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EXTRAORDINARY

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PART II — Section 1

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE (Legislative Department)

*New Delhi, dated the 21st May, 2004/Vaisakha 31, 1926 (Saka)*

### THE DADRA AND NAGAR HAVELI MUNICIPAL COUNCIL REGULATION, 2004

No. 2 OF 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

A Regulation to provide for the establishment of Municipal Council in the Union territory of Dadra and Nagar Haveli and for matters connected therewith.

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

#### CHAPTER I

#### PRELIMINARY

1. (1) This Regulation may be called the Dadra and Nagar Haveli Municipal Council Regulation, 2004.

Short title,  
extent and  
commencement.

(2) It extends to the whole of the Union territory of Dadra and Nagar Haveli.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

2. In this Regulation, unless the context otherwise requires,—

Definitions.

(1) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli appointed by the President under article 239 of the Constitution;

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

(3) "building" includes a house, out-house, stable-shed, hut and other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material whatever, whether used as human dwelling or otherwise and also includes verandahs, fixed platforms, plinths, door steps, walls (including compound walls) and fencing and the like;

(4) "bye-law" means a bye-law made or deemed to be made by the Council under this Regulation;

(5) "cesspool" includes a tank for the reception or disposal of foul matter from buildings;

(6) "Chief Officer" means the person appointed or deemed to be appointed under this Regulation to be the Chief Officer of a municipal area;

(7) "Collector" means the Collector of Dadra and Nagar Haveli;

(8) "Council" means a Municipal Council constituted or deemed to be constituted under this Regulation for a municipal area;

(9) "Councillor" means a person who is duly elected as a member of the Council;

(10) "dairy" includes any farm, cattle-shed, cow-house, milk-store, milk-shop or other place from where milk is supplied for sale, or where milk is kept for purposes of sale or manufactured into butter, ghee, cheese, curd, dried, sterilised or condensed or toned milk, but does not include—

(a) a shop or other place in which milk is sold for consumption on the premises only; or

(b) a shop or other place from which milk is sold or supplied in hermetically closed and un-opened receptacles in the same original condition in which it was first received in such shop or other place;

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

(12) "district" means a district in the Union territory;

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

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

(15) "election" means an election to a Council and includes bye-election;

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

(17) "factory" means a factory as defined in the Factories Act, 1948;

(18) "filth" includes sewage, night-soil and all offensive matter;

(19) "Finance Commission" means the Commission referred to in section 139;

(20) "food" includes every article used as food or drink for human consumption other than drugs or water; and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionery, flavouring and colouring matters and spices and condiments;

(21) "goods" include animals;

(22) "Government" means the Administrator;

(23) "house drain" means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating therefrom with a municipal drain;

(24) "house gully or service passage" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or affording access to a privy urinal, cesspool or other receptacle for filth or polluted matter, by servants of the Council or by persons employed in the cleansing thereof or in the removal of such matter therefrom;

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

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

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

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

(29) "milk" includes cream, skimmed milk, separated milk and condensed, sterilised, desiccated or toned milk;

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

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

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

(33) "occupier" includes—

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable,

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

(c) a rent free tenant,

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

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

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

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

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

(37) "owner" means,—

(a) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes—

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

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

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

(iv) a mortgagee in possession, and

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

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

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

(40) "prescribed" means prescribed by rules made under this Regulation;

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

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

(43) "private slaughter-house" means a slaughter-house which is not a municipal slaughter-house;

(44) "private street" means a street which is not a public street;

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

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

(47) "public securities" means—

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

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

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

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

(48) "public street" means any street—

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

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

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

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

(50) "rules" means rules made by the Government under this Regulation;

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

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

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

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

(55) "Union territory" means the Union territory of Dadra and Nagar Haveli;

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

(57) "ward" means the territorial constituency of the municipal area;

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

(59) "water connection" includes—

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

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

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

## CHAPTER II

### MUNICIPAL COUNCIL

#### *Municipal areas and their classification*

Areas to be declared as municipal areas.

3. (1) After making such enquiries as it deems fit, the Government may, by notification in the Official Gazette, declare any local area to be a municipal area in accordance with the provisions of clause (2) of article 243Q of the Constitution.

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

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

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

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

Constitution of Municipal Council for Dadra and Nagar Haveli.

4. There shall be constituted a Municipality for the Dadra and Nagar Haveli municipal area to be known as the Dadra and Nagar Haveli Municipal Council from such date as the Administrator may, by notification in the Official Gazette, appoint.

Election Commission.

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

Reg. 1 of 1994.

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

6. (1) The Government may by notification in the Official Gazette—

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

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

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

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

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

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

*Municipal authorities and establishment of Council*

7. The municipal authorities charged with carrying out the provisions of this Regulation for a municipal area are—

(a) the Council;

(b) the President;

(c) the Standing Committee;

(d) the Subjects Committees, if any; and

(e) the Chief Officer.

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

9. (1) Save as otherwise provided by this Regulation, all the seats in a Council shall be filled by persons chosen by direct election from the wards determined under section 11 by the Election Commission:

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

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

(i) one person who is not less than twenty-five years of age and who has special knowledge or experience in municipal administration to be nominated by the Administrator but he shall not have the right to vote in the meetings of the Council; and

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

10. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Council and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Council as the population of the Scheduled Castes in the municipal area or of the Scheduled Tribes in the municipal area bears to the total population of that area, the number of such reserved seats being determined by the Administrator by order, published in the Official Gazette.

Alteration of the limits of a municipal area.

Municipal authorities charged with execution of Regulation.

Establishment and incorporation of Councils.

Composition of Council.

Reservation of seats.

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

(3) Seats shall be reserved for women, the number of seats being determined by the Administrator by order published in the Official Gazette, which shall not be less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in a Council.

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

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

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

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

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

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

(2) The Election Commission shall, by order in the Official Gazette, determine—

- (a) the number of wards;
- (b) the extent of each ward;
- (c) the wards in which seats shall be reserved for Scheduled Castes;
- (d) the wards in which seats shall be reserved for Scheduled Tribes;
- (e) the wards in which seats shall be reserved for women; and
- (f) the manner in which seats shall be rotated under sub-section (4) of section 10.

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

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

List of voters.

12. (1) The electoral roll of the Dadra and Nagar Haveli House of the People Constituency prepared under the provisions of the Representation of the People Act, 1950 and for the time being in force as is included in a municipal area shall be divided by such officer of the Council or by such other authority as may be designated by the Election Commission in this behalf into different sections



corresponding to the different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by such officer or authority shall be the electoral roll for each ward which shall be deemed to be the authentic electoral roll for all elections under this Regulation.

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

13. (1) Every person whose name is in the list of voters maintained under the last preceding section shall be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a Councillor for the ward to which such list pertains. Right to vote.

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

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

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

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

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

16. (1) Every person whose name is included in the list of voters maintained under section 12 and who is not less than twenty-five years of age and who is not disqualified for being elected a Councillor under this Regulation or any other law for the time being in force shall be qualified, and every person whose name is not included in the list or who is less than twenty-one years of age or who is so disqualified for being a Councillor shall not be qualified, to be elected as a Councillor at any election. Qualifications for candidates.

(2) Subject to the provisions of sub section (1), the list of voters maintained under section 12 shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to be elected, as the case may be, at any election.

17. (1) No person shall be qualified to become a Councillor, who—

(a) has been convicted by a court in India, or by a court in Dadra and Nagar Haveli before the 3rd day of August, 1954, of any offence and sentenced to imprisonment for not less than two years, unless a period of five years has elapsed since his release; or

(b) has been removed from office under section 45 and five years have not elapsed from the date of such removal; or

(c) has been disqualified under section 47 or under sub-sections (4) and (6) of section 48 and five years have not elapsed from the date of such disqualification; or

(d) has been disqualified under sub-section (11) or sub-section (12) of section 23 and the period for which he has been disqualified has not elapsed from the date of such disqualification; or

(e) is an undischarged insolvent; or

Disqualifications for becoming a Councillor.

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

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

(h) is a Judge; or

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

(j) is in arrears (otherwise than as a trustee) of any sum due by him to the Council after the presentation of a bill thereof to him under section 141; or

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

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

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

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

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

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

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

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

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

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

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

Question of disqualification to be decided by Administrator.

18. (1) If any question arises as to whether a person has become subject to any disqualification referred to in section 17, the question shall be referred for the decision of the Administrator and his decision shall be final.

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

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

Power to make rules regulating elections.

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

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

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

Failure to elect.

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

Declaration of results of elections.

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

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

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

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

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

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

22. The names of nominated Councillors, if any, shall be published in the Official Gazette by the Government.

Publication of names of co-opted and nominated Councillors in the Official Gazette.

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

23. (1) No election of a Councillor may be called in question, except by a petition presented to the District Court by a candidate at the election or by any person entitled to vote at the election, within ten days after the publication of the names of the Councillors in the Official Gazette under section 21.

(2) Any such petition—

(a) shall contain a concise statement of the material facts on which the petitioner relies,

(b) shall with sufficient particulars, set forth the ground or grounds on which the election is called in question, and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings.

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

(a) that the election of all or any of the returned candidates is void; or

(b) that the election of all or any of the returned candidates is void and that he himself or any other candidate has been duly elected.

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

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

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

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

*Explanation.*—The expression “returned candidate” means a candidate whose name has been published in the Official Gazette under section 21.

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

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

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

- (a) discovery and inspection;
- (b) enforcing the attendance of witnesses, and requiring the deposit of their expenses;
- (c) compelling the production of documents;
- (d) examining witnesses on oath;
- (e) granting adjournments;
- (f) reception of evidence on affidavit; and
- (g) issuing commissions for the examination of witnesses,

and the Judge may summon and examine *suo motu* any person whose evidence appears to him to be material. The Judge shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

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

- (a) any application to be compromised or withdrawn, or
- (b) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.

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

(10) If the petitioner has, in addition to calling in question the election of the returned candidate, made a declaration that he himself or any other candidate has been duly elected and the Judge is satisfied that—

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

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

Provided that—

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

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

(11) Where any charge is made in the petition of any corrupt practice, the Judge shall make an order recording the names of all persons including any candidate, if any, who have been proved at the trial to have been guilty of any corrupt practice and the

nature of that practice and may disqualify any such person for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order as the Judge may specify in the order:

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

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

(b) if he appears in pursuance of the notice he has been given an opportunity of cross-examining any witness who has already been examined by the Judge and has given evidence in his defence and of being heard.

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

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

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Corrupt  
practices and  
other  
electoral  
offences.

24. The following shall be deemed to be corrupt practices for the purposes of this Regulation, namely:—

(1) "Bribery" that is to say,—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing,—

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

(b) a voter to vote or refrain from voting at an election; or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) a voter for having voted or refrained from voting;

(B) the receipt of or agreement to receive any gratification, whether as a motive or a reward,—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting or inducing or attempting to induce any voter to vote or refrain from voting, or any candidate to withdraw his candidature.

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

(2) "Undue influence", that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

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

(ii) induces or attempts to induce a candidate or a voter to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the grounds of his religion, race, caste, community or language or the use of or appeal to, religion symbols, or the use of or appeal to, national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station:

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel, so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any voter at his own cost for the purposes of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

*Explanation.*— For the purposes of this clause, the expression “vehicle” means any vehicle used or capable of being used for the purposes of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his election agent or by any other person with the consent of a candidate or his election agent any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election from any person in the service of the Government or Council.

Prohibition of public meetings on the election day.

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

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

Disturbances at election meeting.

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

(2) Any person who at a public meeting to which this section applies acts, or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (2) he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

Prohibition of canvassing in or near polling stations.

27. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely:—

(a) canvassing for votes; or

(b) soliciting the vote of any voter; or

(c) persuading any voter not to vote for any particular candidate; or

(d) persuading any voter not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

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

Penalty for disorderly conduct in or near polling stations.

28. (1) No person shall, on the date or dates on which a poll is taken at any polling station,—

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station.

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

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

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



**29.** (1) Any person who during the hours fixed for poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer, may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

Penalty for misconduct at polling station.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

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

**30.** If any person is guilty of any such corrupt practice as is specified in clause (5) of section 24 at or in connection with an election he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

Penalty for illegal hiring or procuring of conveyances at election.

**31.** (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

Maintenance of secrecy of voting.

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

**32.** (1) No person who is a returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct or the management of the election, do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

Officers and any other person, etc., at election not to act for candidates or to influence voting.

(2) No such person as aforesaid, and no member of a police force shall endeavour—

(a) to persuade any person to give his vote at an election; or

(b) to dissuade any person from giving his vote at an election; or

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

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

**33.** (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

Breaches of official duty in connection with election.

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

(3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of a municipal voters list, the receipt of nominations or withdrawals of candidatures or the recording or counting of votes at any election, and the expression "official duty" shall, for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Regulation.

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

34. (1) Any person who, at any election, fraudulently takes, or attempts to take a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

Other electoral offences and penalties therefor.

35. (1) A person shall be guilty of an electoral offence if at any election, he—

(a) fraudulently defaces, or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything, other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently, or without due authority as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,—

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

(b) if he is any other person, on conviction be punished with imprisonment for a term which may extend to six months, or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election but the expression "official duty" shall not include any duty imposed otherwise than by or under this Regulation.

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

Prosecution regarding certain offences.

36. No court shall take cognizance of any offence punishable under section 32 or under section 33 or under clause (a) of sub-section (2) of section 35 unless there is a complaint made by an order of, or under authority from, the Election Commission.

*Power of requisitioning for election purposes*

37. (1) If it appears to the Collector or an officer authorised by the Collector (hereinafter referred to as the "requisitioning authority") that in connection with an election—

Requisitioning of premises, vehicles, etc., for election.

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or

(b) any vehicle, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to or from any polling station or transport of member of the police force for maintaining order during the conduct of such election or transport of any officer or other person for the performance of any duties in connection with such election, the requisitioning authority may by order in writing requisition such premises, or such vehicle, vessel or animal; as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purposes connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served on the person to whom it is addressed in the manner prescribed for the service of a notice under section 304.

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

(4) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

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

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

38. (1) Wherever in pursuance of the last preceding section, the requisitioning authority requisitions any premises or any vehicle, vessel or animal, the Council shall pay to the person interested compensation, the amount of which shall be determined by the requisitioning authority taking into consideration the following, namely:—

Payment of compensation.

(a) in the case of premises,—

(i) the rent payable in respect of the premises or if no rent is payable the rent payable for similar premises in the locality;

(ii) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;

(b) in the case of any vehicle, vessel or animal, the fares or rate prevailing in the locality for the hire of such vehicle, vessel or animal.

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

(i) the amount of compensation determined, or

(ii) the title of any person entitled to receive compensation, or

(iii) the apportionments of the amount of compensation among two or more persons,

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

*Explanation.*—For the purposes of this section, the expression “person interested” means,—

(a) in the case of premises,—

(i) the person who was in actual possession of the premises immediately before the requisition; or

(ii) when no person was in actual possession the owner of such premises;

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

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

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

Power to obtain information.

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

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

Eviction from requisitioned premises.

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

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

No civil court to have jurisdiction.

41. No civil court shall have jurisdiction to question the legality of any action taken or any decision given by the prescribed authority in connection with the conduct of elections under this Regulation.

Release of premises from requisition.

42. (1) When any premises requisitioned under section 37 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises is so delivered.

(2) Where the person to whom possession of any premises requisitioned under section 37 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

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

*Term of office of Councillors*

43. (1) The Council, unless sooner dissolved under section 296 shall continue for five years from the date appointed for its first meeting and no longer:

Term of office of Councillors.

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

(2) An election to constitute the Council shall be completed,—

(a) before the expiry of its duration specified in sub-section (1);

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

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

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

44. (1) The Councillor may resign his office by tendering his resignation in writing to the President.

Resignation of Councillor.

(2) Such resignation shall be effective on its receipt by the President.

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

Liability of Councillors to removal from office.

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

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

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

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

Resignation  
not to affect  
subsequent  
disqualification  
of a  
Councillor.

46. Notwithstanding that a Councillor has resigned his office under section 44 if he is subsequently found guilty under sub-section (1) of section 45, the Government may disqualify him from becoming a Councillor or a member of any other local authority for a period of five years from the date of its order:

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

Disqualification  
of Councillor  
during his  
term of  
office.

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

(a) is or becomes subject to any of the disqualifications specified in section 17 except the disqualification specified in clause (j) of sub-section (1) of that section; or

(b) as a Councillor or as a member of any committee of the Council votes in favour of any matter in which he has directly or indirectly by himself or his partner any such share or interest as is described in clauses (a), (b), (c), (e) and (g) of sub-section (2) of section 17, whatever may be the value of such share or interest or in which he is professionally interested on behalf of a client, principal or other person; or

(c) is professionally interested or engaged in any case for or against the Council; or

(d) absents himself during four successive months from the meetings of the Council except with the leave of absence granted by the Council by a resolution on his written application for such leave; and he shall be disabled subject to the provisions of sub-section (3) from continuing to be a Councillor and his office shall become vacant:

Provided that—

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

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

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

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

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

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

*Explanation.*—If any elected Councillor were subject to any disqualification specified in section 17, at the time of his election, and continues to be so disqualified, the disqualification shall for the purposes of this section, be deemed to have been incurred during the term for which he is elected.

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

Special provisions regarding disqualification for failure to pay taxes due to the Council.

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

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

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

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

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

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

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

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

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

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

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

49. Nothing in the last preceding section shall be deemed to affect the powers of the Council to recover the amount of tax due from any Councillor in any other manner provided by or under this Regulation.

Section 48 not to affect Council's other powers for recovery of taxes.

Councillor to vacate all offices if he ceases to be Councillor.

Casual vacancies how to be filled up.

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

51. (1) Where a vacancy occurs through the non-acceptance of office by any Councillor or such person being disqualified for becoming or continuing to be a Councillor, or any election being set aside under the provisions of section 23 or the death, resignation, removal or disability of a Councillor previous to the expiry of his term of office, the vacancy shall be filled by a bye-election:

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

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

### CHAPTER III

#### DUTIES AND FUNCTIONS OF THE COUNCIL AND THE MUNICIPAL EXECUTIVE

##### *Obligatory duties and discretionary functions of the Council*

Duties and functions of the Council.

52. (1) Except as otherwise provided in this Regulation, the municipal Government of a municipal area shall vest in the Council.

(2) In addition to the duties imposed upon it by or under this Regulation or any other law for the time being in force, unless the Government otherwise directs, it shall be the duty of every Council to undertake and to make reasonable provision for the following matters within the limits of the municipal area, and when effective measures cannot otherwise be made then even outside the said limits, namely:—

(a) lighting public streets, places and building;

(b) watering public streets and places;

(c) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or not, removing noxious vegetation, and abating all public nuisances;

(d) extinguishing fires, and protecting life and property when fire occurs;

(e) regulating or abating offensive or dangerous trades or practices;

(f) removing obstructions and projections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or in the Government;

(g) securing or moving dangerous buildings or places, and reclaiming unhealthy localities;

(h) acquiring and maintaining, changing and regulating places for the disposal of the dead;

(i) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

(j) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or