

**LLB.3rd Semester; SCHOOL OF LAW UNIVERSITY
OF KASHMIR**

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LOCAL LAWS-III

Unit-II: J&K Municipal Corporation Act, 2000

**Building Regulations; Building Procedures, Powers
and Penalties**

Building Regulations

[Sections 242-246, 253-255, 256-277]

242. Prohibition of erection of building without sanction. –

No person shall erect or commence to erect any building or execute any of the works specified in section 244 except with

the previous sanction of the Commissioner, or otherwise than in accordance with the provisions of this Chapter and of the by-laws made under this Act in relation to the erection of buildings or execution or works.

243. Erection of building. –

1) Every person who intends to erect a building shall apply for sanction by giving notice in writing to the Commissioner in such form and containing such information as may prescribed by byelaws made in this behalf.

(2) Every such notice shall be accompanied by such documents and plans along with specification as may be prescribed.

Provided that every such plan and specifications shall be duly signed by a qualified structural engineer who shall be registered with the municipality for purpose.

Explanation. - For the purpose of this sub-section the expression "a qualified structural engineer" means a graduate (civil) engineer.

244. Applications for additions to, or repairs of building. –

(1) Every person who intends to execute any of the following works, namely :-

- (a) to make any addition to a building ;
- (b) to make any alteration or repairs to a building involving the removal or re-erection of in any external or partition wall thereof or of any wall which supports the roof thereof to an extent exceeding one half of such wall above the plinth level, such half to be measured in superficial meters.
- (c) to make any alteration or repairs to a frame building involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid or involving the removal or re-erection of any such wall thereof as aforesaid to an extent exceeding one half of such wall above plinth level, such half to be measured in superficial meters
- (d) to make any alteration in a building involving -
 - (i) the sub-division of any room in such building so as to convert the same into two or more separate rooms ; or
 - (ii) the conversion of any passage or space in such building into a room or rooms ;
- (e) to repair, remove, construct, reconstruct, or make any addition to or structural alteration in any portion of a

building abutting on a street which stands within the regular line of such street :

(f) to close permanently any door or window in an external wall ; and

(g) to remove or reconstruct the principal staircase or to alter its position ;

shall apply for sanction by giving notice in writing of his intention to the Commissioner in such form and containing such information as may be prescribed by bye-laws made in this behalf.

(2) Every such notice shall be accompanied by such documents and plans as may be so prescribed.

245. Conditions of valid notice. –

(1) A person giving the notice required by section 243 shall specify the purpose for which it is intended to use the building to which such notice relates and a person giving the notice required by section 244 shall specify whether the purpose for which the building is being used is proposed or likely to be changed by the execution of the proposed work.

(2) No notice shall be valid until the information required under sub-section (1) and any further information and plans which may be require by bye-laws made in this behalf have been furnished to the satisfaction of the Commissioner alongwith the notice.

246. Sanction or refusal of building or work. –

(1) The Commissioner shall sanction the erection of a building or the execution of a work unless such building or work would contravene any of the provisions of sub-section (2) of this section or the provisions of section 250.

(2) The grounds on which the sanction of a building or work may be refused shall be the following namely :-

- (a) that the building or work, or the use of the site for the building or work or any of the particulars comprised in the site plan, ground plan, elevation, section or specification would contravene the provisions of any bye-law made in this behalf or of any other law or rule, bye-law or order made under such other law ;

(b) that notice for sanction does not contain the particulars or is not prepared in the manner required under the bye-laws made in this behalf ;

(c) that any information or documents required by the Commissioner under this Act or any bye-laws made thereunder has or have not been duly furnished ;

(d) that in cases falling under section 222 lay out plans have not been sanctioned in accordance with section 223 ;

(e) that the building or work would be an encroachment on Government land or land vested in the Corporation ;

(f) that the site of the building or work does not abut on a street or projected street and that there is no access to such building or work from any such street by a passage or pathway appertaining to such site ;

(g) that the building or work would be in contravention of any scheme sanctioned under section 260 ; and

(h) that a building for habitation, does not provide for a flush or a water seal latrine.

(3) The Commissioner shall communicate the sanction to the person who has given the notice ; and where he refuses sanction

on any of the grounds specified in sub-section (2) of this section or under section 250 he shall record a brief statement of his reasons for such refusal and communicate the refusal alongwith the reasons therefore to the person who has given the notice.

(4) The sanction or refusal as aforesaid shall be communicated in such manner as may be specified in the bye-laws made in this behalf.

253. Order of demolition and stoppage of building and works in certain cases and appeal. –

(1) Where the erection of any work has been commenced, or is being carried on or has been completed without or contrary to the sanction referred to in section 246 or in contravention of any condition subject to which such sanction has been accorded or in contravention of the provisions of this Act or bye-laws made thereunder, the Commissioner may in addition to any other action that may be taken under this Act, make an order directing that such erection or work shall be demolished by the person at whose instance the erection or work has been commenced or is being carried on or has been completed within such period (not being less than seven days from the date on which a copy of the

order of demolition with a brief statement of the reasons therefore has been delivered to that person) as may be specified in the order of demoltion :

Provided that no order of demotion shall be made unless the person has been given, by means of a notice served in such manner as the Commissioner may think fit, a reasonable opportunity of showing cause why such order should not be made :

Provided further that where the erection or work has not been completed, the Commissioner may be the same order or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct the person to stop the erection or work until the expiry of the period within which an appeal against the order of demolition, if made, may be preferred under sub-section (2).

(2) Any person aggrieved by an order of the Commissioner made under subsection (1) may prefer an appeal against the order to the Special Tribunal within the period specified in the order for the demolition of the erection or work to which it relates.

(3) Where an appeal is preferred under sub-section (2) against an order of demolition, the Tribunal may stay the enforcement of that order on such terms, if any, and for such period, as it may think fit ;

Provided that where the erection of any building or execution of any work has not been completed at the time of the making of the order of demolition, no order staying the enforcement of the order of demolition shall be made by the Tribunal unless reasonable opportunity of being heard is afforded to the Commissioner and security sufficient in the opinion of the Tribunal has been furnished by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(4) Save as provided in this section no court shall entertain any suit, application or other proceedings for injunction or other relief against the Commissioner or restrain him from taking any action or making any order in pursuance of the provisions of this section.

(5) Subject to the order made by the tribunal on appeal, the order of demolition made by the Commissioner shall be final and conclusive.

(6) Where no appeal has been preferred against an order of demolition made by the Commissioner under sub-section (1) or where an order of demolition made by the Commissioner under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein or, as the case may be, within the period, if any fixed by the tribunal on appeal, and on the failure of the person to comply with the order within such period, the Commissioner may cause the erection of the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act.

254. Order of stoppage of building or works in certain cases. - (1) Where the erection of any building or execution of any work has been commenced or is being carried on (but has not been completed) without or contrary to the sanction referred to in section 246 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provisions of this Act or bye-laws made thereunder, the Commissioner may in addition to any other action that may be

taken under this Act by order require the person at whose instance the building or the work has been commenced or is being carried on, to stop the same forthwith.

(2) If an order made by the Commissioner under section 253 or under subsection (1) of this section directing any person to stop the erection of any building or execution of any work is not complied with, the Commissioner may require any Police officer or remove such person and all his assistants and workmen from the premises within such time as may be specified in the requisition and such Police officer shall comply with the requisition accordingly.

(3) After the requisition under sub-section (2) has been complied with, the Commissioner may, if he thinks fit, depute by a written order a Police officer or a Corporation officer or other Corporation employees to watch the premises in order to ensure that the erection of the building or the execution of the work is not continued.

(4) Where a Police officer or a Corporation officer or other Corporation employee has been deputed under sub-section (3) to watch the premises, the cost of such deputation shall be paid by the person at whose instance such erection or execution is being

continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as an arrear of tax under this Act.

(5) Where the owner of the building submits the revised plan, after the work has been stopped by him or the work is completed by him and deviations from the sanctioned plan are minor in nature, the Commissioner may subject to the special and general directions of the State Government under section 255, compound the cases of deviations.

Explanation. - For the purposes of sub-section (5), the expression "minor in nature" in relation to deviations shall not include-

(a) addition of a storey beyond the sanctioned plan ;

(b) erection of a building :-

(i) on any Government land or land vested in the Corporation; or.

(ii) by covering any public road, street, path or drain.

(6) Notwithstanding anything to the contrary contained in this Act, the Corporation may, after affording a reasonable opportunity of being heard, deny or withdraw the civic amenities

including water and sewerage connection, if the owner of the building makes deviations from the sanctioned plan by addition of storey beyond the sanctioned plan, erection of building on any Government land or land vested in the Corporation, or by covering any public road, street, path or drain.

255. Powers of the Government to give direction for compounding deviations from sanctioned plan. –

Without prejudice to the provisions contained in this Act the Government may, from time to time, give such special or general directions in the matter of policy in relation to the compounding of the cases involving deviations from the sanctioned plan as in its opinion are required to be followed by the Commissioner for compounding such cases under subsection (5) of section 254 of this Act.

256. Power of Commissioner to require alternation of work. –

(1) The Commissioner may, at any time during the erection of any building or execution of any work or at any time within three months after the completion thereof, by a written notice specify any matter in respect of which such erection or execution is without or contrary to the sanction referred to in

section 246 or is contravention of any condition of such sanction or any of the provisions of this Act or any bye-laws made thereunder and require the person who gave the notice under section 243 or section 244 or the owner of such building or work either.-

(a) to make such alteration as may be specified in the said notice with the object of bringing the building or work in conformity with the said sanction, condition or provisions, or.

(b) to show cause why such alterations should not be made within the period stated in the notice.

(2) If the person or the owner does not show cause as aforesaid he shall be bound to make the alterations specified in the notice.

(3) If the person or the owner shows cause as aforesaid, the Commissioner shall by an order either cancel the notice issued under sub-section (1) or confirm the same subject to such modifications as he thinks fit.

257. Completion certificate. –

(1) Every person who employs a licensed architect or engineer or a person approved by the Commissioner to design or erect a

building or execute any work shall, within one month after the completion of the erection of the building in whole or part thereof or execution of the work, deliver or send or cause to be delivered or sent to the Commissioner, a notice in writing of such completion accompanied by a certificate in the form prescribed by bye-laws made in this behalf and shall give to the Commissioner all necessary facilities for the inspection of such building or work.

(2) No person shall occupy or permit to be occupied any such building or use or permit to be used any building or a part thereof effected by any such work until permission has been granted by the Commissioner in this behalf in accordance with byelaws made under this Act:

Provided that if the Commissioner fails, within a period of thirty days after the receipt of the notice of completion of a building or part thereof to communicate his refusal to grant such permission, such permission shall be deemed to have been granted.

258. Restrictions on user of buildings and removal of dangerous buildings. – (1) No person shall, without the written permission of the Commissioner, or otherwise than in conformity with the conditions, if any of such permission-

- (a) use or permit to be used for human habitation any part of a building not originally erected or authorized to be used for that purpose or not used for that purpose before any alteration has been made therein by any work executed in accordance with the provisions of this Act and of the byelaws made thereunder ;
- (b) change or allow the change of the use of any land or building;
- (c) convert or allow the conversion of one kind of tenement into another kind.

(2) If it appears to the Commissioner at any time that any building is in ruinous conditions, or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such building or any other building or place in the neighborhood of such building, the Commissioner may, by order in writing, require the owner or occupier of such building to demolish, secure or repair such building or do one or more of such things within such period as may be specified in the order, so as to prevent all cause of danger therefrom.

(3) The Commissioner may also, if he thinks fit, require such owner or occupier by the said order either forthwith or before proceeding to demolish, secure or repair the building so set up a proper and sufficient board or fence for the protection of passers-by and other person, with a convenient platform and hand rail wherever practicable to serve as a footway for passengers outside of such board or fence.

(4) If it appears to the Commissioner that danger from a building which is in a ruinous condition or likely to fall is imminent, he may, before making the order aforesaid fence off, demolish, secure or repair the said building or take such steps as may be necessary to prevent the danger.

(5) If the owner or occupier of the building does not comply with the order within the period specified therein, the Commissioner shall take such steps in relation of the building as to prevent all cause of danger therefrom.

(6) All expenses incurred by the Commissioner in relation to any building under this section shall be recoverable from the owner or occupier thereof as arrears of tax under this Act.

259. Power to order building to be vacated in certain circumstances. –

(1) The Commissioner may by order in writing direct that any building which in his opinion is in a dangerous condition or is not provided with sufficient means of aggress in case of fire or is occupied in contravention of section 257, be vacated forthwith or within such period as may be specified in the order :

Provided that at the time of making such order the Commissioner shall record a brief statement of the reasons therefor.

(2) If any person fails to vacate the building in pursuance of such order the Commissioner may direct any police officer to remove such person from the building and the police officer shall comply with such direction accordingly.

(3) The Commissioner shall, on the application of any person who has vacated, or has been removed from any building in pursuance of an order made by him, allow such person to re-occupy the building on the expiry of the period for which the order has been in force ; provided that the reasons on account of which the vacation was ordered have been rectified or have ceased to exist.

260. Building scheme. –

(1) The Corporation may, and if so require by the Government shall, within six month of the date of such requisition, draw up a building scheme/Master Plan for built areas, and a town planning scheme/Master Plan for unbuilt areas, which may among other things provide for the following matters, namely :-

- (a) the restriction on the erection or re-erection of buildings or any class of buildings in the whole or any part of the city, and of the use to which they may be put ;
- (b) the prescription of a building line on either side or both sides of any street existing or proposed ;
- (c) the area of land in such unbuilt area which shall be transferred to the Corporation for public purposes including use a public streets by owner of land either on payment to compensation or otherwise ; provided that the total area so transferred shall not exceed thirty five per cent and the area transferred without payment shall not exceed twenty five percent of any one owner`s land within such unbuilt area;
- (d) the determination of the size and shape of a reconstituted plot so as to render it suitable for building purposes and

where the plot is already built upon, to ensure that the building, so far as possible complies with the provisions of the scheme in respect of open spaces ;

- (e) the formation of a reconstituted plot by the alteration of the boundaries of an original plot ;
- (f) the formation of a reconstituted plot by the transfer wholly or partly of the adjoining lands ;
- (g) the allotment of a plot to any owner dispossessed of land in furtherance of the scheme ;
- (h) the transfer of ownership of a plot from one person to another ; and
- (i) the details of the internal services, estimated cost for providing them, the extent of the liability of the owners of buildings and lands for the payment of the cost and the manner of payment of the same.

Explanation. - For the purposes of this section -

- (1) the "reconstituted plot" shall mean a plot which is altered in ownership or otherwise as a result of making of a town planning scheme ;
- (2) "internal services" shall mean :-

- (i) metalling of roads and paving of footpaths ;
- (ii) turfing and plantation with trees of open spaces ;
- (iii) street lighting ;
- (iv) adequate and wholesome water supply ;
- (v) sewers and drains both for storm and sullage water and necessary provision for their treatment and disposal ; and
- (vi) any other works that the Corporation may think necessary for the development of the area comprised in the scheme.

(2) When a scheme has been drawn up under the provisions of sub-section (1) the Corporation shall give public notice of such scheme and shall at the same time intimate a date not less than thirty days from the date of such notice by which any person may submit to the Corporation in writing any objection or suggestion with regard to such scheme which he may wish to make.

(3) The Corporation shall consider every objection or suggestion with regard to the scheme which may be received by the date intimated under the provisions of subsection (2) and may modify

the scheme in consequence of any such objection or suggestion and shall then forward such scheme as originally drawn up or as modified to the Government which may sanction such scheme or may refuse to sanction it, or may return it to the Corporation for reconsideration and re-submission by a specified date.

(4) If a Corporation fails to submit a scheme within six months of being required to do so under sub-section (1) or fails to re-submit a scheme by a specified date, when required to do so under sub-section (3) or re-submit a scheme which is not approved by the Government, the Government may draw up a scheme of which public notice shall be given by notification and by publication within the city together with an intimation of the date by which any person may submit in writing to the Government any objection or suggestion which he may wish to make and the Government may sanction such scheme as originally notified or modified in consequence of any such objections or suggestions as the Government may think fit, and the cost of such scheme or such portion of the cost as the Government may deem fit shall be defrayed from the Corporation Fund.

(5) While sanctioning a scheme the Government may impose condition for the submission of periodical reports to it on the progress of the scheme and for the inspection and supervision of the schemes.

(6) After the scheme has been sanctioned, the Corporation shall proceed to provide internal services as soon as possible and complete it within a period of five years from the date of its sanction.

(7) If under the provisions of any scheme sanctioned under the preceding sub-section has erection or re-erection of building in a specified area for a specified purpose is prohibited, any person who after such scheme is sanctioned, uses any building for such purpose shall, unless it was used for this purpose before the scheme was sanctioned, on conviction be liable to fine which may extend to five thousand rupees, and if after such conviction he continues to use such building for such purpose shall be liable to fine which may extend to one hundred rupees for every day during which such use continues.

(8) For the purpose of drawing up a building scheme for built up areas and a town planning scheme for unbuilt up areas, the Corporation may, and if so required by the Government shall,

cause the geological survey of the municipal area conducted by such persons and in such manner as may be prescribed.

Explanation. - For the purpose of this section-

- (i) "*built area*" is that portion of a municipal area of which the great part has been developed as a business or residential area ; and
- (ii) "*unbuilt area*" is an area within the local limits of a municipal area which is declared as such at a special meeting of the Corporation by a resolution confirmed by the Government, or which is notified as such by the Government.

Sanitation and Public Health [CHAPTER XV]

261. Provisions for daily cleansing of streets and removal of rubbish and filth. –

(1) For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the Commissioner, shall provide-

- (a) for the daily surface cleansing of all streets and the removal of the sweepings therefrom ; and

(b) for the removal of the contents of all receptacles and depots and of the accumulation at all places provided or appointed by him under the provisions of this Act for the temporary deposit of rubbish, filth and other polluted and obnoxious matter.

(2) The Commissioner may, by public notice issue directions as to the time at which, the manner in which, and the conditions subject to which any matter referred to in sub-section (1) may be removed along a street or may be deposited or otherwise disposed of.

262. Provision for placement of receptacles, depots and places for rubbish etc. –

(1) The Commissioner shall-

(a) provide or place in proper and convenient situations public receptacles, depots or places for the temporary deposit, of rubbish, filth and other polluted and obnoxious matters and for the final disposal of rubbish, filth and other polluted and obnoxious matter ;

(b) provide dustbins for the temporary deposit of rubbish ;

(c) provide covered vehicles or vessels for the removal of filth and other polluted and obnoxious matters.

(2) The Commissioner shall make adequate provision for preventing receptacles, depots, dustbins, vehicles and vessels referred to in sub-section (1) from becoming sources of nuisance.

264. Duty of owners and occupiers to collect and deposit rubbish etc. - It shall be the duty of the owners and occupiers of all premises-

(a) to have the premises swept and cleaned ;

(b) to cause all filth, rubbish and other polluted and obnoxious matter to be collected from their respective premises and deposited at such times as the Commissioner, by the public notice prescribe, in public receptacles, depots or places provided or appointed under section 263 for temporary deposit or final disposal thereof;

(c) to provide receptacles of the type and in the manner prescribed by the Commissioner for the collection therein of all filth, rubbish and other polluted and obnoxious matters

from such premises and to keep such receptacles in good condition and repair.

265. Removal of rubbish etc. accumulated on premises used as factories, workshop etc. –

The Commissioner may, if he thinks fit-

- (a) by written notice require the owner or occupier of any premises used for carrying on any manufacture, trade or business or used as a factory, workshop, trade premises or market or in any way so that rubbish, filth and other polluted and obnoxious matter are accumulated in large quantities, to collect all such rubbish, filth and other polluted and obnoxious matter accumulating thereon and to remove the same at such time and in such carts or receptacles and by such routes as may be specified in the notice to a depot or place provided or appointed under section 263 ; or
- (b) after giving such owner or occupier notice of his intention cause all rubbish, filth and other polluted and obnoxious matter accumulated in such premises to be removed and charge the said owner or occupier for such removal such fee

as may, with the sanction of the Corporation, be specified in the notice issued under clause (a).

266. Prohibition against accumulation of rubbish etc. –

(1) No owner or occupier of any premises shall keep or allow to be kept for more than twenty four hours or otherwise than in a receptacle approved by the Commissioner, any rubbish, filth or other polluted and obnoxious matter, on such premises or any place belonging thereto or neglect to employ proper means to remove such rubbish, filth and other polluted and obnoxious matter from or to cleanse, such receptacle and to dispose such rubbish, filth and other polluted and obnoxious matter in the manner directed by the Commissioner, or fail to comply with any requisition of the Commissioner as to the construction, repair, pavement or cleansing of any latrine or urinal on or belonging to the premises.

(2) No owner or occupier shall allow the water of any sink, drain, latrine or urinal of any rubbish, filth and other polluted and obnoxious matter to run down on or to be thrown or put upon, any street or into any drain in or along the side of any street except in such manner as shall prevent any avoidable

nuisance from any such water, rubbish, filth or other polluted and obnoxious matters.

(3) No person shall, after due provision had been made in this respect under the foregoing provisions of this Chapter for the deposit and removal of the same-

(a) deposit any rubbish, filth and other polluted and obnoxious matters in any street or on the verandah of any building or on any unoccupied ground alongside any street or on the bank of a water course ; or.

(b) deposit any filth or other polluted and obnoxious matter in any dustbin or in any vehicle not intended for the removal of the same ; or

(c) deposit rubbish in any vehicle or vessel intended for the removal of filth and other polluted and obnoxious matter.

267. Commissioner`s power to get premises scavenged and cleansed. –

If any premises are not properly and regularly scavenged or cleansed or are in a filthy and unwholesome condition, the Commissioner may cause them to be scavenged and cleansed

and recover the expenses from the owner or as the case may be, occupier as an arrear of tax under this Act.

268. Public latrines, urinals etc. –

(1) The Commissioner shall provide and maintain in proper and convenient places sufficient number of public latrines and urinals.

(2) Such public latrines and urinals shall be so constructed as to provide separate compartments for each sex and not to be a nuisance, and shall be provided with all necessary conservancy establishments and shall regularly be cleansed and kept in proper order.

269. Construction of latrines and urinals. –

The Commissioner may require the owner or occupant of any service latrine, within a period to be specified in the notice, to demolish or close such service latrine and convert it into water flush latrine ; and on the failure to convert such latrine, the Commissioner may himself get the same converted recover the cost incurred thereon from the owner or occupier, as the case may be.

(2) No building plans shall be sanctioned by the Corporation unless the provisions for flush or waterseal latrine is made.

270. Latrine and urinals etc. in new buildings. –

(1) It shall not be lawful to erect any residential building without providing flush or waterseal latrine and accommodation for bathing or for washing clothes and utensils on each floor of such building as may be prescribed.

(2) While prescribing such accommodation it may in each case be determined-

(a) whether such building shall be served by the flush system or by water seal system ;

(b) what shall be the site or position of each latrine, urinal, bathing or washing place or site and their number on each floor and their clear internal dimensions.

(3) It shall not be lawful to erect a residential building comprised of separate tenements on the flat system without providing atleast one latrine and one bathing or washing place for servants on the ground floor of such building or at any other suitable place in the same premises.

(4) In this section the expression to erect a building has the same meaning as in section 241.

271. Latrines and urinals for labourers etc.

(1) Every person employing workmen, labour or other persons exceeding twenty in number shall provide and maintain for the separate use of person of each sex so employed, latrines and urinals, of such description and number as the Commissioner may be notice require and within such time as may be fixed in the notice and shall keep the same in clean and proper order.

272. Provision of latrines and urinals for markets etc. –

The Commissioner may be notice require any owner or manager of a market, cart stand, cattle shed, theatre, railway station and other places of public resort within such time as may be specified in such notice to provide and maintain for the separate use of persons of each sex, latrines and urinals of such description and number and in such position as may be specified and to keep the same in clean and proper order.

273. Other provisions as to private latrines. - The Commissioner may, by written notice-

- (a) require the owner or other person having the control of any private latrine or urinal not to put the same to public use ;or

- (b) require the owner or other person having control of such private latrine or urinal which in the opinion of the Commissioner constitutes a nuisance, to remove the latrine or the urinal ; or
- (c) require any person having the control whether as owner, lessee or occupier of any land or building-
 - (i) to have any latrine provided for the same shut out by a sufficient roof, wall or fence from the view of persons passing by or dwelling in the neighborhood; or
 - (ii) to cleanse in such manner as the Commissioner may specify in the notice any latrine or urinal belonging to the land or building ; or
- (d) where the premises intended or used for human habitation are without any latrine or urinal accommodation or are provided with insufficient latrine or urinal accommodation, require the owner, lessee or occupier of such premises to provide same or such additional latrine or urinal accommodation as may be prescribed, if necessary, by causing any part of such premises to be vacated and

demolished in accordance with the bye-laws made in this behalf.

274. Removal of congested building. –

(1) Where it appears to the Commissioner that any block of building in an unhealthy condition by reason of the manner in which the building are crowded together, or of the narrowness, closeness, or faulty arrangement of streets, or for the want of proper drainage and ventilation, or of the impracticability of cleaning the building or other similar cause, he shall cause the block to be inspected by the Corporation Health Officer and the Corporation Engineer, who shall make a report in writing to him regarding the sanitary condition of the block.

(2) If upon receipt of such report the Commissioner considers that the sanitary condition of the block is likely to cause risk to disease to the inhabitants of the buildings or of the neighborhood or otherwise to endanger the public health, he shall with the approval of the Corporation in order to abate the unhealthy condition of the block and may thereupon by notice in writing require the owner of such buildings to remove them within such period as may be specified in the notice :

Provided that before issuing the notice, reasonable opportunity should be afforded to the owners to show cause why the buildings should not be removed :

Provided further that the Commissioner shall pay compensation to the owners for any buildings so removed which may have been erected under proper authority.

(3) If a notice under sub-section (2) requiring any owner of a building to remove it is not complied with, then, after the expiration of the time specified in the notice the Commissioner may himself remove the building required to be removed by the notice and recover from the owner of the building the expenses of such removal as an arrears of tax under this Act.

275. Power of Commissioner to require improvement of buildings unfit for human habitation. –

(1) Where the Commissioner upon information in his possession is satisfied that any building is in any respect unfit for human habitation, he may, unless in his opinion the building is not capable at a reasonable expenses of being rendered fit, serve upon the owner of the building a notice requiring him within such time not being less than thirty days as may be specified in the notice to execute the works of improvement specified therein

and stating that in his opinion those works will render the building fit for human habitation.

(2) In addition to serving a notice under this section on the owner the Commissioner may serve a copy of the notice on any other person having an interest in the building whether as a lessee, mortgagee or otherwise.

(3) In determining whether a building can be rendered fit for human habitation at a reasonable expenses regard shall be had to the estimated cost of the works necessary to render it so fit and the value which it is estimated that the building will have when the works are completed.

276. Enforcement of notice requiring execution of works of improvement. –

If a notice under section 275 requiring the owner of the building to execute works of improvement is not complied with, then, after the expiration of the time specified in the notice the Commissioner may himself do the works required to be done by the notice and recover the expenses incurred in connection therewith as an arrears of tax under this Act.

277. Power of Commissioner to order demolition of buildings unfit for human habitation. - (1) Where the

Commissioner upon any information in his possession is satisfied that any building is unfit for human habitation and is not capable at a reasonable expense of being rendered so fit, he shall serve upon the owner of the building and upon any other persons having an interest in the building, whether as a lessee, mortgagee or otherwise a notice to show cause within such time as may be specified in the notice as to why an order of demolition of the building should not be made.

(2) If any of the persons upon whom a notice has been served under subsection (1), appears in pursuance thereof before the Commissioner and gives an undertaking to him that such person shall, within a period specified by the Commissioner, execute such works of improvement in relation to the building as will, in the opinion of the Commissioner, render the building fit for human habitation or an undertaking that the building shall not be used for human habitation until the Commissioner on being satisfied that it has been rendered fit for that purpose, cancel the undertaking the Commissioner shall not make an order of demolition of the building.

(3) If no such undertaking as is mentioned in sub-section (2) is given, or if in a case where any such undertaking has been

given, any work of improvement to which the undertaking relates is not carried out within the specified period or the building is at any time used in contravention of the terms of the undertaking, the Commissioner shall forthwith make an order of demolition of the building requiring that the building shall be vacated within a period to be specified in the order not being less than thirty days from the date of the order, and that it shall be demolished within six weeks of the expiration of that period.

(4) Where an order of demolition of a building under this section has been made, the owner of building or any other person having an interest therein shall demolish that building within the time specified in that behalf by the order, and if the building is not demolished within the time, the Commissioner, shall demolish the building and sell the materials thereof.`

(5) Any expenses incurred by the Commissioner under subsection (4), if not satisfied out of the proceeds of the sale of materials of the building, shall be recovered from the owner of the building or any other person having an interest therein as an arrear of tax under this Act.

(6) In determining for the purposes of section 275 and this section whether a building is unfit for human habitation, regard

shall be had to its condition in respect of the following matters that is say :-

- (a) repair ;
- (b) stability ;
- (c) freedom from damp ;
- (d) natural light and air ;
- (e) water supply ;
- (f) drainage and sanitary conveniences ;
- (g) facilities for storage, preparation and cooking of food and for the disposal of rubbish, filth and other polluted matter ;

and the building be deemed to be unfit as aforesaid if and only if it is so defective in one or more of the said matters that it is not reasonably suitable for occupation in that condition.

Explanation. - In sections 275, 276 and this section, "work of improvement" in relation to a building includes any one or more of the following works, namely-

- (a) necessary repairs ;
- (b) structural alterations ;
- (c) provision of light points and water taps ;

- (d) construction of drains, open or covered ;
- (e) provision of latrines and urinals ;
- (f) provision of additional or improved fixtures and fittings ;
- (g) opening up or paving of court yard ;
- (h) removal of rubbish, filth and other
- (i) any other work including the demolition of any building or any part thereof which , in the opinion of the Commissioner is necessary for executing any of the works specified above.

Building Procedures, Powers and Penalties [Sections 357- 361]

357. Power of entry and inspection. –

The Commissioner or any Corporation officer or other Corporation employee authorized by him in this behalf or empowered in this behalf by or under any provision of this Act may enter into or upon any land or building with or without assistants and workmen:-

- (a) for the purposes of ascertaining whether there is or has been in connection with the land or building any

contravention of the provisions of this Act or any bye-law made thereunder;

(b) for the purposes of ascertaining whether or not circumstances exist which would authorize or require the Commissioner, or any Corporation officer or employee authorized or empowered in this behalf to take any action or execute any work under this Act or any bye-law made thereunder;

(c) for the purposes of taking any action or executing any work authorized or required by this Act or any bye-law made thereunder;

(d) to make any inquiry, inspection, examination, measurement, valuation or survey authorized or required by or under this Act or necessary for the proper administration of this Act.

(e) general for the purpose of efficient discharge of the functions by any of the municipal authorities under this Act or any bye-laws made thereunder.

358. Power to enter land, adjoining land in relation to any work. –

(1) The Commissioner or any person authorized by him in this behalf or empowered in this behalf by or under any provision of this Act, may enter on any land within thirty five meters of any work authorized by or under this Act with or without assistants and workmen for the purpose of depositing thereon any soil, gravel, stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(2) The person so authorizes shall, before entering on any such land state the purpose thereof and shall, if so required by the owner or occupier thereof, fence off so much of the land as may be required for such purpose.

(3) The person so authorized shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the Corporation in accordance with bye-laws made in this behalf to the owner or occupier of land or to both for any such damage, whether permanent or temporary.

359. Breaking into building. –

(1) It shall be lawful for the Commissioner, by this section do as little damage as may be, and compensation shall be payable by the Corporation in accordance with bye-laws made in this behalf to the owner or occupier of land or to both for any such damage, whether permanent or temporary.

(a) If he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent or being present, refuses to open such door, gate or barrier.

(2) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier the Commissioner, or the person authorized or empowered in this behalf, shall call upon two or more respectable inhabitants of the locality in which the place to be entered into is situate, to witness the entry or opening and may issue an order in writing to them or any of them so to do.

(3) A report shall be made to the Corporation as soon as may be after any entry has been made into any place or any door, gate or other barrier has been opened under this section.

360. Time of making entry. –

Save as otherwise provided in this Act or any byelaw made thereunder no entry authorized by or under this Act shall be made except between the hours of sunrise and sunset.

361. Consent ordinarily to be obtained. –

Save as otherwise provided in this Act or any bye-laws made thereunder, no land or building shall be entered into without the consent of the occupier, or if there is no occupier, or the owner thereof and no such entry shall be made without giving the said owner or occupier, as the case may be, not less than twenty four hours written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a factory, workshop or trade premises or a place used for any of the purposes specified in section 324 or a stable for horses or a shed for cattle or a latrine or urinal or a work under construction or for the purpose of ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Act or any bye-law made thereunder.

362. Regard to be had to social or religious usages. –

When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs

and usages of the occupants of the place entered and no apartment in the actual occupancy of a female, shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.