

CHAPTER XXX MISCELLANEOUS

Public Notices and Advertisements.

Public notices how to be made known.

469. Public notices how to be made known.

Whenever it is provided by or under this Act that public notice shall or may be given of anything, such public notice shall, in the absence of special provision to the contrary, be in writing under the signature of the Commissioner or of a municipal officer empowered under section 69 to give the same, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in Conspicuous public places within the said locality, or by publishing the same by beat of drum, or by advertisement in the local newspapers, or by any two or more of these means and by any other means that the Commissioner shall think fit.

Advertisements how to be made .

470. Advertisements how to be made .

Whenever it is provided by or under this Act that notice shall be given by advertisement in the local newspapers, or that a notification or any information shall be published in the local newspapers, such notice, notification or information shall be inserted, if practicable, in atleast two newspapers in such language or languages as the Corporation on may from time to time specify in this behalf published or circulating in the City.

Consent, etc. of Corporation, etc. may be proved by written documents

471. Consent, etc. of Corporation, etc. may be proved by written documents.

- (1) Whenever under this Act or any rule, by-law, regulation or standing order, the doing or the omitting to do anything or the validity of anything depends upon the consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction of
- (a) the Corporation, the Standing Committee, the Transport Committee or any other Committee;
 - (b) the Commissioner or the Transport Manager or any municipal officer, a written document signed as provided in sub-section (2) purporting to convey or set forth such consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction shall be sufficient evidence of such consent, sanction, approval, concurrence, confirmation, declaration, opinion or satisfaction.
- (2) The written document referred to in sub-section (1) shall be signed
- (a) when the authority concerned is the Corporation or the Standing Committee or any Committee other than the Transport Committee, by the Municipal Secretary on behalf of such authority;
 - (b) when the authority concerned is the Transport Committee, by the Chairman of the Committee;
 - (c) when the authority concerned is the Commissioner, the Transport Manager or any municipal officer, the Commissioner, the Transport Manager or such municipal officer, as the case may be.

Service of Notices, etc.

Notices, etc. by whom to be served or presented.

472. Notices, etc. by whom to be served or presented.

Notices, bills, schedules, summonses and other such documents required by this Act or by any rule, regulation or by-law to be served

upon or issued, or presented or given to any person, shall be served, issued, presented or given by municipal officers or servants or by other persons authorised by the Commissioner in this behalf.

Service how to be effected on owners of premises and other persons.

473. Service how to be effected on owners of premises and other persons.

When any notice, bill, schedule, summons or other such document is required by this Act. or by any rule, regulation or by-law to be served upon or issued or presented to any person such service, issue or presentation shall, except in the cases otherwise expressly provided for in section 474, be effected-

- (a) by giving or tendering to such person the said notice, bill, schedule, summons or other documents: or
- (b) if such person is not found, by leaving the said notice, bill, schedule, summons or other documents at his last known place of abode in the City, or by giving or tendering the same to some adult member or servant of his family or by leaving the same at his usual place of business, if any, or by giving or tendering the same to some adult employee, if any, of his at such place; or
- (c) if such person does not reside in the City and his address elsewhere is known to the Commissioner by forwarding the said notice, bill, schedule, summons or other document to him by post under cover, bearing the said address; or
- (d) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

Service on owners or occupier of premises how to be effected.

474. Service on owners or occupier of premises how to be effected.

When any notice, bill, schedule, summons, or other such document is required by this Act. or by any rule, regulation or by-law, to be served upon or issued or presented to the owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service, issue, or presentation thereof shall be effected, not in accordance with the provisions of the last preceding section, but as follows, namely :-

- (a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier, or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land: or
- (b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some adult member or servant of the family of the owner or occupier or of any of the owners or occupiers; or
- (c) if none of the means aforesaid be available by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

Sections 472, 473 & 474 inapplicable to Magistrate's summons

475. Sections 472, 473 & 474 inapplicable to Magistrate's summons.

Nothing in sections 472, 473 and 474 applies to any summons issued under this Act by a Magistrate.

Signature on notices, etc. may be stamped

476. Signature on notices, etc. may be stamped.

(1) Every licence, written permission, notice, bill, schedule, summons or other document required by this Act or by any rule, regulation or by-law to bear the signature of the Commissioner or of any municipal officer shall be deemed to be properly signed if it bears a facsimile of the signature of the Commissioner or of such municipal officer, as the case may be, stamped there upon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the Municipal Fund or upon the Transport Fund under any of the provisions of this Act, or to any deed of contract.

Power of Commissioner to call for information as to ownership of premises

477. Power of Commissioner to call for information as to ownership of premises.

(1) The Commissioner may, in order to facilitate the service, issue, presentation, or giving of any notice, bill, schedule, summons or other such document upon or to any person by written notice require the owner or occupier of any premises, or of any portion thereof to state in writing, within such period as the Commissioner may specify in the notice, the nature of his interest therein and the name and address of any other person having an interest therein, whether as free holder, mortgagee, lessee or otherwise, so far as such name and address is known to him.

(2) Any person required by the Commissioner in pursuance of sub-section (1) to give the Commissioner any information shall be bound to comply with the same and to give true information to the best of his knowledge and belief unauthorised works .

Work or thing done without written permission of the Commissioner to be deemed unauthorised

478. Work or thing done without written permission of the Commissioner to be deemed unauthorised.

(1) If any work or thing requiring the written permission of the Commissioner under any provision of this Act or any rule, regulation or by-law is done by any person without obtaining such written permission or if such written permission is subsequently suspended or revoked for any reason by the Commissioner, such work or thing shall be deemed to be unauthorised and, subject to any other provision of this Act. the Commissioner may at any time, by written notice, require that the same shall be removed, pulled down or undone, as the case may be, by the person so carrying out or doing. If the person carrying out such work or doing such thing is not the owner at the time of such notice then the owner at the time of giving such notice shall be liable for carrying out the requisitions of the Commissioner.

(2) If within the period specified in such written notice the requisitions contained therein are not carried out by the person or owner, as the case may be, the Commissioner may remove or alter such work or undo such thing and the expenses thereof shall be paid by such person or owner, as the case may be.

Works, etc. which any person is required to execute may in certain cases be executed by Commissioner at such person's cost.

Enforcement of orders to execute works, etc.

479. Works, etc. which any person is required to execute may in certain cases be executed by Commissioner at such person's cost.

(1) Subject to the provisions of this Act and of the rules' by-laws, regulations and standing orders, when any requisition or order is made under any provision of this Act or of any rule, by-law, regulation or

standing order by written notice by the Commissioner, or by any municipal officer duly empowered in this behalf, a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect, and if, within the period so prescribed, such requisition or order or any portion of such requisition or order is not complied with, the Commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made; and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The Commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

Supply of materials

480. Supply of materials.

On the written request of any person who is required under any of the provisions of this Act or of any rule, regulation or by-law to supply any materials or fittings, the Commissioner may, on such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done:

Provided that, where the provisions of section 441 or 442 will not apply, a deposit shall first of all be made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover the cost of the said materials, fittings and work.

Legal Proceedings.

Provisions respecting institution, etc. off civil and criminal sections and obtaining legal advice

481. Provisions respecting institution, etc. off civil and criminal sections and obtaining legal advice.

(1) The Commissioner may-

(a) take, or withdraw from proceedings against any person who is charged with-

- (i) any offence against this Act or any rule, regulation or by-law;
- (ii) any offence which affects or is likely to affect any property or interest of the Corporation or the due administration of this Act;
- (iii) Committing any nuisance whatever;

(b) compound any offence against this Act or any rule, regulation or by-law which under the law for the time being in force may legally be compounded;

(c) defend any election petition brought under section 16;

(d) defend, admit or compromise any appeal against a rateable value or tax brought under section 406;

(e) take, withdraw, from or compromise, proceedings under sub-section (2) of section 402, sub-sections (3) and (4) of section 439 and sections 391 and 416 for the recovery of expenses or compensation claimed to be due to the Corporation;

(f) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable under a contract entered into with such person by the Commissioner, or, with the approval of the Standing Committee, any such claim for

any sum exceeding five hundred rupees;

(g) defend any suit or other legal proceedings brought against the Corporation or against the Commissioner or a municipal officer or servant in respect of anything done or omitted to be done by them, respectively, in their official capacity;

(h) with the approval of the Standing Committee, admit or compromise any claim, suit or legal proceeding brought against the Corporation or against the Commissioner or a municipal officer or servant, in respect of anything done or omitted to be done as aforesaid;

(i) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the Corporation or of the Commissioner;

(j) obtain and pay for such legal advice and assistance as he may, from time to time, think it necessary or expedient to obtain or as he may be desired by the Corporation or the Standing Committee to obtain, for any of the purposes mentioned in the foregoing clauses of this sub-section or for securing the exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal officer or servant:

Provided that the Commissioner shall not defend any suit or legal proceeding under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the Corporation shall determine to have institute and prosecuted.

(2) In relation to legal proceedings arising out of the acquisition, extension, administration, operation and maintenance of the Transport Undertaking the provisions of sub-section (1) shall apply as if for the word "Commissioner" the words "Transport Manager" and for the words "Standing Committee" the words "Transport Committee" had respectively been substituted.

General

Councillors, etc. to be deemed to be public servants

482. Councillors, etc. to be deemed to be public servants.

(1) The Commissioner and the Transport Manager and every councillor and every member of the Transport Committee who is not a councillor and every municipal officer or servant appointed under this Act, and every contractor or agent for the collection of any municipal tax and every servant or other person employed by any such contractor or agent shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. [XLV of 1860].

(2) For the purposes of sub-section (1) the words "government" in the definition of "legal remuneration" in section 161 of the Indian Penal Code (XLV of 1860.) shall be deemed to include the Corporation.

Co-operation of Police, etc.

483. Co-operation of Police, etc.

(1) The District Magistrate and the District Superintendent of Police having jurisdiction in the City shall, as far as may be, co-operate by themselves and through their subordinates, with the Commissioner for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in the City.

(2) It shall be the duty of every police officer in the City to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any rule, regulation or by-law and to assist the Commissioner or any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Commissioner or in such municipal officer or servant under this Act.

Assistance for the recovery of rent on land.

484. Assistance for the recovery of rent on land.

For the purpose of the recovery of any amount due on account of rent from any person to a Corporation in respect of any land vested in or otherwise held by such Corporation, the Corporation shall be deemed to be a superior holder and every such person an inferior holder of such land, within the meaning of sections 86 and 87 of the Bombay Land Revenue Code, 1879, (Born. V of 1879.) and the Corporation as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land revenue payable to him by an inferior holder.

Informalities and errors in assessments, etc. not to be deemed to invalidate such assessment, etc.

485. Informalities and errors in assessments, etc. not to be deemed to invalidate such assessment, etc.

(1) Any informality, clerical error, omission or other defect in any assessment made or in any distress levied or attachment made or in any notice, bill, schedule, summons or other documents issued under this Act, or under any rule, regulation, by-law or standing order may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, attachment, notice, bill, schedule, summons or other document invalid or illegal if the provisions of this Act and of the rules, regulations, by-laws and standing orders have in substance and effect been complied with, but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

Indemnity for acts done in good faith.

486. Indemnity for acts done in good faith.

No suit, prosecution or other legal proceeding shall lie in respect of anything in good faith done or purported or intended to be done under this Act against any councillor or against any member of the Standing Committee who is not a councilor or against the Commissioner, the Transport Manager or any municipal officer or servant or against any person acting under and in accordance with the directions of the Corporation, any committee constituted under this Act, the Commissioner, the Transport Manager, any municipal officer or servant or of a Magistrate.

Protection of persons acting under this Act against suits

487. Protection of persons acting under this Act against suits.

(1) No suit shall be instituted against the Corporation or against the Commissioner, or the Transport Manager, or against any municipal officer or servant, in respect of any act done or purported to be done in pursuance or execution or intended execution of this Act or in respect

of any alleged neglect or default in the execution of this Act :-
 (a) until the expiration of one month next after notice in writing has been, in the case of the Corporation, left at the chief municipal officer and in the case of the Commissioner or of the Transport Manager or of a municipal officer or servant delivered to him or left at his office or place of abode, slating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney advocate, pleader or agent, if any, for the purpose of such suit, nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit-

(a) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid;

(b) the claim, if it be for damages, shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into Court with cost.

(3) Where the defendant in any such suit is a municipal officer or servant payment of the sum or of any part of any sum payable by him in, or in consequence of the suit, whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the previous sanction of the Standing Committee or the Transport Committee from the Municipal Fund or the Transport Fund, as the case may be.

**Savings in respect
or certain provision
of Bombay Land
Revenue Code, 1879**

488. Savings in respect or certain provision of Bombay Land Revenue Code, 1879.

Notwithstanding the provisions of section 48, 65, 66 and 67 of the Bombay Land Revenue Code, 1879-

(1) the use of any land for any purpose to which it may lawfully be put under the provisions of this Act shall not be prohibited in exercise of the powers conferred by or under the said Code;

(2) it shall be sufficient for any occupant of land assessed or held for the purpose of agriculture to show the satisfaction of the Collector that he has complied with all the requirements of this Act and of the rules, regulations and by-laws to entitle such occupant to permission under section 65 of the said Code subject to the condition of the payment of altered assessment and fine, if any, for the use of his holding or part thereof for any purpose unconnected with agriculture.

**Limitation of
liability of agent or
trustee or owner**

489. Limitation of liability of agent or trustee or owner.

(1) No person who receives the rent of any premises in any capacity described in paragraph (i), (ii) or (iii) of sub-clause (a) of clause (45) of section 2 shall be liable to do anything which is by this Act required to be done by the owner, unless he has or, but for his own improper act or default, might have had sufficient funds of or due to the owner to pay for the same.

(2) The burden of proving the facts entitling any person to relief under sub-section (1) shall rest on such person.

(3) When any person has secured relief under sub-section (1) the

Commissioner may, by written notice, require such person to apply to the discharge of any obligation which he would, but for such relief, be bound to discharge, the first moneys which shall come to his hand on behalf of or for the use of the owner, and any person who fails to comply with such notice shall be deemed to be personally liable to discharge such obligation.

(4) Nothing in this section shall be deemed to prevent the Commissioner from carrying out the necessary works and recovering the expenses from the actual owner.