



**THE
JAMMU AND KASHMIR GOVERNMENT GAZETTE**

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Separate paging is given to this part in order that it may be filed as a
separate compilation.

PART III

Laws, Regulations and Rules passed thereunder.

**JAMMU AND KASHMIR LEGISLATIVE ASSEMBLY
SECRETARIAT, SRINAGAR**

Under rule 64 of the Rules of Procedure and Conduct of Business
in the Jammu and Kashmir Legislative Assembly, the following Bill
together with the Statement of Objects and Reasons, is published in an
extraordinary issue of the Government Gazette.

By order of the Hon'ble Speaker.

(Sd.) M. RAMZAN,

Secretary.

**THE JAMMU AND KASHMIR MUNICIPAL LAWS
(SECOND AMENDMENT) BILL, 2010.**

[L. A. Bill No. 29 of 2010.]

A Bill further to amend the Jammu and Kashmir Municipal Act, 2000 and the Jammu and Kashmir Municipal Corporation Act, 2000.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-first Year of Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Municipal Laws (Second Amendment) Act, 2010.

(2) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

CHAPTER II

Amendments to the Jammu and Kashmir Municipal Act, 2000

2. *Amendment of section 2, Act XX of 2000.*—(1) In section 2 of the Jammu and Kashmir Municipal Act, 2000 (hereinafter in this chapter referred to as the Principal Act)—

(i) clause (1) shall be omitted ;

(ii) clause (2) shall be renumbered as clause (1) and after clause (1) as so re-numbered, the following clause shall be inserted, namely :—

“(2) “Board” means the Jammu and Kashmir Property Tax Board constituted under the Jammu and Kashmir Property Tax Board Act, 2010 ;” ;

(iii) after clause (29), the following clause shall be inserted, namely :—

“Special Tribunal” means the Special Tribunal constituted under section 4 of the Jammu and Kashmir Special Tribunal Act, 1988 ; and

(iv) after clause (31), the following clause shall be inserted, namely :—

“(31A) “Taxable annual value” means the taxable annual value of any land and building or vacant land or both determined under section 73 for the purpose of assessment of property tax.”

3. *Substitution of expression.*—For the words “annual value” or “rateable value” wherever occurring in the Principal Act, the words “taxable annual value” shall be substituted.

4. *Insertion of section 15A in Act XX of 2000.*—After section 15 of the Principal Act, the following section shall be inserted, namely :—

“15A. **Qualification.**—A person shall not be qualified for being chosen as, and for being, a member of a municipality, unless:—

- (a) he is a permanent resident of the State ;
- (b) he has attained the age of 25 years ; and
- (c) his name is registered as an elector in the electoral roll of any ward in the municipal area.”

5. *Amendment of section 16, Act XX of 2000.*—In section 16 of the Principal Act, in sub-section (1), in clause (b), the colon at the end of the clause shall be substituted by full stop and the proviso thereafter shall be omitted.

6. *Insertion of sections 33A and 33B in Act XX of 2000.*—After section 33 of the Principal Act, the following sections shall be inserted, namely :—

“33A. **Constitution of Ward Committees.**—(1) There shall be constituted a Ward Committee for each Ward of the Municipality within one year from the date of commencement of the Jammu and Kashmir Municipal Laws (Second Amendment) Act, 2010.

(2) Each Ward Committee shall consist of—

- (i) the member of the municipality representing the ward, who shall be the chairperson of the Ward Committee ;
- (ii) not more than ten electors representing the civil society from the ward, to be nominated by the municipality in such manner as may be prescribed :

Provided that if the population of the ward does not exceed two thousand, the number of nominated members shall be four, and if

the population of the ward exceeds two thousand, there shall be one additional member for every thousand population or part thereof in excess of two thousand :

Provided further that in reckoning the number of additional members of the Ward Committee exceeding four, any part of population less than one thousand shall be ignored :

Provided also that half of the persons to be nominated to the Ward Committee shall be women.

(iii) the representatives of Area Sabha:

Explanation :—For the purpose of this section, civil society means any non-governmental organization or association of persons established, constituted or registered under any law for the time being in force, working for social welfare, and includes any community based organization, residents welfare association, professional institution or any civic, health and educational institution or any social or cultural body or any trade or industrial organization or other stakeholders or such other association or body, as may be prescribed.

(3) A person shall be disqualified for being nominated as, and for being, a member of the Ward Committee if he is disqualified for being chosen as, and for being, a member of a municipality under the provisions of this Act.

(4) The term of office of Ward Committee shall be co-terminus with the term of office of the municipality.

(5) The manner of conduct of business at the meetings of the Ward Committee shall be such as may be prescribed.

(6) The Ward Committee shall discharge the following functions, namely :—

(i) supervision and monitoring of the—

(a) sanitation work and drainage maintenance ;

(b) distribution of water supply ;

(c) working of the street lights ;

(d) minor repair of roads ;

- (e) maintenance of markets ;
- (f) maintenance of parks and playgrounds ; and
- (g) implementation of poverty alleviation programmers ;
- (ii) monitoring the functioning of schools, maternity centres, dispensaries and health centres wherever they are under control of the Municipality ;
- (iii) facilitation in the collection of taxes ;
- (iv) preparation of list of beneficiaries for beneficiary oriented schemes, pensions and subsidies ;
- (v) prepare an annual ward development plan in a manner consistent with the rules to be prescribed ;
- (vi) map the ward infrastructure index ;
- (vii) preparation of inventory of municipal assets ;
- (viii) assistance in the implementation of all government schemes ; and
- (ix) any other function as may be prescribed.

(7) Every Ward Committee shall be empowered to—

- (i) seek information from the Executive Officer regarding any matter relating to the ward ;
- (ii) obtain information about the Master Plan and Zonal Developmental Plan of the municipality ;
- (iii) obtain information relating to municipality budget ;
- (iv) be consulted in the development of land use and zoning regulations within the ward ; and
- (v) obtain full details of all revenue items relating to the Ward.

(8) The Municipality shall allocate twenty per cent of the amount earmarked in the annual budget of the municipality for maintenance of services relating to sanitation, water supply, drainage, roads, street lighting, parks, markets etc. to all Ward Committees enabling them to perform the functions as specified in sub-section (6).

(9) The Ward Committee may, from time to time, appoint from amongst its members such sub-committees, consisting of such number of

members as it may think fit, and may refer to such sub-committees for enquiry or opinion any matter relating to the functions entrusted to it—

33B. Constitution of Area Sabha.—(1) Each ward in a municipality shall be divided into areas in such a manner that each such area shall, as far as possible, comprise of not less than five hundred and not more than one thousand people.

(2) All the electors of an area of a ward shall constitute the Area Sabha for such area and every Area Sabha shall elect an Area Sabha Representative from amongst themselves.

(3) The qualifications and disqualifications prescribed for being chosen as, and for being, a member of municipality under the provisions of this Act shall apply mutatis mutandis to the Area Sabha Representative.

(4) The term of the Area Sabha Representative shall ordinarily be co-terminus with that of the municipality concerned.

(5) The Area Sabha may, having regard to its managerial, technical, financial and organizational capacity and the actual conditions obtaining in the ward area perform and discharge the following functions and duties, namely :—

- (i) to formulate proposals and determine the priority of schemes and development programmes to be implemented in the area and forward the same to Ward Committee for inclusion in the development plan of the ward ;
- (ii) to identify the eligible persons for beneficiary oriented schemes on the basis of criteria fixed by the Government and prepare the list of beneficiaries in order of priority and forward the same to Ward Committee for inclusion in the development plan of the ward ;
- (iii) to verify the eligibility of persons getting various kinds of welfare assistance from Government such as pensions and subsidies ;
- (iv) to identify the deficiencies in water supply, street lighting and sanitation arrangements in the jurisdiction of the Area Sabha and to suggest the remedial measures to the Ward Committee ;

- (v) to suggest the location of street lights, public taps, public wells, public toilets or any other public facility to the Ward Committee ;
 - (vi) to assist in the activities of public health centers in the area ;
and
 - (vii) to undertake and support tax mapping.
- (6) The Area Sabha, shall be empowered to—
- (i) obtain any information from the official concerned relating to the services and the works proposed to be provided or executed in the area by the Ward Committee ;
 - (ii) obtain information from the Ward Committee about every decision taken by them concerning the jurisdiction of the Area Sabha ;
 - (iii) obtain information from the Ward Committee relating to follow up action taken on the decisions concerning the area ;
 - (iv) impart awareness on matters of public interest such as cleanliness, preservation of the environment and prevention of pollution.
- (7) The manner of conduct of business at the meetings of the Area Sabha shall be such as may be prescribed.
- (8) The superintendence, direction and control for the preparation of the electoral rolls for, and the conduct of elections to, the seats of Area Sabha Representatives of the municipalities shall be vested in the Chief Electoral Officer.

7. *Amendment of section 53, Act XX of 2000.*—In section 53 of the Principal Act, after sub-section (2), the following sub-section shall be inserted, namely :—

“(2A) Notwithstanding anything contained in sub-section (2), a minimum of 20% of the municipal fund including the money received by way of devolution, plan assistance from Central and State Governments, resources raised by the municipality by way of taxes, fees etc., shall be earmarked and pooled in a separate budget head to be assigned by the Government and used for providing basic services to the urban poor.”

8. *Amendment of section 65, Act XX of 2000.*—In section 65 of the Principal Act, in sub-section (1)—

(i) for clause (a), the following clause shall be substituted, namely :—

“(a) taxes on lands and buildings or vacant lands or both situated within the municipal area (hereinafter referred to as ‘property tax’)” ;

(ii) in clause (b), for the words “two per cent”, the words “one per cent” shall be substituted.

9. *Amendment of section 66, Act XX of 2000.*—In section 66 of the Principal Act, in sub-section (1)—

(i) clause (iii) shall be omitted ;

(ii) for clause (vi), the following clause shall be substituted, namely :—

“(vi) a fee for infrastructure development on motor vehicles suitable for use on road within the municipality.

*Explanation :—*For the purpose of this clause “motor vehicle” shall have the same meaning as assigned to it in the Motor Vehicles Act, 1988 (Central Act 59 of 1988) ;” ;

(iii) for clause (xiv), the following clause shall be substituted, namely :—

“(xiv) a fee for the purpose of collection, transportation and disposal of solid waste.

*Explanation :—*For the purpose of this section ‘solid waste’, includes filth, offensive matter, rubbish sewage, trade effluent, trade refuse, waste from hospital and any other waste which is detrimental to public health ;” ; and

(iv) clause (xv) shall be omitted.

10. *Amendment of section 70, Act XX of 2000.*—In section 70 of the Principal Act—

(i) for the words, “tax”, wherever occurring, the words “tax or fee” shall be substituted ; and

- (ii) for sub-section (10), the following sub-section shall be substituted, namely :—

“(10) A tax or fee leviable shall come into force from such date as may be notified.”

11. *Substitution of sections 72 to 83, Act XX of 2000.*—For sections 72 to 83 of the Principal Act, the following sections shall be substituted, namely :—

“72. **Description and class of property tax.**—(1) Unless exempted under this Act or any other law for the time being in force, property tax shall be levied on all lands and buildings or vacant lands or both situated within the municipal area.

(2) The property tax shall be levied at such percentage not exceeding fifteen per cent of the taxable annual value of land and building or vacant land or both, as the Government may, by notification, from time to time specify.

73. *Determination of taxable annual value.*—(1) Subject to the provisions of section 68 and rules, if any, made by the Government in this behalf, the taxable annual value of land and building or vacant land assessable to taxes under this Act shall be calculated by multiplying the corresponding unit area value with the total built-up area of a building or the total area of land, as the case may be, minus depreciation, at such rates as may be prescribed, depending on the age of the building :

Provided that subject to such conditions and in such circumstances as it may deem fit, the municipality may, after passing a resolution in that behalf, in lieu of tax payable under this Act fix a lump sum amount not exceeding the sum payable under section 72 as annual tax for certain categories of property :

Provided further that such a resolution shall come into effect only if it is approved by the Government.

Explanation :— For purpose of sub-section (1), the ‘unit area value’ means the unit area value determined under the Jammu and Kashmir Property Tax Board Act, 2010.

(2) The property tax payable shall be reduced by twenty five per cent in respect of a self-occupied building used for residential purpose and such class of self-occupied non-residential building as may be notified by the Director on the recommendation of the municipality.

(3) The person liable to pay the property tax shall pay the tax in two equal instalments, the first being before 30th May and the second by the 30th November of each financial year :

Provided that the owner or occupier may, if he so chooses, pay the tax in one instalment :

Provided further that if the owner or occupier who is liable to pay property tax files return and also pays property tax for the whole year within one month from the date of commencement of the financial year, he shall be allowed a rebate of ten per cent on the tax payable by him :

Provided also that the Director may, if he considers it necessary, extend the time limit for the payment of property tax without penalty and for the benefit of ten per cent rebate in respect of the financial year, 2011-12.

(4) Before any owner or occupier submits any return under sub-section (5), he shall pay in advance half year tax calculated on the full amount of the property tax payable by him for the year on the basis of such return declared by him as being true and complete.

(5) Every owner or occupier, who is liable to pay property tax under this Act, shall every year submit to the Executive Officer or any officer authorized by him in this behalf a return in the prescribed form within the stipulated period and in the prescribed manner.

(6) In order to facilitate filing of return by an owner or occupier of any building or vacant land or both and assessment of property tax under this section, the Board shall, from time to time, issue guidelines for determining the taxable annual value of the property and the tax payable thereon.

(7) Every return filed by an owner or occupier shall be deemed to be assessed to tax except in cases where the Executive Officer or any officer authorized by him take up cases for random scrutiny in such manner as may be prescribed.

(8) For the purpose of random scrutiny of the return filed or in cases where returns are not filed as required under sub-section (5) in respect of any building or land or both, the Executive Officer or any officer authorized by him in this behalf may enter any land or building for inspection, survey or measurement after giving notice to the owner or occupier and the owner or the occupier shall be bound to furnish necessary information required and based on such inspection and information collected, the Executive Officer

or such other officer, as the case may be, shall assess the property tax subject to sub-sections (10) and (11) and send a copy of the order of assessment to the owner or occupier concerned :

Provided that no such entry shall be made into and upon any building or vacant land before sunrise and after sunset.

(9) If the owner or occupier of the property refuses to allow the authorized officer to enter the premises for inspection, survey or measurement, the officer shall, after intimating such owner or occupier in this behalf, record the refusal and proceed to assess the property to the best of his judgment :

Provided that in case of a building used as human dwelling, due regard shall be paid to the social and religious customs of the occupiers thereof and no residential premises in the actual occupancy of a women shall be entered until she has been informed that she is at liberty to withdraw and every facility has been afforded to her for withdrawing.

(10) Upon random scrutiny, if the Executive Officer or the officer authorised by him in this behalf has reasons to believe that any return^e furnished, which is deemed as assessed, is incorrect or has been under-assessed resulting in evasion of property tax, he may, on the basis of information available on record and after physical inspection, proceed to re-assess the property after giving a reasonable opportunity to the tax payer to make a representation in this behalf.

(11) After making re-assessment under sub-section (10), the Executive Officer or the authorized officer, shall issue a notice of re-assessment to the tax payer demanding that the re-assessed tax shall be paid within thirty days of the service of the notice :

Provided that if the tax re-assessed is higher than the tax remitted along with the returns by more than five per cent, the evaded tax shall be payable by such person together with a penalty of not less than two times of the tax so evaded along with interest for the difference in tax paid and payable calculated at 12 per cent per annum.

(12) The owner or occupier may either accept the property tax assessed and the penalty levied under sub-section (11) or send objections to the Executive Officer or the authorized officer within thirty days from the date of receipt of the notice under sub-section (11).

(13) The Executive Officer or the officer authorised by him shall consider the objections, if any, received under sub-section (12) and pass

such orders either confirming or revising such re-assessment within a period of sixty days from the date of filing of objections and send a copy of the order to the concerned tax payer.

(14) An assessment or re-assessment under this section shall not be made on expiry of three years after—

- (i) filing the tax return under this section ;
- (ii) the evidence of fact justifying re-assessment; comes to the knowledge of the Executive Officer or the officer authorised by him in this behalf.

(15) In computing the period of limitation specified for assessment or re-assessment, as the case may be, under this Act, the period taken for the disposal of any appeal against an assessment order or other proceedings by the appellate authority, tribunal or competent court shall not be taken into account.

(16) The property tax assessed and levied under this section shall be subject to revision once in three years by enhancing the tax by such percentage not exceeding ten per cent of the tax as may be prescribed, commencing from the financial year from which the property tax is determined under this section (hereinafter referred to as base year) :

Provided that the non-assessment of property tax under this section during the block period of three years shall not be applicable to a building which undergoes any addition, change of use, alteration, or variation. The owner or occupier shall report such changes within six months from the date of completion or occupation, whichever is earlier, along with the revised return and tax :

Provided further that nothing contained in this sub-section shall be deemed to affect the powers of the Board to order an earlier revision of property tax for reasons to be recorded in writing and after giving a reasonable opportunity of filing objections to the person liable to pay tax.

74. *Incidence of tax.*—(1) The property tax shall be primarily leviable and payable as follows—

- (a) if the land or building is let, upon the lessor ;
- (b) if the land or building is sub-let, upon the superior lessor ;
- (c) if the land or building is unlet, upon the person in whom the right to let the same vests.

(2) If any land has been let for a term exceeding one year to a tenant and such tenant has built upon the land, the property tax assessed in respect of that land and the building erected thereon shall be primarily leviable upon the said tenant, whether the land, building or both are in the occupation of such tenant or a sub-tenant of such tenant.

Explanation :—The term "tenant" includes any person deriving title to the land or building erected upon such land from the tenant whether by operation of law or by transfer inter vivos.

(3) Assessment of any building to a tax under this Act would not imply or be proof of the fact that the building is an authorized one.

75. *Duty to furnish information.*—(1) Every person shall, on the demand of any officer duly authorized by the municipality in this behalf, furnish such information as may be necessary in order to ascertain—

- (a) the name and place of a residence of the owner or occupier or of both of such land or building ;
- (b) the measurements or dimensions of such land or building or vacant land or both or any portion thereof and whether the property has been let out or otherwise and its usage ; and
- (c) any details required in connection with the determination of the taxable annual value.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and give true information to the best of his knowledge or belief.

(3) Whoever omits to comply with any such requisition or fails to give true information to the best of his knowledge or belief shall, in addition to the tax levied, be also liable for penalty which may not be less than the tax so payable.

76. *Evidentiary value of assessment list and the unit area value.*—The entries in the assessment list prepared under section 16, and the unit area value determined under section 18, of the Jammu and Kashmir Property Tax Board Act, 2010 shall be accepted as conclusive evidence for the purposes of assessing any tax levied under this Act and taxable annual value of land and building or vacant land or both to which such entries or determination respectively relate.

77. *Tax not invalid for defect of form.*—No assessment and no charge or demand of any tax made under this Act shall be called in question on the ground, or be affected by reason, of any mistake in the name, residence, place of business or occupation of any person liable to pay the tax, or of any mistake in the amount of assessment or tax, or of any clerical error or other defect of form ; and it shall be enough in respect of any such tax on property if the property taxed or assessed is so described as to be generally known ; and it shall not be necessary to name the owner or occupier thereof.

78. *Notice on transfer of title.*—(1) Whenever the title to or over any building or land of any person primarily liable for the payment of property tax on such property is transferred, the transferee and the transferor shall within three months, of the registration of the deed of transfer if it be registered, or of its execution if it be not registered, or of the actual transfer if no instrument is executed, give notice in writing of such transfer to the municipality.

(2) If a person who is primarily liable for the payment of a tax on any property transfers his title on, or over, such property, and fails to give notice of such transfer to the municipality as aforesaid, he shall, in addition to any other liability which he incurs through such neglect, continue to be liable for payment of all such taxes from time to time payable in respect of the said property until he gives such notice or until the transfer is recorded in the books of the municipality.

(3) Whenever the title on or over any building or land has devolved upon any person by inheritance, the heir shall, within three months of the date of the death of the former owner, give notice in writing of such inheritance to the municipality.

(4) Nothing in this section shall diminish the liability of the transferee or heir for the said taxes or to affect the prior claim of the municipality for the recovery of the taxes due thereupon.

(5) Whoever contravenes the provisions of sub-sections (1) or (3) shall, in addition to any other penalty which he incurs through such neglect, be punishable with a fine which shall not be less than one thousand rupees and not more than five thousand rupees, and in the case of a continuing breach, with a further fine of one hundred rupees for every day after the first conviction till the breach continues.

79. *Notice of erection of building etc.*—When any new building is erected, or any existing building is reconstructed or altered or improved,

or when any building which has been vacant is re-occupied, the person primarily liable to pay tax under this Act shall give notice thereof in writing to the Executive Officer within fifteen days from the date of its completion or occupation, whichever first occurs or as the case may be, from the date of its alteration, improvement or re-occupation and the tax shall be assessable on the building from the said date.

80. *Notice of demolition or removal of building.*—(1) When any building or any portion thereof, which is liable to tax under this Act, is demolished or removed, otherwise than by or under an order of the Executive Officer, the person primarily liable for the payment of the tax shall give notice thereof in writing to the Executive Officer.

(2) Until notice is given under sub-section (1), the person primarily responsible for payment of tax shall continue to be liable to pay such taxes as he would have been liable to pay in respect of such building if the same or any portion thereof had not been demolished or removed.

81. *Power of municipality to exempt payment of taxes.*—(1) The municipality may exempt, in whole or in part, for any period not exceeding one year from the payment of any such tax any person who by reason of poverty may in its opinion be unable to pay the same and may renew such exemption as often as may be necessary.

(2) The municipality, by a resolution passed at a special meeting and confirmed by the Government, may exempt, in whole or in part, from the payment of any tax under this Act any person or class of persons or in respect of any property or description of property.

82. *Power of Government to exempt payment of taxes.*—(1) The Government may, by order exempt, in whole or in part, from the payment of any tax payable under this Act by any person or class of persons or in respect of any property or description of property.

(2) If at any time, it appears to the Government on complaint made or otherwise, that any tax imposed is unfair in its incidence or that the levy thereof or of any part thereof is detrimental to the interests of the general public, it may require the municipality to take within a specified period measures to remove the objections; and, if within that period the requirement is not complied with to the satisfaction of the Government, it may, by notification, suspend the levy of tax or of such part thereof until the objection has been removed.

83. *Taxation of Union Properties.*—Notwithstanding anything contained in the foregoing provisions of this chapter, lands and buildings or vacant lands or both being properties of Union of India shall be exempted from the taxes :

Provided that nothing in this section shall prevent the municipality from charging any fee or service charges in lieu of services provided in respect of such property.

12. *Omission of sections 84, 85 and 88, Act XX of 2000.*—Section 84, section 85 and section 88 of the Principal Act shall be omitted.

13. *Substitution of sections 89, 90, 91 and 92, Act XX of 2000.*—For section 89 of the Principal Act, the following section shall be substituted, namely :—

“89. Taxes on lands and buildings as first charge.—Taxes due under this Act in respect of any land and building or vacant land or both shall, subject to the prior payment of the land revenue, if any, due to the Government, be a first charge thereon.

*Explanation :—*The term “taxes” in this section shall be deemed to include the cost of recovery thereof and the penalty, if any, payable under this Act.

90. *Appeal.*—(1) An appeal against—

- (i) the levy of any tax or fee ; or
- (ii) the refusal to refund any tax or fee ; or
- (iii) the calculation of taxable annual value of any property ; or
- (iv) the assessment or re-assessment of any tax payable ; or
- (v) any penalty imposed,

under this Act shall lie to the Jammu and Kashmir Property Tax Board.

(2) If on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of tax arises on which the Board entertains reasonable doubt, the Board may, either of its own motion or on an application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained and refer the statement with its own opinion on the point for the decision of the High Court.

(3) If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Board, to make such additions thereto or the alterations therein as the Court may direct in that behalf.

(4) The High Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which decision is founded.

(5) The Court shall send to the Board a copy of such judgment under the seal of the Court and signature of the Registrar ; and the Board shall, on receiving such copy, dispose of the case conformably to such judgment.

(6) In every appeal, the costs shall be in the discretion of the Board.

(7) The costs awarded under this section in favour of a municipality shall be recoverable by the municipality as if they were arrears of a tax, due from the appellant.

(8) If the municipality fails to pay the costs awarded to an appellant within ten days after the date of the order for payment thereof, the Board may order the person having the custody of the balance of the municipal fund to pay the amount.

91. *Limitation for appeal.*—(1) No appeal shall lie under section 90 unless it is preferred within one month after the order appealed against is made or in respect of any tax within one month from the time when the demand for the tax is made :

Provided that an appeal may be admitted after the expiration of the period prescribed under this section, if the appellant satisfies the Board that he had sufficient cause for not presenting the appeal within that period.

(2) No appeal shall be entertained unless the appellant has paid all other municipal taxes due from him to the municipality up to the date of such appeal.

92. *Revision.*—Any person aggrieved by an order passed in appeal under section 90 may within thirty days of the passing of such order prefer an application before the Special Tribunal for revision against the said order and the Tribunal may confirm, alter or rescind the said order :

Provided that the Tribunal shall not pass an order under this section prejudicial to any person without giving such person reasonable opportunity of being heard.”.

14. **Omission of section 93, Act XX of 2000.**—Section 93 of the Principal Act shall be omitted.

15. **Insertion of section 248A, Act XX of 2000.**—After section 248 of the Principal Act, the following section shall be inserted, namely :—

“248A.-Eviction of unauthorised occupant.—

(1) Notwithstanding anything contrary contained in this Act or in any other law for the time being in force, if the Chief Executive Officer is of the opinion that any person is in unauthorized occupation of any property and that he should be evicted, the Chief Executive Officer shall issue, in the manner hereinafter provided, a notice in writing calling upon that person to show cause as to why an order of eviction should not be passed.

(2) If, after considering the reply, if any, given by such person in pursuance of a notice under sub-section (1) and any evidence he may produce in support of the same, and after giving him a reasonable opportunity of being heard, the Chief Executive Officer is satisfied that the property is in unauthorized occupation, the Chief Executive Officer shall make an order of eviction, for reasons to be recorded therein, directing that the property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be made public.

(3) If any person refuses to, or fails to comply with, the order of eviction within thirty days of the date of service of order under sub-section (2), the Chief Executive Officer shall evict that person and take possession of the said property and may, for the purpose, call upon the officer incharge Police Station of the area to render such assistance as may be necessary for evicting that person.

(4) Where any person has been evicted from any property under sub-section (3), the Chief Executive Officer may, after giving a notice to the person from whom possession of the property has been taken and after publishing such notice in at least two daily newspapers having wide circulation in the locality, remove or cause to be removed any article remaining on such property and may make an order for the proper custody of such article :

Provided that if the owner of the article refuses or fails to take delivery thereof after notice or if the article is subject to speedy and natural decay, the Chief Executive Officer may cause it to be disposed of by public auction and deliver the sale proceeds thereof, after deduction of cost incurred on such public auction, to such owner.

(5) Any person aggrieved by an order of the Chief Executive Officer made in respect of any property under sub-section (3) or sub-section (4) may prefer an appeal to the District Judge having jurisdiction over the area in which the property is located within a period of thirty days from the date of order.

(6) Notwithstanding anything contained in this Act or in any other law for the time being in force, nothing done or purported to have been done under this section shall be called in question in any Court except as provided under sub-section (5).

Explanation :—For the purpose of this section, ‘unauthorized occupation’ means occupation by any person of any property, being the property of the Municipality or where Municipality has any interest in such property, without authority for such occupation and includes the continuance in occupation by any person of such property after the authority, whether by way of lease, mortgage or otherwise, under which he was authorised to occupy such property, has expired.

16. *Amendment of section 256, Act XX of 2000.*—In section 256 of the Principal Act, in sub-section (1), for the words “audited by a separate and independent auditing agency under the control of Director”, the words “audited by the Comptroller and Auditor General of India” shall be substituted.

CHAPTER III

Amendments to the Jammu and Kashmir Municipal Corporation Act, 2000

17. *Amendment of section 2, Act XXI of 2000.*—In section 2 of the Jammu and Kashmir Municipal Corporation Act, 2000 (hereinafter in this chapter referred to as the Principal Act) —

(i) after clause (1), the following clause shall be inserted, namely:—

“(1A) “Board” shall mean the Jammu and Kashmir Property Tax Board constituted under the Jammu and Kashmir Property Tax Board Act, 2010 ;” ;

(ii) clause (49) shall be omitted ; and

(iii) after clause (60), the following clause shall be inserted, namely :—

“(60A) “Taxable annual value” means the taxable annual value of any land and building or vacant land or both determined under section 88 for the purpose of assessment of property tax ;”.

18. *Substitution of expression.*—For the words “rateable value” wherever occurring in the Principal Act, the words “taxable annual value” shall be substituted.

19. *Amendment of section 7, Act XXI of 2000.*—In section 7 of the Principal Act, in clause (b), for the words “eighteen years”, the words “twenty five years” shall be substituted.

20. *Amendment of section 8, Act XXI of 2000.*—In section 8 of the Principal Act, in sub-section (1), in clause (a), the colon at the end of the clause shall be substituted by the semi-colon and the proviso thereafter shall be deleted.

21. *Amendment of section 36, Act XXI of 2000.*—In section 36 of the Principal Act—

(i) in sub-section (1), the words and comma “and thereafter at the expiration of two years and six months,” shall be omitted ; and

(ii) in sub-section (2)—

(a) for the words “two years and six months”, the words “five years” shall be substituted ; and

(b) the colon at the end of first proviso shall be substituted by full stop and the second proviso shall be omitted.

22. *Insertion of sections 39A and 39B, Act XXI of 2000.*—After section 39 of the Principal Act, the following sections shall be inserted, namely :—

“39A. **Constitution of Ward Committees.**—(1) There shall be constituted a Ward Committee for each Ward of the Municipal Corporation within one year from the date of commencement of the Jammu and Kashmir Municipal Laws (Second Amendment) Act, 2010.”

(2) Each Ward Committee shall consist of—

- (i) the member of the Municipal Corporation representing the ward, who shall be the chairperson of the Ward Committee ;
- (ii) the Area Sabha representative, if any, of the area situated in the ward ; and
- (iii) not more than ten electors representing the civil society from the ward, to be nominated by the Municipal Corporation in such manner as may be prescribed :

Provided that if the population of the ward does not exceed ten thousand, the number of nominated members shall be four, and if the population of the ward exceeds ten thousand, there shall be one additional member for every four thousand population or part thereof in excess of ten thousand :

Provided further that in reckoning the number of additional members of the Ward Committee exceeding four, any part of population less than four thousand shall be ignored :

Provided also that half of the persons to be nominated to the Ward Committee shall be women.

Explanation :—For the purpose of this section, civil society means any non-governmental organization or association of persons established, constituted or registered under any law for the time being in force, working for social welfare, and includes any community based organization, residents welfare association, professional institution or any civic, health and educational institution or any social or cultural body or any trade or industrial organization or other stakeholders or such other association or body, as may be prescribed.

(3) A person shall be disqualified for being nominated as, and for being, a member of the Ward Committee if he is disqualified for being chosen as, and for being, a member of a Municipal Corporation under the provisions of this Act.

(4) The term of office of Ward Committee shall be co-terminus with the term of office of the Municipal Corporation.

(5) The manner of conduct of business at the meetings of the Ward Committee shall be such as may be prescribed.

(6) The Ward Committee shall discharge the following functions, namely :—

- (i) supervision and monitoring of the—
 - (a) sanitation work and drainage maintenance ;
 - (b) distribution of water supply ;
 - (c) working of the street lights ;
 - (d) minor repair of roads ;
 - (e) maintenance of markets ;
 - (f) maintenance of parks and playgrounds ; and
 - (g) implementation of poverty alleviation programmers.
- (ii) monitoring the functioning of schools, maternity centres, dispensaries and health centres wherever they are under control of the Municipal Corporation ;
- (iii) facilitation in the collection of taxes ;
- (iv) preparation of list of beneficiaries for beneficiary oriented schemes, pensions and subsidies ;
- (v) prepare an annual ward development plan in a manner consistent with the rules to be prescribed ;
- (vi) map the ward infrastructure index ;
- (vii) preparation of inventory of municipal assets ;
- (viii) assistance in the implementation of all government schemes ;
and
- (ix) any other function as may be prescribed.

(7) Every Ward Committee shall be empowered to—

- (i) seek information from the Commissioner regarding any matter relating to the ward ;
- (ii) obtain information about the master plan and zonal developmental plan of the Municipal Corporation ;
- (iii) obtain information relating to Municipal Corporation Budget ;

(iv) be consulted in the development of land use and zoning regulations within the ward ; and

(v) obtain full details of all revenue items relating to the Ward.

(8) The Municipal Corporation shall allocate twenty per cent of the amount earmarked in the annual budget of the Municipal Corporation for maintenance of services relating to sanitation, water supply, drainage, roads, street lighting, parks, markets etc. to all Ward Committees enabling them to perform the functions as specified in sub-section (6).

(9) The Ward Committee may, from time to time, appoint from amongst its members such sub-committees, consisting of such number of members as it may think fit, and may refer to such sub-committees for enquiry or opinion any matter relating to the functions entrusted to it.

39B. Constitution of Area Sabha.—(1) Each ward in a Municipal Corporation shall be divided into areas in such a manner that each such area shall, as far as possible, comprise of not less than one thousand and not more than two thousand people.

(2) All the electors of an area of a ward shall constitute the Area Sabha for such area and every Area Sabha shall elect an Area Sabha Representative from amongst themselves.

(3) The qualifications and disqualifications prescribed for being chosen as, and for being, a member of Municipal Corporation under the provisions of this Act shall apply mutatis mutandis to the Area Sabha Representative.

(4) The term of the Area Sabha Representative shall ordinarily be co-terminus with that of the Municipal Corporation concerned.

(5) The Area Sabha may, having regard to its managerial, technical, financial and organizational capacity and the actual conditions obtaining in the ward area perform and discharge the following functions and duties, namely :—

(i) to formulate proposals and determine the priority of schemes and development programmes to be implemented in the area and forward the same to Ward Committee for inclusion in the development plan of the ward ;

- (ii) to identify the eligible persons for beneficiary oriented schemes on the basis of criteria fixed by the Government and prepare the list of beneficiaries in order of priority and forward the same to Ward Committee for inclusion in the development plan of the ward ;
- (iii) to verify the eligibility of persons getting various kinds of welfare assistance from Government such as pensions and subsidies ;
- (iv) to identify the deficiencies in water supply, street lighting and sanitation arrangements in the jurisdiction of the Area Sabha and to suggest the remedial measures to the Ward Committee ;
- (v) to suggest the location of street lights, public taps, public wells, public toilets or any other public facility to the Ward Committee ;
- (vi) to assist in the activities of public health centers in the area ;
and
- (vii) to undertake and support tax mapping.

(6) The Area Sabha, shall be empowered to—

- (i) obtain any information from the official concerned relating to the services and the works proposed to be provided or executed in the area by the Ward Committee ;
- (ii) obtain information from the Ward Committee about every decision taken by them concerning the jurisdiction of the Area Sabha ;
- (iii) obtain information from the Ward Committee relating to follow up action taken on the decisions concerning the area ;
- (iv) impart awareness on matters of public interest such as cleanliness, preservation of the environment and prevention of pollution.

(7) The manner of conduct of business at the meetings of the Area Sabha shall be such as may be prescribed.

(8) The superintendence, direction and control for the preparation of the electoral rolls for, and the conduct of elections to, the seats of Area Sabha Representatives of the Municipal Corporation shall be vested in the Chief Electoral Officer.

23. *Amendment of section 40, Act XXI of 2000.*—In section 40 of the Principal Act,—

- (i) in sub-section (1), for clause (a), the following clause shall be substituted, namely :—

“(a) Executive Committee ;”;

- (ii) in sub-section (2), , the full stop at the end of proviso shall be substituted by colon and thereafter the following proviso shall be added, namely :—

“Provided further that the Executive Committee shall consist of the Mayor, who shall be its Chairman, a member representing largest opposition group or party in the Corporation, four members to be elected by the elected members of the Corporation and the Commissioner who shall be its ex officio Secretary.” ; and

- (iii) for sub-section (3), the following sub-section shall be substituted, namely :—

“(3) The Executive Committee shall perform functions relating to the establishment matters, communications, construction of roads and buildings, housing, relief against natural calamities and all residuary matters and shall be empowered to—

- (i) make recommendations on all policy matters for discussion and decision by the General Council ;
- (ii) approve the budget ;
- (iii) approve all development plans, annual action plans and works plans ;
- (iv) approve contracts above rupees one crore ; and
- (v) make recommendations to the General Council about staffing pattern in the Corporation and all other service matters.”

24. *Amendment of section 42, Act XXI of 2000.*—In section 42 of the Principal Act, in sub-section (1),—

- (i) after clause (a), the following clauses shall be inserted, namely :—

“(aa) the preparation of plans for urban planning including town planning ;

(ab) the preparation of city development plans ;” ; and

- (ii) in clause (b), after sub-clause (xv), the following sub-clause shall be added, namely :—

“(xvi) Fire Services ;”.

25. *Amendment of section 50, Act XXI of 2000.*—In section 50 of the Principal Act, for the words “the Corporation and its Mayor”, the words “the Corporation” shall be substituted.

26. *Insertion of section 72A, Act XXI of 2000.*—After section 72 of the Principal Act, the following section shall be inserted, namely :—

“72A. **Allocation for Basic Services to Urban Poor.**—Notwithstanding anything contrary contained in this Act, a minimum of 20% of the Municipal Corporation fund including the money received by way of devolution, plan assistance from Central and State Governments, resources raised by the Corporation by way of taxes, fees etc., shall be earmarked and pooled in a separate budget head to be assigned by the Government and used for providing basic services to the urban poor.”

27. *Amendment of section 84, Act XXI of 2000.*—In section 84 of the Principal Act—

- (i) in sub-section (1), for clause (a), the following clause shall be substituted, namely :—

“(a) taxes on land and buildings or vacant lands or both situated within the Municipal Corporation Area (hereinafter referred to as property tax) ;”

- (ii) in sub-section (2), for clause (g) and the proviso thereafter, the following clauses shall be substituted, namely:-

“(g) water tax ; and

(h) any other tax that may be imposed under the Jammu and Kashmir Municipal Corporation Act, 2000.”.

28. *Amendment of section 85, Act XXI of 2000.*—In section 85 of the Principal Act, in sub-section (1), for clause (vii), the following clauses shall be substituted, namely :—

- “(vii) a fee for infrastructure development on motor vehicles suitable for use on road within the city.

Explanation :—For the purpose of this clause "motor vehicle" shall have the same meaning assigned to it is the Motor Vehicles Act, 1988 (Central Act 59 of 1988) ;

- (viii) a fee for the purpose of collection, transportation and disposal of solid waste.

Explanation :—For the purpose of this section solid waste, includes filth offensive matter, rubbish sewage, trade effluent, trade refuse, waste from hospital and any other waste which is detrimental to public health ;

- (ix) any other fee as the Corporation may deem fit by for services rendered by it."

29. *Substitution of section 86, Act XXI of 2000.*—For section 86 of the Principal Act, the following section shall be substituted, namely :—

"86. Description and class of property tax.—(1) Unless exempted under this Act or any other law for the time being in force, property tax shall be levied on all lands and buildings or vacant lands or both situated within the Municipal Corporation.

(2) The property tax shall be levied at such percentage, not being more than fifteen per cent of the taxable annual value of land and building or vacant land or both, as the Government may, by notification, from time to time specify :

Provided that the Government may exempt certain classes or categories of persons or lands and buildings, or vacant lands or both from the payment of the property tax.

(3) Notwithstanding any exemption granted under sub-section (2), it shall be open to the Corporation to collect service charges for providing civic amenities and for general or specific services rendered at such rates as may be specified by the Corporation by notification.

30. *Omission of section 87, Act XXI of 2000.*—Section 87 of the Principal Act shall be omitted.

31. *Substitution of section 88, Act XXI of 2000.*—For section 88 of the Principal Act, the following section shall be substituted, namely :—

"88. Determination of taxable annual value.— (1) Subject to the provisions of section 86 and rules, if any, made by the Government in this behalf, the taxable annual value of land and

building or vacant land assessable to taxes under this Act shall be calculated by multiplying the corresponding unit area value with the total built-up area of a building or the total area of land, as the case may be, minus depreciation, at such rates as may be prescribed, depending on the age of the building :

Provided that subject to such condition and in such circumstances as may be notified by the Commissioner, the Municipal Corporation may, in lieu of tax payable under this Act, fix a lump sum amount as annual tax for certain category of properties.

Explanation :—For purpose of sub-section (1), the 'unit area value' means the unit area value determined under the Jammu and Kashmir Property Tax Board Act, 2010.

(2) The property tax payable shall be reduced by twenty five per cent in respect of a self-occupied building used for residential purpose and such class of self-occupied non-residential building as may be notified by the Government on the recommendation of the Corporation.

(3) The person liable to pay the property tax shall pay the tax in two equal instalments, the first being before 30th May and the second by the 30th November of each financial year :

Provided that the owner or occupier may, if he so chooses, pay the tax in one instalment :

Provided further that if the owner or occupier who is liable to pay property tax files return and also pays property tax for the whole year within one month from the date of commencement of the financial year, he shall be allowed a rebate of ten per cent on the tax payable by him :

Provided also that the Government may, on the recommendation of the Corporation, by notification, extend the time limit for the payment of property tax without penalty and for the benefit of ten per cent rebate in respect of the financial year 2011-12.

(4) Before any owner or occupier submits any return under sub-section (5), he shall pay in advance half year tax calculated or the full amount of the property tax payable by him for the year on the basis of such return declared by him as being true and complete.

(5) Every owner or occupier who is liable to pay property tax under this Act, shall every year submit to the Commissioner or any officer authorized

by him in this behalf a return in prescribed form within the stipulated period and in the prescribed manner.

(6) In order to facilitate filing of return by an owner or occupier of any building or vacant land or both and assessment of property tax under this section, the Commissioner shall, from time to time, issue guidelines for determining the taxable annual value of the property and the tax payable thereon.

(7) Every return filed by an owner or occupier shall be deemed to be assessed to tax except in cases where the Commissioner or any officer authorized by him take up cases for random scrutiny in such manner as may be prescribed.

(8) For the purpose of random scrutiny of the return filed or in cases where returns are not filed as required under sub-section (5) in respect of any buildings or lands or both, the Commissioner or any officer authorized by him in this behalf may enter any land or building for inspection, survey or measurement after giving notice to the owner or occupier and the owner or the occupier shall be bound to furnish necessary information required and based on such inspection and information collected, the Commissioner or such other officer shall assess the property tax subject to sub-sections (10) and (11) and send a copy of the order of assessment to the owner or occupier concerned :

Provided that no such entry shall be made into and upon any building or vacant land before sunrise and after sunset.

(9) If the owner or occupier of the property refuses to allow the authorized officer to enter the premises for inspection, survey or measurement, the officer shall, after intimating such owner or occupier in this behalf, record the refusal and proceed to assess the property to the best of his judgment :

Provided that in case of a building used as human dwelling, due regard shall be paid to the social and religious customs of the occupiers thereof and no residential premises in the actual occupancy of a women shall be entered until she has been informed that she is at liberty to withdraw and every facility has been afforded to her for withdrawing.

(10) Upon random scrutiny, if the Commissioner or the officer authorised by him in this behalf has reasons to believe that any return furnished, which is deemed as assessed, is incorrect or has been under-assessed resulting in evasion of property tax, he may, on the basis of

information available on record and after physical inspection, proceed to re-assess the property after giving a reasonable opportunity to the tax payer to make a representation in this behalf.

(11) After making re-assessment under sub-section (10), the Commissioner or the authorized officer, shall issue a notice of re-assessment to the tax payer demanding that the re-assessed tax shall be paid within thirty days of the service of the notice :

Provided that if the tax re-assessed is higher than the tax remitted along with the returns by more than five per cent, the evaded tax shall be payable by such person together with a penalty of not less than two times of the tax so evaded along with interest for the difference in tax paid and payable calculated at 24 per cent per annum.

(12) The owner or occupier may either accept the property tax assessed and the penalty levied under sub-section (11) or send objections to the Commissioner or the authorized officer within thirty days from the date of receipt of the notice under sub-section (11).

(13) The Commissioner or the officer authorised by him shall consider the objections, if any, received under sub-section (12) and pass such orders either confirming or revising such re-assessment within a period of sixty days from the date of filing of objections and send a copy of the order to the concerned tax payer.

(14) An assessment or re-assessment under this section shall not be made on expiry of three years after—

- (i) filing the tax return under this section ;
- (ii) the evidence of fact justifying re-assessment, comes to the knowledge of the Commissioner or the officer authorised by him in this behalf.

(15) In computing the period of limitation specified for assessment or re-assessment, as the case may be, under this Act, the period taken for the disposal of any appeal against an assessment order or other proceedings by the appellate authority, tribunal or competent court shall not be taken into account.

(16) The property tax assessed and levied under this section shall be subject to revision once in three years by enhancing the tax by such

percentage not exceeding fifteen per cent of the tax as may be prescribed, commencing from the financial year from which the property tax is determined under this section (hereinafter referred to as base year) :

Provided that the non-assessment of property tax under this section during the block period of three years shall not be applicable to a building which undergoes any addition, change of use, alteration, or variation. The owner or occupier shall report such changes within six months from the date of completion or occupation, whichever is earlier, along with the revised return and tax :

Provided further that nothing contained in this sub-section shall be deemed to affect the powers of the Government to order an earlier revision of property tax for reasons to be recorded in writing and after giving a reasonable opportunity of filing objections to the person liable to pay tax.

32. *Amendment in section 90, Act XXI of 2000.*—In section 90 of the Principal Act, in sub-section (1), for the words "taxes on lands and buildings", the words "property tax" shall be substituted.

33. *Omission of sections 91 and 94 Act XXI of 2000.*—Sections 91 and 94 of the Principal Act shall be omitted.

34. *Substitution of section 95, Act XXI of 2000.*—For section 95 of the Principal Act, the following section shall be substituted, namely :—

"95. Evidentiary value of assessment list and the unit area value.—The entries in the assessment list prepared under section 16, and the unit area value determined under section 18, of the Jammu and Kashmir Property Tax Board Act, 2010 shall be accepted as conclusive evidence for the purposes of assessing any tax levied under this Act and taxable annual value of land and building or vacant land or both to which such entries or determination respectively relate."

35. *Omission of sections 96 and 97, Act XXI of 2000.*—Sections 96 and 97 of the Principal Act shall be omitted.

36. *Amendment of Section 122, Act XXI of 2000.*—In section 122 of the Principal Act, in sub-section (1), in the proviso thereof, after clause (a), the following clause shall be inserted, namely :—

"(aa) Property Tax."

37. *Substitution of section 126, Act XXI of 2000.*—For section 126 of the Principal Act, the following section shall be substituted, namely :—

“126. **Demolition etc. of building.**—If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Commissioner may, on the application in writing from the owner or occupier and after conducting such enquiry as may be necessary, accept the revised return filed by the applicant and adjust the tax for the subsequent period.”

38. *Omission of sections 127 to 131, Act XXI of 2000.*—Sections 127 to 131 of the Principal Act shall be omitted.

39. *Substitution of sections 132 and 133, Act XXI of 2000.*—For sections 132 and 133 of the Principal Act, the following sections shall be substituted, namely :—

“132. **Appeal.**— (1) An appeal against—

- (i) the levy of any tax or fee ; or
- (ii) the refusal to refund any tax or fee ;
- (iii) the calculation of taxable annual value of any property ; or
- (iv) the assessment or re-assessment of any tax payable ; or
- (v) any penalty imposed,

under this Act shall lie to the Jammu and Kashmir Property Tax Board.

(2) If on the hearing of an appeal under this section, any question as to the liability to or the principle of assessment of a tax arises on which the Board entertains reasonable doubt, the Board may, either of its own motion or on an application of any person interested, draw up a statement of the facts of the case and the point on which doubt is entertained and refer the statement with its own opinion on the point for the decision of the High Court.

(3) If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Board, to make such additions thereto or the alterations therein as the Court may direct in that behalf.

(4) The High Court, upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which decision is founded.

(5) The Court shall send to the Board a copy of such judgment under the seal of the Court and signature of the Registrar ; and the Board shall, on receiving such copy, dispose of the case conformably to such judgment.

(6) In every appeal, the costs shall be in the discretion of the Board.

(7) The costs awarded under this section in favour of a Municipal Corporation shall be recoverable by the Corporation as if they were arrears of a tax, due from the appellant.

(8) If the Municipal Corporation fails to pay the costs awarded to an appellant within ten days after the date of the order for payment thereof, the Board may order the person having the custody of the balance of the municipal fund to pay the amount.

133. *Limitation for appeal.*—(1) No appeal shall lie under section 132 unless it is preferred within one month after the order appealed against is made or in respect of any tax within one month from the time when the demand for the tax is made :

Provided that an appeal may be admitted after the expiration of the period prescribed under this section, if the appellant satisfies the Board that he had sufficient cause for not presenting the appeal within that period.

(2) No appeal shall be entertained unless the appellant has paid all other taxes due from him to the Municipal Corporation up to the date of such appeal."

40. *Amendment of section 159, Act XXI of 2000.*— In section 159 of the Principal Act, in clause (c), shall be substituted by following clause, namely :—

"Every contract involving an expenditure up to one crore may be made by the Commissioner and contracts exceeding one crore may be made by the Executive Committee."

41. *Amendment of section 161, Act XXI of 2000.*—In section 161 of the Principal Act, in sub-section (3), for the words "audited by a separate and independent auditing agency under the control of Director", the words "audited by the Comptroller and Auditor General of India" shall be substituted.

42. *Amendment of section 162, Act XXI of 2000.*—In section 162 of the Principal Act, in sub-section (4), for the words "to each member", the words "to each member of the Corporation and the Government which shall, as soon as may be, lay the said report in the two Houses of the State Legislature" shall be substituted.

43. *Amendment of section 237, Act XXI of 2000.*— In section 237 of the Principal Act, in sub-section (1), in clause (a), for the words "determine the name or number", the words "determine the number" shall be substituted.

44. *Insertion of section 383A, Act XXI of 2000.*—After section 383 of the Principal Act, the following section shall be inserted, namely :—

“383A.-Eviction of unauthorised occupant.—

(1) Notwithstanding anything contrary contained in this Act or in any other law for the time being in force, if the Commissioner is of the opinion that any person is in unauthorized occupation of any property and that he should be evicted, the Commissioner shall issue, in the manner hereinafter provided, a notice in writing calling upon that person to show cause as to why an order of eviction should not be passed.

(2) If, after considering the reply, if any, given by such person in pursuance of a notice under sub-section (1) and any evidence he may produce in support of the same, and after giving him a reasonable opportunity of being heard, the Commissioner is satisfied that the property is in unauthorized occupation, the Commissioner shall make an order of eviction, for reasons to be recorded therein, directing that the property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be made public.

(3) If any person refuses to, or fails to comply with, the order of eviction within thirty days of the date of service of order under sub-section (2), the Commissioner shall evict that person and take possession of the said property and may, for the purpose, call upon the officer incharge Police Station of the area to render such assistance as may be necessary for evicting that person.

(4) Where any person has been evicted from any property under sub-section (3), the Commissioner may, after giving a notice to the person from whom possession of the property has been taken and after publishing such notice in at least two daily newspapers having wide circulation in the locality, remove or cause to be removed any article remaining on such property and may make an order for the proper custody of such article :

Provided that if the owner of the article refuses or fails to take delivery thereof after notice or if the article is subject to speedy and natural decay, the Commissioner may cause it to be disposed of by public auction and deliver the sale proceeds thereof, after deduction of cost incurred on such public auction, to such owner.

(5) Any person aggrieved by an order of the Commissioner made in respect of any property under sub-section (3) or sub-section (4) may prefer an appeal to the District Judge having jurisdiction over the area in which the property is located within a period of thirty days from the date of order.

(6) Notwithstanding anything contained in this Act or in any other law for the time being in force, nothing done or purported to have been done under this section shall be called in question in any Court except as provided under sub-section (5).

Explanation :—For the purpose of this section, 'unauthorized occupation' means occupation by any person of any property, being the property of the Corporation or where Corporation has any interest in such property, without authority for such occupation and includes the continuance in occupation by any person of such property after the authority, whether by way of lease, mortgage or otherwise, under which he was authorised to occupy such property, has expired.

45. *Amendment to section 384, Act XXI of 2000.*—In section 384 of the Principal Act, for the words “five hundred rupees” and “fifty rupees”, the words “two thousand rupees” and “one hundred rupees” shall respectively be substituted.

46. *Amendment to section 393, Act XXI of 2000.*—In section 393 of the Principal Act, in sub-section (1), for the words “one thousand rupees”, the words “two thousand rupees” shall be substituted.

47. *Amendment to section 395, Act XXI of 2000.*—In section 395 of the Principal Act, for the words “Subject to the provisions of this Act”, the words “Subject to the provisions of this Act and the rules made thereunder” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Bill aims to elicit people's participation at grass roots level by setting up of Area Sabhas at the ward level in Municipalities as well as Municipal Corporations. Further, the Bill also aims at simplifying the provisions relating to levying and collection of property tax. The Bill also aims to make decision making process in the Municipalities transparent and faster.

MINISTER INCHARGE
HOUSING AND UD

FINANCIAL MEMORANDUM

Section 53 (2) (A) of the draft Bill provides for allocation of 20% of the funds available with the Municipalities from all sources for providing Basic Services to the urban poor. These funds are to be earmarked from the internal sources of the municipalities. Section 62 to 92 of the Bill, authorizing the Municipalities to levy property tax, are proposed to be amended in order to simplify the process of levying and collection of property tax. As of now no property tax is levied by the Municipalities. Once the property tax is levied and collected, it will add to the resources of the Municipalities. Section 384 of the draft Bill proposes to enhance the penalty from Rs. 500 to 20000, which is to be collected from the violators of the provisions of the Municipal Laws.

All the proposed amendments in the draft Bill, therefore, do not involve any financial implication on the Government.

MINISTER INCHARGE
HOUSING AND UD

RECOMMENDATION OF THE GOVERNOR

The Governor has in pursuance of sub-sections (1) and (3) of section 84 of the Constitution of Jammu and Kashmir recommended to the Jammu and Kashmir Legislative Assembly the introduction and consideration of the Bill.

(Sd.) M. RAMZAN,
Secretary.

MINISTER INCHARGE
HOUSING AND UD