

CHAPTER 578

TOWN COUNCILS*

Ordinances AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF TOWN COUNCILS FOR THE PURPOSES OF LOCAL GOVERNMENT IN SRI LANKA.

Nos. 3 of 1946, 23 of 1946, 53 of 1946, 57 of 1946.

Aels Nos. 9 of 1950, 39 of 1954, 8 of 1952, 38 of 1953, 22 of 1955, 2 of 1957, 28 of 1957, 14 of 1958, 7 of 1959, 9 of 1961, 39 of 1961, 2 of 1967, 8 of 1967, 42 of 1968, 4 of 1969, 48 of 1971.

Laws Nos. 4 of 1975, 24 of 1977.

Arts Nos. 13 of 1979, 57 of 1979.

[15th March. 1946.]

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

PART I

CONSTITUTION OF TOWN COUNCILS

AREAS FOR WHICH TOWN COUNCILS ARE CONSTITUTED

Power to declare towns and to define their administrative limits. 2. (1) The Minister may, by Order published in the Gazette, declare any area, which by reason of its development or its amenities is urban in character, to be a town for the purposes of this Ordinance, and may define the administrative limits of the town so declared. The Minister may, by the same or any subsequent Order, assign a name and designation to the Town Council to be constituted under this Ordinance for the town so declared.

(2) A declaration under subsection (1) may be made by the Minister in respect of two or more areas jointly, notwithstanding

that such areas are not contiguous; and the areas in respect of which any such declaration is made shall accordingly be deemed to constitute jointly one single town for all the purposes of this Ordinance.

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

Town Council to be constituted for each town.

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

Functions of Town Councils.

* See section 18 (2) of the Development Councils Act-

Composition of Town Councils. [§137, Law 24 of 1977.]

5. (1) Each Town Council shall consist of the Chairman and Vice-Chairman and such number of other members, as the Minister may prescribe by Order published in the Gazette.

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

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

(b) in the case of any general election subsequent to the first general election, on the first day of January next succeeding the date of the election or on such other date as the Minister may appoint by Order published in the Gazette, and shall expire on the thirty-first day of December of the fourth year thereafter (inclusive of the year in which such term of office commenced) or on such other date as may be appointed by the Minister under subsection (2). [§ 2, 2 of 1967.] (§ 2, 39 of 1961.)

[§ 138, Law 24 of 1977.]

ELECTIONS AND DATE OF COMMENCEMENT OF TERM OF OFFICE OF TOWN COUNCILS, Ac.

First general election of members.

*7. Where a Town Council is to be constituted for any town under this Ordinance, a general election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing the first members of the Council.

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

(a) curtail the term of office referred to in subsection (1) by appointing, in substitution for the thirty-first day of December of the year specified in that subsection, the last day of any month in that year or in the year immediately preceding that year; and

Arrangements preliminary to constitution of Town Council.

8. For the purposes of any preliminary arrangements in connection with the constitution of any Town Council under this Ordinance, it shall be lawful for the Minister, by an Order or Orders published in the Gazette, to issue all such directions as may be necessary or appropriate, or to modify or supplement any of the provisions of this Ordinance in such manner and to such extent as may be specified by him in such Order; and every such Order shall have the same effect in relation to such purposes as if it had been embodied in this Ordinance.

(b) extend such term by appointing in substitution for the thirty-first day of December of the year specified in subsection (1) or the day appointed under paragraph (a) of this subsection, the last day of any month in that year or in any year subsequent to the year so specified or appointed, and thereafter, from time to time, extend such term by appointing, in substitution for the date of expiry of such term specified in the last Order, a later date: [§ 2,2 of 1967.] [§2,2 of 1967.1]

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

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

Provided, however, that the period by which such term is extended or the aggregate of the periods by which such term is, from time to time, extended shall not exceed twelve months. [§ 2, 2 of 1967

Term of office of members elected at the first and each subsequent general election.

10. (1) The term of office of each member elected at a general election shall commence—

(a) in the case of the first general election, on the date appointed by the Minister under section 9, and

11. Where the term of office of the members elected at the first or any subsequent general election of the members of a Town Council is due to expire under section 10, a general election in accordance with the provisions of written law for the time being applicable in that behalf shall be held for the purpose of electing new members in place of such members. Subsequent general elections,

* Section 6 is repealed by Law No. 24 of 1977.

Refusal, resignation, or Vacation of office.

12. (I) Where any person who is elected as a member of a Town Council decides for any reason not to serve as a member thereof, he may relinquish the office—

(a) by a written communication of his refusal of office to the elections officer of the district in which the town for which the Council is constituted is situated, at any time before the date fixed for the first meeting of the Council to be held after his election, or

(b) by a written communication of his resignation of office to such elections officer, either direct or through the Chairman, at any time after such first meeting.

(2) Any member of a Town Council who is absent without leave of the Council from more than three consecutive ordinary meetings of the Council shall *ipso facto* vacate his office.

[§ 140, Law 24 of 1977.]

(3) If any person elected as a member of a Town Council refuses or resigns his office, or dies, or vacates the office under subsection (2), or if a casual vacancy occurs in any other manner in such office, such office shall be filled in accordance with the provisions of written law for the time being applicable in that behalf and the person so elected shall hold office until the next succeeding general election of members of that Council.

[§ 142, Law 24 of 1977.]

ALTERATION OF LIMITS OF TOWNS AND NUMBER OF MEMBERS, Ac.

Power of Minister to vary limits of town and number of members, and to dissolve and replace Council- [§ 143, Law 24 of 1977.]

*14. The Minister may at any time by Order published in the Gazette—

- (a) vary the limits of any town;
- (b) vary the number of members prescribed for any Town Council;
- (c) dissolve any existing Town Council and direct that it shall be replaced by a new Town Council to be

constituted in lieu of such existing Council, whenever it appears to him to be expedient so to do upon any variation of the limits of the town for which the existing Council was constituted ;

(d) dissolve any Town Council for the purpose of constituting any other local authority in its place.

16. Where any new Town Council is constituted under section 14 in lieu of any Town Council which is dissolved—

New Town Council to be successor of existing Council.

(a) the new Council shall, from the date of the constitution thereof, be the successor of the dissolved Council for all purposes relating to the town or any part of the town for which the dissolved Council was constituted, in so far as such town or part of such town is included within the administrative limits of the town for which the new Council is constituted;

(b) all the property of such dissolved Council situated within the administrative limits of the new Council, and all the rights, powers, duties, debts, liabilities, and obligations of such dissolved Council in so far as the same relate to any area within the administrative limits of the new Council, shall, as from the date of the constitution of the new Council, be deemed to be transferred to the new Council;

(c) all references in any enactment, or in any order, rule, regulation, or by-law made thereunder, or any document or instrument executed or issued in pursuance thereof, to such dissolved Council, shall, for the purpose of any area within the administrative limits of such dissolved Council which shall be included within the administrative limits of the new Council, be construed as though they were references to the new Council;

* Section 13 is repealed by Law No. 24 of 1977,
f Section 15 is repealed by Law No. 24 of 1977.

(d) all the provisions of sections 233 to 241 shall apply to the case of the constitution of the new Council, in the same manner as if all references to any local authority or authorities in such sections were references to the dissolved Council.

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

MEETINGS AND PROCEEDINGS

Chairman and Vice-Chairman. [§ 146, Law 24 of 1977.]

*19. (1) There shall be a Chairman and a Vice-Chairman for each Town Council who shall be members and be elected in accordance with the provisions of written law for the time being applicable in that behalf.

(2) The Chairman or Vice-Chairman of a Town Council shall hold office for the term of office of the Council unless he resigns or vacates such office. Whenever a Chairman or Vice-Chairman vacates his office he shall at the same time cease to be a member.

(3) The Chairman of a Town Council shall, subject to the provisions of section 169A, be the chief executive officer of the Council, and all executive acts and responsibilities which are by this Ordinance or any other written law directed or empowered to be done or discharged by the Council may, unless the contrary intention appears from the context, be done or discharged by the Chairman.

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

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

(7) Whenever the office of Chairman of a Town Council falls vacant information of the occurrence of the vacancy shall forthwith be given to the elections officer of the district in writing by the secretary of the Council. Upon the receipt of such information the elections officer shall proceed to fill the vacancy in accordance with the provisions of written law for the time being applicable in that behalf.

2 2 A. Chairman and Vice-Chairman of the Town Council of each town shall, each, during the tenure of his office, be ex officio a Justice of the Peace for that town.

The Chairman and Vice-Chairman to be Justices of the Peace. [§ 3, 28 of 1957.] [§ 33, 48 of 1971.]

23. The Chairman of a Town Council shall preside at all meetings of the Council. In the absence of the Chairman, the Vice-Chairman shall preside, and in the absence of the Vice-Chairman, such member as may be elected by the other members present to be the presiding member for that meeting.

Presidency at meetings.

24. (1) The ordinary meetings of a Town Council shall be held for the despatch of business upon such day or days in every month as may be fixed by the Council.

Meetings of the Council how and when convened.

(2) The Chairman may convene a special meeting of the Council whenever he may consider it desirable and shall, whenever requested in writing by any two or more members of the Council to convene a special meeting for any purpose specified in such writing, forthwith convene a special meeting for that purpose. Two days' notice of the day appointed for any such special meeting shall be given to, or left at the residence of, each member of the Council.

* Sections 17 and 18 are repealed by Law No. 24 of 1977. Sections 20, 21 and 22 are repealed by Law No. 24 of 1977.

Powers of Council to be vested in the majority.
Quorum.

25. (1) The quorum for any meeting of a Town Council shall be one-third of the members of the Council in office on the day of that meeting, or two members, whichever is greater.

[§ 148, Law 24 of 1977.]

(2) All matters or questions authorized by this Ordinance or by any other written law, to be decided by the members of a Town Council shall be decided by the majority of members present and voting at any general or special meeting.

[§ 148, Law 24 of 1977.]

(3) Where the votes of the members present at any meeting are equally divided in regard to any question, the Chairman, Vice-Chairman or other member presiding at the meeting shall, in addition to his vote as a member, have a casting vote.

Appointment powers, and duties of secretary.

26. (1) Every Town Council shall appoint a fit and proper person to be or to act as the secretary of the Council.

[§ 149, Law 24 of 1977.]

(2) The secretary of a Town Council shall be the chief administrative officer of the Council and shall exercise, perform and discharge such powers, duties and functions as are conferred or imposed upon him by this Ordinance or by rules made under section 192 or by any other written law for the time being in force.

[§ 149, Law 24 of 1977.]

(3) In the event of the vacation of the offices of both the Chairman and Vice-Chairman by the death, resignation, removal or any other cause, then, during the period intervening between the vacation of the office of the Vice-Chairman and the election of a new Chairman, the secretary of the Council shall, in addition to the powers referred to in subsection (2), have authority, subject to the approval of the Commissioner and subject to such limitations and conditions as may be prescribed by rules under section 192, to incur expenditure on behalf of the Council, to make payments out of the local fund, and to exercise and perform such of the powers, duties and functions of the Chairman as may be specified by the Commissioner or prescribed by rules as aforesaid.

27. All acts, orders, and proceedings of a Town Council shall be entered in a book to be kept by it for that purpose, and shall be signed by the Chairman for the time being; and all such acts, orders, and proceedings shall then be deemed and taken to be original acts, orders, and proceedings, and any copy thereof or extract therefrom shall be admissible in evidence in any Court of Justice, provided that it purport to be signed and certified as a true copy or extract by the Chairman or secretary of the Council,

Minutes of proceedings of Council to be entered in a book.

28. (1) A Town Council may, from time to time, appoint committees consisting either of members of the Council or partly of members of the Council and partly of other inhabitants of the town, for the purpose of advising the Council with reference to any of its powers, duties, or responsibilities, or any matter under the consideration of the Council, and may from time to time, subject to such instructions or conditions as it may determine, delegate any of its powers or duties to such committees other than the power to raise any loan, to levy any rate, or to impose any tax.

Committees.

(2) For the purpose of any matter in which any Town Council is jointly interested with any other Town Council or with any Urban Council or Municipal Council, it may make arrangements by mutual consent with such other Town Council or with such Urban Council or Municipal Council for the constitution of a joint committee, for the appointment of members of the Council upon such joint committee, and for the delegation to such Joint committee of any of its powers or duties other than the power to raise any loan, to levy any rate, or to impose any tax.

29. Subject to the provisions of section 25 as to the quorum, nothing which is done or determined by a Town Council, under this Ordinance or any other written law, shall be or be deemed to be invalid by reason only of the fact that the full number of members prescribed for that Council under section 5 had not been elected, or that any member was absent from the Council, or that there was any vacancy in the number of the members, at the time such thing was done or determined.

Acts of Council not to be invalidated by vacancies or absence of members.

PART II

STATUS, POWERS, AND DUTIES OF
TOWN COUNCILS

Town Councils
to be
corporations-

30. Every Town Council shall be a corporation with perpetual succession and a common seal, and may sue and be sued by such name as may be assigned to it under this Ordinance.

Lands vested in
Town Council.

31. There shall be vested in the Town Council of each town all such immovable property of the following classes, namely :—

- (a) waste lands and open spaces;
- (b) stone, cabook, and gravel quarries;
- (c) public lakes and streams;
- (d) public tanks, ponds, and channels ;
- (e) State lands whether with or without buildings,

as may be situate within the limits of the town and may be or have been handed over, with the sanction of the President or the Governor-General, as the case may be, to the Council, or to any local authority of which the Council is the successor, in the manner described in section 32.

Method of
vesting,
administration,
&c., of such
lands.

32. (I) A vesting order, certificate or other record signed by the person or persons authorized to hand over any immovable property referred to in section 31, and by the Chairman of the Town Council or of any local authority of which the Council is the successor, shall be sufficient, and shall be deemed at all times to have been sufficient, to vest such property and all right, title, and interest in such property in the Town Council, or the local authority, as the case may be :

Provided that nothing in this section or in section 31 shall be deemed—

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

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

- (iii) to empower the Council to dispose of any such property otherwise than in accordance with such terms and conditions as may be set out in the aforesaid vesting order, certificate or other record relating to such property; or

- (iv) to prevent the Council from surrendering to the State at any time any such immovable property.

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

33. There shall be further vested in each Town Council, for the purposes of this Ordinance, the following classes of property:—

Other property
veiled In the
Council.

- (a) all public parks, gardens, and open spaces acquired by or otherwise transferred to the Council or any other local authority of which the Council is the successor, and all erections and structures therein and the equipment thereof, subject always to the terms of any trust or the conditions in any instrument by which any such property may have been transferred to the Council or any local authority of which the Council is the successor;
- (b) all public roads, streets, canals, and bridges, (except such roads, streets, canals, or bridges as may be vested in any other authority under any other enactment, or may be specially exempted from the provisions of this section by the Minister by Order published in the Gazette), together with the lands used for the purposes thereof and all the pavements, stones, or other materials thereof, and also all erections, materials, implements, and other things provided therefor;

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

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

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

***33A.** No person shall erect a monument on any land belonging to the State or on any land vested in or belonging to any Town Council except with the prior approval of the Minister granted upon an application made in that behalf by such person.

In this section " monument " includes any [§ 9, Law 4 of 1975-] statue, pillar, post, or any structure erected to commemorate any person, whether living or dead, but does not include any structure, tomb, or cross erected in any cemetery or burial ground.

***33B.** It shall not be lawful for any Town Council to name any public park, playground, library, reading room, stadium, building, clock tower, bridge or bathing-well except with the prior approval of the Minister. Naming of public parks, &c. [§ 8, Law 4 of 1975.]

34. The Town Council of each town shall within the administrative limits of the town have the following duties:— General duties.

(a) to maintain and cleanse all public thoroughfares and open spaces vested in the Council or committed to its management;

(b) to enforce the proper maintenance, cleanliness, and repair of all private streets,

(c) to abate all nuisances.

35. For the purposes of this Ordinance, a Town Council (without prejudice to any other powers specially conferred upon it) shall have the following powers :— General powers

(a) to appoint all necessary officers and servants, subject, however, to the previous approval of the Commissioner in every case where an appointment necessitates the creation of a salaried office in the service of the Council, and subject to the provisions of section 227, from time to time, remove any such officer or servant;

(b) to assign to any office or service such salary, allowances or remuneration as to the Council may seem fit, subject, however, to the previous approval of the Commissioner in every case of the assignment to any office or service of any salary, allowance, or

Control and erection of monuments. [§ 7, Law 4 of 1975.]

* New sections 33A and 33n have been introduced in the course of the revision and are based on sections 7, 8 and 9 of the Naming of Streets and the Control of the Erection of Monuments Law, No. 4 of 1975.

- remuneration which, either separately or in the aggregate, shall exceed in value the rate of fifty rupees a month;
- (c) to spend any part of the local fund on maternity and child-welfare services, the training of midwives for the purposes of any maternity service established by the Council, housing schemes, and charities or measures for the relief of distress caused by rain, floods, fire earthquake, famine or epidemics ;
- (d) to enter into any arrangement with any other authority for the employment and remuneration of any officer or servant for the several purposes of the Council and such authority;
- (e) to take on lease or to purchase any land or building;
- (f) (i) to sell, exchange, let or give out on lease any land or building belonging to the Council or vested in it otherwise than by virtue of section 31 or section 33, subject to the terms and conditions of the instrument by which the land or building was transferred to or vested in the Council, unless the sale, exchange, letting or leasing is prohibited by such instrument;
- (ii) to let or give out on lease any land or building vested in it by virtue of the provisions of section 31 or section 33 and not required for any public purpose for the time being, subject to the prior approval of the Minister and subject always to such terms and conditions as may be set out in the vesting order, certificate or record issued or made under section 32, or the will, or the deed or instrument of gift or trust executed by the donor, in respect of such land or building;
- (g) subject to the express provisions of this Ordinance, to enter into any contract with any person for any work to be done, or services to be rendered, or goods or materials to be supplied ;
- (h) to make by its officers authorized in that behalf and the servants or workmen accompanying them all such entries into lands and buildings and inspections thereon as may be necessary for the detection and abatement of nuisances, the detection, prevention, and abatement of all contraventions of this Ordinance or of by-laws or rules made thereunder, or for the performance of acts required to be done under this Ordinance in respect of which the owner or occupier of such premises is, or may be deemed to be, in default;
- (i) its Chairman or other officer authorized by him, to hold all inquiries which the Chairman may deem necessary for any of the purposes of this Ordinance and for the purpose of all such inquiries, to administer oaths and summon witnesses;
- (j) to institute or defend any legal proceedings which the Council may deem necessary to institute or defend for the purpose of enforcing or protecting the rights of the Council or of the public or of protecting its officers or members in the execution or intended execution of their duties;
- (k) generally to do all things necessary for the effective exercise of the powers and duties of the Council.
36. (1) Whenever it appears to the Chairman of any Town Council that an examination or survey of any private lands, buildings, or premises is necessary for any local public purpose, it shall be lawful for

Power to authorize surveys.

the Chairman to direct any officer or servant of the Council to make such survey, and it shall thereupon be lawful for such officer or servant and his workmen to enter upon such premises and to do thereon any of the following acts:—

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

Provided that full compensation shall be paid for any damage done ;

Provided, further, that no person shall enter any building or any enclosure attached to a dwelling house except with the written consent of the occupant, or if such consent is withheld, with the sanction of the Chairman.

(2) Every mark fixed on any land under this section shall be deemed to be the property of the Council.

37. Any contract for any of the purposes of this Ordinance involving an expenditure exceeding five hundred rupees shall be

reduced to writing, shall be signed by the Chairman, and shall specify—

- (a) the work to be done, the services to be rendered or the goods to be delivered;
- the materials to be used ;
- (c) the price to be paid for such work, service, goods, or materials;
- (d) the time or times within which the work or service is to be done, or the goods or materials are to be furnished ; and
- (e) the penalty to be imposed in case of a breach of the contract.

38. (1) The Chairman shall not enter into any contract on behalf of the Council for any work or service the cost of which exceeds two hundred and fifty rupees, or any contract enduring for a longer period than the time elapsing between the making of such contract and the end of the financial year, without the sanction of the Council.

Consent of Council. [§ 150, Law 24 of 1977.]

(2) If the Council fails to sanction any contract the Chairman may with the approval of the Commissioner enter into such contract notwithstanding the provisions of subsection (1).

39. A Town Council shall not, under section 38, give its consent to the Chairman of the Council to enter into any contract on behalf of the Council which involves an expenditure exceeding two thousand rupees for the execution of any work, for the rendering of any service, or for the supply of any goods or materials, without the previous sanction of the Commissioner. If the Commissioner refuses to give his sanction, the Council may appeal against such refusal to the Minister. The Minister may, on such appeal, confirm the decision of the Commissioner or order him to give his sanction, as the Minister may think fit, and it shall be the duty of the Commissioner to comply with such order.

Consent of Comissioner-

Contractrs

Application of section 39. [§2, Sof 1952.]

40. (1) Notwithstanding anything in section 39 but subject to subsection (2) of this section, the sanction of the Commissioner shall not be required before any contract referred to in that section is entered into on behalf of any Town Council.

(2) The Minister may in his discretion by Order published in the Gazette declare that subsection (1) of this section shall not apply in relation to contracts to be entered into on behalf of any Town Council specified in the Order; and so long as such Order is in force the provisions of section 39 shall apply in relation to contracts to be entered into on behalf of that Council in like manner as though subsection (1) of this section had not been enacted.

Advertisement for tenders.

41. Before entering into any contract which involves an expenditure exceeding five hundred rupees for the execution of any work, for the rendering of any service, for the supply of any goods or materials, or for any other matter necessary for the purposes of this Ordinance, the Chairman shall call for tenders by advertisement, unless otherwise authorized by a resolution of the Council.

Acquisition of lands or buildings for general public purposes.

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

Compulsory acquisition of lands and buildings.

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

Power of Town Council to act as trustee for any public purpose.

44. A Town Council may receive and hold any property in trust for the benefit of the inhabitants of the town for which it is constituted, or any section of such inhabitants, or for the purpose of any public service administered by the Council, and may otherwise act as trustee for any public purpose.

PART III

POWERS AND DUTIES AS TO THOROUGHFARES

THOROUGHFARES

45. (1) Subject to the powers and responsibilities by law committed to any other authority, the Town Council of each town shall be the general administrative authority for the purpose of all thoroughfares and communications, other than principal thoroughfares, within the administrative limits of the town, with all such powers as are vested in it under this Ordinance, the Housing and Town Improvement Ordinance, and any other enactment, from time to time, enacted in that behalf.

Town Council to be the general authority for thoroughfares and communications.

(2) Subject to such directions as may be given by the Minister, from time to time, by Order published in the Gazette, the Town Council of each town shall be the administrative authority for the purposes of the protection of any principal thoroughfare that may be situate within the town, and shall be entitled for such purposes to exercise or perform in relation to any such principal thoroughfare any of the powers or duties conferred or imposed by sections 71 to 91 (both inclusive) relating to buildings along thoroughfares, obstructions to thoroughfares, encroachments on thoroughfares, injuries to thoroughfares and nuisances on thoroughfares.

46. Subject to the powers and responsibilities by law belonging to any other authority, it shall be the duty of the Town Council of every town, and every such Council is hereby empowered, to take all necessary measures for securing and maintaining all public rights, interests, and amenities arising out of or in connection with all thoroughfares or open spaces within the town, and for utilizing, regulating, adapting, and developing such thoroughfares or open spaces for public purposes.

General powers of Council with regard to thoroughfares and open spaces.

47. All thoroughfares within a town, other than principal thoroughfares, except in so far as such thoroughfares are already so vested by virtue of any other enactment, shall be deemed to be vested in the Town Council of that town,

Thoroughfares vested in Town Council.

Prescription, **48.** Neither the provisions of the Prescription Ordinance, nor those of any other law relating to the acquisition of rights by virtue of possession or user, shall apply in the case of the roads within any town ; and no person shall be entitled to any exclusive rights of ownership, possession or user over or in respect of any such road or any portion thereof by reason of his having, either before or after the coming into operation of this Ordinance, had possession, or use of any description whatsoever, of such road or portion thereof.

Language of notices. **49.** All notices required to be given under this Part shall be in the Sinhala and Tamil languages.

Notices how served. **50.** Every notice required to be given under this Part to any person may be served either personally upon such person, or by leaving it with some member of his household, or by affixing it to some conspicuous part of his residence.

Control of roads and paths in charge of minor local authority. **51.** It shall be the duty of the Town Council of every town, and every such Council is hereby empowered, to supervise and control the course and development of all public roads and paths within the town.

Power of Town Council to construct new, and improve existing, thoroughfares. **52.** The Town Council of each town may within that town—

- (a) lay out and construct new roads, streets, bridges, or other thoroughfares;
- (b) widen, open, or enlarge any street or other thoroughfare (not being a principal thoroughfare);
- (c) turn, divert, discontinue, or stop up, whether in whole or in part, any public street or other thoroughfare (not being a principal thoroughfare),

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

Acquisition of lands required for diversions or enlargements. **53.** (1) If in connexion with the turning, diversion, widening, opening, enlargement, or improvement of any thoroughfare, it becomes necessary for any

Town Council to take possession, for public use, of the land of any person, it shall be lawful for such Council to make an agreement with the owner for the compensation to be paid for such land, and for any building, boundary wall, gateway, fence or tree standing thereon, either by allowing him to possess the ground, or part of the ground, of the former thoroughfare, or by the grant of other land in exchange or by payment of money or by any two or more of such methods.

(2) Any land of which possession is taken by a Town Council in pursuance of any agreement under subsection (1) shall vest in the Council without any formal transfer thereof, and the certificate of the Government Agent or the Chairman of the Council that any person has been allowed by the Council to possess any part of the ground of any former road or any land given in exchange under subsection (1), together with a survey thereof, shall be a sufficient proof of the right of such person to such ground or land.

(3) Where a Town Council cannot agree with the owner of any land as to the compensation to be made under subsection (1), or where such owner cannot be found, or where the Council does not deem it advisable to enter into any agreement with the owner of any land, then proceedings may be taken to obtain possession of such land, and for compensating the owner, in the manner prescribed by section 43.

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

54. If in connection with the turning, diversion, widening, opening, enlargement or improvement of any thoroughfare, it becomes necessary for any Town Council to take possession of the land of any person for public use, and if the person claiming to be the owner of the land desires to make a free gift of the land to the Council for such purpose and to renounce all claim to compensation therefor, a record in writing to that effect duly signed by such person in

Gifts of land required for diversion or enlargement of thoroughfares.

the presence of the Chairman or of a person authorized by the Chairman in writing in that behalf shall be sufficient to vest the land in the Council. No such record shall be deemed to be invalid or of no effect in law by reason only that the requirements of section 2 of the Prevention of Frauds Ordinance have not been complied with as to attestation by a notary public and by witnesses.

Power to dispose of discontinued street.

55. Whenever any street or other thoroughfare or any part of any street or thoroughfare vested in a Town Council ceases to be used as a street or thoroughfare, the Council, with the prior approval of the Minister, may sell lease, or exchange such street or other thoroughfare or part thereof.

Power to take land adjoining new street for building purposes.

56. In laying out or constructing any new street or thoroughfare, or in turning, diverting, widening, opening, enlarging, or otherwise improving any street or thoroughfare, a Town Council may, in addition to the land required for the purposes of the carriageways and footways thereof, also purchase the land necessary for houses and buildings to form the said street or thoroughfare, and may sell, lease, or otherwise dispose of the same, subject to the provisions of paragraph (f) of section 35 and subject to such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as the Council may think fit.

Other powers of Town Council.

57. It shall be lawful for the Town Council of any town, without prejudice to any other powers vested in it, to do any of the following acts:—

- (1) to water the streets;
- (2) to remove encroachments and obstructions in or upon any street or thoroughfare subject to the conditions that where the person responsible therefor is known to the Council, such action shall be taken by the Council only after notice has been given to him, and he fails to remove such encroachments or obstructions within such time as may be specified in the notice or with due diligence;

- (3) to paint up the names of streets and the numbers of houses or tenements on any private property; [§ 5, Law 4 of 1975.]
- (4) to shut up and secure deserted houses;
- (5) to recover in manner hereinafter provided the expenses incurred by any action taken under paragraphs (2) and (4) hereof from the person whose act or neglect shall have rendered such action necessary.

57A. The Minister shall, either of his own motion or on application made in that behalf by a Town Council, determine the name by which any street shall be known and in like manner at any time alter the name of any street. Naming of streets. [§ 5, Law 4 of 1975.]

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

59. If any house, building, boundary wall or gateway adjoining any street or thoroughfare in any town, or anything affixed thereon, be deemed by the Town Council of that town to be in a ruinous state, whether dangerous or not, or to be likely to fall, the Council shall immediately, if it appears to be necessary, cause a proper hoarding or fence to be put up for the Houses in a ruinous and dangerous slate.

protection of persons using such street or thoroughfare, and shall cause notice in writing to be served on the owner or occupier forthwith to take down, secure, or repair such house, building, boundary wall, gateway, or thing affixed thereon, as the case may require.

Failure to comply with notice.

60. If any person, on whom a notice is served by or on behalf of a Town Council under section 59, does not begin to comply with such notice within three days of the service thereof or does not complete the work with due diligence, the Council shall cause all or so much of the work as it may think necessary to be carried out, and all the expenses incurred by the Council shall be paid by such person and shall be recoverable as hereinafter provided.

Sale of materials of ruinous houses.

61. If any house, building, or wall, or any part thereof be pulled down by any Town Council under section 60, the Council may sell the materials thereof, or so much of the materials as may have been taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, pay any surplus arising from such sale to the owner of such house, building, or wall:

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

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

MAINTENANCE AND REPAIR OF THOROUGHFARES

Proper officers empowered to enter upon lands for repair, &c.. of thoroughfares,

62. It shall be lawful for the proper officer of the Town Council of any town and for the servants, workmen, and labourers employed by or under him, at all times, and with all necessary and proper

carriages, carts, animals and other means, to enter upon any land adjacent or near to any existing or intended thoroughfare within that town, and there severally to do and perform all acts, matters, and things necessary for the purpose of tracing, measuring, making, working, opening, altering, turning, repairing, clearing, improving, or fencing any such thoroughfare, or for building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon, or in any way connected therewith, or for performing any act, matter, or thing, under the provisions of this Ordinance.

Power to take materials.

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

Provided that no such materials shall be dug for, cut, or taken away, upon or from any yard, avenue to a house, or lawn or any inclosed garden, plantation, field, or wood, without the consent of the owner thereof, unless sufficient materials cannot conveniently be obtained from the neighbouring waste lands or common or

abandoned grounds, in which case the said officer may take any of such materials where he can conveniently procure them ;

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

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

Power to erect buildings and keep cattle, &c

64. It shall be lawful for the proper officer of the Town Council of any town when tracing, measuring, making- working, opening, altering, turning, repairing, clearing, or improving any existing or intended thoroughfare within the town, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith—

- (a) to make and erect temporary buildings on any land adjacent or near thereto for the accommodation of such officer, or for the accommodation of the servants, workmen, labourers, animals, carriages, or things employed by him during the progress of the work; and
- (b) to keep all such animals as may be employed by him duly tethered and stabled upon any lands near or adjacent thereto, and to continue so to keep the animals on such lands for such time as may be necessary:

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

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

65. In the tracing, measuring, making, working, opening, altering, turning, repairing, clearing, or improving of any existing or intended thoroughfare within any town, or building, excavating, repairing, clearing, or improving any bridge, fence, drain, dam, or ditch thereupon or in any way connected therewith, it shall be lawful for the proper officer of the Town Council of the town to throw upon any lands adjacent or near to the thoroughfare such earth, rubbish, or materials as it may be necessary to remove from the place of any such work:

Power to throw rubbish upon adjacent lands.

Provided that all earth, rubbish or materials thrown upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

66. It shall be lawful for the proper officer of the Town Council of any town to make a temporary road through the grounds adjacent or near to any existing or intended thoroughfare in the town during the execution of any work thereupon or any work in any way connected therewith :

Power to make temporary road.

Provided that such road shall not be made over any ground whereon any building stands or over an inclosed garden or yard.

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

Power to cut trees-

Provided that alt trees, bushes, or shrubs, and all leaves or branches or roots of trees placed upon any such land by the proper officer shall be removed by him from such land within a reasonable time.

Power to put up fences.

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

boundary wall, or gateway without giving one calendar month's previous notice in writing to the Town Council of that town.

Power to make and keep open ditches, &c., and to lay trunks. &c.

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

(2) Any person neglecting to give the notice prescribed by subsection (1), or to remove any building, boundary wall, gateway or fence erected without such notice when he is required in writing to do so by the Town Council under this subsection, shall be guilty of an offence, punishable with a fine not exceeding fifty rupees, and with a further fine not exceeding twenty rupees for each day he suffers or allows such building, boundary wall, gateway or fence to remain after he is required to remove it as aforesaid.

Power to lay stonef. &c.

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

(3) It shall be lawful for the Town Council to remove or cause to be removed any building, boundary wall, gateway, fence, or inclosure, commenced or erected without the notice prescribed by subsection (1), and to recover the costs of such removal in the manner provided in section 83 for the recovery of the costs therein mentioned.

(4) Nothing herein contained shall be deemed to deprive any Town Council of the power, hereinafter conferred on such Council, of removing any such building, boundary wall, gateway, fence, or inclosure, which may subsequently be discovered to be an encroachment on a thoroughfare, notwithstanding that no proceedings may have been taken by the Council on the notice given in respect of such building, boundary wall, gateway, fence or inclosure under subsection (1).

Notice of intended building along a thoroughfare.

71. (1) It shall not be lawful for any person to commence any building, boundary wall, gateway or fence along any thoroughfare within any town, or to erect any temporary fence or inclosure on any such thoroughfare for the purpose of commencing or repairing any such building,

72. (1) Nothing contained in section 71 shall be construed to prevent any public officer, duly authorized in that behalf, from making temporary use of any part of any thoroughfare for the public service, or to prevent the Town Council of any town from granting a licence to the inhabitants of the town for the erection of temporary fences and inclosures on any thoroughfare, in connection with the building, pulling down, or repairing of their houses and other buildings, or for temporary decorations

Erection of temporary fences and inclosures.

BUILDINGS ALONG THOROUGHFARES

within the town, on such terms and conditions as the Council may deem proper, including conditions as to—

- (a) the length, breadth and height of such inclosures;
- (b) the space to be allowed for carriages and carts, or boats, to pass along the thoroughfare; and
- (c) the exhibition by the person obtaining such licence, daily between sunset and sunrise throughout the period during which the fence or inclosure is maintained or continued by him, of a light sufficient to indicate clearly the exact situation of the fence or inclosure or any obstruction caused thereby.

(2) Every holder of a licence granted under subsection (1) who commits a breach of any of the conditions of such licence, and every person who removes or extinguishes any light placed and kept in accordance with the requirements of the conditions of such licence, shall be guilty of an offence, punishable with a fine not exceeding ten rupees.

Building limits along roads.

73. (1) Notwithstanding anything contained in the Housing and Town Improvement Ordinance, it shall not be lawful for any person—

- (a) to erect any building, boundary wall or gateway within a limit (hereinafter referred to as the "building limit") of twenty-five feet from the centre of any road which is used or intended for vehicular traffic within any town and in respect of which street lines providing for a roadway exceeding fifty feet in width have not been defined under section 19 of the Housing and Town Improvement Ordinance; or
- (b) except under the authority of a licence granted by the Town Council of the town, to re-erect or

to make any addition to any such building, boundary wall or gateway within such limit;

Provided always that nothing in this subsection contained shall apply to any repairs effected in any building, boundary wall or gateway existing at the date of the constitution of the Town Council, or in the case of—

- (i) any street which is intended for foot traffic only and is not less than twenty feet in width ; or
- (ii) any back lane or other service passage which is intended only for the purposes of scavenging or conservancy or other special sanitary purpose and is not less than ten feet in width,

where such street, lane or passage has been defined or approved by the Town Council.

For the purposes of the foregoing provisions of this subsection, "repairs" shall not be deemed to include any work of re-erection or reconstruction or the addition of any new part.

(2) It shall be the duty of every Town Council, within three years after the date of the constitution thereof or within such further period as may in the special circumstances of any case be allowed by the Minister—

- (a) to demarcate by permanent marks the building limit prescribed by subsection (1) on every road referred to in that subsection;
- (b) in the case of each road on which the building limit has been so demarcated, to ascertain and record the value of each building, boundary wall, or gateway or part thereof situate or extending within such limit; and
- (c) in the case of any road on which the building limit has not been demarcated, to ascertain and record

the value of each building, boundary wall or gateway in respect of which a licence under subsection (1) is granted by the Council for the purposes of any re-erection or addition.

(3) The value of any building, boundary wall or gateway shall, for the purposes of subsection (2)—

- (a) be fixed by agreement between the Town Council and the owner or owners of the building, boundary wall or gateway ; or
- (b) where it is not so fixed by agreement, be determined by the arbitration of two arbitrators, one nominated by the owner or owners of the building, boundary wall or gateway, and the other by the Town Council, or if such arbitrators cannot agree upon the said value, by an umpire chosen jointly by the two arbitrators.

(4) In determining the value of any building, boundary wall or gateway or any part thereof for the purposes of subsection (2), the following principles shall be followed:—

- (a) where any building, boundary wall or gateway, or any part thereof the removal of which would render the remaining part useless, is situated within the building limit of any road, and where, for that reason, at the time of the widening of the road the removal of the entire building, boundary wall or gateway will become necessary, the value of the entire building, boundary wall or gateway shall be determined ; and such value shall be the difference between the market value of the premises, that is to say, of the building, boundary wall or gateway together with the land attached thereto, at the time of the demarcation of the building limit, and the market value at that time of the land as distinct from the building, boundary wall or gateway;

(a) where only a part of a building, boundary wall or gateway is situated within the building limit of any road, and after the severance and removal of such part the remaining part will be capable of adaptation either to the original purpose of the building, boundary wall or gateway or to any other purpose permitted by law, the value of the part within the building limit shall alone be determined ; and such value shall be the aggregate of—

- (i) the estimated cost of the severance and removal of that part of the building, boundary wall or gateway; and
- (ii) the estimated cost, in the case of a building, of adapting the part of the building which will then remain to the purpose for which the building is used at the time of the demarcation of the building limit, and in the case of a boundary wall or gateway, of completing such additions or repairs as may be necessary;

(c) where, at the time of the demarcation of the building limit on any road, the value of any building, boundary wall or gateway is found to have been increased by any alteration or improvement effected in the building, boundary wall or gateway after the date of the constitution of the Town Council, then notwithstanding that the alteration or improvement may have been authorized by a licence under subsection (1), the amount of the increase shall not be taken into account unless the alteration or improvement was necessary for the maintenance of the building, boundary wall or gateway in a proper state of repair.

(5) The value of each building, boundary wall or gateway or part thereof situate within a building limit, fixed or determined as provided in subsection (3), shall be recorded in the office of the Town

Council together with all agreements or awards by which the value so recorded may be verified ; and the value so recorded shall be deemed to be the value of such building, boundary wall, gateway, or part, for the purposes of section 77 relating to the compensation payable in respect of any subsequent acquisition thereof.

(6) For the purpose of demarcating the building limit of any road it shall be lawful for any officer, servant or workman of the Town Council to enter upon any private land adjoining the road and to erect permanent marks at convenient places, taking all such precautions as may be necessary to ensure that as little damage as possible is caused to the land. Compensation shall be paid by the Council for any damage so occasioned.

(7) Where the building limit of any road has been demarcated under this section, nothing in any of the other provisions of this Ordinance shall be deemed to preclude the Town Council from letting or leasing any part of the road not included within such building limit for the purpose of affording building facilities along the road, or from using or permitting the use of any such part for any public purpose.

(8) Nothing in this section shall apply to, or in the case of, any road in respect of which street lines providing for a roadway exceeding fifty feet in width have been defined under section 19 of the Housing and Town Improvement Ordinance.

74. (1) Upon application made in that behalf by the owner or occupier of any property affected by the building limit specified in section 73, it shall be lawful for the Minister, by Notification published in the Gazette, to modify the building limit in respect of the road, or the part of a road upon which such property abuts; and for the purposes of the provisions of this Ordinance relating to the building limit along roads, the building limit along such road or part of a road shall be the building limit so modified by the Minister.

(2) Where after the values of the buildings, boundary walls or gateways or part thereof situated within the building

limits of any road are ascertained and recorded by a Town Council, the Minister modifies the building limit under subsection (1) in respect of the whole road or any part thereof, it shall be the duty of the Council to vary or adjust the values so recorded in such manner as may be rendered necessary by such modification of the building limit: and every variation or adjustment of such values shall be made in accordance with the provisions of section 73.

75. (1) It shall be a condition of any licence granted by a Town Council under section 73 for the re-erection of or for any addition to any building, boundary wall or gateway within the building limit of any road that in the event of the land on which the building, boundary wall or gateway is situated being acquired at any time thereafter for the purpose of the widening of the road, the compensation payable in respect of such building, boundary wall or gateway shall be the value thereof as ascertained and recorded under that section. The value so recorded shall be set out in the condition in each such case.

(2) (a) Full particulars of every licence containing a condition of the description set out in subsection (1), and of the land and the building, boundary wall or gateway to which the condition relates, shall be entered by the Council in a register to be kept for that purpose at the office of the Council and the Chairman shall cause a certified copy of the entry so made in respect of each land and building, boundary wall or gateway and the conditions of the licence relating thereto, to be registered in the office of the Registrar or Lands. The Registrar of Lands shall register all such copies free of any charge or duty.

(b) Upon the registration of any entry under this subsection, the condition of the licence set out in such entry shall be binding upon the land or building or boundary wall or gateway affected thereby, in accordance with the tenor of such condition, into whosoever ownership or possession the land or building or boundary wall or gateway may at any time pass.

Condition to be attached to all licences under section 73.

Minister to modify building limit.

(c) The register kept at the office of the Council shall be made available for inspection to any person interested, at any time when the office is open for the transaction of business.

(d) The provisions of section 2 of the Prevention of Frauds Ordinance shall not apply to any entry or copy of an entry referred to in this subsection.

(3) Subject to the condition referred to in subsection (2), any person who is otherwise entitled to re-erect or make any addition to any building, boundary wall or gateway shall be entitled to a licence to re-erect or make such addition to such building, boundary wall or gateway within the building limit specified in section 73 :

Provided that no part of the building, boundary wall or gateway so re-erected or added to shall, upon such re-erection or addition, extend nearer to the centre of the road than it so extended in its original condition.

(4) The expression "re-erect", with reference to a building, includes the restoration of any wall forming part of the building or of any support to the building which has been demolished or otherwise destroyed to or within a distance of five feet from the ground, but does not include any operation which, in the opinion of the Town Council, may reasonably be considered to be a repair to the wall or support.

76. If any person erects or re-erects any building, boundary wall or gateway, or makes any addition to any building, boundary wall or gateway within any town in contravention of any of the provisions of section 73, the Town Council of that town shall be entitled to cause such building, boundary wall or gateway, or such addition, to be demolished or removed by any officer or servant, and for that purpose the Town Council shall have the same rights of entry and survey, and shall have the same powers of removal, abatement, and recovery of costs as are vested by this Part in a Town Council for the purposes of the abatement or removal of any obstruction or encroachment or a supposed obstruction or encroachment upon a thoroughfare, and all

the provisions of this Part relating to such obstructions or encroachments, so far as they are applicable, shall apply accordingly with such modifications as may be necessary.

77. (1) Where any land which is situated within the building limit demarcated on a road, and which has been developed by the erection of any building wholly or partly within that building limit, is acquired for the purposes of the widening of that road, the determination of the compensation payable in such case under the Land Acquisition Act shall be subject to the following special provisions, notwithstanding anything to the contrary contained in that Act:—

Principles of assessing compensation in respect of land developed by building.

(a) the value assigned to the building or part thereof, or any boundary wall or gateway, as distinct from the land, shall be the value recorded under section 73 at the time of the demarcation of the building limit;

(b) no compensation shall be allowed in respect of any building, boundary wall or gateway which at any time after the date of the constitution of the Council has been erected in contravention of section 73 or re-erected or added to without the licence required by that section;

(c) the value assigned to the land as distinct from the buildings thereon shall be the market value of the land at the time of the acquisition ;

(d) where the land is only a portion of any premises belonging to any one person or group of persons—

(i) if the remaining portion of such premises is of sufficient depth to admit of its being used as a site for a building of the same character as the building which is to be acquired, the market value assigned to the land shall be one-half of the value at that time of similar land in the vicinity possessing a road frontage ; and

Power of Town Council to deal with building, boundary wall or gateway erected or re-erected in contravention of Ordinance.

(ii) if the remaining portion of such premises is not of sufficient depth for the purpose mentioned in paragraph (i), the market value assigned to the land shall be the value at that time of similar land in the vicinity possessing a road frontage ;

(e) regard shall be had to any increase, in the value of any other land or building belonging to the same owner or owners, which is likely to accrue from any widening of the road carried out after the acquisition of the land or the demolition of any building, boundary wall or gateway situated thereon;

(f) no additional compensation shall be allowed in respect of the compulsory nature of the acquisition whether in the case of the building or in the case of the land.

(2) In any case referred to in paragraph (d) (ii) of subsection (1), the owner shall have the option of requiring the Town Council to acquire the entirety of his premises at the rate at which the portion which the Council originally proposed to acquire was valued under that paragraph.

Power of Town Council to acquire adjacent land for owner of land within building limit.

78. The Town Council of a town may, at the request of any person whose right to build upon any land abutting upon a road within that town is restricted by the building limit demarcated on that road, and who desires to erect a building upon the land, acquire for such owner at his expense any land, situate at the rear of such first-mentioned land and of sufficient extent to afford him building facilities of the same nature as he would have enjoyed but for such restriction. All lands required for any such purpose shall be deemed to be required for a public purpose, and the provisions of section 77 shall apply to the valuation of such land.

OBSTRUCTIONS TO THOROUGHFARES

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

Power to demand production of title deeds.

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

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

(b) where the alleged owner of any premises refuses to produce within ten days, after being requested so to do, every deed, document, and instrument upon which he founds his claim to the premises and which is in his possession; or

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

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

every such occupier, alleged owner, or person so refusing shall be guilty of an offence, punishable with a fine not exceeding fifty rupees.

Demand of production of deed to include power of examination.

80. (1) Every deed, document or instrument the production of which is demanded by a Town Council under section 79 shall be produced on the premises to which it relates, or at such other place as the Town Council may require; and the power given by that section to demand the production thereof, shall be deemed to include the power to make such examination and copies of such deeds, documents, and instruments as may be necessary.

(2) Every person refusing or failing to permit any person authorized by the Town Council to examine any deed, document, or instrument, or to take copies thereof, shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

Power to make survey of premises.

81. In any case referred to in section 79 (1), it shall be lawful for any person authorized thereto by the Town Council to make such survey of the premises, on which the building, inclosure, or obstruction has been raised or made, as may be necessary to enable the Town Council to ascertain whether an encroachment has been made thereby upon any thoroughfare or on any State land adjoining a thoroughfare, and for the purposes of such survey to enter upon such premises and upon any other premises whatsoever which it may in his opinion be necessary to enter.

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

82. (1) Whenever it appears to any Town Council that the line of any thoroughfare under the control of the Council has been altered without proper authority, or has been stopped up, or obstructed, or encroached upon, the Council shall give notice in writing to the occupier of the land from off which the thoroughfare is alleged or suspected to have been turned, or upon which such stoppage or obstruction or encroachment is alleged or suspected to have been made, that a survey of the premises has been made by the direction of the Council, and is open to the inspection of such occupier at a place to be mentioned in the notice, and that unless within one month from the service of the notice he, or the person under whom he holds, takes legal proceedings for establishing his title to such land, and for preventing the removal of any such

obstruction or encroachment, the Council will proceed with the removal thereof in manner provided by section 83.

(2) If no legal proceedings are taken within the time specified in subsection (1) or being taken are not duly prosecuted, it shall be the duty of the Council to cause any such obstruction or encroachment to be forthwith removed as provided by section 83.

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

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

Removal of obstruction or encroachments

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

(3) The costs incurred by the Town Council in the removal or abatement of any obstruction or encroachment shall be

payable by the person whose failure to comply with an order under subsection (1) caused such costs to be incurred ; and such costs, where they are not paid by such person on demand, shall be certified by the Chairman of the Council to the Magistrate's Court* having jurisdiction over the area where such person resides and shall be recovered by that court in like manner as a fine imposed by the court. All moneys so recovered shall be paid by the court into the local fund of the Council.

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

INJURIES TO THOROUGHFARES, Ac.

Destroying milestone, bridge, &c.

84. Every person who—

- (1) wilfully or negligently destroys, pulls up, defaces, throws down, breaks, or injures any milestone, mile-post, demarcation stone, demarcation post, lamp-post, or direction post, or any bridge, culvert, parapet, arch, wall, dam, drain, sluice, lock, bank, abutment, mound, prop, post, lamp, railing, chain or fence belonging to any thoroughfare, or erected at or near any pit or quarry opened or used for getting road materials; or

- (2) wilfully and unnecessarily removes any fence, post, stone, log, or other thing, laid or erected by the direction of any competent authority on or in any thoroughfare, for the temporary prevention of the use thereof, or for preventing danger or injury to persons passing along the same whilst undergoing repair; or

- (3) without the permission of a competent authority, gathers or heaps up, or takes away, any stones, gravel, sand, or other material, or any slutch, dirt, drift, or soil from any thoroughfare; or

- (4) leads or drives any elephant, ox, horse, pig, or other animal or any vehicle from or off or on or into any thoroughfare in such manner as to cause injury to the thoroughfare or shall suffer any such animal to damage the thoroughfare ; or

- (5) being the owner or occupier of any land contiguous to any road, suffers the passage through or into his land of the water from such road, or from any ditch or drain leading therefrom, to be obstructed, or suffers any water, filth, or other substance or thing to flow or run from such land or house into or upon any such road, or suffers any accumulation of dirt or rubbish in any drain opposite to his house or land to impede the flow of water; or

- (6) without the previous consent of the Town Council, by any act on his land interferes with the free passage of water along or from any drain or culvert of any road ; or

- (7) hauls or draws upon any thoroughfare any timber, stone, or other thing, otherwise than upon a wheeled carriage, or suffers any timber, stone, or other thing carried principally or in part upon a

* Vide also section 22 of the Judicature Act.

+ Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

wheeled carriage to drag or trail upon such thoroughfare to the damage thereof; or

- (8) makes or causes to be made any dam, ditch, drain, or watercourse upon or across, or otherwise breaks up, or injures, the surface of any road ; or
- (9) erects, sets up, lays down, or constructs, either permanently or temporarily in, along, under, or over any thoroughfare, any post, pillar, lamp, wire, pipe, rails, or other plant, material, or works without the permission of the Town Council, or otherwise than in accordance with the terms and conditions of such permission ; or
- (10) attaches additions to his house so as to project over the outer edge of the side drain of any road, or by means of temporary supports or otherwise exposes goods or wares of any description over any portion of a road or its side drain, or by causing carts to be loaded or unloaded in front of his dwelling in any way injures the side drain,

shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

Using new road for certain time after making.

***85.** Upon the construction of a new thoroughfare or upon the execution of any repair to an existing thoroughfare, it shall be lawful for the Town Council having control of such thoroughfare, by notice exhibited upon or so as to be visible from the thoroughfare, to prohibit the riding or driving of any animal or vehicle on the thoroughfare for a specified period not exceeding one month after the completion of the work of construction or repair; and every person doing any act in contravention of such notice shall be guilty of an offence punishable with a fine not exceeding fifty rupees,

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

86. If the owner or occupier of any house or premises adjoining any thoroughfare, by the side of which a drain has been made or excavated, requires means of access to such house or premises from

such thoroughfare, he shall be bound to place over the drain, to the satisfaction of the Town Council, a bridge, platform, or arch, which shall in no case cover less than three feet of the length of such drain ; and it shall be lawful for the Town Council on being satisfied that any person has access from such thoroughfare to any house or premises so situated and that such bridge, platform, or arch should be provided, to call upon the owner or occupier of the house or premises forthwith to construct such bridge, platform, or arch, and if he fails to do so within a reasonable time, to cause the work to be done. and to recover the costs thereof in the manner provided by section 83 for the recovery of the costs therein mentioned.

***87.** Any person who allows any tree, upon any premises of which he is the owner or of which he is in occupation, to grow in such a way as to cause injury to any thoroughfare, after the service of a notice upon him by the Town Council calling upon him to take the necessary measures to abate such injury, and after the expiration of such reasonable time as may be specified in the notice for the purpose, shall be guilty of an offence, punishable with a fine not exceeding fifty rupees, and in any such case the Magistrate* before whom the offender is convicted may, in default of the necessary measures being taken by the offender, direct that such measures shall be taken by the Town Council, and that the costs thereof shall be recovered in the manner provided in section 83 for the recovery of the costs therein mentioned.

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

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

Damage to thoroughfare through clearing, draining or opening up neighbouring land.

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

* Primary Court has exclusive Jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

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

(2) Any person who undertakes any of the operations referred to in subsection (1) without giving the notice required by that subsection, or who otherwise makes default in compliance with the requirements thereof, shall be responsible for any damage occasioned by such operations, and for any expenses incurred by the Town Council for the purpose of preventing or remedying any damage that may be occasioned or apprehended in consequence of such operations, and the amount of any such damage or expenses may be recovered in manner provided in section 83 for the recovery of the costs therein mentioned.

NUISANCES ON THOROUGHFARES. &c.

Offences.

***89.** (1) Every person who within a town turns loose or suffers to be turned loose any elephant, ox, buffalo, horse, sheep, goat, or other animal on to or into any thoroughfare, or so that it makes its way on to or into any thoroughfare; or ties or tethers or suffers to be tied or tethered any animal of any description in any manner which permits it to make its way on to or into any thoroughfare, unless such animal is so tied or tethered during the time required for loading or unloading it, or for the loading or unloading of any cart or boat to which it may belong, shall be guilty of an offence punishable with a fine not exceeding fifty rupees:

Provided that where any such animal is found on or in any thoroughfare, or tied or tethered in such a way that it can make its way on to or into any thoroughfare, such animal shall be deemed to have been turned loose, or suffered to be turned loose, or to have been tied or tethered, or suffered to be tied or tethered, as the case may be, by the owner thereof, unless he satisfies the court to the contrary.

(2) The owner of any pig found tied, straying, burrowing, or wallowing in any road or canal within a town shall be guilty of an offence punishable with a fine not exceeding five rupees; and it shall be lawful for any person to seize or shoot or otherwise destroy any pig that he may find tied, straying, burrowing, or wallowing in any such road or canal; and such person may, if he choose, take such pig to any peace or police officer of the area in which the offence was committed, and such officer shall forthwith sell the pig, and pay the proceeds of such sale to such person.

(3) Every person who within a town—

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

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

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

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

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

¹ Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazelle Extraordinary No. 43/4 of 1979-07-02.

- (f) leads or drives on any road any cart or other carriage with timber, boards, iron, or other goods so that either end of any such goods projects beyond the wheels or sides thereof;
- (g) encroaches on any thoroughfare by making or causing to be made any building, platform, hedge, ditch or fence, or other obstruction upon or in any thoroughfare;
- (h) after having blocked or stopped any cart or other carriage in going up or down a hill or rising ground causes or suffers to be or to remain on any road the stone, timber, or other thing with which such cart or other carriage may have been blocked or stopped;
- (i) in any manner wilfully prevents any other person, or any carriage, boat, raft, or other conveyance under his care, from passing along any thoroughfare,

shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(4) Every person who within a town places or continues any kraal or fence or any other obstruction in any canal or river so as to impede or in any way interfere with the convenient navigation thereof, shall be guilty of an offence punishable with a fine not exceeding fifty rupees. It shall be lawful for the Town Council to cause any such kraal, fence, or obstruction so placed or continued to be pulled up or otherwise destroyed, and to recover the cost thereof in the manner provided in section 83 for the recovery of the costs therein mentioned.

Seizure of stray cattle.

90. (1) It shall be lawful for any person thereto authorized by the Chairman of the Town Council of a town to seize any ox, buffalo, horse, sheep, goat or pig which he may find tied, tethered, or straying on or about any thoroughfare within the administrative limits of the town, unless such animal belongs to any cart or boat to which it is tied or tethered whilst the cart or

boat is being loaded or unloaded, and to place every animal so seized in the pound established by the Council for the purpose,

(2) No animal seized under subsection (1) shall be delivered to the owner thereof unless upon payment of the sum of one rupee, or such other sum as the Council may by resolution fix, from time to time, for the use of the person by whom the animal may have been seized, and of a further sum of thirty cents for each day during which the animal may have been kept in the pound.

(3) If no person claims any animal placed in the pound or pays the dues required by subsection (2) within ten days after the seizure of the animal, it shall be lawful for the Council to sell it by public auction, and after payment of two rupees, or such other sum as the Council may by resolution fix, from time to time, to the person by whom the animal was seized and of a sum calculated at the rate of fifteen cents a day for the custody and maintenance of the animal in the pound, to pay any balance of the proceeds of such sale into the local fund established by the Council, and if such balance is not claimed and payment thereof is not obtained by any person entitled thereto within a period of one year from the date of the sale, to pay such balance into the local fund.

(4) The provisions of this section shall have effect in every town to which this Ordinance applies, notwithstanding anything contained in the Animals Act.

***91.** Any person who removes any animal from the lawful custody of any person authorized to seize it under section 90, or under subsection (2) of section 89, or who in any way molests or obstructs such person in the exercise or discharge of his powers or duties, shall be guilty of an offence, and shall, on conviction after summary trial before a Magistrate,* be liable to a fine not exceeding fifty rupees.

Interference with cattle seizers or pig seizers.

SPECIAL USER OF THOROUGHFARES

92. Any Town Council may, from time to time, and either independently or in combination with any other Town Council, subject to the terms of any special enactment in that behalf, enter into an

Power of Town Council to authorize the user of public thoroughfares for special purposes.

* Primary Court has exclusive Jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43, 4 of [979-07-02.

agreement with any person or body of persons or any local authority constituted by law (hereinafter referred to as "the promoters"), to authorize such promoters, for the purpose of any supply of gas, electrical energy, water, or other public service (not being a tramway service or any other public vehicular communication service), or any private enterprise or object, to make such user of thoroughfares under the control of the Council other than principal thoroughfares, to make such user of principal thoroughfares with the prior approval of the Minister charged with the subject of thoroughfares, and to execute all such works and to set up or maintain all such erections or plant thereon or therein as may in the opinion of the Council be necessary for the purpose of the effective establishment or maintenance or the modification or development of such public service or such enterprise or object.

By-laws.

93. (I) For the purpose of any agreement referred to in section 92, and for the purpose of securing the observance of the respective rights and obligations of the public, the Town Council and the promoters in connection with any public service or any private enterprise or object to which the agreement relates, the Town Council (except in so far as provision is made by any special enactment in that behalf) may make by-laws—

- (a) authorizing the promoters and their agents, servants, or workmen, or the agents, servants, or workmen of the Council, subject to such conditions as may be prescribed in the by-laws—
 - (i) to break up the soil, metal, and pavement of any thoroughfare vested in the Council;
 - (ii) to open and break up any sewers, drains, or tunnels within or under such thoroughfare;
 - (iii) to erect, set up, or lay down, either permanently or temporarily in, along, under, or over such thoroughfare,

any post, pillar, lamp, wire, pipe, rails or other plant, material, or works;

- (iv) to alter the position of any public line, wire, or other apparatus or plant in or about such thoroughfare for the purpose of any other public service;
- (b) requiring the promoters to do as little damage as may be in the execution of the powers granted by the said by-laws, and to make compensation for any damage which may be done in the execution of such powers;
- (c) requiring the promoters to complete any work which they may be authorized to execute under such by-laws with all convenient speed, and to reconstruct, repair or restore any thoroughfare, sewer, drain, tunnel, or any plant or apparatus which they may be authorized to remove, alter or interfere with in pursuance of such by-laws ;
- (d) requiring the promoters to remove and carry away all rubbish occasioned by their operations, and to cause proper precaution to be taken for the safety of the public in connection therewith;
- (e) prohibiting any interference with or obstruction to any operations authorized by any by-law under this section.

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

94. (I) Where it appears to any Town Council that, having regard to the average expense of maintaining thoroughfares in the neighbourhood, extraordinary expenses have been incurred by the Council in

Expenses caused by extraordinary traffic.

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

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

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

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

Powers conferred on officers in charge of public works by whom to be exercised.

95. In respect of all thoroughfares other than principal thoroughfares within the limits of the town for which a Town Council is constituted, the Chairman of the Council and all persons authorized in writing by him in that behalf, shall and may by themselves, their servants, workmen, and labourers, exercise the several powers and authorities conferred by this Part on officers in charge of works to which this Part is applicable.

96. If any plan or survey, made by or by the direction of the Town Council or any authority of which the Town Council is the successor, is produced in evidence in any proceeding under this Part, such plan or survey shall be deemed and taken to be conclusive proof of the facts exhibited therein, in so far as the claim of the Council is concerned, unless the contrary be established by the party contesting such claim.

Survey by proper officer to be conclusive evidence.

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

Compensation for injury to property by authorized officers.

98. Where, for any reason, the amount of any compensation payable under section 97 is not agreed upon between the Town Council and the claimant, such amount may be determined by two arbitrators, of whom one shall be nominated by the Council and the other by the claimant. If the two arbitrators cannot agree, they shall appoint an umpire, and the award of the arbitrators or umpire, as the case may be, given in terms of the reference agreed to by the Council and the claimant, shall be final.

Arbitration.

99. If any officer of a Town Council in charge of any work on any thoroughfare, or any person engaged upon any thoroughfare in pursuance of any contract with any Town Council, lays or causes to be laid any heap of stones, gravel, rubbish, or other matter whatsoever upon the thoroughfare, and allows such heap to remain there at night, to the danger or personal damage of any person passing along the thoroughfare (all due and reasonable precautions not having

Officers and contractors leaving stones, &c., on thoroughfares by night.

been taken by him to prevent any such danger or damage), such officer or person shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

deemed to be an executive officer of the Council; but shall in all other respects be under the supervision and control of the Director of Health Services.

Road officer or road contractor not liable to fine except in certain cases.

100. Save as in sections 99 and 224 provided, nothing contained in this Part shall render any officer of a Town Council in charge of any work on any thoroughfare, or any contractor under the Council, liable to any prosecution or fine under this Part for any act done by such officer in the discharge of the duties of his office, or by such contractor in the necessary execution or performance of his contract.

DRAINAGE

103. The Town Council of each town may, from time to time, cause to be made, altered, or extended such public main or other drains, sewers, and watercourses as may appear to it to be necessary for the effectual draining of any area within the town, and, if necessary, may carry them through, across, or under any street, or any place laid out as or intended for a street, and (after reasonable notice in writing in that behalf) into, through, or under any enclosed or other lands whatsoever, doing as little damage as may be, and making full compensation for any damage done.

Town Council to make public drains.

Police officers and grama seva niladharis to enforce provisions of this Part-

101. It shall be the duty of all officers of the police force and of all grama seva niladharis generally, to aid and assist in the prevention of all offences against this Part within the areas or divisions for which they are respectively appointed.

PART IV

POWERS AND DUTIES AS TO PUBLIC HEALTH

PUBLIC HEALTH

Town Council to be general public health authority.

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

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

Duly of Council to repair, alter, and discontinue drains.

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

(2) The Town Council of a town shall, in the exercise, discharge and performance of the powers, functions and duties vested in, assigned to or imposed on the Council by or under this Ordinance in matters relating to public health, act in consultation with the medical officer of health of the area in which the town is situated. It shall be the duty of the medical officer of health to advise the Council in all such matters and to supervise and direct the carrying out in the town of measures relating to public health, and for the purposes aforesaid, he shall be

105. Whoever within any town. without the written consent of the Town Council first obtained, makes or causes to be made any drain leading into any of the public sewers or drains, shall be guilty of an offence punishable with a fine not exceeding fifty rupees, and the Council may cause the drain so made to be demolished, altered, remade, or otherwise dealt with as it may think fit; and all the expenses incurred therein by the Council shall be paid by the person convicted of the offence, and shall be recoverable as hereinafter provided.

Penalty for making unauthorized drains into public drains.

Building over drains, &c., not to be erected without consent of Town Council.

106. No new building shall be erected over any public drain, sewer, culvert, gutter, or watercourse in any town without the written consent of the Town Council of the town; and where any building is so erected, the Council may cause it to be pulled down, or otherwise dealt with as it may think fit; and the expenses incurred therein by the Council shall be paid by the person convicted of the offence, and shall be recoverable as hereinafter provided.

General control of drains.

107. (1) Every private drain in any town shall be under the survey and control of the Town Council of that town, and shall be constructed, altered, repaired, or kept in proper order as the Council may require, at the cost and charges of the owners of the land or building to which such drain belongs or for the use of which it is constructed.

(2) If the owner of any land or building to which any such drain belongs neglects during eight days after the service of a written notice in that behalf by the Council, to alter, repair, or put the drain in good order in such manner as may be specified in the notice, the Council may cause such drain to be altered, repaired, or put in good order in the manner required, and the expenses incurred therein by the Council shall be paid by the owner, and shall be recoverable as hereinafter provided.

Obstruction of discharge of rain water and drainage.

108. Whenever the Town Council of a town has by resolution determined that any natural watercourse, channel, lake, swamp, or any part thereof which is situated within the town and into which rain water or drainage has theretofore discharged, shall remain open for the reception of such rain water or drainage, any person who, after receiving a written notice of the resolution from the Council, fills up or permits to remain filled up any such watercourse, channel, take or swamp in such a manner as to obstruct or interfere with the free flow of such rain water or drainage, shall be guilty of an offence punishable with a fine not exceeding fifty rupees:

Provided that—

- (a) such natural watercourse, channel, lake, or swamp may be filled up if

the owner thereof first provides such other channel or drains, as may, in the opinion of the Council, be sufficient and suitable for the reception and conveyance of such rain water or drainage ; and

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

LATRINES

109. It shall be the duty of the Town Council of each town—

Duty of Council as to latrine accommodation.

- (a) to take effective measures to secure that adequate and proper latrine accommodation is provided for all houses, buildings, and lands within the town;
- (b) to provide such public latrine accommodation as is necessary at all places of public resort within the town; and
- (c) to ensure that all latrine accommodation, both public and private, within the town, is maintained in proper order and condition.

110. (1) Where the Town Council is of opinion that any latrine or latrines or additional latrine or latrines should be provided for any house or building or land, the owner of such house or building or land shall within two months after service of a written notice in that behalf by the Council, cause such latrine or latrines to be constructed in accordance with such requirements as may be set out in the notice.

Council may order or cause additional latrines to be constructed.

(2) Where any notice served under subsection (1) is not complied with to the satisfaction of the Chairman within the period specified in that subsection, the Council shall be at liberty to cause such latrine or latrines to be constructed, and the expenses incurred in such construction shall be payable by the person making default in complying with the notice, and shall be recoverable as hereinafter provided.

Council may cause persons employing men to provide and maintain latrine or latrines. &c.

111. (1) It shall be lawful for a Town Council by written notice to direct any person employing workmen or labourers in the town to provide and maintain such latrine or latrines as may to it seem fit, and to cause the latrine or latrines so provided to be kept in proper order and to be daily cleaned.

(2) Where any notice served under subsection (I) is not complied with, the Council may construct the necessary latrine or latrines or cause the latrine or latrines to be kept in good order and daily cleaned, and the expenses incurred therein by the Council shall be paid by the person making default in complying with the notice, and shall be recoverable as hereinafter provided.

Neglecting to enclose private latrine.

112. (1) The owner or occupier of any house or building or land on which a latrine is situated shall have such latrine shut out by a sufficient roof and a wall or fence from the view of persons residing in the neighbourhood or passing by, and it shall not be lawful for any such owner or occupier to keep any open latrine or a latrine with a door or trapdoor opening on to any street.

(2) The owner or occupier of any house or building or land who fails to comply with, or shall commit any breach of, any of the provisions of subsection (I) shall be guilty of an offence punishable with a fine of five rupees for each day during which such breach is continued :

Provided that the Town Council of the town may in its discretion permit the continuance for such time as it may think fit of any open latrine or any latrine with a door or trapdoor opening on to any street in any case where such latrine already exists and does not create a nuisance.

General control of latrines.

113. (I) All latrines and cesspits within any town shall be under the survey and the control of the Town Council of the town and shall be altered, repaired, or kept in proper order as the Council may require, at the cost and charges of the respective owners of the houses- buildings, or lands to which the latrines belong, or for the use of which they are constructed or maintained.

(2) If the owner or occupier of any house, building, or land to which any latrine or cesspit belongs neglects, during one month after service of notice in writing for that purpose by the Town Council, or within such other period as may be prescribed by the notice, to alter, repair, and put the latrine or cesspit in good order in the manner required by the Council, the Council may cause such latrine or cesspit to be altered, repaired, or put in good order in the manner required; and the expenses incurred by the Council in respect thereof shall be paid by the owner, and shall be recoverable as hereinafter provided.

***114.** (I) If any person within any town—

Penalty for persons making or altering latrines, &c., contrary to the directions or by-laws of Town Council.

(a) constructs any latrine or cesspit contrary to the directions of the Town Council of the town or contrary to the provisions of this Ordinance or any by-law made thereunder; or

(b) continues the use of any latrine or cesspit which has been ordered by the Council to be removed or closed ; or

(c) neglects to construct, provide, or maintain any latrine ordered to be constructed, provided, or maintained under sections 110 and III,

such person shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(2) In any case falling within paragraph (a) or paragraph (b) of subsection (I), the Council shall cause such alteration to be made in the latrine or cesspit as it may think fit; and the expenses thereof shall be paid by the person by whom such latrine or cesspit was improperly constructed or made, and shall be recoverable from him as hereinafter provided.

115. (I) The Town Council of a town or any officer authorized by the Council for that purpose may, subject to the other provisions of this Ordinance, inspect any

Inspection of latrines, &c.

* Primary Court has exclusive Jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

latrine or cesspit within the town, and may for that purpose at any time enter upon any house, building, or land, with such assistants and workmen as are necessary, and cause the ground to be opened, where such Council or officer may think fit, doing as little damage as may be.

(2) If upon any inspection under subsection (1) it appears that any latrine or cesspit is not in good order and condition, or that it has been constructed after the date of the constitution of the Council in any manner contravening the provisions of this Ordinance or the by-laws made thereunder or contrary to the directions of the Council, the expenses of such inspection shall be paid by the person to whom such latrine or cesspit may belong, and shall be recoverable as hereinafter provided.

(3) If any latrine or cesspit is found to be in proper order and condition, and not to have been constructed in contravention of the provisions of this Ordinance or of the by-laws made thereunder or the directions of the Council, the Council or the authorized officer of the Council shall cause the ground to be closed and made good as soon as may be, and the expenses incurred thereby shall in that case be defrayed by the Council.

116. (1) The Town Council of a town or any officer authorized by the Council for that purpose may by written notice require the owner or occupier of any house or building or land within the town, on which is situated a latrine or cesspit which, in the opinion of the Council or the officer, is structurally defective or unsuitable for the purpose to which it is put, or is liable to give rise to a nuisance, to repair, alter, reconstruct, or remove the latrine or cesspit, or to substitute an earth-closet therefor.

(2) If any owner or occupier neglects for a period of one month after service of notice in that behalf under subsection (1), or within such other period as may be specified in the notice, to repair, alter, reconstruct, or remove the latrine or cesspit, to which the notice relates, or to substitute an earth-closet therefor, he shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(3) The Town Council or the authorized officer may cause the latrine or cesspit referred to in subsection (2) to be repaired,

altered, reconstructed, or to be removed and an earth-closet to be substituted therefor, and the expenses incurred by the Council or the officer in respect thereof shall be paid by the owner, and shall be recoverable as hereinafter provided.

CONSERVANCY AND SCAVENGING

117. It shall be the duty of the Town Council of each town, so far as is reasonably practicable, to take all necessary measures in every part of the town—

Duty of Council as to conservancy and scavenging.

- (a) for properly sweeping and cleansing the streets, including the footways, and for collecting and removing all street refuse;
- (b) for securing the due removal at proper periods of all house refuse, and the due cleansing and emptying at proper periods of all latrines and cesspits; and
- (c) for the proper disposal of all street refuse, house refuse, and night-soil.

118. All street refuse, house refuse, night-soil, or other similar matter collected by any Town Council under the provisions of this Part shall be the property of the Council, and the Council shall have full power to sell or dispose of all such matter.

All refuse collected to be the property of Council.

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

Places for disposal of refuse and keeping equipment.

INSANITARY BUILDINGS

120. It shall be the duty of the Town Council of each town to cause to be made, from time to time, an inspection of every part of the town with a view to securing that the houses or buildings in the town are kept in such sanitary condition as is required by

Duty of Council as to insanitary buildings.

Power of town Council to direct removal of latrine or closure cesspit.

the provisions of this Ordinance or any other enactment, and to undertake all necessary measures to enforce such provisions within the town.

Power of Council as to existing buildings.

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

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

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

Overcrowding of houses

122. Whenever it appears to the Town Council of any town that any house within the town is so overcrowded as to be dangerous or prejudicial to the health of the occupiers thereof, or of the neighbourhood, and the occupiers consist of more than one family, the Council shall cause proceedings to be taken before the Magistrate's Court having jurisdiction to abate such

overcrowding, and the court shall thereupon make such order as it may think fit; and each of the persons permitting such overcrowding shall be guilty of an offence punishable with a fine not exceeding ten rupees for each day after the date of such order during which such overcrowding shall continue.

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

Power of Council to inspect buildings.

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

Houses or huts not to be built or roofed with inflammable material.

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

(3) If any house, hut, shed, or other building of the description referred to in subsection (1) is built without the permission required by that subsection, the Chairman shall give notice to the owner

thereof, or of the ground upon which such building is erected or constructed, or is being erected or constructed, by affixing a notice to some conspicuous part of such house, hut, shed, or other building, to take down and remove the building forthwith or within such time as the Chairman may specify in the notice.

(4) If any house, hut, shed, or other building is not taken down and removed forthwith or within the time specified in any notice under subsection (3), the Chairman shall cause the building to be taken down and removed, and the expenses incurred by the Chairman in doing so shall be paid by the owner of the building or of the ground upon which it is built, and shall be recoverable as hereinafter provided.

NUISANCES

Inspection of nuisances-

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

Power to fill up unwholesome tanks on private premises.

126. (1) Where in any town for which a Town Council is constituted, any private tank or low marshy ground or any waste or stagnant water, situated on any private land, appears to the Council to be injurious to health or to be offensive to the neighbourhood, the Council shall, by notice in writing require the owner of that land to cleanse or fill up such tank or marshy ground, or to drain off or remove such waste or stagnant water.

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

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

127. (1) No place in any town, other than a place provided by the Town Council of that town, shall be used as a slaughterhouse, unless a licence for the use thereof as a slaughterhouse has been obtained from the Chairman of the Council, who is hereby empowered at his discretion, from time to time, to grant such licence, and such licence to suspend or revoke as to him may seem necessary.

Licensing of slaughter-houses.

(2) Every person who uses as a slaughterhouse any place (other than a place provided by the Town Council) which is not licensed under subsection (1), or in respect of which any licence given has been suspended or revoked, shall be guilty of an offence punishable with a fine not exceeding two hundred rupees and with a further fine not exceeding fifty rupees for every day during which such offence is continued after notice has been served upon him by the Chairman requiring him to discontinue the use of such slaughterhouse.

PART V

PUBLIC UTILITY SERVICES

128. The Town Council of a town may, for the purpose of any place or area within the town, either independently or in conjunction with any other local authority, and either directly (with or without the assistance of Government) or through any promoter or body of promoters, establish and maintain for the benefit of the persons inhabiting or resorting to such place or area any of the following public utility services:—

Power of Town Council to establish and maintain public utility services.

- (a) water supply;
- (b) the lighting of streets, public places, and public buildings;
- (c) the supply of electric light or power;

- (d) markets;
- (e) public baths and bathing-places;
- (f) the manufacture and supply at cost price of squatting plates for latrines;
- (g) the provision of housing accommodation for the poorer classes;
- (h) any other form of public service which the Council is authorized to establish, maintain, or provide under any other provision of this Ordinance, or under any other written law;
- (i) any other form of public service not specified above, subject to such prohibition or restriction of the establishment and maintenance of that service as may be imposed by any other law.

- (d) charge such fees as it may deem reasonable to persons deriving benefit from such service ; or
- (e) where any such public service is established or maintained through any promoter or body of promoters in pursuance of any agreement made with the Council or under any licence issued by the Council, authorize such promoter or promoters to charge such fees as may be approved by the Council to persons deriving benefit from such service.
- (2) It shall be lawful for the Minister to authorize the waiver of the whole or any part of the special rate imposed by the Council under subsection (1) (b) in any year and any costs incurred for the purpose of recovering that rate where—

- (a) he is of the opinion that such rate has been imposed without the provision of adequate services ; or
- (b) he determines, with the approval of the Government, that such waiver is just and equitable in all the circumstances of the case-

- (3) Where the Minister has under subsection (2) authorized the waiver of the whole or part of any special rate imposed and any costs incurred for the purpose of recovering that rate, the Council shall—

129. (I) For the purpose of the establishment or maintenance of any public utility service which a Town Council is authorized to establish or maintain under this Part, the Council may—

- (a) provide for any expenses involved out of the revenue of the Council; or
- (b) subject to the sanction of the Minister, impose and levy upon the area benefited by such service, in addition to any rate imposed and levied under section 159, a special rate not exceeding six *per centum* of the annual value of all immovable property situated within such area, subject to such limits and exemptions as may be prescribed by by-laws; or
- (c) contract with the owners or occupiers of premises benefited by such service for the supply of the service, and charge and enforce such rates in respect of such service as may be prescribed by by-laws under this Ordinance ; or

- (a) where such special rate has been paid, set off such amount of the rate and any costs incurred, against future rates due on the property in respect of which such rate has been paid; or
- (b) where such special rate has not been paid, waive the amount of such rate and any costs incurred.

No person shall have a right to a refund of such amount.

130. The Town Council of any town may, subject to the consent of the local authority of any area adjacent to the town, contract with the owners or occupiers of any premises situated in any such adjacent area

Manner of defraying expenses of public utility services.

[§ 6, 57 of 1979.]

[§ 6, 57 of 1979.]

Supply to premises in adjacent area

for the supply of any public utility service to such premises, and may charge and enforce rates in respect of such supply.

General power; of Council.

131. For the purposes of the establishment or maintenance of any public utility service which it is authorized to establish or maintain under this Ordinance, any Town Council may enter into any contract, and may, subject to the provisions of this Ordinance, purchase, take upon lease, hire, construct, or maintain all premises, machinery, and apparatus required for such purposes, and do and execute all such works, matters, and things as may be necessary in that behalf.

WATER SUPPLY

Ratepayer entitled to free watersupply from public stand-pipes for domestic purposes.

132. Where the Town Council of a town establishes or maintains a public water supply for the benefit of the inhabitants of any area within the town, the owner or occupier of any premises in such area in respect of which the Council levies a special water-rate for the purposes of such water supply, shall be entitled to have free of further charge a supply of water from the public stand-pipes for the domestic purposes of himself and his household or of his tenants or other persons occupying the said premises.

Meaning of " domestic purposes ".

133. A supply of water for domestic purposes shall not include a supply of water for horses, or cattle, or for washing vehicles, where such horses, cattle or vehicles are kept for sale or hire, or a supply for any trade, manufacture, or business, or for fountains or swimming baths, or for any ornamental or mechanical purpose, or for purposes of irrigation.

Contract for private service.

134. A Town Council may supply water for other than domestic purposes, or allow a private service of water to any premises for domestic purposes, in such quantities and upon such terms and conditions as may be agreed upon between the Council and the persons desirous of being so supplied, or as may be prescribed by by-laws in that behalf.

MARKETS

Duty of Council as to marketi.

135. It shall be the duty of the Town Council of each town—

- (a) to establish and maintain within the town all such public markets as are

required for the service of the inhabitants, and to secure the proper scavenging, washing, disinfecting, and conservancy of all such markets;

- (b) to regulate, supervise, and control all private markets within the town which are licensed under this Ordinance.

136. No new private market shall be established within any town for which a Town Council has been constituted, except under and in accordance with the conditions of a licence issued by the Chairman of the Council.

Licensing of new private, markets.

137. (1) After the expiration of a period of six months from the date of the constitution of a Town Council for any town, no private market in existence at that date within that town shall continue to be maintained except under and in accordance with the conditions of a licence issued by the Chairman of the Council.

Licensing of existing private markets.

(2) Every application for a licence for an existing private market shall—

- (a) be substantially in form A set out in the First Schedule, and be accompanied by the declaration, for which provision is made in that form, and by such plans and specifications as may be prescribed by the by-laws of the Council for the time being in force, or, in the absence of any such by-law, as may be required by the Chairman; and

- (b) be made under the hand of the owner of the private market within a period of three months from the date of the constitution of the Council.

(3) Every declaration required by subsection (1) shall be conclusive evidence, as against the owner by whom it is made, With respect to all particulars therein contained in all questions that may arise as to assessment of annual value, fees for licences, compensation, or acquisition.

Licence to be annual and subject to stamp duty.

138 (1) Every licence issued for a private market by a Town Council shall be substantially in the form B set out in the First Schedule and shall be subject to the provisions of this Ordinance, to the by-laws of the Council for the time being in force, and to such special conditions, not inconsistent with such by-laws, as the Chairman may deem it necessary to impose in the circumstances of each case.

(2) Every licence for a private market shall expire on the thirty-first day of December of the year for which it is granted.

(3) Every licence for a private market shall be renewable annually, and on the occasion of the issue and of every renewal of such licence, there shall be paid to the Council a licence duty of such amount as may be imposed under section 161.

New private markets to conform to prescribed standards.

139. No licence shall be granted for any new private market, unless such market conforms to the standards prescribed in the Second Schedule, subject to such modifications or additions as may be prescribed by by-laws under this Ordinance.

Cleansing and scavenging of markets.

140. No licence for a private market shall be issued until the Chairman is satisfied that the owner has made satisfactory provision for the scavenging, washing, disinfecting, and conservancy of the market premises.

New private markets to acquire no vested interests.

141. Every licence granted under this Ordinance for any new private market shall be upon the condition that should the Council at any time decide that it is in the public interest to establish a public market in place of such private market, the Chairman of the Council may refuse to renew the licence of such private market, and that the owner of such private market shall not be entitled to any compensation in respect of such refusal.

Power of Chairman to refuse new licence.

142. The Chairman of a Town Council may refuse to issue a licence for any new private market, or to issue or renew any licence in respect of any private market established within one year prior to the date of the constitution of the Council, if he is satisfied that the wants of the locality are

sufficiently provided for by the public and the private markets already in existence or in contemplation.

143. The Chairman of a Town Council may refuse to license or to renew the licence for any private market existing at the date of the constitution of the Council (not being a market established within one year prior to such date) without the payment of compensation in the following cases, that is to say:—

Refusal of licences to existing private markets.

(a) where such market does not conform to the standards prescribed in the Second Schedule, and its owner or occupier neglects or refuses, within such reasonable time as may be fixed by the Chairman, to carry out such alterations, additions, or improvements as are, in the opinion of the Chairman, necessary to bring such market into conformity with the aforesaid standards, subject to such modifications, if any, of those standards as in the circumstances of the case the Town Council may sanction;

(b) where the Town Council is satisfied that owing to the inherent defects of such market or for any other reason such market cannot be so improved as to bring it into conformity with the aforesaid standards or such modification of those standards as the Council may be prepared to sanction;

(c) where the Town Council is satisfied with regard to any private market that owing to its position or for any other reason such market is objectionable from the point of view of sanitation or of the safety or convenience of the public:

Provided that any person aggrieved by any decision of the Chairman or the Town Council under this section may appeal to the Minister; and upon such appeal the Minister may confirm the decision of the Chairman or Town Council, or may order the issue of a licence, subject to the market being brought into conformity with such modification of the aforesaid standards as

the Minister in the circumstances of the case may deem to be reasonable and consistent with the public interest, or may make such other order as the Minister may deem just.

Special provisions will regard to markets established over thirty years.

144. (1) In the case of any market which is of the description referred to in paragraph (b) or paragraph (c) of section 143 and which is proved to the satisfaction of the Town Council to have been carried on for a period of over thirty years prior to the date of the constitution of the Council, the Council may in its discretion, and shall if so directed by the Minister, proceed as follows;—

- (a) the Council may provide in any local public market already established or to be established under this Ordinance, satisfactory accommodation for the business hitherto carried on in such private market, and may thereupon direct the owner or occupier of such private market to close that market and transfer its business to the new accommodation so provided ; and
- (b) if the directions given by the Council under paragraph (a) are complied with, the Council may grant to such owner or occupier a lease of such accommodation for a period not exceeding fifty years, subject to the condition that such owner or occupier and his successors, executors, administrators, or assigns observe the by-taws of the Council for the time being in force and the conditions of the lease, and subject to the payment of the rent therein reserved.

(2) The rent payable under any lease referred to in subsection (1) shall be such reasonable sum as may be determined by the Council, and shall be revised every five years. For the first period of five years such rent shall not exceed ten *per centum* of the cost of providing such accommodation, and in the case of every subsequent period of five years, it shall not exceed ten *per centum* of the average net annual profits derived from the accommodation leased for the previous five years.

(3) If any dispute arises as to the amount of such annual profits, the question shall be determined by the Chairman, subject to an appeal to the Minister.

(4) Should the rent due under any lease referred to in subsection (1) not be paid in accordance with the terms of the lease, or should the lessee or the person for the time being in control of the accommodation leased persistently fail to comply with the conditions of the lease or with any by-laws made under this Ordinance, the Council may, after affording, by notice in writing, the person entitled to the lease an opportunity of being heard, cancel such lease:

Provided that any person aggrieved by any order of the Council under this subsection may appeal to the Minister, and the Minister upon such appeal shall have power to make such order as he shall deem just.

145. Where any Town Council is unable immediately to make suitable provision for the public requirements in a public market, such Council may, if it appears necessary for the public convenience, allow any existing private market to continue provisionally, although such private market does not conform to the standards prescribed in the Second Schedule or to any authorized modification thereof, and may issue a temporary licence to such private market without prejudice to its rights to proceed at some future date under the provisions of this Ordinance.

Power to license market provisionally.

146. (1) Where a Town Council is satisfied that it is in the public interest that any private market licensed, or qualified to be licensed, under this Ordinance (not being a market to which section 144 applies) should be either—

Compensation for discontinuance of private market,

- (a) discontinued altogether as a market; or
- (b) taken over by the Council as a public market,

the Council may either direct the discontinuance of such market, or may take it over and maintain it as a public market,

subject in either case to the payment of compensation in accordance with the provisions of this section.

(2) Where any market referred to in subsection (1) is discontinued as a market, the compensation payable, unless otherwise settled by agreement, shall be the difference between the value of the premises if used as a market under this Ordinance and the value of the same premises if used, not as a market, but for any other local purposes to which similar premises in the same locality are or might be put to the best advantage, together with an allowance in respect of the cost of adapting the existing market buildings for any such purpose.

(3) Where any market referred to in subsection (1) is taken over by the Town Council to be maintained as a public market, the compensation payable shall be the value of the premises when used as a market under this Ordinance.

(4) In estimating the value of market premises used as a market under this Ordinance, regard shall be had to the depreciation likely to occur in the value of such premises in the event of a public market or a new private market being established in the same neighbourhood.

147. Upon any place, in which any village market has been established under any enactment relating to Village Councils being declared to be a town under this Ordinance, such market shall vest in the Town Council of the town, and shall become subject to this Ordinance.

148 A Town Council may by arrangement with any Village Council transfer to the Village Council the management of any public market administered by the Council under this Ordinance.

149. Where a licence has been granted by a Town Council for a private market under this Ordinance, and the licensee at any time during the currency of such licence fails to conform to the standards and by-laws applicable to private markets under this Ordinance, after his attention has been

directed to such failure by means of a notice in writing served upon him by or under the authority of the Town Council and setting out a period within which such failure must be rectified, it shall be lawful for the Chairman to suspend the licence of such market until the licensee shall have made good the default.

150. Any person who after the expiration of a period of six months from the date of the constitution of a Town Council in any town uses as a private market any premises in that town for which a licence has not been granted under this Ordinance, or the licence for which has been suspended, shall be guilty of an offence, punishable with a fine not exceeding one hundred rupees, and with a further fine of fifty rupees for every day during which such offence shall have been continued after written notice of the suspension of the licence is served upon such person.

151. (1) In any place within a town in which any public market is established under the control of the Town Council of the town, the Council may by by-law made under this Ordinance assign an area to such market (hereinafter referred to as "the market area"), and may prohibit the sale, otherwise than in accordance with licences issued by the Chairman, of meat, poultry, fish, fruit, or vegetables within such area.

(2) In any case referred to in subsection (1) the Chairman may issue a licence for the sale of meat, poultry, fish, fruit, or vegetables, within the market area, at authorized premises other than such market, and may fix and levy such fees in respect of that licence as may be prescribed by by-law.

(3) In any case in which the Town Council is satisfied that sufficient facilities are afforded for the public requirements of the market area by the public market, or by such market together with other premises earlier authorized under subsection (2), the Council may by by-law made under this Ordinance, prohibit the sale of meat, poultry, fish, fruit, or vegetables within the market area, except at such public market, or, if the Council so determines, except at such market and such other authorized premises.

Penalty for keeping unauthorized market.

Market areas.

Vesting of village markets in Town Councils.

Transfer of markets.

Power to suspend licence of private markets.

(4) In any case referred to in subsection (3), the Council may by by-law direct that no licence, or no further licence (as the case may be), shall be issued for the sale of meat, poultry, fish, fruit, or vegetables within the market area, and if the Council determines that no such licence shall be issued, it may (on providing adequate accommodation for the purpose in the public market) require that any person carrying on the sale of any of the said articles within the market area at premises other than the public market shall transfer such sale to the public market.

(5) Nothing in this section shall be deemed to authorize a Town Council by by-law or otherwise to restrict the sale of poultry, fruit, or vegetables by itinerant vendors who do not sell at fixed places, or do not for the purposes of such sale establish themselves on the public roads or other public places.

PART VI

BY-LAWS

Power of Council to make by-laws.

152. (1) Every Town Council shall have power to make, from time to time, such by-laws, not inconsistent with the provisions of this Ordinance, as may be authorized or required by this Ordinance, or may appear to the Council to be necessary for the purposes of the exercise of its powers and the discharge of its duties under this Ordinance, and to amend, vary or rescind any by-law so made.

(2) A by-law made by any Town Council may provide the penalty of a fine for any contravention thereof, such fine not exceeding fifty rupees for any one act or omission constituting such contravention, and in the case of a continuing contravention, an additional fine not exceeding twenty-five rupees for every day during which the contravention is continued after a conviction thereof by a court of competent jurisdiction or after service of a written notice from the Chairman or other authorized officer directing attention to such contravention.

Approval and publication of by-laws.

153. (1) No by-law, and no amendment, variation or rescission of any by-law under this Ordinance shall have effect until it has been approved by the Minister, and notification of such approval is published in the Gazette.

(2) Every by-law made under this Ordinance shall be published in the Gazette with the notification required by subsection (1) and upon such publication, every such by-law purporting so to be made shall, subject to the provisions of section 155, be as valid and effectual as if it had been enacted in this Ordinance, and every contravention thereof shall be an offence under this Ordinance.

Supply of copies of by-laws.

154. Copies of all by-laws made and published under this Ordinance in the Sinhala and Tamil languages shall be kept at the office of the Town Council of the town to which they relate and at the office of the Commissioner, and shall be open for inspection and be available for sale to the public,

By-laws to be subject to disallowance or amendment.

155. Every by-law made under this Ordinance shall, as soon as conveniently may be after the publication thereof under section 153, be brought before Parliament by a motion that such by-law be not disallowed, and may, by resolution of Parliament, be rescinded or amended. Notification of the rescission or amendment of a by-law by Parliament shall be published forthwith in the Gazette; and such rescission or amendment shall take effect from the date of such publication but without prejudice to anything that may have been done or any proceedings that may have been instituted under that by-law prior to that date.

Subjects of by-laws.

156. The power of any Town Council to make by-laws under this Part shall, without prejudice to the generality of the power thereby conferred, include power to make by-laws for or with respect to all or any of the following purposes, namely :—

- (1) Procedure, including—
 - (a) the regulation of the meetings of the Council, and of his committees;

- (b) the form in which estimates, budgets, statements, and returns incidental to the business of the Council shall be drawn up;
- (c) the form in which the accounts of the Council shall be kept.
- (2) Officers, including—
 - (a) the creation of offices, the appointment of officers and servants, the payment of salaries, allowances or other remuneration, the payment of contributions to any scheme established for the purpose of granting relief or assistance to officers or servants in cases of illness, distress or indebtedness, the provision of pensions and gratuities, and the granting of leave of absence to such officers and servants, and the provision of pensions and gratuities to the widows, children, next of kin or dependants of deceased officers or servants;
 - (b) the due performance of their several duties by all officers and servants.
- (3) Taxation, including the recovery of any tax, payable under this Ordinance, for which no other express provision is made, and the rendering of all returns and information that may be required for the purposes of any such tax.
- (4) Loans, including—
 - (a) the form and manner of execution of securities;
 - (b) the arrangements for liquidation;
 - (c) the mode and order of repayment of loans or discharge or redemption of securities;
- (d) the conditions of any loan and the appropriation of the sums borrowed.
- *(5) The imposition, levy and recovery of rates and charges, including—
 - (a) the assessment of buildings, lands, and tenements;
 - (b) the rendering of returns and information required for the purpose of such assessment;
 - (c) the hearing and determination of objections;
 - (d) the registration at the office of the Council of mortgages over immovable property situated within the administrative limits of the Council and of the addresses of mortgagees, and the imposition and recovery of fees for such registration;
 - (e) the posting of notices in writing to such registered mortgagees of the sale of immovable property seized for the recovery of rates, taxes, or charges.
- (6) Land and property, including—
 - (a) the provision, regulation, and management of open spaces, and places for public recreation;
 - (b) the care of waste or public land;
 - (c) the maintenance and management of immovable property vested in, or under the control of the Town

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

- Council, the regulation of the removal of sand, gravel, stones, cabook, or other matter from such property, and the charging of fees for any permits issued in that connexion;
- (d) the care, regulation, and provision of common pasture grounds, and the levy of fees for the use of the same ;
 - (e) the putting up and preservation of boundaries and of fences of lands, whether private or public;
 - (f) the authorization of entry upon private lands for the purpose of the prevention of damage to, or the repairing or remedying of defects in, any wires, pipes, fixtures or apparatus or the supports thereof maintained for the purpose of any public service.
- (7) Thoroughfares, including—
- (a) the alignment, level, width, and construction of new streets;
 - (b) the cleaning, watering, and lighting of streets;
 - (c) the use of, and the regulation of traffic in, streets and thoroughfares, including the limitation of the weight and speed of vehicles, and the prevention or restriction of the use of vehicles upon any bridge, road, or street, or in any place where such use may be attended with danger to the public, or may be likely to damage such bridge, road, or street;
 - (d) the regulation of processions and assemblages and of the performance of music in thoroughfares;
- (e) the prevention, abatement, supervision, and regulation of obstructions, encroachments, projections, and other interferences with thoroughfares;
 - (f) the erection of hoardings and other temporary structures, and the charging of fees for any permits issued in that connexion;
 - (g) the protection of the public against dangers resulting from building and other operations in or about thoroughfares.
- (8) Buildings, building operations, and works, including—
- (a) the regulation of the material of such buildings with a view to securing stability, preventing fires and safeguarding health;
 - (b) the space to be left about any building or block of buildings to secure free circulation of air and to facilitate scavenging;
 - (c) the dimensions of doors and windows, the level of the floor, the height of the roof, general ventilation, and drainage;
 - (d) the number and nature of latrines;
 - (e) the foundation and stability of structure;
 - (f) the line of building frontage.
- (9) Public health and amenities, including—
- (a) drainage;
 - (b) conservancy and scavenging, and the charging of fees for the same;

- (c) the inspection, regulation, maintenance and cleansing of all drains, privies, cesspits, ash-pits, and sanitary conveniences and appliances;
- (d) the regulation and management of public sanitary conveniences;
- (e) the regulation, supervision, inspection, and control of lodging-houses and tenement buildings;
- (f) the abatement of nuisances ;
- (g) the seizure, forfeiture, removal and destruction of unwholesome articles of food and drink, and the prevention of the sale or exposure for sale thereof;
- (h) the regulation, supervision, inspection, and control of hotels, bakeries, eating-houses, restaurants, and tea and coffee boutiques;
- (i) the regulation, supervision, inspection and control of hairdressing saloons and barbers' shops;
- (j) the regulation, supervision, inspection, and control of dairies, and the sale of milk;
- (k) the definition of the prescribed standard of milk that may be sold, and the prevention of the sale of milk below the prescribed standard;
- (l) in the case of any sample of milk, cream, butter or cheese, the determination of—
 - (i) the deficiency in any of the normal constituents of genuine milk (including condensed and curdled milk), cream, butter, or cheese, or
 - (ii) the proportion of water or other extraneous matter discovered in any such sample, which shall, for the purposes of any enactment, or by-law for the time being in force, raise a presumption until the contrary is proved that the milk, cream, butter, or cheese from which such sample was taken is not genuine or pure or is injurious to health;
- (m) the regulation, supervision, inspection and control of the sale of articles of food or drink including the sale of such articles by itinerant vendors and at hotels, shops and places other than markets;
- (n) the regulation, supervision, inspection, and control of trades deemed to be offensive or dangerous by the Town Council;
- (o) the regulation of the dimensions and use of kraals in public lakes, rivers, lagoons, and estuaries for soaking coir husks, and the charging of fees for permits for the use of such kraals;
- (p) the regulation, supervision, inspection, and control of wells on private lands ;
- (q) the regulation, supervision, inspection, and control of breweries, ice factories and aerated water manufactories;
- (r) the compelling of owners and occupiers in urban areas to keep their lands free of undergrowth and rubbish, and their dwelling compounds in a clean and sanitary condition;

- (s) the prevention of malaria and the destruction of mosquitoes and disease-bearing insects;
 - (t) the draining, cleansing, covering, or filling up of ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature or likely to be prejudicial to health ;
 - (u) the cleansing, purifying, ventilating, and disinfecting of houses, dwellings, and places of assembly or worship by the owners or occupiers or persons having the care or control thereof;
 - (v) the prevention or mitigation of epidemic, endemic, or contagious diseases, and the speedy interment of the dead during the prevalence of such diseases;
 - (w) washing and bathing, including the establishment, maintenance, and regulation of public bathing-places and places for washing animals and clothes;
 - (x) all such other purposes, not specially provided for by this Ordinance, as may be necessary for the preservation or promotion of the public health and the suppression of nuisances.
- (10) Animals, including—
- (a) the regulation, supervision, inspection, and control of slaughterhouses, and the levy and recovery of fees for the use thereof;
 - (b) the housing and penning of cattle, horses, sheep, goats, and pigs;
 - (c) stray cattle, sheep, goats, and pigs, and the fixing, levying and recovery of charges for the occupation of pounds, and the cost of the keep of the animals impounded;
 - (d) the control of epidemic diseases among animals, the maintenance and regulation of quarantine stations for animals, and the levying of fees for the occupation of such stations;
 - (e) the protection and preservation of game and wild birds ;
 - (f) the destruction of stray dogs ;
 - (g) the prevention of cruelty to animals (including the restriction of the exposure for sale of live animals in any manner likely to cause unnecessary pain or suffering);
 - (h) the regulation and supervision of cattle sheds, *galas*, and halting places, and the control of the location thereof.
- (11) Markets and fairs, public and private, including—
- (a) their establishment, maintenance, and improvement;
 - (b) their regulation, supervision, inspection, and control, including the regulation of the prices of articles sold therein ;
 - (c) their conservancy and scavenging, and prevention of nuisances in connexion with them;
 - (d) the control of traffic, and the preservation of order within them and in their immediate vicinity;

- (e) the provision, inspection, and control of latrines, bathing-places, slaughterhouses, water supply and lighting in markets;
 - (f) the allotment of stalls and stands;
 - (g) the inspection of food and the seizure of unwholesome articles of food;
 - (h) the prohibition of the introduction or sale of any article or articles of food in cases where there exists good reason for such prohibition;
 - (i) the prohibition, either absolutely or subject to special licences, of the sale of any specified article, and the charging of fees for such special licences;
 - (j) the provision of security against fires;
 - (k) the temporary closing of any market or fair;
 - (l) the due performance of their duties by market keepers and other employees;
 - (m) in the case of public markets, the fixing and recovery of fees or rents for the use of the market premises or any part thereof, and of the buildings and bathing-places connected therewith, and for the leasing of the right to collect any such fees or rents;
 - (n) in the case of public markets, the declaration of a market area, and the licensing, restriction, or prohibition of sales within such area in accordance with section 151 ;
 - (o) in the case of private markets or of fairs, the licensing of such markets or fairs, the conditions of the licence, and the fees payable in respect thereof;
 - (p) in the case of private markets or of fairs, the standards to be observed in respect of accommodation, drainage, roads, air spaces, equipment, and sanitary requirements;
 - (q) in the case of private markets or of fairs, the renovation, alteration, enlargement, and improvement of existing buildings, and the erection of all new buildings in accordance with approved plans and after notice to the Town Council.
- (12) Waterworks, including-
- (a) the prevention of waste, misuse, undue consumption, or contamination of the water supplied for public or private use;
 - (b) the size, nature, strength, and materials, and the mode of arrangement, position, alteration, removal, renewal, and repair of the pipes, valves, cocks, cisterns, soil pans, water-closets, and other apparatus and receptacles to be used respectively for carrying, delivering, regulating, and storing water ;
 - (c) the regulation of the public supply of water by stand-pipes, and the use of the same;
 - (d) the regulation of the supply of water by private services, and the materials and fittings to be used;
 - (e) the regulation of the supply of water by measurement, and the materials, meters, appliances, and fittings used for such a purpose or in connection therewith;

- (f) the regulation of the terms and conditions subject to which water will be supplied by private services or for other than domestic purposes, and the price to be paid for water so supplied;
 - (g) the recovery of charges due in respect of any water so supplied in the same manner as a fine; and
 - (A) every other purpose, relating to the supply or the control of the supply of water from the waterworks, for which by-laws may appear to be necessary.
- (13) Public services, including all matters necessary for their establishment, maintenance, working, and supply, and for the recovery of charges in connexion therewith.
 - (14) The measure or dimension of bread, and the regulation of its manufacture and quality.
 - (15) The regulation of weights and measures.
 - (16) The regulation and control of advertisements displayed or exhibited so as to be visible from any thoroughfare and the charging of fees in respect of advertisements so displayed or exhibited.
 - (17) All other purposes, whether of the same nature as those above enumerated or otherwise, for which by-laws may be necessary for the protection or promotion of the local public interests, conveniences, and amenities.
- (2) There shall be payable into the local fund—
 - (a) the fines and penalties enumerated in the Fourth Schedule;
 - (b) the amount of all stamp duties enumerated in the Fifth Schedule;
 - (c) subject to any special appropriation made by the Minister, all grants allocated to the Council by the Minister;
 - (d) all rates, taxes, duties, fees, and other charges levied under the authority of this Ordinance ;
 - (e) all sums realized by sales, leases, or other transactions of the Council;
 - (f) all revenue derived by the Council from any property vested in the Council, or by the administration of any public service;
 - (g) all sums derived from any source of revenue made over to any local authority to which the Council is the successor in pursuance or in supposed pursuance of any repealed enactment;
 - (h) all sums and all sources of revenue, from time to time, appropriated or made over to the Council by Parliament, whether by resolution or otherwise;
 - (i) all sums otherwise accruing to the Council in the course of the exercise of its powers and duties.
 - (3) All moneys received by a Town Council and payable into the local fund shall be deposited at the nearest kachcheri or placed to the credit of an account bearing the name of that fund at an approved bank.

PART VII

FINANCE

LOCAL FUND

157. (I) Every Town Council for its general financial purposes shall establish a local fund.

In this subsection " approved bank " means a bank specified by the Minister by Order published in the Gazette as a bank in which the moneys of any Municipal Council, Urban Council or Town Council may be deposited.

Local fund and its constituents.

(4) Such part of the local fund as may not be immediately required for the purposes of the Council may be invested on any of the securities specified in section 20 of the Trusts Ordinance.

Application of local fund.

158. (I) There shall be paid out of the local fund established by each Town Council—

[§ 23, 48 of 1971.]

(a) all expenses incurred by the Council or by the secretary or by any other officer of the Council in the exercise of its or his powers and the discharge of its or his functions and duties under this Ordinance or any other enactment or any by-law or rule made thereunder; and

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

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

(d) all sums received by the Council, which the Council is authorized or required by any written law to refund to the persons by whom they were paid; and

[§ 3, 14 of 1958.]

(e) such expenses not exceeding in the aggregate one thousand rupees in any year as may be incurred by the Council, and such other expenses as may be incurred by the Council with the prior sanction in writing of the Minister, in connection with civic receptions or the celebration or observance of any events or occasions of public interest, or any religious, charitable, cultural, health, recreational or educational purposes;

[§ 3, 14 of 1958.]

(f) such contributions not exceeding in the aggregate one thousand rupees in any year as may be voted by the

Council, and such other contributions as may be voted by the Council with the prior sanction in writing of the Minister, towards the cost of public entertainments or recreations, or towards the support of any libraries, or any educational, scientific, charitable or benevolent institutions, or any religious, charitable, cultural, health or educational purposes; and

(ff) all allowances payable to the Chairman, Vice-Chairman and members in accordance with rules made under section 192. [§ 151, Law 24 of 1977.]

(g) all sums voted by the Council to meet the travelling expenses of members or officers of the Council attending any meeting or conference of members or officers of Town Councils for the consideration of matters relating to local administration.

(2) All cheques or orders for payment of moneys out of the local fund shall be signed and issued in such manner as may be prescribed by rules made under section 192.

158A. (I) A Town Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant out of the local fund established by that Council, to any person—

Ex gratia payment of pension, annuity, gratuity or retiring allowance. [§ 3, 7 of 1959.]

(a) who retires or has retired from service as an officer or servant of that Council, or

(b) who is or was transferred from such service to, and retires or has retired from, the service of the Government,

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

(2) Where no pension, annuity, or gratuity, or no adequate pension, annuity, or gratuity is payable to the widow, children, next of kin or dependants of any deceased officer or servant of a Town Council under any by-taws or rules of that Council or under any scheme or fund established or deemed to be established under the Local Government Service Law, that Council may, with the approval of the Minister given after consultation with the Minister in charge of the subject of Public Administration, grant to such widow, children, next of kin or dependants a pension, an annuity or a gratuity out of the local fund established by that Council.

(3) Nothing in subsection (1) or subsection (2) of this section shall be construed to confer on any person any right to any pension, annuity, gratuity or retiring allowance under either of those subsections.

Power to establish gratuity scheme. [§ 3, 7 of 1959.]

158B. (1) A Town Council may, with the approval of the Minister given with the concurrence of the Minister in charge of the subject of Public Administration, make by-laws providing for the establishment of, and may establish in accordance with such by-laws, a scheme for the payment of gratuities to temporary officers and servants of that Council upon their discontinuance from the service of that Council.

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

IMPOSITION OF RATES AND TAXES

Power to impose and levy rates.

***159.** (1) The Town Council of a town may, subject to such limitations, qualifications, and conditions as may be prescribed by the Council, and subject to the approval of the Minister, impose and levy a rate not exceeding nine *per centum* of the annual value of any immovable property, or any species of immovable property, situated within the town.

(IA) The Town Council of a town may, in pursuance of its powers under subsection (1), impose and levy different rates for different immovable properties or different species of immovable property according to the services provided by the Council for each such immovable property or species of immovable property. Such imposition of different rates shall be subject to all the limitations, qualifications and conditions referred to in that subsection, and also to the approval of the Minister. [§3,8 of 1967.]

(IB) It shall be lawful for the Minister to authorize the waiver of the whole or any part of the rate imposed by the Council under this section in any past year and any costs incurred for the purpose of recovering that rate where— [§ 7, 57 of 1979.]

- (a) he is of the opinion that such rate has been imposed without the provision of adequate services; or
- (b) he determines, with the approval of the Government, that such waiver is just and equitable in all the circumstances of the case.

(1 C) Where the Minister has under subsection (IB) authorized the waiver of the whole or part of any rate imposed, and any costs incurred for the purpose of recovering that rate, the Council shall— [§ 7,57 of 1979.]

- (a) where such rate has been paid, set off such amount of the rate and any costs incurred, against future rates due on the property in respect of which such rate has been paid ; or
- (b) where such rate has not been paid, waive the amount of such rate and any costs incurred.

No person shall have a right to a refund of such amount.

(2) Where the Council, in imposing any rate for any year, resolves to levy without alteration the same rate as was in force during the preceding year, the approval of the Minister shall not be required for the imposition and levy of such rate.

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

Exemption from rates.

***160.** There shall be exempt from any rate imposed under section 159—

- (a) all lands or buildings wholly or mainly used for religious, educational, or charitable purposes;
- (b) all buildings in charge of military sentries;
- (c) all burial and cremation grounds ;
- (d) any immovable property which the Council may specially exempt from such rate on the ground of the poverty of the owner.

(b) the authorized number of horses belonging to military officers doing staff, regimental, or other public duty within the town ; or

(c) vehicles kept for sale by bona fide dealers in such vehicles and not used for any other purpose ; or

(d) vehicles subject to a licence duty under section 3 of the Vehicles Ordinance, or to a tax under any enactment for the time being in force relating to motor vehicles.

(3) The tax on vehicles and animals shall be payable annually in advance on such date as may be ordered by the Council or prescribed by by-laws-

(4) The tax on vehicles and animals shall be payable by each person in whose possession or custody or control any vehicle or animal liable to the tax may be found so soon as it has been for thirty days used or kept for use within the administrative limits of the town, but no person shall be liable under this section in respect of any vehicle or animal which has been in his possession for less than thirty days.

(5) No person by reason of the transfer of ownership shall be liable to pay tax on any vehicle or animal on which the tax has already been paid for the year in which the ownership was transferred.

(6) The Chairman may, in respect of any period not exceeding one year at any one time, accept from any livery stable keeper or other person keeping or using animals for hire such sum as may be determined by the Chairman, in composition of the tax payable in accordance with the Third Schedule on the vehicles or animals kept in such stable or by such person.

(7) Where any vehicle or animal liable to any tax under this Ordinance is used or to be used within the administrative limits of more than one town, such vehicle or animal shall only be liable to one such tax in respect of the town within which it is principally used or to be used, and if any

Power of Council to impose taxes and licence duties.

161. (1) The Town Council of a town may, subject to such limitations, qualifications, and conditions as may be prescribed by the Council, impose and levy any of the following taxes and licence duties within the town :—

- (a) a tax on vehicles and animals;
- (b) a duty in respect of licences issued by the Council; and
- (c) any other form of tax approved by the Minister.

(2) Where the Council, in imposing any tax under this section for any year, resolves to levy without alteration the same tax as was in force during the preceding year, the approval of the Minister shall not be required for the imposition and levy of such tax.

Vehicles and animals tax.

162. (1) The tax on vehicles and animals which a Town Council is authorized to impose by section 161 shall be an annual tax in respect of all or any of the vehicles and animals specified in the Third Schedule, and ordinarily used or to be used within the town for which the Council is constituted, and shall not exceed the respective amounts specified in that Schedule.

(2) The tax on vehicles and animals shall not be leviable or payable in respect of—

- (a) any vehicle or animal which is the property of the State or of the Council; or

* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

question arises as to the administrative limits within which any vehicle or animal liable to any such tax is principally used or to be used, the question shall be determined by the Commissioner.

(8) Where any vehicle or animal is ordinarily liable to both the tax imposed under section 161 of this Ordinance, and the tax imposed under section 245 of the Municipal Councils Ordinance, or section 162 of the Urban Councils Ordinance, such vehicle or animal shall be liable to only one such tax which shall be payable—

- (a) where the vehicle or animal is kept within the administrative limits of a Town Council or a Municipal Council or an Urban Council, to such Town Council or Municipal Council or Urban Council, as the case may be ; or
- (b) where the vehicle or animal is not kept within the administrative limits of a Town Council or a Municipal Council or an Urban Council, to the Town Council or Municipal Council or Urban Council within whose administrative limits it is principally used.

(9) If any person liable to pay the tax leviable under this section fails to pay such tax within seven days after demand, the secretary of the Council shall report the failure to the Magistrate's Court,* and the court shall proceed to recover the amount due as if it were a fine imposed by the court and shall pay the amount so recovered into the local fund.

[§ 24,48 of 1971.

Licence duty.

163. (1) The licence duty which a Town Council is authorized to impose by section 161 shall be in respect of each licence granted by the Council authorizing the use of any premises or place for any special purpose in pursuance of this Ordinance or any by-law made thereunder.

(2) The amount of the licence duty shall be such as may, from time to time, be determined by the Council:

Provided that no such duty shall exceed the sum of two hundred and fifty rupees per annum.

164. Any tax imposed under section 161 other than the tax on vehicles and animals shall be of such amount, and subject to such conditions as may be prescribed by by-laws made under this Ordinance.

By-laws relating to taxes.

ASSESSMENT AND RECOVERY OF RATES AND TAXES

†**165.** The assessment of any immovable property for the purpose of any rate under this Ordinance shall, with the necessary modifications, be made in manner prescribed by section 235 of the Municipal Councils Ordinance, with respect to immovable property within Municipal limits, and all the provisions of the said section, together with those of sections 233, 242, 243 and 236 to 241, shall, with the necessary modifications, apply with respect to every such assessment made for the purposes of this Ordinance :

Assessment of rates and taxes.

Provided that, pending the making of any such assessment, any valuation of any immovable property made for the purposes of the assessment tax under the Police Ordinance, or any enactment passed in amendment thereof, shall be deemed to be the valuation of such property for the purpose of any rate on the annual value thereof under this Ordinance.

‡**166.** (1) For the purpose of the ascertainment of any information which, in the opinion of the Chairman of a Town Council, may be necessary for the due imposition or levy of any rate or tax within the town for which the Town Council is constituted, the Chairman may, by notice in writing, require all persons who are liable or may be supposed to be liable to such rate or tax, or who may be the owners or occupier;

Power of Chairman to require returns.

* Vide section 32 of the Judicature Act.

† Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof.

‡ Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance. See section 76 thereof.

or supposed owners or occupiers of any property with respect to which any rate or tax is imposed or may be imposed under this Ordinance, or if the Chairman shall so think fit, every householder within the town, to render all such returns, and make all such declarations of such particulars and in such form as may be prescribed by by-laws under this Ordinance, or, pending the making of such by-laws, as may be directed by the Council.

(2) All persons on whom any notice under subsection (1) may be served shall fill up in writing, sign, date, and deliver or transmit to the office of the Council any form served with such notice, or furnish any information required thereby, within fourteen days, or such longer time as may be prescribed by by-laws or specified in such notice.

(3) Any person who refuses to accept or who refuses, neglects, or omits duly to fill up and deliver or transmit any form or to furnish any information referred to in subsection (2) within the time prescribed or specified in that behalf, or who negligently renders a return or furnishes any information which is in any material respect inaccurate to the advantage of such person, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees.

Power of Chairman to summon persons before him.

***167.** (1) The Chairman of a Town Council may, by notice in writing, summon before him, or before any officer appointed by him in that behalf, any person whom he has reason to believe to be liable to the payment of any rate or tax, or who may be the owner or supposed owner of any property with respect to which any rate or tax is imposed or may be imposed under this Ordinance, or any other person whom he has reason to believe to be able to give any information with respect to any such property, and the Chairman or the officers so appointed may thereupon examine any such person on oath with reference to the said liability, and it shall be the duty of every person so examined to answer truly all questions addressed to him.

(2) Any person who, being summoned under this section, fails without lawful excuse to appear or submit to examination in obedience to the summons, shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

(3) Any statement or declaration made by any person under this section or section 166 with reference to the value of any property in which such person is interested, or as to the value of the interest of such person therein, shall be conclusive evidence in any proceeding or matter in which the value of such property or such interest is in question, as against the person making the statement or declaration, that at the date at, or with reference to, which the statement or declaration was made, the said property or the interest of such person in the said property was of the value attributed thereto in such statement or declaration.

***168.** (1) The Chairman of a Town Council, or any officer authorized by him in that behalf, may, for the purpose of ascertaining or verifying any information as to the liability of any person to any rate or tax, at any time between sunrise and sunset enter upon and inspect any premises liable or supposed to be liable to the said rate or tax, or any premises on which any vehicle, animal, or other thing in respect of which any tax is payable is situate, or may be supposed to be situate.

Chairman's powers of inspection.

(2) Any person who, without lawful excuse, obstructs the Chairman or officer appointed for the purpose while acting in pursuance of this section shall be guilty of an offence punishable with a fine not exceeding fifty rupees.

***169.** (1) All rates and taxes imposed and levied by a Town Council under this Ordinance, all rents due in respect of any premises let by a Council, and all fees leviable under any by-law made by a Council, shall, where no other method of recovery is specifically provided by or under this Ordinance or any other enactment, be recoverable in the same manner as rates, taxes and rents are recoverable under the Municipal Councils Ordinance; and all the

Recovery of rates and taxes

* Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

provisions of sections 252 to 266 of that Ordinance relating to the recovery or the waiver of rates, taxes and rents, and the termination of the tenancy of tenants of the Council shall, with the necessary modifications, apply accordingly.

*(2) Where the lessee or occupier of any immovable property belonging to the State and situated within the limits of any town makes default in the payment of any rates imposed in respect of such property under this Ordinance by the Town Council of that town, and a warrant is issued, in accordance with such of the provisions of law as are made applicable in such case by subsection (1), for the seizure and sale of the movable or immovable property of such lessee or occupier, the officer to whom the warrant is issued may, notwithstanding anything contained in any other written law to the contrary, execute the warrant in any area in which any movable or immovable property of such lessee or occupier may be found, whether such area is within or outside the limits of that town.

Recovery of payments due to the Town Council. [§ 28, 48 of 1971.]

169A. (1) Where under the provisions of this Ordinance, or any by-law, rule or regulation made under this Ordinance, any duty, fine, penalty, fee or other payment has become due to the Town Council, then, notwithstanding anything to the contrary in any such provision or any such by-law, rule or regulation, it shall be the duty of the secretary of the Council to take all steps necessary to recover such duty, fine, penalty, fee or other payment and credit it to the funds of the Town Council.

(2) Where any rate, tax, rent, fee, duty, toll, fine, penalty or any other payment whatsoever has become due to the Town Council under any written law, other than this Ordinance, or any by-law, rule or regulation made under this Ordinance, then, notwithstanding anything to the contrary in the aforesaid written law, it shall be the duty of the secretary of the Council to take all steps necessary to recover such rate, tax, rent, fee, duty, toll, fine, penalty or other payment and credit it to the funds of the Town Council.

* Shall not have effect in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.— See '•ecllon 76 (hereof).

Application modified in such areas as may be specified in an Order under section 2 of the Rating and Valuation Ordinance.—See section 76 thereof.

170. A Town Council may by resolution waive the whole or any part of any sum of money (not being a sum for the waiver of which provision is made by section 169) due to the Council from any person if it appears to the Council that the amount to be waived is inconsiderable or is irrecoverable or that it should be written off on the ground of the poverty of the person liable therefor. Every such resolution relating to the waiver of an amount exceeding fifty rupees shall be subject to the approval of the Minister.

Waiver of sums due to the Council.

171. No assessment or valuation, and no charge or demand of rate or tax under the authority of this Ordinance, and no seizure and sale, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax, or any mistake in the amount of assessment or the mode of seizure and sale, or any other formal defect.

Assessment, &c.. not to be impeached for want of form.

LOANS

172. (1) It shall be lawful for a Town Council, subject to the approval of the Minister, to borrow from the Government of Sri Lanka, or any person or persons or body of persons, whether incorporated or not, such sum or sums of money as may be necessary for any of the purposes of the Council;

Power of Town Council to borrow on the security of rates and taxes.

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

(2) Every loan raised by a Town Council shall be subject to such rate of interest and to such conditions for the repayment thereof as may, where that loan is raised with the approval of the Minister, be approved by the Minister, and, in any other case, be determined by the Council.

(3) For the purpose of securing the repayment of the sum or sums borrowed by a Town Council and the interest accruing thereon, the Council may mortgage and assign to the lender or lenders, by or on whose behalf such sum or sums or any part thereof may be lent, the proceeds of any rate or tax levied or imposed under this Ordinance or any portion thereof, or any property belonging to the Council or any other source of income accruing to the Council or any portion thereof.

arrangements for the liquidation of any loan, shall, subject to the provisions of the Local Loans and Development Ordinance, be such as may be prescribed by by-laws or regulations made under this Ordinance, and, in the absence of any such by-laws or regulations shall be in accordance with the provisions of the Municipal Councils Ordinance, and the said provisions, with the necessary modifications, shall in such circumstances apply to any loan made to any Town Council under this Ordinance.

Limitation of borrowing powers.

173. (1) The amount at any time outstanding in respect of all loans due from any Town Council (whether raised under the authority of this Ordinance or any other enactment) shall not exceed in the aggregate ten times the fair average annual income received by the Council from all rates, taxes, properties, and other sources of income for the preceding five years, or, in the case of a Town Council which has not been in existence for five years, ten times its income for one year as appraised by the Council, subject to the approval of the Minister:

ACCOUNTS, ESTIMATES, AND BUDGET

175. (1) Every Town Council shall, from time to time, order and direct a book or books, in such form as may be prescribed by the Commissioner, to be provided and kept at its office and true and regular accounts to be entered therein of all sums of money received by the Council and expended for or on account of the purposes of this Ordinance, and of the several articles, matters, and things for which sums of money shall have been disbursed and paid.

Books of accounts to be kept by Council.

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

(2) The book or books of accounts of a Town Council shall not for any reason or under any pretence whatsoever be taken from the office of the Council, except by process of a competent court.

(2) All securities given in respect of loans under this Part shall be free of stamp duty.

(3) The book or books of accounts of a Town Council shall at all reasonable times be open to the inspection of the members of the Council, and every householder resident within the town administered by the Council, and any member of the Council or any such householder may take copies of or extracts from such book or books free of all charges.

When Chairman may exercise powers of Council relating to raising of loans. [§ 152, Law 24 of 1977.]

173A. If the Town Council fails to sanction the raising of a loan for the purpose of fulfilling any duty imposed on the Council or carrying out any work which the Chairman considers to be necessary, the Chairman may with the approval of the Commissioner raise such loan and may exercise all the powers vested in the Council under the provisions of sections 172 and 173 as though such powers were conferred by those sections on the Chairman.

176. (1) Every Town Council shall cause to be prepared in writing, in the month of January in each year, or within such other period as the Council, with the sanction of the Commissioner, may direct, a true account of all the moneys received and paid by virtue of this Ordinance during the year ending on the thirty-first day of December next preceding or such other period of twelve months as the Council, with the sanction of the Commissioner, may

Preparation and publication of annual accounts.

Form of security, &c.

174. The form and manner of execution of any security given for the purpose of any loan under this Part, the mode and order of repayment of any sums borrowed, and the

direct, and a statement of the assets and liabilities existing at the said date, and a copy or duplicate of such account and statement verified on oath before any Justice of the Peace by the Chairman of the Council, or such other officer of the Council as it may appoint for the purpose, and certified by one of the members to be correct, shall be deposited with the Council, and shall be open to the inspection of any householder resident within the town administered by the Council or any party interested.

(2) An abstract of the account and statement referred to in subsection (1) shall be published in the Gazette for general information before the first day of March following, or before such other date as the Council, with the sanction of the Commissioner, may direct.

Budget.

177. (1) The Chairman of every Town Council shall, each year, on or before such date as may be fixed by by-laws of the Council or by rules made under section 192, prepare and submit to the Council a budget for the next succeeding year in such form as may be prescribed by the Commissioner, and containing—

- (a) the details of the proposed expenditure set out in items under appropriate heads;
- (b) an estimate of the available income of the Council from sources other than rates;
- (c) an estimate of the rate or rates necessary for the purpose of providing for the proposed expenditure.

(2) Whenever it is necessary to introduce any new item or items of expenditure during the course of any year, the Chairman shall prepare and submit to the Council a supplementary budget containing details of the proposed expenditure.

[§ 3, 13 of 1979.]

(3) A copy of every annual budget or supplementary budget of a Town Council shall be open to inspection at the Town Council office.

177A. If the Town Council modifies or rejects all or any of the items in any budget or supplementary budget or adds any item thereto and the Chairman does not agree with any such decision of the Council he shall re-submit the budget or supplementary budget to the Council for further consideration. Where a budget or supplementary budget is not passed by the Council within two weeks after it is re-submitted, such budget or supplementary budget shall notwithstanding that it has not been passed by the Council, be deemed to be the duly adopted budget or supplementary budget of the Council.

Chairman's powers with regard to budget. [§ 153, Law 24 of 1977.]

178. The Chairman may, in case of necessity during the course of any year, reduce or increase the expenditure under any head, or transfer the moneys appropriated under one head to any other head, in the budget or in any supplementary budget adopted for that year, but so, however, that the total amount of expenditure sanctioned by such budget or supplementary budget is not exceeded.

Variation of expenditure proposed in budget. [§ 154, Law 24 of 1977.]

179. (1) The Chairman of every Town Council shall, as soon as may be after the close of each financial year, prepare a detailed report of the administration of the Council during such financial year, with a statement showing the nature and amount of receipts and disbursements on account of the local fund during that year.

Annual administration report.

(2) The report and statement required by subsection (1) shall be in such form as may be prescribed by the Commissioner, and shall be submitted to the Council, and, together with any resolutions that may have been passed thereon by the Council, shall be submitted to the Minister through the Commissioner within six weeks of the date when they were first submitted to the Council, or within such other period as the Council, with the approval of the Commissioner, may determine.

AUDIT

180. (1) The accounts of every Town Council shall be audited during each half of the financial year by Government, and every Town Council shall, in respect of each audit for any half of any financial year, pay to Government as a contribution towards the

Audit.

cost of such audit a fee computed in the manner following, that is to say:—

- (a) where the aggregate amount of the revenue of a Town Council for any half of any such financial year is equal to or less than seventy-five thousand rupees, one per *centum* of the amount of such revenue; and
- (b) where the aggregate amount of the revenue of a Town Council for any half of any such financial year is more than seventy-five thousand rupees, one per *centum* of the first seventy-five thousand rupees of such revenue and one-half per *centum* of the amount by which such revenue exceeds seventy-five thousand rupees.

(2) For the purposes of any audit and examination of accounts under this Ordinance, the auditor may, by notice in writing, require the production before him of any books, deeds, contracts, accounts, vouchers, and any other documents and papers which he may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers to appear before him at any such audit and examination or adjournment thereof, and to make and sign a declaration in respect of the same.

(3) If any person neglects or refuses to produce any book, deed, contract, account, voucher, document, or papers, or to make or sign any declaration when required so to do under subsection (2), he shall be guilty of an offence punishable with a fine not exceeding one hundred rupees, and a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

181. (1) Every auditor acting in pursuance of this Part shall disallow every item of account contrary to law, and surcharge the same on the person making or authorizing the making of the illegal payment, and shall charge against any person accounting the amount of any deficiency or loss incurred by the negligence or misconduct of that person and any sum

which ought to have been, but is not, brought into account by that person, and shall in every case certify the amount due from such person.

(2) Before making any surcharge or disallowance, the auditor shall afford an opportunity to the person against whom such surcharge or disallowance is made, to be heard or to make any representations with reference to any matter which he may think fit, and shall, in the event of his making such surcharge or disallowance, on application by any such person, state in writing the reason for his decision in respect of such disallowance or surcharge.

182. (1) Any person aggrieved by any disallowance or surcharge may appeal against such decision to the Court of Appeal, and the Court of Appeal may either confirm such disallowance or surcharge, or, if it is of opinion that such disallowance or surcharge is not in accordance with law, may modify or set aside such disallowance or surcharge accordingly.

appeal and enforcement of surcharges, &c.

(2) Every appeal under subsection (1) shall be presented, prosecuted, and enforced within the time and in the manner and subject to the rules prescribed for and observed in appeal from interlocutory orders of District Courts, and all proceedings in connection therewith shall be subject to the same stamp duties as appeals from District Courts.

(3) In lieu of an appeal under subsection (1) any person aggrieved may, within thirty days of the date of the decision of the auditor duly communicated to him, appeal from such decision to the Minister, and it shall be lawful for the Minister, upon any such appeal, to decide the question at issue according to the merits of the case, and if the Minister finds that any disallowance or surcharge has been lawfully made, but that the subject-matter thereof was incurred under such circumstances as to make it fair and equitable that the disallowance or surcharge should be remitted, the Minister may direct that such disallowance or surcharge shall be remitted on payment of the costs, if any, which may have been incurred by the auditor in the enforcing of such disallowance or surcharge.

Recovery of surcharges.

Any amount directed to be recovered from any such person under any order made by the Minister may forthwith be recovered by the Commissioner or any person authorized in writing in that behalf by the Commissioner in the same manner as any sum certified to be due by an auditor is recoverable under the provisions of this section.

(4) No expenses paid by any Town Council shall be disallowed by the auditor, if such expenses have been sanctioned by the Minister.

(5) Every sum certified to be due from any person by an auditor under this Ordinance shall be paid by such person to the Commissioner within fourteen days after the sum has been so certified, unless there is an appeal against the decision, and if such sum is not so paid and there is no such appeal, it shall be the duty of the Commissioner or any person authorized in writing in that behalf by the Commissioner to recover the sum from the person against whom the sum has been certified to be due, and any sum so certified to be due may, on application to the Magistrate* having local jurisdiction, be recovered in the same manner as a fine imposed by such Magistrate,* together with all costs and expenses incurred in connection with the enforcement thereof.

(6) Every sum paid or recovered under this section, other than any sum so paid or recovered as costs and expenses incurred in the enforcement of any disallowance or surcharge, shall be credited to the local fund of the Council.

PART VIII

CENTRAL CONTROL

Removal of Chairman, and dissolution of Town Council. [§ 155, Law 24 of 1977.]

183. (1) If at any time the Minister is satisfied that there is sufficient proof of—

- (a) persistent refusal to hold or attend meetings or to vote or to transact business at any meetings that may be held ; or

- (b) wilful neglect, or misconduct in the performance, of the duties imposed by this Ordinance ; or
- (c) persistent disobedience to or disregard of the directions, instructions or recommendations of the Minister or of the Commissioner; or
- (d) incompetence and mismanagement; or
- (e) abuse of the powers conferred by this Ordinance,

on the part of the Chairman or on the part of any Town Council or any of the members thereof, the Minister may as the circumstances of each case may require, by Order published in the Gazette—

- (i) remove the Chairman from office ; or
- (ii) remove all or any of the members of the Council from office, and the provisions of section 12 (3) shall thereupon apply; or
- (iii) dissolve the Council,

and such Order shall as soon as may be convenient be laid before Parliament.

(IA) The Minister shall before making an Order under subsection (1), appoint for the purpose of satisfying himself in regard to any of the matters referred to in subsection (1), a retired judicial officer to inquire into and report upon such matter within a period of three months, and such officer shall in relation to such inquiry have the powers of a commission of inquiry appointed under the Commissions of Inquiry Act. [§ 155, Law 24 of 1977.]

(1B) (a) When the Minister appoints a retired judicial officer under subsection (IA) to inquire into any matter, the Minister may, as the circumstances of each case may require, by Order published in the Gazette— [§ 155, Law 24 of 1977.]

- (i) suspend the Chairman from office and direct the Vice-Chairman or, where the office of Vice-Chairman

* Vide also section 32 of the Judicature Act.

is vacant or where the Vice-Chairman has been suspended, the Assistant Commissioner of Local Government of the region to exercise the powers and perform the duties of the Chairman ; or

- (ii) suspend any member from office ; or
- (iii) suspend the Council and direct the Assistant Commissioner of Local Government of the region to exercise the powers and perform the duties of the Council and its Chairman;

(b) Upon the receipt of the report of the person appointed under subsection (IA) the Minister may make an Order under subsection (1) or revoke the Order made under paragraph (a) of this subsection.

(2) Every Order made under subsection (1) shall contain such directions and such supplemental, consequential and incidental provisions as may be necessary for the purpose of giving effect to the Order, and shall, on publication in the Gazette, have the force of law.

[§155, Law 24 of 1977]

(3) Where the Minister removes the Chairman of a Town Council from office by Order under subsection (1), the Chairman shall be deemed to vacate forthwith the office of member of the Council as well as the office of Chairman and the provision of written law for the time being applicable on that behalf shall thereupon apply.

(4) Where the Minister removes any member of a Town Council from office by Order under subsection (1), and a new member in pursuance of such Order is elected in place of the member so removed, the new member shall go out of office on the date on which the original member would have gone out of office if he had not been removed from office by the Minister.

[§ 5, 48 of 1971.]

(4A) (a) Where an Order is made by the Minister under subsection (1) removing a person from the office of Chairman or member of the Council, the Minister may by a subsequent Order published in the Gazette revoke the first-mentioned Order, and the publication of such subsequent Order in

the Gazette shall have the following effect, and the following effect only, namely that such person shall, notwithstanding the provisions of subsection (3) of section 9 of the Local Authorities Elections Ordinance, cease, with effect from the date of such publication, to be subject to the disqualification set out in the aforesaid subsection (3).

(b) Where the provisions of paragraph (a) are in conflict or inconsistent with any other provisions of this Ordinance or of the Local Authorities Elections Ordinance, the provisions of paragraph (a) shall prevail.

(5) Where the Minister dissolves a Town Council by Order under subsection (1), he may by the same or any subsequent Order—

- (a) appoint for a stated period, or from time to time, a Special Commissioner or Commissioners to administer the affairs of the town for which the Town Council was constituted, and, for that purpose and subject to such conditions or limitations as may be specified in the Order, to exercise the powers and perform the duties of a Town Council under this Ordinance, and
- (b) either give such directions as may be necessary for constituting for that town a new Town Council consisting of a larger or a smaller number of members, as to him may seem expedient, or
- (c) reduce or enlarge or otherwise redefine the limits of the town, and give such directions as may be necessary for constituting a Town Council for the redefined town.

(6) Where the Minister appoints any Special Commissioner or Commissioners to administer the affairs of a town upon the dissolution of the Town Council of that town, such Special Commissioner or Commissioners shall be the successor or successors of the dissolved Council and all the property and the rights under contracts

[§ 7, 42 of 1968.]

[§ 3, 2 of 1957.]

and all the powers vested in the Town Council or its Chairman by this Ordinance or any other written law shall be deemed to be vested in such Special Commissioner or Commissioners, and all the liabilities and duties of the Town Council or its Chairman under this Ordinance or any other written law shall be deemed to be transferred to and shall be discharged by such Special Commissioner or Commissioners, until the end of the period stated in the Order or until the Minister otherwise directs and the provisions of sections 233 to 240 shall, with the necessary modifications, apply in the case of the appointment of the Special Commissioner or Commissioners in the same manner as if every reference in those sections to a Town Council were a reference to the Special Commissioner or Commissioners and as if every reference in those sections to a local authority or authorities were a reference to the dissolved Town Council.

[§ 7, 42 of 1968.]

(7) At any time after the appointment of a Special Commissioner or Commissioners to administer the affairs of a town upon the dissolution of the Town Council for that town, the Minister may, by Order published in the Gazette,—

- (a) give such directions as may be necessary for constituting for that town a new Town Council consisting of the same number of members as the dissolved Town Council or of a larger or a smaller number of members, as to him may seem expedient, or
- (b) reduce or enlarge or otherwise redefine the limits of the town, and give such directions as may be necessary for constituting a Town Council for the redefined town.

[§ 7, 42 of 1968.]

(8) Where upon the termination of the administration of the affairs of a town by a Special Commissioner or Commissioners, a new Town Council is constituted for that town, the new Council shall be the successor of the Special Commissioner or Commissioners, as the case may be, and the provisions of sections 233 to 240 shall, with the necessary modifications, apply to the

case of the constitution of the new Council in the same manner as if all references to any local authority or authorities in those sections were references to the Special Commissioner or Commissioners.

184. (1) The Minister may, from time to time, cause to be made all such inquiries as may appear to be necessary in relation to any matters concerning public health in any town or any matters with respect to which his sanction, approval, or consent is required under this Ordinance.

(2) For the purpose of any inquiry under this section, the person appointed by the Minister and holding the inquiry shall have, in relation to witnesses and their examination and production of papers and accounts, the same powers as those accorded to commissions under the Commissions of Inquiry Act, and all such powers of inspection of places and matters required to be inspected as may be necessary for the purpose of the inquiry.

185. The Minister may make orders as to the costs of inquiries or proceedings instituted by or of appeals or references to, the Minister under this Ordinance, and as to the parties by whom or the funds out of which such costs shall be borne, and every such order may be registered in the District Court, and may be enforced in the same manner as a judgment of the court on the application of any person named in that behalf in the order, Costs of inquiries and proceedings.

186. (1) If at any time it appears to the Minister that any Town Council is omitting to fulfil any duty or to carry out any work imposed upon the Council by this Ordinance or any other enactment, or that the Council has otherwise made default in the discharge of any of its duties or responsibilities under this Ordinance or any other enactment, the Minister may give notice to the Council that unless within a time specified in the notice the Council show cause to the contrary, the Minister will appoint a person or persons to inquire into and report upon the facts of the case to the Minister and to make Power to make inquiry as to default in duty by Town Councils.

recommendations as to the measures that should be taken for the purpose of fulfilling such duty or carrying out such work or making good such default.

(2) Where any cause or sufficient cause is not shown by any Council to which notice is given under subsection (1), the Minister shall appoint a person or persons to hold the inquiry referred to in the notice. Such inquiry shall be held as far as practicable in public.

Power to give and enforce order requiring Council to do necessary work.

187. (1) On the receipt of the report of the person or persons appointed to hold an inquiry under section 186, the Minister shall determine what measures shall be taken for the purpose of fulfilling any duty or carrying out any work in respect of which the Town Council may have made default, and make an order requiring the Council within a time specified in the order to take such measures accordingly, and to raise the funds necessary for the purpose by some one or more of the rates or taxes provided for by this Ordinance, or by means of a loan on the security of any such rate or tax.

(2) If the Council fails to comply with the order made under subsection (1) within the specified time, the Minister may appoint some person to take the measures spmfied in the order, and may fix the remuneration to be paid to such person, and may direct that such remuneration and the cost of the measures taken in accordance with the order of the Minister shall be defrayed out of the local fund, and that, if necessary, any one or more of the rates or taxes provided for by this Ordinance shall be imposed, or increased, and levied.

(3) Any person appointed under subsection (2) shall have the same power of levying or imposing any such rate or tax and requiring all officers of the Council to pay over any moneys in their hands as the Council would have in the case of expenses legally payable out of the local fund, and such person, after paying all sums of money due in respect of the order, shall pay the surplus, if any, to or to the order of the Council.

Power to direct loan to be raised.

188. The Minister in addition to levying, imposing or increasing any rate or tax, or in lieu thereof, may direct a loan to be raised

on the security of any local rate or tax for the purpose of fulfilling any duty, or carrying out any work, or making good any default under section 187.

189. The Minister may, from time to time, certify the amount of the expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed under section 187, and the amount of any loan required to be raised for the purpose of defraying the expenses that have been so incurred, or arc estimated as about to be incurred, and a certificate of the Minister shall be conclusive as to all matters to which it relates.

Power to certify expenses.

190. (1) Whenever the Minister under section 189 certifies a loan to be necessary, the Local Loans and Development Commissioners may advance to the Commissioner or any person appointed under section 187 the amount of the loan so certified to be required on the security of any local rate or tax without requiring any other security.

Power of Local Loan Commissioners to advance loan-

(2) The Commissioner or the person appointed under section 187 may, by any instrument duly executed, charge any local rate or tax with the repayment of the principal and interest due in respect of the loan referred to in subsection (1); and every such charge shall have the same effect as if the Council were empowered to raise such loan on the security of such local rate or tax, and had duly executed an instrument mortgaging such rate or tax.

191. (1) The principal moneys or interest for the time being due in respect of any loan raised for payment of any expenses incurred or to be incurred under this Part shall be taken to be a debt due from the Council, and, in addition to any other remedies, may be recovered in manner provided by the Local Loans and Development Ordinance.

Recovery of principal and interest from the Council.

(2) The surplus of any loan, after payment of the expenses referred to in subsection (1), shall, on the amount thereof being certified by the Minister, be paid into the local fund of the Council.

Power to make general rules of procedure.

192. (1) The Minister may make rules of procedure not inconsistent with the provisions of this Ordinance, for the guidance of Town Councils and of their officers on any matter connected with the execution or enforcement of the provisions of this Ordinance, or any other written law relating to the powers and duties of Town Councils.

(2) Without prejudice to the generality of his powers under subsection (1), the Minister may under this section make rules applicable to all Town Councils or to one or more specified Town Councils for all or any of the following purposes :—

- (a) for prescribing the procedure to be followed in the preparation of the annual budget and supplemental budgets;
- (b) for requiring the preparation of plans and estimates and prescribing the details that should be shown in such plans and estimates;
- (c) for requiring the rendering of periodical returns by the several Councils to the Minister and prescribing the form and contents of such returns;
- (d) for prescribing the form of the several books of accounts to be kept by Town Councils and the manner of auditing such accounts ;
- (e) for prescribing the form of the returns and declarations to be used under section 166 for the purposes of the imposition and levy of any rate or tax;
- (f) for prescribing the principles and procedure to be followed in assessing the annual value of any immovable property for the purposes of any rate ;
- (g) for prescribing in the case of officers and servants of a Town Council—
 - (i) the qualifications necessary for appointment to each post or class or grade of posts ;
 - (ii) the scales of the salaries to be attached to each post or class or grade of posts;

- (iii) the terms and conditions and the duration of any leave of absence that may be granted ;
- (iv) the rates of subsistence or travelling allowances payable by way of reimbursement of expenses incurred in the performance of any duty;

(gg) for prescribing the rates at which allowances payable to the Chairman, Vice-Chairman and members of Town Councils ; [§ 156, Law 24 of 1977.]

- (h) for prescribing the rates of the travelling or other allowances payable to members of Town Councils by way of reimbursement of expenses incurred in the performance of any duty under this Ordinance;
- (i) for prescribing the powers, duties and functions of the Chairman in his capacity of chief executive officer of a Town Council;
- (j) for prescribing the officers by whom and the manner in which cheques or orders for payment may be signed and issued on behalf of a Town Council;
- (k) for declaring an officer of a Town Council to be an executive officer for the purposes of section 227 ;
- (l) for any other purpose connected with or incidental to the purposes set out in the foregoing paragraphs of this subsection.

193. (1) Every rule made by the Minister under section 192 shall be published in the Gazette and shall be brought before Parliament as soon as may be after such publication, by a motion that such rule shall be approved. Notification of such approval shall be published in the Gazette.

Approval and ratification of rules.

(2) Every rule made by the Minister shall, when approved by Parliament, be as valid and effectual as if it were herein enacted, and shall prevail over any by-law made by a Town Council in respect of the same matter or for the same purpose,

Power to make recommendations as to policy.

194. The Minister or the Commissioner may—

- (a) bring to the notice of any Town Council any measure which, in the opinion of the Minister or the Commissioner, ought to be taken within the town administered by the Council in the interests of public health or safety; or
- (b) bring to the notice of any Town Council any general question of administrative policy as to which it is desirable, in the opinion of the Minister or the Commissioner, that the Council should co-ordinate its policy with the policy generally in force in Sri Lanka or in any part of Sri Lanka.

exercise of his powers under this section shall act in consultation with the Chairman of the Town Council;

Provided, further, that it shall be the duty of the officers of the Town Council to afford to the Commissioner or the authorized officer of Government all such reasonable assistance as he may require for the exercise of his powers under this section.

197. The Commissioner shall prepare and transmit to the Chairman of each Town Council a report containing a general survey of the affairs of the Council in each year, and the Chairman shall cause such report to be tabled for the information of the members of the Council at the next meeting of the Council held after the receipt of such report.

Annual report of Commissioner on affairs of each Town Council.

Power to inspect books, &c., of Town Councils.

195. The Minister or the Commissioner, or any person generally or specially authorized in that behalf by the Minister or the Commissioner may—

- (a) inspect any public building, immovable property or institution used, occupied, or carried on, by or under the control of a Town Council, or any work in progress under the direction of a Town Council;
- (b) call for and inspect any book or document in the possession or under the control of a Town Council;
- (c) require any Town Council to furnish such statements, account's, reports, or copies of documents relating to the proceedings or duties of the Council, or any committee of the Council.

198. The annual or any supplementary budget of every Town Council and every variation thereof shall be communicated to the Commissioner, and every Town Council shall furnish to the Commissioner all such reports, particulars, or explanations with regard to any such budget or variation thereof as the Commissioner may require.

Budgets to be submitted to the Commissioner.

199. Where, in the opinion of the Minister, the financial position of any Town Council is such as to make the control of the Commissioner over its budget desirable, the Minister may direct that in the case of such Council the annual and every supplementary budget of that Council and any variation thereof shall, until the Minister otherwise directs, be subject to the sanction of the Commissioner; and in any such case it shall be the duty of the Council to conform to any directions of the Commissioner with respect to any such budget or variation thereof.

Power of Commissioner to exercise control over budget of Town Council.

Powers of Commissioner and authorized officers.

196. The Commissioner or any officer of Government authorized in that behalf shall, within the town administered by any Town Council, have the same powers of entry and inspection, and all other powers and authorities required for the due exercise and discharge of their respective functions as the officers of the Town Council:

Provided that the Commissioner or the authorized officer of Government in the

200. If any question arises between two or more Town Councils, or between any Town Council or Councils, and any other local authority, with reference to the rights, powers, duties, or obligations of any such Town Council or authority, or as to any question arising out of the exercise or intended exercise or enforcement of any such right, power, duty or obligation, such dispute may, if all parties consent, or if all parties do not consent, on the application of

Determination of disputes.

any party to the Minister, be referred by the Minister to the Commissioner, and any order made by the Commissioner with reference to such dispute shall be deemed to be a final settlement of all matters in issue.

Power to extend time, Ac.

201. The Minister may, on the application of any Town Council or of any person affected, and after making such inquiries as he may think necessary, extend the time or postpone the date fixed for any act or proceeding (not being a judicial proceeding) under this Ordinance, or any by-law, rule, or regulation made thereunder, and may make such consequential order as may be necessary to give effect to such extension.

Delegation of powers to Commissioner.

202. The Minister may, by Order published in the Gazette, transfer to the Commissioner any power vested in the Minister by or under any enactment other than this Ordinance in respect of any matter within the competence of any Town Council, or may direct that any such power shall be exercised by a Town Council after consultation with the Minister and all enactments with reference to such powers shall be construed accordingly:

Provided that every Order made under this section shall be subject to the confirmation of Parliament.

PART IX

GENERAL

RECOVERY OF CHARGES AND EXPENSES

Power of Town Council on default made by owner or occupier to execute works and recover expenses.

203. Whenever under the provisions of this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, a Town Council requires any work to be executed by the owner or occupier of any house, building, or land, and default is made in the execution of such work, the Town Council, whether or not any penalty is provided for such default, may cause such work to be executed, and the expenses therein incurred by the Council shall be paid by the person by whom such work ought to have been executed, and shall be recoverable as provided by this Part.

204. (1) If the person making any default referred to in section 203 is the owner of the house, building, or land, the Council may, by way of additional remedy, whether or not an action or proceeding has been brought or taken against such owner, require the payment of all or any part of the expenses payable by the owner for the time being, from the person who then or at any time thereafter occupies the house, building, or land under such owner.

Power to levy charges on occupier, who may deduct the same from his rent.

(2) The whole or any part of any expenses referred to in subsection (1) shall, in default of payment by the occupier on demand, be levied by distress of the goods and chattels of such occupier.

(3) Where any sum in respect of expenses incurred by the Council is paid by or recovered from the occupier under subsection (1) or subsection (2), the occupier shall be entitled to deduct such sum from the rent payable by him to the owner and to retain possession of the house, building, or land until such sum is fully reimbursed to him.

205. (1) No occupier of any house, building, or land shall be liable to pay more money in respect of any expenses charged by this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the Council, truly to disclose the amount of his rent and the address of the person to whom such rent is payable.

Occupiers not to be liable to more than the amount of rent due.

(2) The burden of proof that the sum demanded of any occupier is greater than the rent which was due by him at the time of such demand or which has since accrued, shall be upon such occupier.

(3) Nothing herein contained shall be taken to affect any special contract made between any owner and occupier respecting the payment of the expense of any such works as aforesaid.

Occupier in default of owner may execute works and deduct expenses from rent.

206. (1) Whenever default is made by the owner of any house, building, or land in the execution of any work required to be executed by him, the occupier of such house, building, or land may, with the approval of the Council, cause such work to be executed, and the expenses thereof shall be paid to him by the owner, or the amount may be deducted out of the rent, from time to time, becoming due from him to such owner.

(2) The owner of any house, building, or land shall not be entitled to eject the occupier thereof until any expenses incurred by the occupier under subsection (1) shall have been fully paid or deducted as provided by that subsection.

Obstruction by occupiers.

207. If the occupier of any house, building, or land prevents the owner thereof from carrying into effect, in respect of such house, building, or land, any of the provisions of this Ordinance or of any by-law, or regulation made thereunder, after notice of his intention so to do has been given by the owner to such occupier, the Council, upon proof thereof and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect to such house, building, or land as may be necessary for carrying into effect the provisions of this Ordinance, or of any by-law or regulation made thereunder, and may also, if it thinks fit, order the occupier to pay to the owner the costs relating to such application or order, and if, after the expiration of eight days from the date of the order, such occupier continues to refuse to permit such owner to execute such works, such occupier shall be guilty of an offence punishable with a fine not exceeding fifty rupees for every day during which he so continues to refuse, and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works,

208. If neither the owner nor the occupier of any house, building, or land pays the expenses incurred by the Council, the amount of the expenses shall be a charge upon the house, building, or land in respect of which the expenses were incurred, and payable as a debt due to the Council.

Remedy if neither the owner nor occupier pays the expenses.

209. (1) Except as herein otherwise provided, in all cases where damages, costs, or expenses are payable under the provisions of this Ordinance or any other enactment, or of any by-law, rule, or regulation made thereunder, the amount, in case of dispute, and, if necessary, the apportionment of the same shall be ascertained and determined in manner following:—

Determination and recovery of damages, costs, &c.

- (a) where the amount claimed does not exceed one hundred rupees, by a Magistrate after a summary inquiry into the claim;
- (b) where the amount claimed exceeds one hundred rupees and does not exceed one thousand five hundred rupees, by the Primary Court having local jurisdiction;
- (c) where the amount claimed exceeds one thousand five hundred rupees, by the District Judge having local jurisdiction.

(2) In the cases referred to in paragraphs (b) and (c) of subsection (1), the claim shall be made by instituting a civil action therefor. Such action shall be heard and determined according to the procedure prescribed by the law for the time being in force regulating the hearing and determination of actions brought in Primary Courts and District Courts respectively.

(3) Any person aggrieved by a decision of a Magistrate under paragraph (a) of subsection (1) may appeal therefrom to the Court of Appeal in accordance with the provisions of section 320 of the Code of Criminal Procedure Act.

(4) Any person aggrieved by a decision under paragraphs (b) and (c) of subsection (1) may appeal therefrom to the Court of Appeal. Such appeals shall be

subject to the provisions relating to appeals to the Court of Appeal contained in the Primary Courts' Procedure Act and in the Civil Procedure Code respectively.

Recovery of damages.

210. If the amount of damages, costs, or expenses determined by the Magistrate under section 209 is not paid by the person liable to pay the same within seven days after demand, the default may be reported to such Magistrate, and the amount thereof shall be recovered in the same manner as if it were a fine imposed by such Magistrate.

Recovery of expenses on account of improvement to private property.

211. Where a Town Council incurs any expenses in executing any of the works or performing any of the acts which under this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, the owner of any house, building, or land is required to execute or perform, the Council may either recover the amount of such expenses in the manner provided by section 209, or, if it thinks fit, may accept any undertaking given by the owner for the payment by instalments of such sums as will be sufficient to defray the whole amount of the expenses, with interest thereon at the rate of nine *per centum* per annum, within a period not exceeding five years, and such sums when due may be recovered by the same process by which rates payable under this Ordinance may be recovered.

PAYMENT OF COMPENSATION

Council may make compensation out of local fund.

212. A Town Council may make compensation out of the local fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Council, its officers, or servants under and by virtue of this Ordinance, or any by-law made thereunder.

Determination and payment of compensation.

213. Except as herein otherwise provided, in all cases where compensation is by this Ordinance, or by any by-law made thereunder, directed to be paid, the amount and, if necessary, the apportionment of such compensation in case of dispute, shall be determined in the same manner as a claim for damages, costs or expenses under section 209, and all the provisions of that section shall, with the necessary modifications, apply to the determination of all questions under this section.

PROCEDURE AND LEGAL PROCEEDINGS

214. (1) Any notice, order or other document required or authorized to be served under this Ordinance, or any by-law made thereunder, may be served by delivering the document to or at the residence of the person to whom it is addressed, or when addressed to the owner or occupier of any premises, by delivering the document or a true copy thereof to some person on the premises, or if there is no person on the premises who can be so served, by affixing the document on some conspicuous part of the premises:

Service of notices.

Provided always that where a Town Council has made provision for the registration of owners of property and any owner of property has registered his name and address in accordance therewith, every such notice, order or document shall be served upon him by registered letter at such address.

(2) Any notice, order or other document may also be served by post by registered letter, and if so served, shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service, it shall be sufficient to prove that the notice, order or other document was properly addressed and put into the post.

(3) Any notice, order or other document required by this Ordinance to be given to the owner or occupier of any premises may be addressed by the description of the "owner" or "occupier" of the premises (naming them) in respect of which the notice is given, without further name or description.

215. All notices which a Town Council or any officer thereof is empowered or required to give or receive and all notices for the giving or receipt of which by the Council occasion may otherwise arise, may be given or received by the secretary of the Council or any other of its officers authorized by by-law for the purpose.

Notices may be given or received by secretary or any other officer authorized thereunto.

216. Every offence under this Ordinance shall be triable summarily by the Magistrate having local jurisdiction, and any penalty

Offences to be tried by Magistrate.

prescribed by this Ordinance may be imposed by such Magistrate, notwithstanding that such penalty may exceed the limits placed on his jurisdiction by any other written law.

given by him under that subsection; and unless such notice be proved, the court shall find for the defendant.

Limitation of prosecutions.

217. No person shall be liable to any fine or penalty under this Ordinance, or any by-law made thereunder, for any offence triable by a Magistrate, unless the complaint respecting such offence shall have been made within three months next after the commission of such offence.

219. (1) No matter or thing done and no contract entered into by any Town Council, and no matter or thing done under the direction of any Town Council by any member or officer of such Council or by any other person whomsoever, shall, if the matter or thing so done or the contract so entered into was done or entered into bona fide for the purposes of this Ordinance or any other enactment relating to the powers and duties of a Town Council, or any by-law, or rule made thereunder, subject any member of the Council or any such officer or other person, in his private capacity, to any action, liability, claim, or demand whatsoever; and any expenses incurred by any such Council or by any member, officer, or other person acting as aforesaid, shall be borne and repaid out of the local fund.

Protection of Council and its officers.

No action to be instituted against Council until after one month's notice, nor after six months after cause of action.

218. (1) No action shall be instituted against any Town Council or any member or any officer of the Council or any person acting under the direction of the Council for anything done or intended to be done under the powers conferred by this Ordinance, or any by-law made thereunder, until the expiration of one month next after notice in writing shall have been given to the Council or to the defendant, stating with reasonable certainty the cause of such action and the name and the place of abode of the intended plaintiff and of his attorney-at-law or agent, if any, in such action.

(2) Subject and without prejudice to any other powers, a Town Council in any case where the defendant in any action, prosecution, or other proceeding is a member of the Council, or its officer, agent, or servant, may, if it thinks fit, except so far as the court before which the action, prosecution, or other proceeding is heard and determined otherwise directs, pay out of the local fund all or any part of any sums payable by the defendant in or in consequence of the action, prosecution, or proceeding, whether in respect of costs, charges, expenses, damages, fines, or otherwise:

(2) Every action referred to in subsection (1) shall be commenced within six months next after the accrual of the cause of action and not afterwards.

(3) If any person to whom notice of action is given under subsection (1) shall before action is brought tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought, and the defendant shall be entitled to be paid his costs by the plaintiff.

Provided that nothing in this section shall exempt any member of any Town Council from liability to be surcharged with the amount of any payment which may be disallowed upon the audit of the accounts of such Council, and which such member authorized or joined in authorizing.

(4) If no tender of amends is made under subsection (3), it shall be lawful for the defendant by leave of the court before which such action is pending, at any time before issue is joined, to pay into court such sum of money as he may think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

220. If the directions of this Ordinance, or of any by-law made thereunder, are in substance and effect complied with, no proceedings under this Ordinance, or under such by-law shall be quashed or set aside for want of form in any Court of Justice.

Relief against informalities.

(5) Upon the trial of any action referred to in subsection (1), the plaintiff shall not be permitted to prove any cause of action other than the cause of action stated in the notice

POWERS AND RESPONSIBILITIES OF OFFICERS

Delegation of powers of Chairman to officers of Council.

221. All duties and powers which the Chairman of a Town Council is empowered to perform and exercise by this Ordinance or by any other enactment, or any by-law, rule or regulation made thereunder, may be performed and exercised by any officer of the Council generally or specially authorized thereto in writing by the Chairman, subject to the directions and control of the Chairman, for such period and to such extent, if any, as may be specified in such written authority.

Power of Council to grant general authorities to its officers.

222. A Town Council may, by resolution, grant a general authority to any officer of the Council to do, give, or receive, as may be necessary, from time to time, subject to the general control of the Chairman, all acts, receipts, and approvals which the Council is empowered to do, give, or receive by this Ordinance or any other enactment, or by any by-law, rule, or regulation made thereunder, and all acts, receipts, and approvals done or given or received by such officer, so long as such resolution remains in force, shall be as binding and valid, as if such acts, receipts, and approvals were done or given by the Council.

Punishment for obstructing officers of Council.

223. Whoever shall wilfully obstruct any officer of a Town Council in the performance of any duty or in the exercise of any authority vested in or conferred upon him under or by virtue of any of the provisions of this Ordinance or any other enactment, or any by-law, rule, or regulation made thereunder, shall be guilty of an offence, and liable, upon conviction after summary trial before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment of either description for any term not exceeding three months.

Penalty for misuse of power by officers of Council.

224. Any officer of a Town Council who, under pretence of performing any act under the authority of this Ordinance, or any by-law or rule made thereunder, uses any unnecessary violence or causes any vexation or annoyance to any person, shall be guilty of an offence and liable on conviction thereof after summary trial before a Magistrate to a fine not exceeding fifty rupees.

225. (1) No member, officer, or servant of any Town Council shall, whether directly or indirectly, be concerned or have any financial interest in any contract or work made with or executed for the Council.

Officers and servants of Council not to be interested in contracts.

(2) If any member, officer, or servant of a Town Council is concerned or has any financial interest in any contract or work made with or executed for the Council, he shall be guilty of an offence punishable with a fine not exceeding five hundred rupees, and shall, as the case may be, be disqualified from sitting as a member of the Council or from holding any office or employment under the Council:

Provided, however, that no person being a shareholder of any incorporated company shall be liable to such fine by reason only of any contract between such company and the Council or of any work executed by such company for the Council.

226. Every officer or servant of a Town Council who is paid out of the local fund, and every contractor or agent to whom the collection of any tax or of any payment on account of any land or building of a Town Council is entrusted by or under the authority of a Town Council, and every servant or other person employed by such contractor or agent for the collection of such tax or payment, shall be deemed to be a public servant within the meaning of that term as used in the Penal Code.

Officers and servants of Town Council to be public servants.

227. (1) No executive officer of a Town Council shall be removed or dismissed from his office except for misconduct or for neglect of, or incapacity for, his duties, and except on a resolution passed by not less than two-thirds of the total number of members of the Council.

Disciplinary action against officers of Town Council.

(2) No executive officer of a Town Council shall be suspended or fined or reduced in status nor shall the increments to his salary be withheld for any breach of departmental rules or discipline or for carelessness, incompetence, neglect of duty or other misconduct except on a resolution passed by not less than two-thirds of the total number of members of the Council.