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THE NAGALAND MUNICIPAL BILL, 2023

**MUNICIPAL AFFAIRS DEPARTMENT
Nagaland : Kohima**

The Nagaland Municipal Act, 2001

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THE NAGALAND MUNICIPAL (BILL), 2023

**MUNICIPAL AFFAIRS DEPARTMENT
NAGALAND, KOHIMA.**

THE NAGALAND MUNICIPAL (BILL) 2023

(Act No. ____ of 2023)

**A
BILL**

To provide for the administration of urban areas and to establish Municipalities in larger urban areas, smaller urban areas and transitional areas in Nagaland.

Whereas, it is expedient and necessary to provide for the administration of urban areas viz: larger urban areas, smaller urban areas and transitional areas and to introduce Municipalities in Nagaland for the purpose of bringing them in conformity with the substance and the provisions of the Constitution (Seventy-fourth) Amendment Act, 1992 in general and in particular to endow the Municipalities with functions and powers so as to enable them to function as vibrant Institution of Local Self Government with greater people participation in managing their own affairs.

Be it enacted by the Nagaland Legislative Assembly in the Seventy Fourth year of the Republic of India as follows: -

Part-I

CHAPTER-1

Preliminary

1. Short title, extent and commencement:

- (i) This Act may be called the Nagaland Municipal Act, 2023.
- (ii) It shall extend to the whole of Nagaland.
- (iii) It shall come into force from the date of publication in the Official Gazette.

CHAPTER-II

2. Definitions:

In this Act, unless the context otherwise requires:

- (1) **“Audit Authority”** means the authority prescribed under section 111.
- (2) **“balance sheet”** means the balance sheet of the Municipality prepared under section 109.
- (3) **“budget estimate”** means the budget estimate of the Municipality prepared under section 103.
- (4) **“budget grant”** means the total sum entered on the expenditure side of budget estimate under a major head.
- (5) **“building”** means any shop, house, hut, outhouse, stable, a factory, an industrial shed and a temporary structure erected by means of tents and any other structure including structures raised for entertainment purposes whether roofed or not and whether used for the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud, thatch, metal or any other material whatever, and includes a wall and a well.
- (6) **“Chairperson”** means a Chairperson elected as Chairperson of a Municipal Council or Town Council.
- (7) **“Chief Executive Officer”** means the executive officer of Municipal Council and **“Executive Officer”** means the executive officer of Town Council and includes such officer as may be especially authorized in this behalf to carry out the functions of the Executive Officer under the Act.
- (8) **“Company”** means a body corporate and includes a firm or other association of individuals and **“Director”** in relation to a firm means a partner in the firm.
- (9) **“contagious/infectious disease”** means:-
 - (i) Cholera, plague, chicken box, small box, tuberculosis, leprosy, enteric fever, cerebrospinal meningitis, diphtheria, dengue, fever, acquired immunodeficiency syndrome (AIDS), hepatitis B and C, cerebral malaria, and viral pneumonia and
 - (ii) Any other epidemic, endemic, pandemic or infectious diseases which the Government may, in relation to any Municipal areas, by notification, declare to be an infectious or contagious disease for the purpose of this Act.
- (10) **“Deputy Chairperson”** means a Deputy Chairperson elected as Deputy Chairperson of a Municipal Council or a Town Council.
- (11) **“Ex-Officio”** means Members of Lok Sabha from Nagaland, Members of Rajya Sabha from Nagaland and Members of the Nagaland Legislative Assembly representing Legislative Assembly Constituencies which comprise wholly or partly the Municipal Council/ Town Council area.
- (12) **“Finance Commission”** means the Finance Commission constituted under section 123.
- (13) **“financial interest”** means the monetary reward for a service rendered, a monetary gain for commercial dealings, or the ownership of shares with the potential for monetary profit.

- (14) **“financial statement”** means the financial statement of the Municipality prepared under section 108.
- (15) **“hazardous process”** means the hazardous process defined in clause (cb) of section 2 of the Factories Act, 1948 (Act 63 of 1948).
- (16) **“member”** in relation to a Municipal Council or a Town Council means a member thereof and includes elected, ex-officio and nominated members.
- (17) **“Municipal Area”** means the territorial area of a Municipal Council or a Town Council as the case may be.
- (18) **“Municipal Fund”** means the Municipal Fund constituted under section 86.
- (19) **“Nominated Members”** means persons having special knowledge or experience in Municipal Administration nominated by the government by a notification.
- (20) **“nuisance”** includes any act, omission or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell, hearing or which is or may be dangerous to the life or injurious to health or property.
- (21) **“population”** means the population as ascertained at the last preceding census of which the relevant figures have been published.
- (22) **“premises”** means any land or building or part of the building and includes:
(a) garden, ground and out-houses, if any, appertaining to a building, or part of building and
(b) any fitting affixed to a building or part of a building for the more beneficial enjoyment thereof.
- (23) **“public road”** means any street, road, square, court, alley, passage or pathway over which the public have a right of way, whether a thoroughfare or not and includes:
(a) the road way over any public bridge or causeway
(b) the footway and the drains attached to any such road, public bridge or causeway and
(c) the land whether covered or not by any pavement, verandah or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property whether that property is private property or property of the State.
- (24) **“qualifying date”** means such date as the State Election Commission may by order specify in this behalf for the purpose of preparing the electoral roll.
- (25) **“regulation”** means a regulation made by the Municipal Council or the Town Council as the case may be, under this Act.
- (26) **“rule”** means a rule made by the Government under this Act.
- (27) **“section”** means a section of this Act.
- (28) **“trade effluent”** includes any liquid, gaseous or solid substance which is discharged from any premises used for carrying on any industrial operation or process, or treatment and disposal system other than domestic sewage.
- (29) **“ward”** means a territorial constituency provided under section 22.
- (30) **“year”** means a year commencing on the first day of April of a calendar year and ending on the 31st day of March of the succeeding calendar year.

Part-II
CHAPTER-I
Constitution of Municipalities

3. Declaration of intention to create and specify limits of Municipal areas:

- (1) The Government may after making such inquiry as it may deem fit and having regard to:
- (a) the population of any urban area;
 - (b) the density of population therein;
 - (c) the revenue generated for the local administration of such area;
 - (d) the percentage of the employment in non agricultural activities;
 - (e) the economic importance of such area and
 - (f) such other factors, as may be considered relevant

by a notification, declare its intentions to create and specify Municipal areas clearly defining the limits of the local areas to be included in the Municipality,

Provided that such declaration may be made as Municipal Council area where the population of such area is 20,000 and above and Town Council area for such area where the population is below 20,000 but not less than 5000.

Provided further that the State Government may declare a smaller urban area having a population below 5000 and not less than 1000 as Urban Station Committee area.

- (2) A copy of the notification shall be published and shall also be affixed in a conspicuous place in the Office of the Deputy Commissioner and such other place as the Government may direct.

4. Submission of objections:

Any inhabitant of any part of a local area as specified in the notification published under section 3 having any objection(s) to anything contained in the notification, may submit such objection(s) in writing through the Deputy Commissioner to the State Government within a period of 30 days from the date of publication of the notification and the Government shall examine on merit and dispose all such objections in a reasoned order.

Provided no objection shall be deemed to be raised in regard to the limit of the Urban area already specified as Municipal Council or Town Council notified vide Government Notifications.

5. Declaration and specification of Municipal Area:

On the expiry of a period of 30 (thirty) days from the date of publication of the notification issued under section 3 and after consideration of the objections submitted under section 4, the Government by notification, declare and specify such area or part thereof to be Municipal Council area or Town Council area or Urban Station Committee area, as the case maybe.

6. Declaration of intention to include or exclude any Urban area from the operation of the Act:

- (1) The Government after consultation with the Municipal Council or Town Council as the case maybe, by a notification, declare its intention:
 - (a) to include within the Municipal Council area or Town Council area any area adjacent thereto or
 - (b) to exclude from the Municipal Council area or Town Council area, any area comprised therein or
 - (c) to withdraw any Urban area from the operation of this Act.
- (2) Every such notification shall define the limits of the area to which it relates.
- (3) A copy of the notification shall be published and shall also be affixed in a conspicuous place in the Office of the Deputy Commissioner and such other place as the Government may direct.
- (4) On the expiry of a period of 30 (thirty) days from the date of publication of the notification referred to in sub-section(1) and after consideration of the objections if any submitted, the Government may by a notification:
 - (a) include within the Municipal Council area or Town Council area, any area adjacent thereto or
 - (b) exclude from the Municipal Council area or Town Council area, any area comprised therein or
 - (c) withdraw any urban area from the operation of this Act.
- (5) Where any area within the territorial jurisdiction of any local authority is constituted as Municipal Council or Town Council or included in such Municipal Council area or Town Council area:

- a. the provisions of this Act except as the Government by a notification otherwise direct and in force in Municipal Council Areas or Town Council Areas shall apply;
 - b. the Government may by a notification issue such orders as it may deem fit:
 - (i) as to the transfer to the Municipal Council or Town Council or disposal otherwise of the assets or institutions of such local authority in the area constituted or included and
 - (ii) as to the discharge of the liabilities, if any, of such local authority relating to such assets or institutions.
- (6) Where any area is excluded from the Municipal Council area or Town Council area and included in the area within the territorial jurisdiction of any other local authority:
- (a) the provisions of this Act shall cease to apply and shall cease to be imposed in the area so excluded.
 - (b) The Government may by a notification issue such orders as it may deem fit:
 - (i) as to the transfer of such local authority or disposal otherwise of the assets or institutions of Municipal Council or Town Council and
 - (ii) as to discharge of liabilities if any, of such Municipal Council or Town Council relating to such assets or institutions.
- (7) Upon the issue of the notification under sub-section (4) withdrawing any urban area altogether from the operation of this Act:
- (a) the provision of this Act and all notifications, rules, regulations, orders, directions and powers issued, made or conferred thereunder shall cease to apply to such area.
 - (b) the Municipal fund and also other property vested in the Municipal Council or Town Council shall vest in the Government and the liabilities of the Municipal Council or Town Council shall be transferred to the Government;
 - (c) any right, privilege, obligation or liability acquired, accrued to or incurred by the Municipal Council or Town Council immediately before such withdrawal, shall vest in or be enforceable against the Government.
 - (d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Municipal Council or Town Council, may be continued or instituted by or against the Government.

CHAPTER –II

MUNICIPAL COUNCIL

7. Municipal Authorities of Municipal Council area:

The Municipal Authorities for the purpose of giving effect to the provisions of this Act in Municipal Council area shall consist of :

- (i) the Municipal Council
- (ii) the Chairperson
- (iii) the Deputy Chairperson
- (iv) The Chief Executive Officer

8. Constitution and duration of Municipal Council:

- (1) For every Municipal Council Area, there shall be constituted a Municipal Council.
- (2) Every Municipal Council shall be a body corporate and shall be known by the name given by the State Government at the time of constitution of the Municipal Council and shall have perpetual succession and a common seal with powers subject to the provisions of this Act, to acquire, hold or dispose off properties and may by the said name sue and be sued.
- (3) The Members elected in a general election or a bye-election of a Municipality in accordance with the provisions of any law relating to Municipal elections in the State shall constitute the Municipality.
- (4) The Municipality shall, unless dissolved earlier, continue for a period of 5 (five) years from the date of its first meeting after the general election and no longer.
- (5) An election to constitute a Municipality shall be completed, as the case may be:
 - (a) before the expiry of the period specified in sub-section (4) or
 - (b) before the expiry of the period of 6 (six) months from the date of its dissolution.
Provided that where the remainder of the period for which the dissolved Municipality would have continued is less than 6 (six) months, it shall not be necessary to hold an election for constitution of the Municipality for such period.
- (6) The Municipality constituted upon its dissolution before the expiration of the period specified in sub-section (4) shall continue only for the remainder of the period for which the dissolved Municipality would have continued under sub-section (4) had it not been so dissolved.
- (7) In a Municipal area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted a Municipal area, shall continue to have

jurisdiction and to perform its functions till such time, not exceeding 6 (six) months from the date of the notification under section 6, as may be necessary for holding elections.

- (8) If for any reason, it is not possible to hold the general election of a Municipality before the expiry of the period of 5 (five) years specified in sub-section (4), the Municipality shall stand dissolved on the expiration of the said period and all the powers and functions vested in the Municipal authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such person or persons to be designated as Administrator or Board of Administrators as the State Government may by notification appoint.

8A. Reservation of Seats for women:

Not less than one-third of the total number of seats to be filled by direct election in every Municipal Council shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

9. Composition of Municipal Council :

Every Municipal Council shall be composed of elected, ex-officio and nominated members.

- (1) The Government may by a notification, divide the Municipal Council area into territorial constituencies to be known as wards for the purpose of filling up the seats in the Municipal Council by direct election, who shall be Members.
- (2) Member of Lok Sabha from Nagaland, Member of Rajya Sabha from Nagaland and Members of the Nagaland Legislative Assembly Constituencies which comprise wholly or partly the Municipal Council area shall be ex-officio members.
- (3) The Government shall by a notification nominate such number of members, not exceeding one-fifth of the elected members, from amongst the persons having special knowledge or experiences in Municipal Administration shall be nominated members.

10. Term of office of members of Municipal Council :

The term of office of the members of Municipal Council shall be co-terminus with the duration of Municipal Council .

11. Election of Chairperson/Deputy Chairperson:

- (1) The Municipal Council shall elect one of its elected members to be the Chairperson in the manner as may be prescribed in this behalf.
- (2) The Municipal Council may also elect one of its elected members to be Deputy Chairperson in the manner as prescribed in this behalf under sub-section (1).

- (3) The election under subsection 1 and 2 shall be conducted at a meeting of Municipal Council to be convened immediately after the meeting held for making and subscribing oath of affirmation by the members but not later than 6 (six) months from the date on which the election of members is notified by the State Election Commission.
- (4) The meeting for election of Chairperson and Deputy Chairperson of Municipal Council shall be convened and presided over by the Deputy Commissioner.
- (5) If during the election of Chairperson or Deputy Chairperson as the case may be, there is equality of votes between the candidates and addition of vote would entitle one of such candidates to be elected as Chairperson or Deputy Chairperson as the case may be, the Presiding Officer shall decide between such candidates by lot to be drawn in their presence in such manner as may be prescribed and the candidate on which the lot fall shall be deemed to have received an additional vote.
- (6) The Chairperson and Deputy Chairperson shall enter upon their duties as such, immediately after their elections.

12. Term of Chairperson/Deputy Chairperson:-

The term of the Office of Chairperson or Deputy Chairperson shall be co-terminus with the duration of Municipal Council unless he has ceased to be a member or he has vacated by resignation or by removal.

13. Resignation of Chairperson/ Deputy Chairperson:-

- (1) The Chairperson/ Deputy Chairperson may at any time by writing under his hand addressed to the Deputy Commissioner, resign from his office.
- (2) A copy of the resignation shall be sent to the Chief Executive Officer for placing before the Municipal Council.
- (3) The resignation shall take effect on the expiry of a period of 15 (fifteen) days from the date of the delivery of resignation to the Government through the Deputy Commissioner.

Provided that the Chairperson or Deputy Chairperson, as the case may be, withdraw his resignation within the aforesaid period.

14. Removal of Chairperson/Deputy Chairperson:

- (1) The Chairperson or Deputy Chairperson may be removed from office by the Municipal Council by adopting a motion expressing want of confidence in the Chairperson or Deputy Chairperson in accordance with the procedures as provided under this section.

- (2) Written notice of the intention to move a motion of no confidence in the Chairperson or Deputy Chairperson, signed by not less than one-half of the total number of members serving at the relevant time *excluding the ex-officio members and the nominated members* along with a copy of the motion, shall be delivered by any two members, signing the notice to the Deputy Commissioner.
- (3) On receiving the notice referred to in sub-section (2), the Deputy Commissioner shall convene a meeting of the Municipal Council for consideration of the motion, which shall be held at the office of the Municipal Council on the date and time appointed by the Deputy Commissioner for the purpose which shall not be later than 14 (fourteen) days from the date on which the said notice was delivered to him.
- (4) The Deputy Commissioner shall send not less than 7 (seven) clear days before the meeting, a notice of such meeting and of the date and the time appointed thereof to every member, *except the ex-officio members and nominated members* at his place of residence and shall at the same time cause such notice to be published in such manner as the Deputy Commissioner may deem fit and thereupon every elected member shall be deemed to have received the notice.
- (5) The meeting convened for the aforesaid purpose shall be presided over by the Deputy Commissioner.
- (6) The motion shall be deemed to have been carried only when it has been passed by a majority of elected members present and voting.
- (7) When a motion is carried under subsection (6), the Chairperson or Deputy Chairperson shall be deemed to have vacated his office.
- (8) When a motion has been carried out by the Municipal Council, the Deputy Commissioner shall send a report to the Government.
- (9) No other business shall be transacted in the meeting convened for considering the no confidence motion.

15. Suspension of Chairperson/Deputy Chairperson:

The Government may:

- (a) When the Chairperson or Deputy Chairperson prima facie appears to be guilty of:
 - (i) encroachment or unauthorized occupation on any Municipal property or land or
 - (ii) acting against the financial interest of Municipality or

(iii) an heinous crime or an offence involving moral turpitude and has remained under detention for more than 48 hours or

(iv) where the continuation in office is prejudicial to public interest, suspend the Chairperson or Deputy Chairperson.

Provided that the charges, on which the Chairperson or Deputy Chairperson was suspended shall be inquired into expeditiously within a period of 1 (one) month.

Provided further that the period of suspension shall not normally exceed 6(six) months.

16. Removal of Chairperson/ Deputy Chairperson by Government:

Notwithstanding anything contained in section 13, the Chairperson or Deputy Chairperson may be removed from office by the Government at any time by an order in writing on any ground(s) provided under section 15 on ground(s) of misuse of his power or on persistent failure to perform his duties

Provided that before passing any such order a reasonable opportunity of being heard shall be given to the Chairperson or Deputy Chairperson.

17. Election for filling up the vacancy of the offices of the Chairperson/ Deputy Chairperson:

(1) Election for filling up the vacancy of the offices of the Chairperson or Deputy Chairperson shall be held where a Chairperson/ deputy Chairperson:

- (a) Resigns from his office or
- (b) ceases to be a member or
- (c) is removed from office by motion of no confidence or
- (d) is removed from office by the Government

(2) A person removed from office of Chairperson or Deputy Chairperson by the Government under section 16 shall not be eligible for re-election during the duration of the Municipal Council.

(3) The provisions of sub-sections (4),(5) and (6) of section 11 shall apply.

CHAPTER – III

Town Council

18. Authorities for Town Council area:

The authorities for the purpose of giving effect to the provisions of this Act in Town Council area shall consist of:

- (a) Town Council
- (b) Chairperson
- (c) Deputy Chairperson
- (d) Executive Officer

19. Constitution of Town Council :

- (1) For every Town Council area there shall be constituted a Town Council.
- (2) Every Town Council shall be a body corporate by the name given by the State Government at the time of constitution of the Town Council and shall have a perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold or dispose off properties and may by the said name sue and be sued.
- (3) The Members elected in a general election or a bye-election of a Town Council in accordance with the provisions of any law relating to Municipal elections in the State, shall constitute the Town Council
- (4) The Town Council shall unless dissolved earlier continue for a period of 5 (five) years from the date of its first meeting after the general election and no longer.
- (5) An election to constitute a Town Council shall be completed, as the case may be:-
 - (i) before the expiry of the period specified in sub-section (4), or
 - (ii) before the expiry of the period of 6 (six) months from the date of its dissolution:

Provided that where the remainder of the period for which the dissolved Town Council would have continued is less than 6 (six) months, it shall not be necessary to hold an election for constitution of the Town Council for such period.

- (6) The Town Council constituted upon its dissolution before the expiration of the period specified in sub-section (4) shall continue only for the remainder of the period for which the dissolved Town Council would have continued under sub-section (4) had it not been so dissolved.
- (7) In a Town Council Area newly constituted, the local authority having jurisdiction over such area immediately before such area was constituted a Town Council area, shall continue to

have jurisdiction and to perform its functions till such time, not exceeding 6 (six) months from the date of the notification under section 6, as may be necessary for holding elections.

- (8) If for any reason, it is not possible to hold the general election of a Town Council before the expiry of the period of 5 (five) years specified in sub-section (4), the Town Council shall stand dissolved on the expiration of the said period and all the powers and functions vested in the Town Council authorities under this Act or under any other law for the time being in force shall be exercised or performed, as the case may be, by such person or persons to be designated as Administrator or Board of Administrators as the State Government may, by notification appoint.

19A. Reservation of seats for women:

Not less than one-third of the total number of seats to be filled by direct election in every Town Council shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Town Council.

20. Composition of Town Council :

- (1) Every Town Council shall have the elected members, ex-officio members and nominated members.
- (2) The Government may by a notification, divide the Town Council area into territorial constituencies to be known as wards for the purpose of filling up the seats in the Town Council by direct election.
- (3) Member of Lok Sabha from Nagaland, Member of Rajya Sabha from Nagaland and Members of the Nagaland Legislative Assembly representing Legislative Assembly constituencies which comprise wholly or partly the Town Council area shall be ex-officio members.
- (4) The Government shall by notification, nominate such number of members not exceeding one-fifth of the elected members from amongst the person having special knowledge or experience in Municipal administration shall be nominated members.

21. Application of provisions of certain Section to Town Council area:

Where an area is specified as Town Council area under section 5 the provisions of sections 10, 11, 12, 13, 14, 15, 16, and 17 shall apply to Town Council area as if Town Council so constituted were a Municipal Council.

CHAPTER IV

Election, Resignation, Removal and Casual Vacancy.

22. Division of Municipal Council Area/ Town Council Area into Territorial Constituencies:

- (1) For the purpose of election of members under section 9 or section 20, as the case may be, the Government shall, having regard to population, extent of the area and geographical area, divide the Municipal Council or Town Council into Territorial constituencies to be known as 'wards' and each ward shall elect only one member.
- (2) Delimitation of wards shall be done in such manner that
 - (a) the localities included in a ward are contiguous and form a compact territorial block,
 - (b) the population of all the wards as far as practicable is the same throughout the Municipal Council area or Town Council area.
 - (c) the numbering of the wards is continuous and in accordance with the prescribed procedure.

23. Election to constitute Municipal Council /Town Council :

- (1) An election to constitute Municipal Council orTown Council shall be complete:
 - (a) before the expiry of its duration specified under section8 or
 - (b) before the expiry of a period of 6 (six) months from the date of its dissolution.
- (2) The first election to a Municipal Council orTown Council shall be held within a period of 6 (six) months from the date of its constitution.

24. Power of Government to direct holding of election:

- (1) Subject to the provisions of this Act and the rules made thereunder, the Government may by notification, direct that a general election to a Municipal Council orTown Council or to fill a casual vacancy of a member shall be held by such date as may be specified in the notification and different dates may be specified for elections for different Municipal Council or Town Council.
- (2) As soon as a notification is issued under sub-section (1), the State Election Commission shall take necessary steps for holding such elections.

25. Resignation of elected members:

- (1) If any elected member of a Municipal Council orTown Council intends to resign from office, he/she shall submit his/her resignation in writing to the Government through the Deputy Commissioner.

- (2) Some resignation may be withdrawn within 14 (fourteen) days from the date of receipt of acknowledgement by the elected member, failing which the resignation shall be accepted.
- (3) If the resignation is not withdrawn and is accepted by the Government, it shall be notified in the Official Gazette.

26. Suspension of member of Municipal Council / Town Council :

Notwithstanding any law for the time being in force, the Government may suspend a member:

- (i) Where a member prima facie appears to be guilty of:
 - (a) Encroachment or unauthorized occupation of any Municipal property or land or
 - (b) Acting against the financial interest of Municipal Council or Town Council or
 - (c) An heinous crime or an offences involving moral turpitude has remained under detention for more than 48 hours or
- (ii) Where the continuation of a member as such is prejudicial to public interest.

Provided that the charges on which the member was suspended shall be inquired into expeditiously within a period of 1 (one) month.

Provided further that the period of suspension of the member shall in no case exceed 6 (six) months.

27. Power of Government to remove a member:

The Government may by notification remove any member of a Municipal Council or Town Council if it is of the opinion that:

- (a) any of the grounds for suspension mentioned in section 27 has been proved against him/her or
- (b) He/She has flagrantly abused his/her position as a member or
- (c) He/She has through negligence or misconduct been responsible for any loss or misapplication of any money or property of Municipal Council or Town Council or
- (d) He/She has failed to pay arrears of any kind, due to the Municipal Council or Town Council otherwise than as an agent, receiver, trustee or an executor to the Municipal Council or Town Council within 3 (three) months after a notice in this behalf has been served upon him or
- (e) He/She has absent himself/ herself during 3 (three) successive meetings of Municipal Council or Town Council without intimation to the Municipal Council or Town Council;

- (f) He/She has absent himself/herself or was unable to attend the meetings of Municipal Council or Town Council during 12 (twelve) successive months for any cause whatsoever, whether approved or not by such Municipal Council or Town Council or
- (g) He/She has acted in contravention of the provisions of sections 58I and 58J or commits any act of misconduct.

28. Casual vacancy:

- (1) Whenever a vacancy occurs by death or the election of a member is declared void, the chairperson of the Municipal Council or Town Council shall inform the Government of such vacancy.
- (2) Whenever a vacancy occurs by death, resignation and removal or otherwise of an elected member or the election of an elected member is declared void, the vacancy shall be filled by fresh election.
- (3) The person so elected shall hold office only so long as the person in whose place is elected, would have held, had the vacancy not occurred.

Provided that if the remainder of the term of the office of member in whose place the vacancy occurred, is for a period of less than 6 (six) months, it shall not be necessary to hold the election to filled such vacancy.

29. State Election Commission:

- (1) The superintendence, direction and control of the preparation of electoral rolls for and the conduct of all elections to the Municipal Council or Town Council shall be vested in the State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.
- (2) The conditions of service and tenure of the State Election Commissioner shall be such as the Governor may by rules prescribe,
Provided that the State Election Commissioner shall not be removed from Office except in the like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his/her disadvantage after appointment.
- (3) The Government shall, when requested by the State Election Commissioner make available to the State Election Commission such staff which the Government considers

necessary for discharge of the functions conferred on the Election Commission by sub-section (1).

30. Electoral Roll:

For every ward there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act and the rules made thereunder.

31. Electoral Registration Officers:

(1) The Electoral roll for each ward shall be prepared and revised by an electoral officer who shall be such officer of the Government or Municipal Council or Town Council as the State Election Commission may, in consultation with the Government, designate or nominate on this behalf.

(2) To assist the electoral registration officer in discharge of his function under sub-section(1), the State Election Commissioner may employ such person as it thinks fit.

32. Registration of Electors:

The persons entitled to be registered as electors in the electoral roll of the Assembly constituency in the State as relates to the area comprised within a ward shall be entitled to be registered in the electoral roll of that ward and the provisions in this behalf in the Representation of the People Act, 1950 (Act No. 43 of 1950) shall apply to the registration of electors in the electoral roll of a ward as they apply to the registration of electors in the electoral roll of an Assembly constituency.

33. Preparation and revision of electoral rolls:

(1) The electoral roll for each ward shall be prepared before each general election in such manner as may be prescribed by rules, and shall come into force immediately upon its final publication in accordance with the rules made for the purpose:

Provided that if the State Election Commission is satisfied that instead of preparing a fresh electoral roll of a ward before a general election, it would be sufficient to adopt the electoral roll of the Assembly constituency for the time being in force as relates to the ward, it may by order, for reasons to be specified therein, direct that the electoral roll of the assembly constituency for the time being in force as relates to the ward shall, subject to any rules made for the purpose be the electoral roll of the ward for the general election.

(2) The electoral roll prepared or adopted as the case may be under sub-section (1) shall:

- (a) unless otherwise directed by the State Election Commission for reasons to be recorded in writing be revised in the manner prescribed by rules by reference to the qualifying date before each bye- election to fill a casual vacancy in a seat allotted to the ward and
- (b) be revised in any year in the manner prescribed by rules by reference to the qualifying date if such revision has been directed by the State Election Commission.

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.

- (3) Notwithstanding anything contained in sub-section (2), the State Election Commission may at any time for reasons to be recorded in writing, direct a special revision of the electoral roll for any ward or part of a ward in such manner as it may think fit.

Provided that the electoral roll for the ward is in force at the time of the issue of any such direction shall continue to be in force until the completion of the special revision so directed.

34. Correction of entries in electoral roll:

If the electoral registration officer on an application made to him or on his own motion is satisfied after such enquiry as he thinks fit that any entry in the electoral roll for any ward:

- (a) is erroneous or defective in any particular or
- (b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within such ward or
- (c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident within such ward or is otherwise not entitled to be registered in that ward, the electoral registration officer shall subject to such general or special directions, if any, as may be given by the State Election Commission in this behalf, amend, transpose or delete the entry.

Provided that before taking any action on the ground specified in clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident within such ward or that he is otherwise not entitled to be registered in the electoral roll of such a ward, the electoral roll of such ward, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him.

35. Inclusion of names in electoral roll:

- (1) any person whose name is not included in the electoral roll of ward may apply to the electoral registration officer for the inclusion of his name in that roll.

- (2) the electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein.

Provided that if the applicant is registered in the electoral roll of any other ward, the electoral registration officer shall inform the electoral registration officer of that other ward and that officer shall, on receipt of the information, strike off the applicant's name from that roll.

- (3) No amendment, transposition or deletion of any entry shall be made under section 35 and no direction for the inclusion of a name in the electoral roll of a ward shall be given under this Section after the last date for making nominations for an election in that ward and before the completion of that election.

36. Appeal:

An appeal shall lie within such time and in such manner as may be prescribed by rules to the State Election Commission from any order of the electoral registration officer under section 34 or section 35.

37. Jurisdiction of civil courts barred:

No civil Court shall have jurisdiction:

- (a) to entertain or adjudicate upon any question whether any person is or is not entitled to be registered in an electoral roll for a ward or
- (b) to question the legality of any action taken by or under the authority of an electoral registration officer or of any decision given by the State Election Commission.

38. Bar to interference by courts in electoral matters:

Notwithstanding anything in this Act:

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243ZA shall not be called in question in any court;
- (b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

39. Qualification for membership of Municipal Council /Town Council :

A person shall not be qualified to be chosen as a member unless he has attained the age of 21 (twenty one) years and his name is registered as an elector in the electoral roll for a ward.

40. Disqualification for membership of Municipal Council orTown Council:

- (1) A person shall be disqualified for being chosen as, and for being a member:
 - (a) if he/she is of unsound mind and stands so declared by a competent court;
 - (b) if he/she is an undischarged insolvent;
 - (c) if he/she is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State;
 - (d) if he/she is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislative Assembly of the State;
 - (e) if he/she is so disqualified by or under any law made by the Legislative Assembly of the State;
 - (f) If he/she holds any office of profit under Municipal Council orTown Council;
 - (g) If he/she holds any office of profit under the State or Central Government ;
 - (h) if he/she is a licensed architect, draughtsman, engineer, plumber, surveyor or town planner or is a partner of a firm of which any such licensed person is also a partner;
 - (i) if he/she is interested in any subsisting contract made with, or any work being done for the Municipal Council orTown Council except as a share holder (other than a Director) in an incorporated company or as a member of a co-operative society;
 - (j) if he/she is retained or employed in any professional capacity either personally or in the name of a firm of which he/she is a partner or with which he/she is engaged in a professional capacity, in connection with any cause or proceeding in which the Municipal Council orTown Council or any of the Municipal authorities is interested or concerned;
 - (k) if he/she having held any office of his/her under the Government, the Municipal Council orTown Council or any other authority has been dismissed for corruption or disloyalty to the state unless a period of 4 (four) years has elapsed since his/her dismissal or the disqualification has been removed by the State Election Commission;
 - (l) if he/she fails to pay any arrears of any kind due by him/her otherwise than as an agent, receiver, trustee or an executor to the Municipal Council orTown Council within 3 (three) months after a notice in this behalf has been served upon him/her.

- (2) Notwithstanding anything contained in sub-section (1):
- (a) a person shall not be deemed to have incurred any disqualification under clause (f) or clause (g) of that sub-section by reason only of this receiving:
 - (i) any pension or
 - (ii) any allowance or facility for serving as the Chairperson or Deputy Chairperson or as a member or
 - (b) a person shall not be deemed to have any interest in a contract or works such as is referred to in clause (i) of that sub-section by reason only of his having a share of interest in:
 - (i) any lease, sale, exchange or purchase of immovable property or any agreement for the same or
 - (ii) any agreement for loan of money or any security for payment of money only or
 - (iii) any newspaper in which any advertisement relating to the affairs of the Municipal Council or Municipal or Town Council is inserted or
 - (iv) the sale to the Municipal Council or Town Council or to any Municipal authority or any officer or other employee of the Municipal Council or Town Council on behalf of the Municipal Council or Town Council of any article in which he/she regularly trades or the purchase from the Municipal Council or Town Council or from any such authority, officer or other employee on behalf of the Municipal Council or Town Council, of any article of a value in either case not exceeding five thousand rupees in the aggregate in any year during the period of the contract or work or
 - (v) the letting out on hire to the Municipal Council or Town Council or the hiring from the Municipal Council or Town Council of any article of a value not exceeding two thousand rupees in the aggregate in any year during the period of the contract or work or
 - (vi) any agreement or contract with the Municipal authority for any goods or services which the Municipality may generally supply.
- (3) If a person sits or votes as a member of the Municipal Council or Town Council when he knows that he/she is not qualified or that he/she is disqualified for such membership, he/she shall be liable in respect of each day on which he/she so sits or votes to a penalty of three thousand rupees to be recovered as an arrears of tax under this Act.

41. Right to vote:

Every person whose name is for the time being entered in the electoral roll for a ward shall be entitled to vote at the election of a member from that ward.

42. Publication of result of election:

The names of all persons elected as members shall, as far as may be, after each election, be published by the State Election Commission simultaneously in the Official Gazette.

43. Disputes regarding election:

- (a) No election of a member of Municipal Council or Town Council shall be called in question except by an election petition presented to the Election Tribunal appointed by the Govt in this behalf within 15 (fifteen) days of the date of the publication of the result of election under section 42.
- (b) An election petition calling in question any such election may be presented under any of the grounds specified in section 45 by any candidate at such election by an elector of the ward concerned or any member.
- (c) A petitioner shall join as respondents to his petition all the candidates at the election.
- (d) An election 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(s) on which the election is called in question and
 - (c) shall be signed by the petitioner and verified in the manner for verification of pleadings in the spirit of the code of Civil Procedure, 1908.

44. Relief that may be claimed by the petitioner:

- (1) A petitioner may claim:
 - (a) a declaration that the election of all or any of the returned candidates is void, and
 - (b) in addition thereto, a further declaration that he himself or any other candidate has been duly elected.

The expression “**returned candidate**” means a candidate whose name has been published in the Official Gazette under section 42.

45. Grounds for declaring elections to be void:

- (1) Subject to the provisions of sub-section (2) if the Election Tribunal is of opinion:-
 - (a) that on the date of his/her election a returned candidate was not qualified or was disqualified, to be chosen a member or under this Act or
 - (b) that any corrupt practice has been committed by a returned candidate or his/her agent or by any other person with the consent of a returned candidates or his/her agent or
 - (c) that any nomination paper has been improperly rejected or
 - (d) that the result of the election, in so far as it concerns a returned candidate has been materially affected:
 - (i) by the improper acceptance of any nomination or

- (ii) by any corrupt practice committed in the interests of the returned candidate by a person other than that candidate or his agent or a person acting with the consent of such candidate or agent or
- (iii) by the improper acceptance or refusal of any vote or reception of any vote which is void or
- (iv) by the non-compliance with the provisions of this Act or of any rules or orders made thereunder.

the Tribunal shall declare the election of the returned candidate to be void.

- (2) If in the opinion of the Election Tribunal, a returned candidate who has been alleged to have indulged in any corrupt practice, but the Election Tribunal is satisfied:
 - (a) that no such corrupt practice was committed at the election by the candidate, or no such corrupt practice was committed contrary to the orders and without the consent of the candidate;
 - (b) that the candidate took all reasonable means for preventing the commission of corrupt practices at the election and
 - (c) that in all other respects the election was free from any corrupt practice on the part of the candidate or any of his/her agents.

then the Election Tribunal may decide that the election of the returned candidate is not void.

46. Procedure to be followed by the Election Tribunal:

The spirit of the code of Civil Procedure, 1908 in regard to suits shall be followed by the Election Tribunal in the trial and disposal of an election petition under this Act.

47. Decision of Election Tribunal:

- (1) At the conclusion of the trial of an election petition, the Election Tribunal shall make an order:-
 - (a) dismissing the election petition or
 - (b) declaring the election of all or any of the returned candidates to be void or
 - (c) declaring the election of all or any of the returned candidates to be void and the petitioner and any other candidates to have been duly elected.
- (2) If any person who has filed an election petition has in addition to calling in question the election of the returned candidate has claimed declaration that he/she himself/herself or any other candidate has been duly elected and the Election Tribunal is of opinion:-
 - (a) that in fact the petitioner or such other candidate received a majority of the valid votes or

- (b) that but for the votes obtained by the returned candidate the petitioner or such other candidate would have obtained a majority of the valid votes; the Election Tribunal shall, after declaring the election of the returned candidate to be void, declare the petitioner or such other candidate, as the case may be, to have been duly elected.

48. Procedure in case of equality of votes:

If during the trial of an election petition, it appears that there is an equality of votes between any candidates at the election and that the addition of a vote would entitle any of those candidates to be declared elected, then the Election Tribunal shall decide between them by lot and proceed as if the one on whom the lot falls had received an additional vote.

49. Finality of decisions:

- (1) An order of the Election Tribunal on an election petition shall be final and conclusive.
- (2) An election of a member not called in question in accordance with the foregoing provisions shall be deemed to be a good and valid election.

50. Corrupt practices and electoral offences:

The following shall be deemed to be corrupt practices for the purposes of this Act:-

- (1) Bribery as defined in clause (1) of section 123 of the Representation of the People Act, 1951 (43 of 1951).
- (2) Undue influence as defined in clause (2) of the said section.
- (3) The systematic appeal by candidate or his/her agent or by any other person to vote or refrain from voting on grounds of caste, race, community or religion or the use of or appeal to, religious symbols or the use of or appeal to national symbols such as the national flag or the national emblem for the furtherance of the prospects of that candidate's election.
- (4) The publication by a candidate or his/her agent or by any other person of any statement of fact which is false and which he/her 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 from contest of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.
- (5) The hiring or procuring whether on payment or otherwise of any vehicle or vessel by a candidate or his/her agent or by any other person for the conveyance of any elector other than the candidate himself and the members of his/her family or his/her agent to or from any polling station provided in accordance with the rules made under this Act. Provided that the hiring of a vehicle or vessel by an elector or by several electors at their joint costs for the purpose of conveying him/her or them to or from any such

polling station shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided that the use of any public transport vehicle or vessel or any tram car or railway carriage by an elector at his/her own cost for the purpose of going to or coming from any such polling station shall not be deemed to be a corrupt practice under this clause.

Explanation- In this clause the expression "vehicle" means any vehicle used or capable of being use for the purpose of road transport whether propelled by mechanical power or otherwise and whether used or drawing other vehicles or otherwise.

- (6) The holding of any meeting in which intoxicating liquors are served.
- (7) The issuing of any circular, placard or poster having a reference to the election which does not bear the name and address of the printer and publisher thereof.
- (8) Any other practice which the Central Government may be rules specify to be a corrupt practice.

51. Maintenance of secrecy of voting:

- (1) Every Officer or clerk, agency 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 authorized by or under any law communicate to any other person any information calculated to violate any such secrecy.
- (2) Any person who contravenes the provisions of sub-section (50) shall be punishable with imprisonment for a term which may extend to 3 (three) months or with fine or with both.

52. Penalty for disorderly conduct in or near polling station:

- (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 neighborhood thereof any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loud speaker 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 neighborhood 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 officer and other persons on duty at the polling station.

- (2) Any person who contravenes or willfully aids or abets the contravention of the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to 3 (three) months or with fine 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/she may direct any police officer to arrest such person and there upon the police officer shall arrest him/her.
- (4) Any Police Officer may take such step and use such force as may be reasonably necessary for preventing any contravention of the provisions of SubSection (1) and may seize any apparatus used for such contravention.
- (5) An offence punishable under this section shall be a cognizable offence.

53. Penalty for misconduct at polling station:

- (1) Any person who during the hours fixed for the poll at any polling station misconducts himself or fails to obey the lawful directions of the Presiding Officer may be removed from the polling station by the Presiding Officer or by any Police Officer on duty or by any person authorized in this behalf by such Presiding Officer.
- (2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at the 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/she shall be punishable with imprisonment for a term which may extend to 3 (three) months or with fine or with both.
- (4) An offence punishable under sub-section (3) shall be a cognizable offence.

54. Breach(s) 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/her official duty, he/she shall be punishable with fine which may extend to five hundred rupees.
- (2) No suit or other legal proceeding 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 Returning Officers, Assistant Returning Officers, Presiding Officers, Polling Officers and any other person appointed to

perform any duty in connection with the election and the expression “official duty” shall for the purposes of this section be construed accordingly.

55. Removal of ballot papers from polling station to be an offence:

- (1) Any person who at an election fraudulently takes or attempts to take a ballot paper out of a polling station or willfully aids or abets the doing of any such act shall be punishable with imprisonment for a term which may extend to 1 (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 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/her to be searched by a Police Officer:

Provided that when it is necessary to cause women 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 a safe custody.
- (4) An offence punishable under sub-section (1) shall be cognizable.

56. Other offences and Penalties thereof:

- (1) A person shall be guilty of an electoral offence if at any election he/she:
 - (a) fraudulently defaces or destroys any nomination paper or
 - (b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of the Returning Officer or
 - (c) fraudulently defaces or 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 authorized by law to put in or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot paper then in use for the purposes of the election or

- (g) fraudulently or without due authority, as the case maybe, attempts to do anything of the foregoing acts or willfully aids or abets the doing of any such acts.
- (2) Any person guilty of an offence under this section shall:
 - (a) If he/she is a Returning Officer or an Assistant Returning Officer or a Presiding Officer or a Polling Officer or any other officer or clerk employed on official duty in connection with the election be punishable with imprisonment for a term which may extend to 2 (two) years or fine with or with both;
 - (b) If he/she is any other person, be punishable with imprisonment for a term which may extend to 6 (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/her duty is to take part in the conduct of any election or part of an election including the counting of votes or to be responsible after an election for the use of ballot papers and other documents in connection with such election.
 - (4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.
 - (5) No court shall take cognizance of any offence under section 50, or under clause (a) of subsection (2) of this section unless there is a complaint made by order of, or under authority from the State Election Commission.

57. Power to make rules regulating the election of members:

The Government may make rules to provide for or to regulate all or any of the matter for the purpose of preparation, revision and maintenance of electoral rolls of wards and holding election of members of the Municipal Council or Town Council under this Act.

CHAPTER-V

Conduct of Business

58 A. Oath of affirmation:

- (1) Member of a Municipality other than an ex-officio member shall before assuming his/her duties as Member make and subscribe an oath of affirmation of his/her allegiance to the Constitution of India in the form, as may be prescribed in this behalf.

- (2) Such oath of affirmation shall be made and subscribed before the Deputy Commissioner or an officer not below the rank of Extra Assistant Commissioner to be nominated by the Deputy Commissioner.

58B. Prohibition against sitting and voting before making oath of affirmation:

No person shall sit and vote as an elected member before he has complied with the requirements of section 58A.

58C. Time for holding meetings:

Every Municipal/ Town Council shall meet for transaction of business at least once in every month on such day and at such time as may, from time to time, be fixed by regulations.

58D. Convening of a meeting:

- (1) The Chairperson or in his absence the Deputy Chairperson of Municipal Council or Town Council may convene an ordinary or special meeting at any time:
 - (i) whenever he/she thinks fit and
 - (ii) on a requisition specifying in writing for the purpose of meeting and signed by not less than one-third of the total numbers of members, excluding the nominated members.
- (2) If the Chairperson or Deputy Chairperson, as the case may be, fails to convene a meeting within a period of 7 (seven) days from the date of the receipt of requisition, the members, who had signed the requisition may convene a meeting in accordance with such rules as may be made by the Government within a period of 30 days of making such requisition and notwithstanding anything contained in this Act, such meeting shall be deemed to be validly convened meeting.

Provided that no business other than that as specified in the requisition shall be transacted in such meeting and the quorum for such meeting shall be as mentioned in sub-section of section 58 F.

58E. Ordinary and Special meeting:

- (1) Every meeting of the Municipality other than an emergent meeting shall be either an ordinary or a special meeting.
- (2) Any business may be transacted at an ordinary meeting unless required by the Act or Rules to be transacted at a special meeting.
- (3) When a special and an ordinary meeting are called on the same day, the special meeting shall be held as soon as the quorum is present.

58F. Quorum:

- (1) Subject to other provisions of this Act, the quorum necessary for transaction of business shall:
 - (a) in the case of an ordinary meeting, be one-third and
 - (b) in the case of a special meeting, be one-half of the total elected members actually serving at the time.
- (2) Notwithstanding anything contained in sub-section (1), if at an ordinary or a special meeting, the quorum is not present, the person presiding shall adjourn the meeting to some other date and the business which would have been brought before the original meeting, if there had been a quorum present shall be brought before and transacted at the adjourned meeting, whether there be a quorum present or not.

58G. Presiding Officer of the meeting:

- (1) The Chairperson or in his absence, the Deputy Chairperson of Municipal Council or Town Council shall preside over the meeting.

Provided that the Chairperson or Deputy Chairperson shall not preside over the special meeting when the meeting has been convened for considering a motion for his removal.

- (2). In the absence of Chairperson or Deputy Chairperson, as the case may be, the members present in the meeting shall elect one from amongst themselves to preside over the meeting.

58H. Decision by majority vote:

Except as otherwise provided in this Act or the Rules made thereunder, all questions which come before any meeting of a Municipality shall be determined by a majority of vote of the members present and voting.

Provided that the presiding officer of the meeting in case of equality of votes shall have a second or casting vote.

58I. Members not to vote on matters on which he is interested:

No member shall vote at the meeting of the Municipality or a Committee thereof on any question relating to his/her own conduct or vote or take any part in any discussion on any matter, other than a matter effecting generally the residents of the Municipal area for which the Municipal Council or Town Council as the case may be has been constituted or any particular wards thereof, which effects his/her pecuniary interest or any property in respect of which he/she is directly or indirectly interested or any property for which he/she is a manager or an agent.

58J. Maintenance of order at meeting:

- 1) The Presiding Officer at the meeting of the Municipality shall preserve thereat order and shall have such power, as may be prescribed for the purpose of enforcing his/her decisions.
- (2) The Presiding Officer at the meeting may direct any member whose conduct is in his/her own opinion grossly disorderly to withdraw immediately from the meeting and the member so directed to withdraw shall do forthwith and shall absent himself/herself during the remainder of the meeting, failing which such member shall be liable to be removed under section 28 on ground of misconduct.

58K. Adjournment:

- (1) In the case of grave disorder arising in a meeting of the Municipality, the Presiding Officer may adjourn the meeting or suspend any sitting for a time to be mentioned by him/her and the reasons for such adjournment or suspension shall be recorded in the Proceedings Book.
- (2) No adjournment other than that are referred to in sub-section (1) shall be made without the consent of at least one-half of the members presents.

58L. Honorarium, allowances, and facilities to Members:

The members shall be entitled to receive for attendance at the meeting of Municipality and the Committees thereof, allowances at such rates and such honorarium and facilities, as may be prescribed.

58M. Right to attend meetings:

The Chief Executive Officer of a Municipality and such officer of the Municipality as authorized by the Municipality in this behalf may attend, speak or otherwise take part in the proceedings of any meeting of the Municipality or any of its Committees but shall not be entitled to vote in any such meeting.

CHAPTER –VI

Powers and functions of Municipal Council /Town Council

59. Obligatory functions of Municipal Council:

Every Municipal Council shall, having regard to the availability of financial resources make reasonable and adequate provisions for the following matters within its territorial area by any method or measure which it may lawfully use or take namely:-

- (a) Urban planning including town planning.*
- (b) Regulation of land-use and construction of buildings*
- (c) Planning for economic and social development.*
- (d) Public health, sanitation conservancy and solid waste management.*
- (e) Urban forestry, protection of the environment and promotion of ecological aspects.*

- (f) Safeguarding the interest of weaker sections of society including the handicapped and mentally retarded.*
- (g) Slum improvement and up- gradation.*
- (h) Provision of urban amenities and facilities such as roads, parks, gardens, playground(s), street lighting, parking lots and public conveniences.*
- (i) Promotion of cultural, educational and aesthetic aspects.*
- (j) Burials and burials grounds, cremations, cremation grounds and electric crematoriums.*
- (k) Cattle ponds, prevention of cruelty to animals.*
- (l) Vital statistics including registration of births and deaths.*
- (m) Regulation of slaughter house and tanneries.*

60. Additional functions of Municipal Council :

Subject to the financial resources at the disposal and organizational capacity of a Municipal Council, the Government may by a notification assign such further functions relating to any other matters in the Twelfth Schedule to the Constitution of India, as may be specified to the Municipal Council .

61. Function of Town Council :

Subject to the financial resources at the disposal and organizational capacity of a Town Council , the Government may by notification assign any of the functions of Municipal Council specified under section 59 or any other matter in the Twelfth Schedule of the Constitution as may be specified to the Town Council .

62. General powers of Municipal Council /Town Council :

Subject to the provision of this Act and the rules made thereunder, the administration of Municipal Council area or Town Council area shall vest in the Municipal Council or the Town Council constituted in the respective areas.

63. General power of Chairperson:

- (1) The Chairperson of the Municipal Council orTown Council shall exercise such powers and perform such functions as are conferred upon him/her by or under this Act and the rules and regulation made thereunder.
- (2) The Chairperson shall preside over the meetings of the Municipal Council orTown Council .
- (3) The Chairperson shall exercise general supervision and control over the functioning of Municipal Council orTown Council .
- (4) The Chairperson shall have access to the records of the Municipal Council orTown Council and may issue directions to the Chief Executive Officer/ Executive Officer and

call for reports and information from the Chief Executive Officer/ Executive Officer with a view to ensuring proper implementation of the decisions of the Municipal Council or Town Council .

64. Power of Chairperson during emergency:

If the Chairperson is satisfied that an emergency has arisen due to flood, epidemic, earthquake, outbreak of extensive fire, riot or extensive damage to any Municipal property and is of the opinion that immediate execution of any work or doing of any act, which ordinarily requires the approval, sanction, consent or concurrence of the Municipal Council or Town Council is necessary, the Chairperson may direct the execution of such work or the doing of such act without such approval, sanction, consent or concurrence and in such case, he/she may direct the expenses for such execution or doing of the act, shall be paid from the Municipal fund of the Municipal Council or Town Council .

Provided that the Chairperson shall report to the Municipal Council or Town Council, as the case may be at the next following meeting the action under this section and the reasons thereof for its ex-post facto approval or sanction.

65. Powers and functions of Deputy Chairperson of Municipal Council /Town Council :

- (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his/her death, resignation or removal or otherwise, the Deputy Chairperson shall act as the Chairperson until the date on which a new Chairperson assumes office.
- (2) When the Chairperson is unable to perform his/her functions owing to absence, illness or any other cause, the Deputy Chairperson shall perform the functions of Chairperson until the date on which the Chairperson resumes his/her office.
- (3) The Deputy Chairperson shall, while acting as or performing the functions of the Chairperson, have all the powers of the Chairperson under this Act.

66. Chief Executive Officer/ Executive Officer :

There shall be Chief Executive Officer in Municipal Council and Executive Officer in Town Council respectively.

67. Appointment of Chief Executive Officer/ Executive Officer:

The Government shall appoint a Chief Executive Officer/ Executive Officer in accordance with the procedure as maybe prescribed in this behalf.

68. Salary and allowances of Chief Executive Officer/ Executive Officer :

The Chief Executive Officer/ Executive Officer shall be paid out of the Municipal fund of Municipal Council orTown Council as the case may be, such monthly salary and allowances

as may be fixed by the Government from time to time and may be given such facilities like residential accommodation and conveyance, as may be prescribed by the Government.

69. Powers and functions of Chief Executive Officer/ Executive Officer:

- (1) The Chief Executive Officer/ Executive Officer shall:
 - (a) carry out the day to day administration of the Municipal Council or Town Council .
 - (b) Exercise the powers and perform the functions specifically conferred or imposed upon him/her by or under this Act and rules made thereunder.
 - (c) Assign the duties and supervise and control the acts and proceeding of all Officers and employees of the Municipal Council or Town Council .
- (2) All Officers and employees of the Municipal Council or Town Council , as the case may be, shall be subordinate to Chief Executive Officer/ Executive Officer.

70. Authentication of orders and instruments:

All orders and instruments made and executed in the name of a Municipal Council or Town Council shall be authenticated in such manner, as may be prescribed and the validity of such orders or instruments, so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Municipal Council or Town Council .

71. Doubts as to powers or functions of the Municipal authorities:

- (1) If any doubt arises as to whether any particular function appertains to any Municipal authority, the matter shall be referred to the Government for decisions.
- (2) The Government shall convey its decision on the matter referred to in Sub-section (1) to the Municipal Council or Town Council .
- (3) The decision of the Government conveyed under sub-section (2) shall be final and binding on the Municipal Council or Town Council .

72. Exercise of powers and performance of functions subject to conditions:

Save as otherwise provided in this Act, the exercise of any powers or the performance of any function conferred or imposed upon Municipal Council or Town Council , as the case may be and its respective authority by or under this Act which involve an expenditure shall be subject to the following conditions:

- (a) such expenditure in so far as it is incurred in the year in which such power is exercised or such functions is performed shall be provided for under the budget-grants for that year and

- (b) if the exercise of such power or performance of such function in a year involves or likely to involve an expenditure for any period or at any time after the close of the said year, such expenditure shall not be incurred, unless provided for in the budget of the relevant year duly sanctioned by the Government.

73. Transfer of functions of Government:

- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the Government may in consultation with Municipal Council or Town Council and subject to such conditions as the Government may think fit to impose, transfer, by an order published in the Official Gazette, to that Municipal Council or Town Council any function or duty of the Government under any law, which the Legislative Assembly of the State is competent to enact or which is otherwise within the executive power of the State and which appears to be related to the matters arising within the area of such Municipal Council or Town Council.
- (2) Without prejudice to the generality of the provisions of sub-section (1), the Government may transfer any Municipal functions and duties, as are performed or discharged by the departments of the Government in relation to any of the matters specified in the Twelfth Schedule in the Constitution.
- (3) The Government shall on such transfer allot to such Municipal Council or Town Council such fund and personnel as may be necessary to enable such Municipal Council or Town Council as may be specified in this behalf.

CHAPTER-VII

Municipal Officers and other Municipal employees

74. Appointment and pay of establishment:

- (1) The Municipal Council or Town Council as the case may be may with the previous approval of the Government create posts of different categories as may be necessary for exercising powers or performing functions of the Municipal Council or Town Council.
- (2) The Government shall in consultation with Municipalities, make rules for regulating the method of recruitment, qualifications required for recruitment, the conditions of service, discipline and control of employees, their duties and functions and their classification into different categories on the basis of their duties and responsibilities and scale of pay of such posts.

CHAPTER-VIII

Direction and control

75. Powers of Government to require production of documents and submission of reports:

- (1) The Government shall at any time require any Municipal authority of a Municipality or the Chief Executive Officer of the Municipality:
 - (a) to produce any record, correspondence, plan or other documents in its possession or under his/her control;
 - (b) to furnish any report, return, plan, estimate, statement, accounts or other statistics relating to the proceedings, duties or works of the Municipality or any Municipal authority for the purpose of inspection and thereupon the Municipal authority or the Chief Executive Officer, as the case may be shall comply with such requirement within such time, as may be specified by the Government for the purpose.
- (2) Every Municipality shall:
 - (a) forward to the Government, the proceedings of the meetings of the Municipality and of a Committee thereof within such time and in such manner as may be prescribed; and
 - (b) Submit to the Government such periodical reports relating to the affairs of the Municipality as the Government may direct.

76. Power of Government to depute officers to make inspection or examination and report:

The Government may depute any of its officers to inspect or examine any department, office, service, work or property of the Municipality and to report thereon and such officer may for the purpose of such inspection or examination, exercise all the powers of the Government under section 75.

77. Power to annul or suspend any proceedings, resolution or order of Municipality or of Municipal authority:

- (1) The Government may by order in writing stating the reasons thereof, annul any proceedings, or resolution or order of:
 - (a) the Municipality or
 - (b) the other Municipal authority or
 - (c) any officer of the Municipality;if the Government considers that such proceedings or resolution or order as the case may be:-
 - (i) is in excess of the power conferred by this Act or the rules made thereunder or against any direction of the Government or
 - (ii) is likely to cause waste or damage of any property of the Municipality or loss of Municipal fund or

- (iii) is likely to lead to a breach of peace or encourage lawlessness by causing injury or annoyance to any class of persons.
- (2) No such proceedings or resolution or order shall be annulled after the expiry of a period of 45 (forty five) days:
 - (a) in the case of a proceedings or resolution or order of the Municipality or a Committee, from the date of receipt thereof from the Municipality or a Committee thereof as the case may be;
 - (b) in the case of a proceedings or resolution or order of any other Municipal authority or any officer of the Municipality, within 15 (fifteen) days from the date of receipt of a report under section 75 or from the date, the Government comes to know of such proceedings or resolution or order in any other manner, whichever is earlier.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2) no such order of annulment shall be passed by the Government unless a period of 10 (ten) days has been given to the Municipality or Municipal authority or the officer of the Municipality to show cause and the causes shown are considered by the Government.
- (4) The Government may also by order in writing suspend the execution of any proceedings, resolution or order of the Municipality or the Standing Committee or other Municipal authority or any officer of the Municipality:
 - (a) in the case of the Municipality or a Committee, within fifteen days from the date of receipt thereof by the Government;
 - (b) in the case of any other Municipal authority or any officer of the Municipality, within 15 (fifteen) days from the date of receipt of a report under section 74 or from the date, the Government comes to know of such proceedings or resolution or order in any other manner, whichever is earlier.

Provided that the order of suspension shall cease to operate on the expiry of a period of 30 (thirty) days from the date referred to in clause (a) or clause (b) of sub-section (2).

78. General powers of Government over officers:

Notwithstanding anything contained in this Act, the Government:

- (a) may reverse or modify any order of any officer of the Government passed or purporting to have been passed under this Act, if the Government considers such order to be: -
 - (I) not in accordance with the provisions of this Act, or the rules made thereunder
or
 - (II) for any reason to be recorded in writing, inexpedient and

- (b) shall for the purposes of carrying out the provision of this Act, exercise over its officers all powers of superintendence, direction and control:

Provided that where such revision or modification effects or is likely to affect any person adversely, such revision or modification shall not be made without giving the person a reasonable opportunity of being heard.

79. Powers to issue directions and policy guidelines:

The Government may from time to time issue such directions or policy guidelines not in consistent with the provision of this Act or the rules made thereunder, as it may consider necessary to the Municipalities for the purpose of performing their functions under this Act and it shall be the duty of the Municipalities to perform their functions in accordance with such directions or policy guidelines.

80. Powers of Government in case of default:

If, at anytime:

- (a) it appears to the Government on the report referred to in section 75 or
- (b) the Government is satisfied after enquiry that the Municipality or any Municipal authority has made default in performing any function or in discharging any duty imposed on it by or under this Act or the rules made thereunder or any law for the time being in force it may, by order in writing, fix a period for the due performance of such function or discharge of such duty and the Municipality shall be bound to perform such function by discharging such duty within the period so fixed.

81. Dissolution of Municipality:

- (1) If in the opinion of the Government, a Municipality:
 - (a) is not competent to perform or has shown gross neglect in the performance of the duties imposed upon it by or under this Act or under any other law for the time being in force or
 - (b) persistently makes default in the performance of such duties or non-complying with lawful directions and orders issued by the Government or any authority under any law for the time being in force to issue such directions or orders or
 - (c) exceeds or abuses its power or
 - (d) the financial position and the credit of the Municipality is seriously threatened, the Government may by an order published in the Official Gazette with reasons thereof, dissolve the Municipality.

Provided that the Municipality shall be given reasonable opportunity of being heard within a period of not less than 15 (fifteen) days in such manner, as may be prescribed before its dissolution.

- (2) If any question arises as to whether any of the grounds mentioned in clauses (a), (b), (c) or (d) of sub-section (1) has been satisfied, the opinion of the Government as recorded in writing in the order of dissolution, shall be final and binding.

82. Consequences of dissolution:

- (1) When a Municipality is dissolved under section 81:
 - (a) all members of the Municipality shall vacate their offices forthwith;
 - (b) all powers, functions and duties of the Municipality and the Chairperson or Deputy Chairperson of a Municipal Council or Town Council, as the case maybe shall during the dissolution, subject to such directions, as the Government may from time to time give in this behalf be exercised, performed, and discharged by a Government officer to be known as Administrator, as the government may, by notification appoint in this behalf and
 - (c) all properties vested in the Municipality shall during the period of dissolution, vest in the Government.
- (2) The Government shall fix the remuneration of the Administrator appointed under clause (b) of sub-section (1) and may direct that such remuneration shall be paid out of the Municipal fund of the Municipality.
- (3) Upon the dissolution of a Municipality under sub-section (1) the Government shall reconstitute a Municipality in accordance with the provisions of this Act.

83. Appointment of an Administrator when election cannot be completed:

- (1) Where on account of an order of any Court, election to constitute a Municipality cannot be completed:-
 - (a) before the expiry of its duration specified under section 10;
 - (b) before the expiry of a period of 6 (six) months from the date of its dissolution;the Government may by a notification direct that during the period of operation of the order of the court:
 - (i) all powers and duties of the Municipality, Chairperson and Deputy Chairperson when elections to constitute a Municipal Council or Town Council as the case may be, cannot be completed and the committees thereof shall subject to such directions, as the Government may from time to time give in this behalf be exercised and performed by a Government officer to be known as Administrator as the Government may appoint in this behalf and
 - (ii) all properties vested in the Municipality shall during the period of the operation of the order of the Court, vest in the Government.

- (2) The Government shall fix the remuneration of the Administrator appointed under clause (i) of sub-section (1) and may direct that such remuneration shall be paid out of the Municipal Fund.
- (3) After the expiry of the period of the order of the Court, the Government shall take further steps to constitute the Municipality in accordance with the provisions of this Act.

84. Appointment of Administrator in special or emergent circumstances:

- (1) Notwithstanding anything contained in this Act, where due to certain special, emergent or unforeseen circumstances, election to a Municipality cannot be held or completed before the expiry of its duration specified in section 10 or before the expiry of a period of 6 (six) months of dissolution, the Government may by a notification appoint a Government officer to be known as Administrator to exercise, perform and discharge the powers, duties and functions of a Municipality subject to such directions as may be given in this behalf by the Government.
- (2) All powers and duties of a Municipality, Chairperson or Deputy Chairperson, when election to constitute a Municipal Council or a Town Council as the case may be cannot be held or completed and the committees thereof shall subject to such directions as the Government may from time to time give in his/her behalf be exercised and performed by such Administrator.
- (3) All properties vested in the Municipality shall during the period when elections are not held or completed vest in the Government.
- (4) The Government shall fix the remuneration of Administrator appointed under sub-section (1) and may direct such remuneration shall be paid out of the Municipal Fund.

CHAPTER-IX

Urban Station Committee

- 85 A.** (1) Where an area is specified as Urban Station Committee area under section 5, the Government shall by a notification establish Urban Station Committee for such area.
- (2) The Urban Station Committee shall be composed of such members to be appointed or elected as the Government shall by notification direct.
 - (3) A Committee established under sub-section (1) of this section shall be a body corporate by the name of name given by the State Government at the time of constitution of the Urban Station Committee and shall have a perpetual succession and a common seal with power, subject to the provision of this Act, to acquire, hold or dispose off properties and may by the said name sue and be sued.

- (4) The Government may appoint any person, whether a member of the Urban Station Committee or not, to be Chairperson or Deputy Chairperson or may authorize such committee to elect its Chairperson or Deputy Chairperson or both and fix the term of the office of Chairperson and Deputy Chairperson.

85 B. Functions and powers of Urban Station Committee:

Subject to the financial resources at the disposal and organizational capacity of an Urban Station Committee, the Government may by a notification assign any of the functions and powers of Municipal Council or Town Council to the Urban Station Committee as may be specified.

85 C. Urban Station Committee Fund:

All money(s) received by Urban Station Committee shall be kept and be applied in the manner as provided under the provision of chapter-1 of Part III of this Act.

PART-III

Finance

Chapter-1

Municipal Fund

86. Municipal Fund:

There shall be constituted for each Municipality, a Municipal Fund to be called:

- (a) in the case of Municipal Council, the Municipal fund of the Municipal Council, and
- (b) in the case of Town Council, the Municipal fund of the Town Council.

87. Custody of Municipal Fund:

All money(s) received on account of Municipal Fund of a Municipality, shall be deposited with the State Bank of India or any of its subsidiaries or with any Nationalized Bank or with the Nagaland State Cooperative Bank in the Municipal area of the Municipality and shall be credited to an account to be called:

- (a) in the case of Municipal Council , the account of the Municipal Council or
- (b) in the case of a Town Council, the account of the Town Council as the case may be, to which it belongs;

Provided that if in the Municipal area of the Municipality there is no branch of the State Bank of India or any of its subsidiaries or any Nationalized Bank or with the Nagaland State Cooperative Bank, the moneys on account of the Municipal Fund may with the

approval of the Government be deposited in any other bank in the Municipal area or in any branch of the State Bank of India or any of its subsidiaries or in any Nationalized Bank or the Nagaland State Cooperative bank outside the Municipal area:

Provided further that that all money(s) on account of the Municipal Fund of a Municipality shall be deposited in one bank account only:

Provided further that the amount of the Municipal Fund of a Municipality may be transferred from one bank to another bank through a resolution passed in this behalf by a Municipality in the prescribed manner.

88. Application of Municipal Fund:

- (1) All money(s) credited to the Municipal Fund from time to time shall be applied for payment of all sums, charges and costs necessary for carrying out the purposes of this Act and the rules and regulations made thereunder or for which payment is duly directed, sanctioned or required by or under any of the provisions of this Act.
- (2) Such money(s) shall likewise be applied in payment of all sums payable out of the Municipal Fund under any other enactment for the time being in force.
- (3) Notwithstanding anything contained in this act, such money(s) may also be applied in payment of all sums, charges and costs on all acts and things which are likely to promote the safety, health, welfare or convenience of the inhabitants of the Municipal area or the expenditure whereon maybe declared by the Municipality with the sanction of the Government to be an appropriate charge on the Municipal Fund.
- (4) No expenditure out of the Municipal Fund may with the approval of the Government incur expenditure beyond the Municipal area of the Municipality for the execution of projects or for creation of physical assets outside the limits of such Municipal area as well as for the operation and maintenance thereof for carrying out the purposes of this Act.

89. Payment not to be made unless covered by budget grant:

No payment of any sum shall be made out of the Municipal Fund unless such expenditure is covered by the current budget grant and a sufficient balance of such budget grant is still available notwithstanding any reduction or transfer thereof, which may have been made under the provision of this Act.

Provided that the provisions of this section shall not apply to the payments made in the following classes of cases, namely:

- (a) Refund of taxes and other money which are authorized under this Act;
- (b) Refund of securities and call deposits to contractors or other persons;
- (c) Sums payable in any of the following circumstances, namely: -
- (d) Under the orders of the Government on the failure of the Municipality to take any action as required by the Government or
 - (i) under any other enactment for the time being in force or
 - (ii) under a decree or order of a civil or criminal court passed against the

- Municipality or
- (iii) under a compromise of any claim, suit or other legal proceedings or
 - (iv) on account of costs incurred in taking immediate action under Section 63 by the Chairperson in the case of a Municipal Council or Town Council as the case maybe;
- (e) temporary payment for works urgently required by the government in the public interests;
- (f) sums payable as compensation under this Act or the rules made thereunder;
- (g) expenses incurred by the Municipality on special measures, if any taken on the outbreak of dangerous diseases and
- (h) amount payable to the government by way of audit fee, if any.

90. Power of Government to direct use of Municipal Fund for a particular purpose:

Notwithstanding anything contained in this Act, the Government may require a Municipality to earmark a particular portion of the Municipal Fund of the Municipality or a particular grant of a part thereof, or any item of receipt under any head or any percentage thereof, or any share of tax receivable by the Municipality under other law for the time being in force, or any part thereof to be utilized exclusively for any specified purpose and it shall be mandatory on the part of the Municipality to do so.

91. Investment of surplus money(s) :

- (1) Surplus money(s) standing at the credit of the Municipal Fund which cannot immediately or at an early date be applied for the purposes specified in section 89 shall be invested in the prescribed manner:

Provided that adequate safeguards, as maybe prescribed shall be followed against the unproductive and speculative investments.

- (2) The loss, if any, arising from such investments, shall be debited to the Municipal Fund.

92. Constitution of Special funds:

- (1) Notwithstanding anything contained in section 86, the Municipality may, with the prior approval of the Government, constitute such special fund or funds as may be necessary for the purpose of this Act.
- (2) The constitution and disposal of such funds shall be made in such manner, as may be prescribed.

93. Operation of Bank Accounts:

Save as otherwise provided in this Act, no payment shall be made from the bank account referred to in section 87 out of the Municipal Fund except on cheque signed by:

- (a) in the case of Municipal Council:
 - (i) the Chairperson or if so authorized by the Chairperson, the Deputy Chairperson or an elected member, as the case may be; and
 - (ii) the Chief Executive Officer and
- (b) in the case of Town Council:
 - (i) Chairperson, or if so authorized by the Chairperson, the Deputy Chairperson or an elected member, as the case maybe, and
 - (ii) the Executive Officer.

94. Duty of persons signing the cheque:

Before a cheque is signed in accordance with the provisions of section 93 or a bill signed for payment of any amount from the bank account:

- (a) In the case of the Municipal Fund of a Municipal Council:
 - (i) the Chairperson or when so authorized under clause (a) of section 93, the Deputy Chairperson or an elected member, as the case maybe; and
 - (ii) the Chief Executive Officer and
- (b) In the case of Municipal fund of a Town Council:
 - (I) the Chairperson or when so authorized under clause (b) of section 93, the Deputy Chairperson or an elected member, as the case may be and
 - (II) the Executive Officer

shall satisfy themselves that the sum for which the cheque is drawn or which is specified for payment in the bill, as the case may be is either:

- (i) required for the purpose or work specifically sanctioned by the appropriate authority or
- (ii) required for payment referred to or specified in section 89 or section 90 as the case may be.

Chapter-II

Borrowing

95. Power to raise loan by issue of debentures:

- (1) As may be authorized by notification, Municipal Council or Town Council may, by passing a resolution in this behalf, raise a loan by the issue of debentures or otherwise on the security of any immovable property vested in it or proposed to be acquired by it or any of the taxes, rates, cesses, fees and charges levied under this Act, for any sum of money, which may be required:

- (a) for acquiring any land, which it has power to acquire;
- (b) for erecting any building, which it has power to erect;
- (c) for the execution of any permanent work, the provision of any plant, or the doing of any other thing, which it has power to execute, provide or do, if the cost of carrying out the purpose in question is required to be spread over a term of years;
- (d) for payment of debt due to the Government;
- (e) for repaying any loan previously raised under this Act or any other Act previously in force or
- (f) for any other purposes for which the Municipal Council or the Town Council as the case may be, is by virtue of this Act or any other law for the time being in force, authorized to borrow.

Provided that:

- (i) no loan shall be raised without the prior approval of the Government and
 - (ii) the amount of loan, the rate of interest to be paid for such loan and the terms and conditions, including the date of floatation, the time and method of repayment shall be subject to the approval of the Government.
- (2) When any sum of money has been borrowed under sub-section (1) no portion of any sum of money borrowed for the purposes referred to in clause (c) of sub-section (1) shall be applied to the payment of salary and allowances to any officers of the Municipal Council or the Town Council as the case may be, other than those exclusively employed in connection with the carrying out of that purpose.
- (3) The loan raised under sub-section (1) shall not be spent on purchase of vehicles and contingent expenditure unless specially provided for in the concerned scheme or project.

96. Form and effect of debentures:

All debentures issued under this Chapter shall:

- (a) be in such form as the Municipal Council or the Town Council as the case may be, may with the previous sanction of the Government determine and
- (b) be transferable in such manner as shall be expressed therein.

97. Constitution and investment of Sinking Funds:

- (1) Municipal Council or a Town Council as the case may be authorized under sub-section (1) of section 95 shall mandatorily constitute Sinking Funds for the repayment of money(s) borrowed on debentures issued and shall pay every year into such Sinking funds such sum as will be sufficient for the repayment within the period fixed for the loan of all money borrowed on the debentures issued.
- (2) All money(s) paid into the Sinking Funds shall as soon as possible be invested by the Chief Executive Officer/ Executive Officer under the directions of the Municipality, in public securities in the prescribed manner.
- (3) All dividends and other sums received in respect of any such investment shall as soon as possible after receipt be paid into the Sinking Funds and invested in the manner laid down in sub-section (2).

98. Application of Sinking Fund:

A Sinking Fund or any part thereof, shall be applied in or towards the discharge of the loan or part of the loan for which such fund was created and until such loan or part is wholly discharged such Fund shall not be applied for any other purpose.

99. Annual Statement:

- (1) The Chief Executive Officer/ Executive Officer of the Municipality shall at the end of every year submit to the Municipality, a statement showing:-
 - (a) the amount which has been invested in the Sinking Fund or Funds during the year under section 97;
 - (b) the date of the last investment made prior to the submission of the statement;
 - (c) the aggregate amount of the securities then in hand and
 - (d) the aggregate amount, which has up to the date of the statement been applied under section 98, in or towards the discharge of loans.
- (2) A copy of every such statement shall be submitted to the Government.

100. Annual examination of Sinking Fund:

- (1) All Sinking Funds constituted under this Act shall be subject to annual examination of Audit Authority who shall ascertain whether the cash and the value of securities belonging thereto are equal to the amount which should be at the credit of such Funds, had the investment under section 97 been regularly made and had the interest accruing on account of such investment been regularly obtained.
- (2) The Municipal Council or the Town Council as the case may be shall forthwith pay into the Sinking Fund such amount as the Audit Authority may certify to be a deficit in respect of such Fund, unless the Government specially sanctions a gradual re-adjustment of such deficit.

- (3) If the cash and the value of the securities at the credit of Sinking Fund are in the excess of the amount which should be at its credit, the Audit Authority shall certify the amount of such excess sum and the Municipal Council or the Town Council as the case may be shall thereupon transfer the excess sum to the Municipal Fund of the Municipality.
- (4) If any dispute arises as to accuracy of any deficit or excess referred to in the certificate under sub-section (2) or sub-section (3) the Municipal Council or the Town Council, as the case may be, may after payment of such deficit or after transfer of such excess as the case may be, refer the matter to the Government whose decision thereon shall be final.

101. Borrowing by Municipalities:

- (1) A Municipality may with the prior permission of the Government obtain loans from any financial institution or any Nationalized Bank or any other Municipality and the Government may, if it considers so necessary stands as the guarantor for payment.
- (2) The Government may require a Municipality to observe such financial discipline in the matter of debt servicing including the creation of Sinking Fund as the Government may think fit and proper and in doing so, the Government may prescribe different sets of rules for observance by different groups of Municipalities depending upon the circumstances and nature of cases.

102. Power to direct a Municipality to advance loan to another Municipality:

The Government may direct a Municipality keeping in view its financial position to advance loan to another Municipality at such rate of interest as may be prescribed.

Chapter-III Budget Estimate

103. Preparation of Budget Estimate:

- (1) The Chief Executive Officer/ Executive Officer of Municipality shall prepare in each year a budget estimate along with an establishment schedule of the Municipality for ensuing year, which shall be an estimate of the income and expenditure of the Municipality.
- (2) The Chief Executive Officer/ Executive Officer of the Municipality shall place before Municipal Council or Town Council as the case may be, not later than the fifteenth day of January in each year, the Budget Estimate prepared under sub-section(1) along with a copy of the Establishment Schedule of the Municipality.

- (3) The Budget Estimate and the Establishment Schedule shall be prepared in such form, in such manner and containing such particulars as may be prescribed.
- (4) The statement referred to in sub-section (2) of section 121 shall be with the budget estimate.

104. Sanction of the budget estimate:

- (1) The Municipality shall consider the budget estimate and adopt for the ensuing year the budget estimate with such changes, as it may consider necessary, not later than the fifteenth day of February of that year and submit the budget estimate so adopted to the Government.
- (2) If the budget estimate is not adopted by the fifteenth day of February of that year, the Chief Executive Officer/ Executive Officer of the Municipality shall submit the budget estimate to the Government.
- (3) The budget estimate received by the Government under sub-section (1) or sub-section (2) shall be returned to the Municipality before the thirty-first day of March of that year after sanction with or without modifications.

105. Power to alter Budget Grant:

A Municipality may from time to time during the year:

- (a) increase the amount of any budget grant under any head;
- (b) make an additional budget grant for the purpose of meeting any special or unforeseen requirement arising during the said year;
- (c) transfer the amount of any budget grant or portion thereof under one head to the amount of budget grant under any other heads or
- (d) reduce the amount of the budget grant under any head.

Provided that no such increase in a budget grant or an additional budget grant or the transfer of an amount under budget grant or any portion thereof under any head to another head or reduction in the amount of budget grant in any year shall be made without the prior approval of the sanctioning authority referred to in section 104 and after such approval, it shall be deemed to be included in budget estimate finally adopted for the year.

Chapter-IV
Accounts and Audit

106. Maintenance of Accounts:

The Chief Executive Officer/Executive Officer in the case of a Municipal Council or Town Council as the case may be, shall prepare and maintain accounts of receipts and expenditures of a Municipal Council or a Town Council in such form and in such manner as may be prescribed.

107. Preparation of Municipal Accounts Code:

The Government shall prepare and maintain a code to be known as the Municipal Accounts Code containing all the financing matters and the procedure relating thereto in respect of the Municipalities.

108. Financial statement:

- (1) The Chief Executive Officer/Executive Officer of a Municipality shall within 3 (three) months of the close of a year, cause to be prepared a financial statement for the preceding year in respect of the accounts of the Municipality.
- (2) The form of the financial statement and the manner in which the financial statement shall be prepared shall be such as may be prescribed.

109. Balance sheet:

- (1) The Chief Executive Officer/Executive Officer of a Municipality shall, within three months of the close of a year, cause to be prepared a balance sheet of assets and liabilities of the Municipality for the preceding year.
- (2) The form of the balance sheet and the manner in which the balance sheet shall be prepared shall be such, as may be prescribed.

110. Submission of financial statement and balance sheet to Audit Authority:

The financial statement prepared under section 108 and the balance sheet of the assets and liabilities prepared under section 109 shall be placed by the Chief Executive Officer/Executive Officer of the Municipality before the Municipal Council or the Town Council who after examination of the same, shall adopt and remit these within one month to the Audit Authority provided in section 111.

111. Audit Authority:

- (1) The audit of the accounts of the Municipality including the accounts of the special funds if any, shall be conducted by the audit authority in such manner as the Government in

the Finance Department may prescribe in consultation with the department of the Local Government concerned.

(2) The Audit Authority may:

- (a) require by written notice, the production before it or before any officer subordinate to it of any document, which the Audit Authority considers necessary for the proper conduct of the audit.
- (b) require by written notice, any person accountable for and having custody and control of any document, cash or article to appear in person before such authority.
- (c) require any person or appearing before it or such officer to make or sign a declaration with respect to such documents, cash or article or to answer any question and to prepare and submit any statement and
- (d) cause physical verification of cash and of any stock of articles in the course of examination of accounts.

(3) The Chief Executive Officer/Executive Officer of the Municipality shall comply with such requisitions of the Audit Authority as may be made under sub-section (2).

112. Audit Report:

(1) As soon as practicable, after the completion of audit of the accounts of the Municipality, but not later than the thirtieth day of September each year, the Audit Authority shall prepare a report of the account audited and examined and shall send such report to the Chief Executive Officer/Executive Officer of the Municipality.

(2) The Audit Authority shall include in such report as statement showing:

- (a) every payment, which appears to the Audit Authority to be contrary to law;
- (b) the account of any deficiency of loss, which appears to have been caused by gross negligence or misconduct of any person;
- (c) the account of any sum received which ought to have been but has not been brought into account by any person and
- (d) any other material impropriety or irregularity, which may be observed in the accounts.

113. Placing of audited accounts before the Municipality:

(1) The Chief Executive Officer/Executive Officer of a Municipality shall place the audited financial statement, the balance sheet and the report of the Audit Authority and comments thereon before the Municipality, before the thirty-first day of December every year for its consideration and its adoption at a special meeting.

- (2) The Chief Executive Officer/Executive Officer shall remedy any defect that has been pointed out by the Audit Authority in its report.

114. Audited accounts to be submitted:

- (1) The Chief Executive Officer/Executive Officer of the Municipality shall, after adoption of the financial statement and the balance sheet and the report of the Audit Authority forward the same to the Government together with a report of the action taken thereon by the Municipality and shall also send copies thereof to the Audit Authority.
- (2) If there is any difference of opinion between the Audit Authority and the Municipality or if the Municipality does not remedy the defects or irregularities pointed out in the report of the Audit Authority within a reasonable period, the Audit Authority shall refer the matter to the Government whose decision shall be final and binding.

115. Special Audit:

In addition to the audit of accounts under Section 111 the Government may, if it thinks fit, appoint a person having prescribed qualifications to conduct a special audit pertaining to any specified item or series of items requiring thorough examination and the provisions of this chapter relating to audit shall, mutatis mutandis apply to such special audit.

Chapter-V
Municipal Property

116. Power to acquire and hold property:

Every Municipality shall for the purpose of this Act, have power to acquire by gift, purchase or otherwise and hold movable and immovable property or any interest therein, whether within or outside limits of the Municipal area.

117. Vesting of property:

- (1) Notwithstanding anything contained in any other law for the time being in force, the movable and immovable properties of the following categories within the limit of the Municipal area of a Municipality shall, unless the Government by a notification otherwise directs, vest in the Municipality constituted for such area namely:
 - (a) *all public and common lands not belonging to any Government Department or Statutory Body or Corporation;*
 - (b) *all public tanks, streams, reservoirs and wells;*
 - (c) *all public markets and slaughter-house;*

- (d) all public sewers and drains, channels, tunnels, culverts and water courses in, alongside or under any street;*
- (e) all public streets and pavements including street parking areas, stones and other materials thereof and also trees on public streets or pavement not belonging to any private individual;*
- (f) all public parks and gardens, including squares and public open spaces;*
- (g) all public ghats on rivers or streams or tanks;*
- (h) all public lamps, lamp-posts and apparatus connected with or appertaining thereto;*
- (i) all public places for disposal of the dead excluding those governed by any specific law in this behalf;*
- (j) all lands or other properties transferred to the Municipality by the Government or acquired by gift, purchase or otherwise for public purposes;*
- (k) all solid and liquid wastes collected or lying on a public street or public place, including dead animals and birds and*
- (l) all stray animals not belonging to any private individual.*

(2) Where any area is included in a Municipal area, all movable and immovable properties in such area, of the categories mentioned in sub-section (1) shall vest in the Municipality constituted for such Municipal area.

(3) When any immovable property is transferred otherwise than by sale by the Government to a Municipality for public purposes, it shall be deemed to be a condition of such transfer, unless specially provided to the contrary, that should the property be at any time resumed by the Government, the compensation payable thereof shall, notwithstanding anything to the contrary contained in the Nagaland Land (Requisition and Acquisition) Act, 1965 (3 of 1965), in no case exceed the amount if any, paid to the Government for the transfer together with the cost or the present value whichever shall be less, of any buildings erected or other works executed on the land by the Municipality.

(4) The management, control and administration of every public institution maintained out of the Municipal Fund shall vest in the Municipality.

(5) When any public institution has been placed under the direction, management and control of the Municipality, all properties, endowment and funds belonging thereto, shall be held by the Municipality in trust for the purpose to which such properties, endowments and funds were lawfully applicable at the time when the institution was so placed.

Provided that the extent of the independent authority of the Municipality in respect of such institution may be such, as may be prescribed.

118. Acquisition of immovable property by agreement:

If a Municipality desires to acquire any immovable property for the purposes of the Act, such property may, if so directed by the Municipality be acquired by agreement by the

the Chief Executive Officer/Executive Officer on behalf of the Municipality on such terms and at such price as may be approved by the Municipality

Provided that the negotiation for the purpose of such agreement shall be made jointly, by the Chairperson, the Chief Executive Officer/Executive Officer of a Municipal Council or a Town Council and the Officer of the Local Administration and prior approval of the Government shall be obtained before the making of such agreement.

119. Acquisition where immovable property cannot be acquired by agreement:

Whenever the Municipality is unable to acquire any immovable property under section 116 by agreement, the Government may at the request of the Municipality, acquire the same under the provisions of the Nagaland Land (Requisition and Acquisition) Act, 1965 (Act 3 of 1965) and on payment by the Municipality of the compensation awarded under that Act and of the charges incurred by the Government in connection with the procedure related thereto, the land shall vest in the Municipality.

120. Disposal of property:

(1) With respect to the disposal of property, movable and immovable belonging to the Municipality, the provisions of sub-section(2) and sub-section(3) shall have effect.

(2) The Municipality may:-

(a) dispose off by sale or otherwise any movable property belonging to the Municipality and

(b) with the prior approval of the Government; sell, mortgage, gift or grant a lease of any immovable property belonging to the Municipality.

Provided that no such prior approval of the Government shall be necessary in the case of a lease by public auction of any immovable property for a period of five years.

(3) The procedure for sale, mortgage or gift, the procedure for granting any lease and the terms and conditions of lease under this section, shall be such as maybe prescribed.

121. Registers of immovable and movable properties:

(1) The Chief Executive Officer/Executive Officer of a Municipality shall maintain in such manner and in such form, as may be prescribed:-

(a) A register and a map of all the immovable properties of which the Municipality is the proprietor or which vest in it or which the Municipality holds in trust for the Government and

(b) a register of all movable properties belonging to the Municipality.

(2) The Chief Executive Officer/Executive Officer shall cause to be prepared every year a statement in respect of changes if any, made in the register of immovable properties

specified in sub-section (1) during the preceding year and enclose the statement with the budget estimate prepared under section 103.

Part-IV

Municipal Taxation

Chapter-1

Levy of taxes and fees by Municipalities

122. Power to impose Taxes:

- (1) Subject to the provisions of this Act and the rules made thereunder, with the previous sanction of the Government, a Municipality may, in order to raise revenue for its duties and performing its functions under this Act, levy within its limits of Municipality the following taxes, fees and tolls or any of them:
 - (a) *tolls and fees*
 - (b) *sanitation fee*
 - (c) *advertisement tax other than advertisement published in newspapers,*
 - (d) *entertainment/show tax,*
 - (e) *fire tax,*
 - (f) *tax on vehicles and animals.*
 - (g) *Utility Services Charges*
 - (h) *Licenses fee*
- (2) Subject to the prior sanction of the Government, a Municipality may, for raising revenue for discharging its duties and performing its functions under this Act, levy any other tax which the State Legislature has power to levy under the Constitution of India.
- (3) Save as otherwise provided in this part, the taxes specified in sub-section (1) and the taxes which may be levied under sub-section (2), shall be levied at such rates as may, from time to time, be specified by the Government, by notification and shall be assessed and collected in accordance with the provisions of this Act and the rules and regulations made thereunder.
- (4) The Government may, by general or special order, direct a Municipality to levy any tax referred to in sub-section (1) if not already levied, at such rate and within such period, as may be specified in the order and the Municipality shall thereupon act accordingly.
- (5) If the Municipality fails to carry out any order referred to in sub-section (4) the Government may, by an order published in the Official Gazette, levy the tax at such rate as may be specified in the order and the order so passed shall operate as if the tax

has been levied by Municipality under sub-section (1) or subsection (2), as the case may be.

123. Constitution of Finance Commission :

- (1) The Governor shall constitute a Finance Commission to review the financial position of the Municipalities and make recommendations to the Governor as to:
 - (a) the principles which should govern:
 - (i) *the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them;*
 - (ii) *the determination of taxes, duties, tolls and fees which may be assigned to or appropriate by the Municipalities;*
 - (iii) *the grants-in aid to the Municipalities from the consolidated fund of the State.*
 - (b) the measures needed to improve the financial position of the Municipalities.
 - (c) any other matter referred to the Finance Commission by the Government in the interest of sound finance of the Municipalities.
- (2) The Finance Commission shall be composed of one or more persons to be appointed by the Governor in accordance with the procedure that may be prescribed in this behalf.
- (3) The conditions of service and tenure of the Finance Commission shall be as such as the Governor may by rules prescribe.
- (4) The Finance Commission shall determine the procedure and shall have such powers in the performance as provided in this Act and, as may be further directed by the Government.
- (5) The Governor shall cause every recommendation made by the Finance Commission under this section together with an explanatory memorandum as to the action taken thereon to be laid before the State Legislative Assembly.

Part-VIII

General Powers, Offences and Penalties, Rules & Regulations

Chapter –I

General Powers

124. Power to institute legal proceedings:

The Chief Executive Officer/Executive Officer of a Municipality may,

- (a) Initiate or withdraw from proceedings against any person, who is charged with,
 - (i) *any offence under this Act or any rules or regulations made thereunder;*
 - (ii) *any offense which affects or likely to affect the interest of the Municipality or the due administration of this Act or*
 - (iii) *Committ any nuisance as defined under section 2 (19)*

- (b) contest or compromise any appeal against assessment of any tax or rate,
- (c) take or withdraw from or compromise, proceedings for the recovery of expenses or compensation claimed to be due to the Municipality;
- (d) withdraw or compromise any claim for a sum not exceeding one thousand rupees against any person;
- (e) defend any suit or other legal proceedings or any claim brought against the Municipality or against any Municipal authority or any officer or employee of the Municipality in respect of anything done or omitted to be done by the Municipality or such authority or officer or employee under this Act or the regulations made thereunder in the official capacity;
- (f) with the approval of the Municipality, compromise any claim, suit or other legal proceedings brought against the Municipality or any Municipal authority or any officer or employee of the Municipality in respect of anything done or omitted to be done as aforesaid;
- (g) withdraw from or compromise with any person in respect of a penalty payable under any contract entered into with such person by the Chief Executive Officer/Executive Officer on behalf of the Municipality;
- (h) institute or prosecute any suit or other legal proceedings or with the approval of the Municipality, withdraw from or compromise any suit or claim, other than a claim referred to in clause (d), instituted or made, as the case may be, in the name of the Municipality or The Chief Executive Officer/Executive Officer and
- (i) obtain for any of the purposes mentioned in the foregoing clauses of this section or for securing lawful exercise or discharge of any power or duty vesting in or imposed upon any Municipal authority or any officer or employee of the Municipality, such legal advice and assistance as it may, from time to time consider necessary or expedient.

125. Bar of jurisdiction of Civil Courts:

- (1) Save as otherwise provided in this Act, no Civil Court shall have any jurisdiction to entertain or decide any question relating to matters arising under this Act or the rules made thereunder.
- (2) Every order:
 - a. passed by any authority, which is subject to appeal or revision under this Act;
 - b. passed on such appeal or revision and
 - c. passed by the Government on appeal or revision, shall be final and shall not be questioned in any Court.
- (3) No Civil Court shall have jurisdiction to entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed of by an authority entertain any suit or proceedings in respect of any matter the cognizance of which can be taken and disposed off by any authority empowered in this behalf by the Act or the rules made thereunder.

126. Members and Officers of the Municipality to be public servants:

Every member, the Chief Executive Officer/Executive Officer of the Municipality and every other officer of the Municipality shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (Act NO: 45 of 1860).

Chapter-II

Offences and Penalty

127. Punishment for certain offences:

Whoever:

- a. contravenes any provision of any of the sections, sub-sections, clauses, provisions or other provisions of this Act or
- b. fails to comply with any order lawfully given to him or any requisition lawfully made upon him under any of the said sections, sub-sections, clauses, provisions or other provisions shall be punishable,
 - (i) with fine, which may extend to the amount or with the imprisonment for a term which may extend to that period, specified in that behalf or with both and
 - (ii) In the case of continuing contravention or failure, with an additional fine which may extend to the amount specified in this for every day during which such contravention or failure continues after conviction for the first such contravention or failure.

128. General:

Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisitions, issued under any provisions thereof, or otherwise contravenes any of the provision of this Act, shall be punishable with:

- (a) fine which may extend to Rs. 2000/-
- (b) an additional fine in the case of continuing failure or contravention up to one-tenth of the maximum fine, specified in clause(a) for every day after the first failure or contravention, as the case may be for the period, during which such failure or contravention continues.

129. Punishment of imprisonment in default of payment of fine:

In every case where under this Act, an offence is punishable with fine or with imprisonment or fine or with both and a person is sentenced by any court having jurisdiction to pay a fine.

130. Offences by Companies:

- (1) Where an offence under this Act has been committed by a Company, every person who at that time, the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be prosecuted against and punished accordingly.

Provided that nothing contained in this subsection shall render any such person liable to any punishment provided in this Act, if he/she proves that the offence was committed without his/ her knowledge or that he/she exercised all due diligence to prevent the Commission of such offence.

- (3) Notwithstanding anything contained in subsection (1) where, an offence under this Act has been committed by a Company and is proved that the offence has been committed with the consent of connivance of or is attributed to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be prosecuted against and punished accordingly.

131. Prosecution:

Save as otherwise provided in this Act, no Court shall try any offence punishable by or under Act or any rule or any regulation made thereunder except on the complaint of or upon information received from the Chief Executive Officer/Executive Officer of the Municipality or any other officer of the Municipality authorized by it in this behalf.

132. Composition of Offences:

- (1) The Chief Executive Officer/Executive Officer or any person authorized by him/her by general or special order in this behalf may either before or after the institution of the proceedings compound any offence made punishable by or under this Act.

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Municipality or any of the Municipal Authorities.

- (2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him/her in respect of the offence so compounded.

133. Protection of action of the Municipality:

No suit or prosecution shall be entertained in any court against the Municipality or against the Chief Executive Officer/Executive Officer of the Municipality or against any other officer or employee of the Municipality or against any person acting under the order or direction of the Municipality or the Chief Executive Officer/Executive Officer or any other officer or employee of the Municipality for anything which is in

good faith done or intended to be done, under this Act or any rule or regulation made thereunder.

134. Notices to be given of suits:

- (1) No suit shall be instituted against the Municipality or against the Chief Executive Officer/Executive Officer of the Municipality or against any other officer or employee of the Municipality or against any person acting under the direction or order of the Municipality or the Chief Executive Officer/Executive Officer or any other officer or employee of the Municipality in respect of any Act done or purporting to have been done in pursuance of this Act, or any rule or regulation made thereunder until the expiration of a period of two months after the notice in writing has been left at the office of the Municipality or such person, unless the notice in writing has been delivered to him or left at his office or place of residence and unless such notices states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of residence of the intending plaintiff and unless the plaint contains a statement that such notice has been so left or delivered.
- (2) No suit, such as description in subsection(1) shall unless it is a suit for the recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of a period of six months from the date on which the cause of action arises.
- (3) Nothing in subsection (1) shall be deemed to a suit in which the only relief claimed is an injunction on which the object will be defeated by giving of the notice of the postponement of the institution of the suit.

CHAPTER – III

RULES AND REGULATIONS

135. Power to make rules:

- (1) The State Government may by notification make rules for carrying out the purposes of this Act.
- (2) Any rules made under this Act may provide that any contravention thereof shall be punishable with fine which may extend to five thousand rupees.
- (3) Every rule made under this Act shall be laid as soon as may be after it is made before the State Legislature while it is in session for a total period of 10 (ten) days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, the State Legislature agrees in making any modification in the rules or the State Legislature agrees that the rules should not be made, the rule shall thereafter have effect only in such modified form or be of no effect as the case may be or however that such modification or annulment shall be

without prejudice to the validity of anything previously done or omitted to be done under the rule.

136. Power to make regulations:

A Municipality may from time to time make regulations on provisions not inconsistent with the provisions of this Act, for the purposes of giving effect to the provisions of this Act.

137. Regulation to be subject to approval of Government:

- (1) No regulations made by the Municipality under this Act shall have any effect until it has been approved by the Government and published in the Official Gazette.
- (2) Before approving such regulation, the Government may make any change therein which appears it to be necessary.

138. Powers of Government to cancel or modify regulations:

- (1) If the Government is at any time of opinion that any regulation made by the Municipality under this Act should be cancelled or modified either wholly or in part, it shall cause the reasons for such opinion to be communicated to the Municipality, and shall specify a reasonable period within which the Municipality may make such representation with regard thereto as it may think fit.
- (2) After receipt and consideration of any such representation or if in the meantime no such representation is received, after the expiry of the period aforesaid, the Government may, at anytime by a notification cancel or modify such regulation either wholly or in part.
- (3) The cancellation or modification of any regulation under subsection(2) shall take effect from such date, as the Government may specify in the notification under that subsection or if no such date is specified from the date of publication of such notification. Provided that such cancellation or modification shall not affect anything done or suffered or omitted to be done under such regulation before such date.
- (4) Any notification under sub-section (2) shall be published in local newspapers.

139. Penalty for breach of regulations:

- (1) Any regulation made under this Act may provide that a contravention thereof shall be punishable
 - a. with fine which may extend to two thousand or
 - b. with fine which may extend to two thousand and in the case of a continuing contravention, with an additional fine, which may extend to two hundred fifty rupees for everyday during which such contravention continues after conviction for the first of such contravention or

- c. with fine, which may extend to two hundred and fifty rupees for every day during which the contravention continues after the receipt of notice from the Chief Executive Officer/Executive Officer of the Municipality or any other officer of the Municipality, duly authorized in that behalf by the person contravening the regulation requiring such person to discontinue such contravention.
- (2) Any such regulation may also provide that a person contravening the same, shall be required to remedy, so far as lies in his power, the mischief, if any, caused by such contravention.

140. Removal of difficulties:

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by an order published in the Official Gazette make such provisions not inconsistent with the provisions of this Act, as appear to it, to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the date of coming into force of this Act.

- (2) Every order made under subsection (1) shall, as soon as may be, after it is made, be laid before the Legislative Assembly of the State.

141. Savings:

- (1) Notwithstanding the repeal of the Nagaland Municipal Act, 2001;

- (a) Anything done or any action taken under the enactment so repealed including any rule, regulations, notification, schemes, license, appointments, order, agreement or direction made thereunder or any benefit provided or given under any provisions of such enactment, rules, regulations, notification or schemes thereunder for any purpose shall be deemed to have been done or taken or provided for such purpose under the corresponding provisions of this Act, including any rules, regulation, notification, schemes, order or direction made thereunder.
- (b) Any rules, regulations, notification, schemes, appointment orders, notice shall in so far as it is not inconsistent with the provisions of this Act, continue to remain in force and deemed to have made under the corresponding provision unless and until the same is superseded or amended by any rules, regulations, schemes, notification order, license, agreements or permission granted under the provisions of this Act.
- (c) Any exemption given under the enactment so repealed shall continue to be in force till its validity expires or ceases to be in operation under the provision of this Act or till any direction is made thereunder for such purpose.

- (2) Without prejudice to the provision of subsection (1) the provision of section 22 & 26 of the Nagaland Interpretation and General Clauses Act, 1978 shall apply to the repeal of such enactment.

*****XXXXX*****

STATEMENT OF OBJECTS AND REASONS

After two decades of opposition and upheavals since the introduction of the Nagaland Municipal Act 2001, the State government after having repealed the Nagaland Municipal Act 2001, had finally decided to draft and legislate a new Municipal Act with provision in concurrence with the special provisions as envisaged in Article 371 A of the Constitution of India.

Taking into due consideration, the expectations and aspirations of the people of the State, the draft for the new Municipal Act to be known as “ **The Nagaland Municipal Act, 2023**” is hereby proposed through this bill.

KOHIMA
September , 2023

NIEPHIU RIO
Hon’ble Chief Minister in charge of
Urban & Municipal Affairs

FINANCIAL MEMORANDUM

The provisions in the New Municipal Bill do not involve any recurring or non-recurring expenditure from the Consolidated Fund of the State. Hence, this is not a Money Bill or a Financial Bill.

KOHIMA
September , 2023

NIEPHIU RIO
Hon'ble Chief Minister in charge of
Urban & Municipal Affairs

NAGALAND MUNICIPAL BILL, 2023

MEMORANDUM OF DELEGATED LEGISLATION

The “Nagaland Municipal Bill, 2023” delegated the Power to the State Government to make Rules.

The Rules made therein shall be laid before the Assembly and shall be subject to the scrutiny of the House. Delegation of power is of normal nature.

Kohima
September ,2023

NEIPHIU RIO
Hon’ble Chief Minister in charge of
Urban & Municipal Affairs