- (i) the amount of compensation determined, or
- (ii) the title of any person entitled to receive compensation, or
- (iii) the apportionments of the amount of compensation among two or more persons,

may, within one month from the receipt of the order under sub-section (1), or if the order is not addressed to him, within one month from the date of the order appeal to the Administrative Tribunal and the decision of the Administrative Tribunal on such appeal shall be final.

Explanation - For the purpose of this section the expression person interested means,

- (a) in the case of premises,-
- (i) the person who was in actual possession of the premises immediately before the requisition ; or
  - (ii) when no person was in actual possession the owner of such premises ;



(b) in the case of any vehicle, vessel or animal the owner thereof ; and

(c) any other person who is entitled to receive compensation :

Provided that where immediately before the requisitioning, any vehicle or vessel was, by virtue of a hire-purchase agreement, in the possession of a person other than the owner, the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement in such manner as the requisitioning authority may decide.

**38. Power to Obtain Information.** - (1) The requisitioning authority may with a view to requisitioning any property under section 36 or determining the compensation payable under section 37 by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

(2) If any person to whom such order is addressed refuses to furnish such information or wilfully furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

**39. Eviction from requisitioned premises.** - (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 36 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove, or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

**40. No civil court to have jurisdiction.** - No civil court shall have jurisdiction to question the



legality of any action taken or any decision given by the prescribed authority in connection with the conduct of elections under this Regulation.

**41. Release of premises from requisition. - (1)**

When any premises requisitioned under section 36 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 36 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the Council shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.



(7) Term of office of Councillors.

**42. Term of office of Councillors.**-(1) Every Council, unless sooner dissolved under section 298 shall continue for five years from the date of appointed for its first meeting and no longer:

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

- (2) An election to constitute a Council shall be completed.
  - (a) before the expiry of its duration specified in sub-section (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 council would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Council for such period.

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

**43. Resignation of Councillors.**-(1) A Councillor may resign his office by tendering his resignation in writing to the President.

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[35] Substituted vide Amendment 1994.  
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(2) Such resignation shall be effective on its receipt by the President.

**44. Liability of Councillors to removal from office.**- (1) The Government may on its own motion or on the recommendation of the Council remove any Councillor from office if such Councillor has been guilty of any misconduct in the discharge of his duties, or of any disgraceful conduct.

(2) The Government may likewise remove any Councillor from office if such Councillor has in the opinion of the Government become incapable of performing his duties as a Councillor :

Provided that no Councillor shall be removable under this sub-section for becoming incapable of performing his duties as the President or the Vice-President, as the case may be.

(3) No resolution recommending the removal of any Councillor for the purposes of sub-section (1) or (2) shall be passed by a council and no order of removal shall be made by the Government, unless the Councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation or order as the case may be, should not be made.

(4) In every case the Government makes an order under sub-section (1) or (2), the Councillor shall be disqualified from becoming a Councillor, or a Councillor or member of any other local authority for a period of five years from the date of such order.

**45. Resignation not to affect subsequent disqualification of a Councillor.**- Notwithstanding that a Councillor has resigned his office under section 43 if he is subsequently found guilty under sub-section (1) of section 44, the Government may disqualify him from becoming a Councillor or a Councillor or member of any other local authority for a period of five years from the date of its order :

Provided that no such action shall be taken against any person after the expiry of one year from the date of his resignation and without giving him a reasonable opportunity of being heard.



46. Disqualification of Councillor during his term of office.- (1) A Councillor shall be disqualified to hold office as such, if at any time during his term of office, he-

(a) is or becomes subject to any of the disqualifications specified in section 16 except the disqualifications specified in clause (j) of sub-section (1) of that section: or

(b) as a Councillor or as a member of any committee of the Council votes in favour of any matter in which he has directly or indirectly by himself or his partner any such share or interest as is described in clauses (a), (b), (c), (c), and (g) of sub-section (2) of section 16, whatever may be the value of such share or interest or in which he is professionally interested on behalf of a client, principal or other person ; or

(c) is Professionably interested or engaged in any case for or against the council: or

(d) absents himself during four successive month from the meetings of the Council except with the leave of absence granted by the Council by a resolution on his written application for such leave ;

and he shall be disabled subject to the provisions of sub-section (3) from continuing to be a Councillor and his office shall become vacant :

Provided that -

(i) a Councillor shall not be disqualified under clause (c) if he is engaged for the Council without receiving any remuneration therefor or appears and conducts his own case in a court of law or before any authority under this Regulation Act against the Council irrespective of whether such a Councillor is a legal practitioner by profession or not ;

(ii) for the purpose of clause (d), when the Councillor applies for leave, such leave shall be deemed to have been granted unless it is refused within period of sixty days from the date of his application.



(2) When a Councillor, [....] incurs any of the disqualification in sub-section (1) it shall be the duty of the Chief Officer to submit a report to the Collector within one month of his becoming aware of the disqualification through any source whatsoever.

(3) In every case the authority to decide whether a vacancy has arisen shall be the Director. The Director may give his decision on receipt of the report of the Chief Officer under Sub - section (2) or on his own motion or on an application made to him by a voter and such decision shall be communicated to the Councillor concerned, the Chief Officer and the applicant, if any. Until the Director decides that a vacancy has arisen and such decision is communicated as provided above, the Councillor shall not be deemed to have ceased to hold office.

(4) Any person aggrieved by the decision of the Director may within a period of fifteen days from the date of receipt of the decision of the Director by him, appeal to the Administrative Tribunal and the orders passed by the Administrative Tribunal shall be final :

Provided that no order shall be passed under sub-section (3) by the Director or under sub-section (4) by the Administrative Tribunal in appeal, against any Councillor without giving him a reasonable opportunity of being heard.

Explanation.- If any elected [....] Councillor were subject to any disqualification specified in section 16, at the time of his election, [....] and continues to be so disqualified, the disqualification shall, for the purposes of this section, be deemed to have been incurred during the term for which he is elected [.....].

**47. Special provisions regarding disqualification for failure to pay taxes due to the Council.** - (1) The Chief Officer shall prepare and

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(36) Omitted vide Amendment, 1994

(37) Omitted vide Amendment, 1994

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forward to the Director by the fifteen day of April, July, October, and January every year a list of all the Councillors (including the President and the Vice-President) who, on the 1st day of April, July, October, and January, respectively, immediately preceding, have failed to pay any tax or taxes due by them to the Council within two months from the date on which such tax became payable, and the amount due from each by way of each such tax. A copy of the list shall be placed before the Council at its next meeting.

(2) The Chief Officer shall also issue to every Councillor included in such list, simultaneously a special notice in the prescribed form requiring him to pay the amount of tax due from him within one month from the date of the issue of such notice.

(3) The Chief Officer shall forward to the Director by the last day of May, August, November, and February, immediately following, a statement showing -

(i) the name of each Councillor included in the list prepared under sub-section (1) ;

(ii) the amount of tax due from each such Councillor by way of each such tax and the date on which it became payable;

(iii) the date of the special notice issued to such Councillor under sub-section (2); and

(iv) the amount of tax paid by the Councillor and the reasons for the non-payment of the balance, if any,

(4) On receipt of the statement under sub-section (3), the Director shall issue a special notice to each Councillor who has failed to pay any tax by the date specified in the notice under sub-section (2) calling upon him to state within one month from the date of the special notice why he should not be disqualified and his office declared vacant. If the Councillor fails to give an explanation to the satisfaction of the Directors for the non-payment of the taxes, the Director shall issue an order disqualifying such Councillor and his office shall thereupon be vacant :

Provided that neither the pecuniary circumstances of the Councillor nor the fact that he has paid the arrears after the notice under subsection (4) was received by him shall be a satisfactory explanation for the purposes of this sub-section.

(5) Any person aggrieved by the decision of the Director may within a period of fifteen days from the date of the receipt of the Director's order by him, appeal to the Administrative Tribunal and the orders passed by the Administrative Tribunal in such appeal shall be final :

Provided that no such appeal shall be entertained by the Administrative Tribunal unless the amount of tax due is deposited in the office of the Council.

(6) Notwithstanding the fact that the Councillor so disqualified has since the date of his disqualification paid such dues of his own accord or such dues are recovered from him in accordance with the procedure laid down by or under this Regulation, such Councillor shall be disqualified from becoming a Councillor or a Councillor or member of any other local authority for a period of five years from the date of such disqualification.

48. Section 47 not to affect Councils other powers for recovery of taxes.-- Nothing in the last preceding section shall be deemed to affect the powers of the Council to recover the amount of tax due from any Councillor in any other manner provided by or under this Regulation.

49. Councillor to vacate all offices if he ceases to be Councillor. - A person who ceases to be a Councillor for any reason whatsoever shall ipso facto vacate all the offices held by him by virtue of his being a Councillor.



[38]

**50. Casual Vacancies how to be filled up.-** (1) Where a vacancy occurs through the non-acceptance of office by any [....] Councillor or such person being disqualified for becoming or continuing to be a Councillor, or any election being set aside under the provisions of section 22 or the death, resignation, removal or disability of a Councillor previous to the expiry of his term of office, the vacancy shall be filled by a bye-election [....].

[39]

Provided that no bye-election shall be held to fill up a vacancy occurring within six months prior to the date on which the term of Council expires.

(2) The Chief Officer shall report to the Director every vacancy in the office of a Councillor within fifteen days of the occurrence of the vacancy or within fifteen days of his becoming aware of the vacancy, whichever is later.

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[38] Omitted vide Amendment, 1994

[39] Substituted vide Amendment, 1994

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CHAPTER - XXIII

Rules and Bye Laws

306 Power of Government to make rules. - (1)

The Power to make all rules under this Regulation shall be exercisable by the Government by notification in the Official Gazette.

(2) Without Prejudice to any power to make rules contained elsewhere in this Regulation, the Government may make rules consistent with this Regulation generally to carry out the purposes of this Regulation.

(3) All rules made under this Regulation shall be subject to the condition of previous publication, for fifteen days.

(4) Every rule made under this Regulation shall be laid as soon as may be after it is made before the Legislature of the Union territory while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislature agree in making any modification in the rule or the Legislature agree that the rule should not be made, and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

307. Power of Council to make bye-laws.- (1) The Power to make all bye-laws under this Regulation shall be exercisable by each Council, subject to the previous sanction of the Director or the Government as herein-after provided.

(2) Without prejudice to any power to make bye-laws contained elsewhere in this Regulation, a Council may



make bye-laws consistent with this Regulation and the rules made thereunder for the administration of its affairs and for the guidance of its Committees, officers and servants.

(3) (a) The Council whenever it desires to make bye-laws under this Regulation, shall by a resolution at a special meeting approve a draft of such bye-laws.

(b) The Council shall put up the draft on its notice board and publish it in a local newspaper, as soon as may be possible, after such resolution is passed, inviting the inhabitants to submit their objections and suggestions to the Council within a reasonable period to be specified in such notice.

(c) The Council at a special meeting shall then consider the objections and suggestions received, if any, and shall by a resolution approve the final draft of the bye-laws.

(d) Within seven days of the passing of such resolution, the Council shall send such final draft to the Director.

(e) The Director shall examine the final draft of the bye-laws sent to him under clause (d) and may -

(i) refuse to sanction them or return them to the Council, if in his opinion, -

(A) the bye-laws are inconsistent with this Regulation or the rules made thereunder and the inconsistency cannot be removed except by materially altering the bye-laws; or

(B) objection, if any, to the bye-laws has not been duly considered by the Council; or

(C) there is any new objection to the bye-laws; or

(D) the rates of taxes or fees proposed in the bye-laws are inadequate; or

(ii) sanction them, with or without such modifications as he considers necessary.

The Director shall publish the bye-laws as sanctioned by him in the Official Gazette and the bye-laws so published shall take effect from the date of their publication in the Official Gazette or such other subsequent date as may be mentioned therein ;

(f) Notwithstanding anything contained in clause (e), if the bye-laws sent by any Council under clause (d) relate to imposition, abolition, remission, alteration or regulation of any tax, the Director shall forward them to the Government for sanction and thereupon the provisions of clause (e) shall apply as if for the word <<Director>> in the said clause the word <<Government>> had been substituted.

(4) If it appears to the Government that an amendment of any of the bye-laws of a Council is necessary or desirable in the interests of the general public or because they are inconsistent with any provisions of this Regulation or the rules made thereunder, the Government may, after consulting the Council, by notification in the Official Gazette, amend or cancel any of the bye-laws, and on the issue of such notification the bye-laws shall be deemed to have been duly amended or cancelled, as the case may be, accordingly, without prejudice to the validity of anything previously done or omitted to be done.

398. Power to make and enforce acceptance of model bye-laws.- (1) The Government may make model bye-laws on all or any of the matters in respect of which a Council is empowered to make bye-laws and publish them in the Official Gazette for the guidance of the Council.

(2) If a Council has not already made bye-laws on a matter for which model bye-laws are made by the Government, the Council may adopt the model bye-laws with such minium changes as the peculiar local circumstances may warrant.

(3) If at any time it appears to the Director that the bye-laws made by a Council on any matters are inadequate to regulate such matters, and model bye-laws have been made by the Government for such matters, the Director may by an order in this behalf require the Council to adopt such model bye-laws modified to suit local conditions.

(4) The Council shall comply with orders of the Director under sub-section (3) above within two months of the date of such order.



(5) If the Council fails to comply with the orders of the Director, the Director may, by notification in the Official Gazette, apply such model bye-laws with such modification to suit local conditions as he thinks necessary to that Council in supersession of any bye-laws which the Council may have made already on those matters. In that event, the model bye-laws so applied shall be deemed to have been duly made by the Council.

(6) If the model bye-laws made by the Government relate to the imposition, abolition, remission, alteration or regulation of any tax, the provision of sub-sections (3), (4) and (5) shall apply as if for the word <<Director>> therein the word <<Government>> had been substituted.

399. Copies of Regulation, rules and bye-laws to be made available at Council's office for public inspection and for sale. - Every Council shall keep at its head office copies of this Regulation and of the rules and bye-laws made thereunder and in force in the municipal area, in English, open to inspection to the inhabitants of that area, free of charge, during office hours. The Council may also arrange for the sale of copies of these books.

## CHAPTER - XXVI

### Repeals and Transitory Provision

327. Repeal.- Subject to the provisions of this Chapter, all the Municipal Legislation under the Reforma Administrativa Ultramarina (R.A.U.) or any other law in force immediately before the commencement of this Regulation in the Union territory corresponding to this Regulation shall, on the appointed day, stand repealed except as respect things done or omitted to be done thereunder.



328. Interpretation.- The provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in the Union territory.

329. Special provisions regarding the term of Councillors of existing Council whose term is due to expire. - Notwithstanding anything contained in any repealed law or in any other law for the time being in force, the term or extended term of office of the Councillors or members of any existing Council shall expire at 12 midnight of such day as the Government may by notification in the Official Gazette appoint.

330. Consequences of replacement of existing Councils.- With effect on and from the appointed day, the following consequences shall ensue, that is to say-

(a) the Municipal Councils (Cameras Municipais) (hereinafter and in section 329 called the <<existing Councils>>), shown in column 5 of Schedule I, which were functioning immediately before the appointed day, shall be deemed to be succeeded by the Councils shown against them in column 3 thereof (hereinafter called the <<successor Councils>>) ;

(b) all property, movable and immovable, situated within the local area of a successor Council (and all interests of whatever nature and kind in such property) which vested in the corresponding existing Council immediately before the appointed day and which was being used immediately before the said day for the performance of any of the functions or duties which are required to be performed by the successor Council, under the provisions of this Regulation, shall be deemed to be transferred to and shall vest, without further assurances to such successor Council, subject to all limitations, conditions and rights of interest of any person, body or authority in force or subsisting immediately before the appointed day ;

(c) all property, movable and immovable, situated outside the local areas of a successor Council but within the jurisdiction of a Village Panchayat constituted under the Goa, Daman and Diu Village Panchayats Regulation, 1962 (and all interests of whatsoever nature and kind in such property) which vested in an existing Council immediately before the constitution of such Village panchayat for the performance of any of the functions or duties which are required to be performed by the said Village Panchayat under the provision of the Goa, Daman and Diu Village Panchayats Regulation, 1962, and are not required by the Council for the performance of its duties under this Regulation, shall be deemed to be transferred to and shall vest, without further assurances in such Village Panchayat, subject to all limitations, conditions and rights or interests of any person, body or authority in force or subsisting immediately before the appointed day ;

(d) all property, movable and immovable, wherever situated (and all interests of whatsoever nature and kind in such property) which vested in an existing Council immediately before the appointed day and which was being used by it for a function which on and from the appointed day is not required to be performed by an existing Council under the provisions of this Regulation or by a Village Panchayat under the Goa, Daman and Diu Village Panchayats Regulations, 1962, shall be deemed to be transferred to and shall vest, without further assurances, in the Government, subject to all limitations, conditions and right or interests of any person, body or authority in force or subsisting immediately before the appointed day

(e) all rights, liabilities and obligations of an existing Council (including those arising under an agreement or contract) shall be deemed to be the rights, liabilities and obligations of the corresponding successor Council; the Village Panchayat or the Government, according as the function or duty out of which such rights, liabilities and obligation have arisen, is



required to be performed on and from the appointed day by such successor Council, Village Panchayat or the Government, as the case may be;

(f) all sums due to an existing Council, whether on account of any tax or otherwise, shall be recoverable by the successor Council, Village Panchayat, or the Government, according as the duty or function out of which such sum has become due, is required to be performed on and from the appointed day by the successor Council, the Village Panchayat or the Government and the successor Council, the Village Panchayat or the Government, as the case may be, shall be competent to take any measure or institute any proceedings, which it would have been open to the existing Council or any authority thereof to that effect before the appointed day;

(g) the municipal fund and liabilities other than those specified in sub-para (f) of an existing Council shall be deemed to be the municipal fund and liabilities of the successor Council;

(h) all contracts made with and all instruments executed on behalf of an existing Council, shall be deemed to have been made or executed on behalf of the successor Council, the Village Panchayat or the Government, according as the duty and function, as a result of which such contract was made or the instrument executed is required on and from the appointed day to be performed by the successor Council, the Village Panchayat or the Government, as the case may be, and shall be performed accordingly;

(i) all proceedings and matters pending before any authority under any of the repealed laws immediately before the appointed day, shall be deemed to be transferred to the corresponding authority under this Regulation competent to entertain and dispose of such proceedings or matters;

(j) in all suits and legal proceedings pending on the appointed day in or to which an existing Council was a party, the successor

Council or local authority shall be deemed to have been substituted therefor;

(k) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, bye-law, regulation or form held, made, issued, imposed or granted by or in respect of an existing Council under any of the repealed laws or any other law for the time being in force in the area of such existing Council, and in force immediately before the appointed day, shall, in so far as it is not inconsistent with the provisions of this Regulation, continue to be in force as if made, issued, imposed or granted in respect of the corresponding area of the successor Council, until superseded by an authority competent so to do;

Provided that -

(i) no rule made under any of the repealed laws in respect of an existing Council and in force immediately before the appointed day shall be deemed to be consistent with the provisions of this Regulation by reason only of the fact that under this Regulation it is permissible to make only a bye-law or any other instrument other than a rule in respect of the matter provided for in such rule;

(ii) the provisions of clause (i) of this proviso shall mutatis mutandis apply to any bye-laws, regulations, or any other instruments made under any of the repealed laws in respect of an existing Council and in force immediately before the appointed day;

(1) all budget estimates, assessments, assessment lists, valuations, measurements and divisions made by or in respect of an existing Council under any of the repealed laws or any other law for the time being in force in the area of such existing Council and in force immediately before the appointed day, shall, in so far as they are not inconsistent with the provisions of this Regulation, be deemed to have been made by, or in respect of the successor Council for that area;



(m) any reference in any law or in any instrument to the provisions of any repealed law, shall, unless a different intention appears, be construed as a reference to the corresponding provisions of this Regulation;

(n) any reference in any law or in any instrument to an existing Council shall, unless a different intention appears, be construed as a reference to the successor Council and such law or instrument shall apply to the successor Council;

(o) any reference in the above clauses to an existing Council shall, in case such Council has been superseded or dissolved or is not otherwise functioning, be deemed to be a reference to the person or persons appointed to exercise the powers and discharge the duties and functions of such Council.

331. Pension relating to officers and servants.- All officers and servants in the employment of an existing Council immediately before the appointed day, shall be deemed to be transferred to the service of the successor Council and shall, until other provision is made by a competent authority, receive such salaries and allowances, pension, provident fund, gratuity and other retirement benefits and be subject to such other conditions of service to which they were entitled immediately before the date of commencement of this Regulation :

Provided that the conditions of service applicable immediately before that date to the case of any officer or servant so transferred to the service of the successor Council shall not be varied to his disadvantage except with the previous approval of the Government :

Provided further that nothing in this section shall affect the power of the successor Council to discontinue the service of any such officer or servant in accordance with the provisions of this Regulation,

332. Obligation to carry out certain duties and functions of existing Councils. - Notwithstanding anything contained in section 51 it shall be the duty of every successor Council or local authority to continue to carry out any duty or to manage, maintain or look after any institution, establishment, undertaking, measure, work or service, which the existing Council had been responsible for carrying out, managing, maintaining or looking after immediately before the appointed day, until the Government by order relieves the successor Council or local authority of such duty or function.

[69] 333. Omitted.

[70] 334. Power to remove difficulty -If any difficulty arises in giving effect to the provisions of this Regulation, or the Daman and Diu Municipalities (Amendment) Regulation, 1994 the government may as the occasion requires, by order do anything which appears to it to be necessary for the purpose of removing the difficulty.

Provided that no order shall be made under this section after the expiry of two years from the appointed day or from the date of commencement of the said Regulation.

SHANKAR DAYAL SHARMA  
PRESIDENT.

K.L. MOHANPURIA  
SECRETARY TO THE GOVT. OF INDIA.

[69] Omitted vide Amendment, 1994

[70] Inserted/added vide Amendment, 1994