

## CHAPTER XII DRAINS AND DRAINAGE

### Municipal Drains

**Drains to be constructed and kept in repair by the Commissioner**

#### **153. Drains to be constructed and kept in repair by the Commissioner.**

(1) The Commissioner shall maintain and keep in repair all municipal drains and shall with the approval of the Corporation construct such new drains as shall from time to time be necessary for effectually draining the City.

(2) The Commissioner shall also, in the case of any street in which there is a municipal drains, construct at the charge of the Municipal Fund such portion of the drain of any premises to be connected with such municipal drain as it shall be necessary to lay under part of such street and the portion of any connecting drains so laid under the street shall vest in the Corporation and be maintained and kept in repair by the Commissioner as a municipal drain.

**Adoption by Corporation of drains and drainage or sewage disposal works**

#### **154. Adoption by Corporation of drains and drainage or sewage disposal works.**

(1) The Commissioner may at any time with the approval of the Corporation declare that any drain or part thereof or any drainage or sewage disposal works situate within the City or serving the City or any part thereof shall, from such date as may be specified in the declaration, become vested in the Corporation.

Provided that, when the Commissioner proposes to make a declaration under this sub-section, he shall give written notice of the proposal to the owner or owners of the drain or works in question and shall take no further action in the matter until either one month has elapsed without an objection against his proposal being lodged under sub-section (2), or, as the case may be, until any objections so lodged has been duly considered.

(2) An owner aggrieved by the proposal of the Commissioner to make a declaration under sub-section (1) may, within one month after notice of the proposal is served upon him. appeal to the <sup>1</sup>[State] Government or to such officer of the <sup>2</sup>[State] Government as the <sup>3</sup>[State] Government may designate by order in the Official Gazette in this behalf and shall, if he so appeals, give written intimation of the fact to the Commissioner.

(3) After consideration of an appeal under sub-section (2), and after making such inquiries as may be necessary, the <sup>4</sup>[State] Government or the said officer may with due regard to the provisions of sub-section (4) allow or disallow the proposal of the Commissioner and may, if it or he thinks fit, specify conditions, including conditions as to the payment of compensation by the Commissioner, subject to which it or he allows the proposals.

<sup>1</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

<sup>2</sup> Same as 1.

<sup>3</sup> Same as 1.

<sup>4</sup> Same as 1.

(4) The Commissioner in deciding whether a declaration should be made under sub-section (1) shall have regard to all the circumstances of the case and, in particular, to the following considerations :-

- (a) whether the drain or works in question is or are adapted to, or required for, any general system of drainage or drainage disposal or sewage disposal which the Commissioner has provided, or proposes to provide, for the City or any part thereof;
- (b) whether the drain is constructed under a street or under land reserved by or under the provisions of this Act or any other law for the time being in force for a street;
- (c) the number of buildings which the drain is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;
- (d) the method of construction and state of repair of the drain or works; and
- (e) whether the making of the proposed declaration would be seriously detrimental to the owner of the drain or works in question.

(5) Any person who immediately before the making of a declaration under sub-section (1) was entitled to use the drain in question shall be entitled to use it, or any drain substituted thereof, to the same extent as if the declaration had not been made.

(6) When the Commissioner is about to take into consideration the question of making a declaration under sub-section (1) with respect to a drain or drainage or sewage disposal works situate within the jurisdiction of some local authority other than the Corporation or situate within the City but serving an area, or part of an area, within the jurisdiction of such local authority, he shall give notice to that authority and no declaration shall be made by him until either that authority has consented thereto or the <sup>5</sup>[State] Government, on an application made to it, has dispensed with the necessity of such consent, either unconditionally or subject to such conditions as it may think fit to impose.

(7) When the Commissioner has made a declaration under sub-section (1) with respect to a drain or drainage disposal or sewage disposal works situate within the jurisdiction of some local authority other than the Corporation he shall forthwith give notice of the fact to such authority.

(8) The Commissioner shall not make a declaration under sub-section (1) with respect to any drain or part of a drain or any works if that drain or part of a drain or those works is or are vested in some local authority other than the Corporation or in the Central Government or a railway administration except on the request of the authority.

Government of administration concerned.

#### **Powers for making drains**

#### **155. Powers for making drains.**

(1) The Commissioner may carry any municipal drain through, -across or under any street, or any place laid out as or intended for a street or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into,

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<sup>5</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

through or under any land whatsoever within the City, or. for the purpose of outfall or distribution of sewage, without the City.

(2) The Commissioner may enter upon, and construct any new drain in the place of an existing drain in, any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

**Alteration and discontinuance of drains**

**156. Alteration and discontinuance of drains.**

The Commissioner may enlarge, after the course of, lessen, arch over or otherwise improve any municipal drain, and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage : Provided that. if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued. closed up or destroyed or the use of which has been prohibited.

**157. Cleansing drains.**

**Cleansing drains**

(1) The municipal drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

(2) For the purpose of flushing, cleansing, and emptying the said drains, the Commissioner may construct or set up such reservoirs, sluices, engines and other works, as he shall from time to time deem necessary.

**Drains of Private Streets and Drainage of Premises.**

**Powers to connect drain of private street with municipal drain**

**158. Powers to connect drain of private street with municipal drain.**

The owner of a private street shall be entitled to connect the drain of such street with a municipal drain subject to the conditions laid down in the rules.

**Right of owners and occupiers of buildings and lands to drain into municipal drains**

**159. Right of owners and occupiers of buildings and lands to drain into municipal drains.**

(1) Subject to the provisions of this section, the owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain or other place legally set apart for the discharge of drainage :

Provided that nothing in this sub-section shall entitle any person-

- (a) to discharge directly or indirectly into any municipal drain any trade effluent except in accordance with the provisions of section 166 or any liquid or other matter the discharge of which is prohibited by or under this Act or any other law for the time being in force;
- (b) where separate municipal drains are provided for foul water and for surface water, to discharge directly or indirectly-
  - (i) foul water into a drain provided for surface water; or
  - (ii) except with the permission of the Commissioner surface water into a drain provided for foul water; or
- (c) to have his drain made to communicate directly with a storm-water overflow drain.

(2) Every person desirous of availing himself of the provisions of sub-

section (1) shall obtain the written permission of the Commissioner and shall comply with such conditions as the Commissioner may prescribe as to the mode in which and the superintendence under which connections with municipal drains or other places aforesaid are to be made.

(3) The Commissioner may, if he thinks fit, in lieu of giving permission under sub-section (2) to any person to have his drain or sewer connected with a municipal drain or other places as aforesaid himself connect after giving notice to the person concerned within fourteen days of the receipt of his application, and the reasonable expenses of any work so done shall be paid by the person aforesaid

**160. Powers of Commissioner to require drain or proposal drain to be so constructed as to form part of general system.**

**Powers of Commissioner to require drain or proposal drain to be so constructed as to form part of general system**

(1) Where a person proposes to construct a drain, the Commissioner may, if he considers that the proposed drain is, or is likely to be, needed to form part of a general drainage system which the Corporation has provide or proposes to provide, require him to construct the drain in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he proposes, or could otherwise be required by the Commissioner, to construct it, and it shall be his duty to comply with the requirements of the Commissioner.

(2) No person who under this section has been required by the Commissioner to construct a drain in a particular manner shall construct it or cause it to be constructed otherwise than in accordance with the requirements of the Commissioner.

(3) The Commissioner shall repay from the Municipal Fund to the person constructing a drain in accordance with a requirement under sub-section (1), the entire expenses reasonably incurred by him in complying with such requirement and, until the drain becomes a municipal drain, he shall also from time to time repay to him from the Municipal Fund so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to the requirement having been made and complied with.

**161. Connections with municipal drains not to be made except in conformity with section 158 or 159.**

**Connections with municipal drains not to be made except in conformity with section 158 or 159**

No person shall, without complying with the provisions of section 158 or 159, as the case may be, and the rules, make or cause to be made any connection of a drain belonging to himself or to some other person with any municipal drain or other place legally set apart for the discharge of drainage; and the Commissioner may close, demolish, alter or remake any such connection made in contravention of this section, and the expenses incurred by the Commissioner in so doing shall be paid by the owner of the street, or the owner or occupier of the premises, for the benefit of which the connection was made, or by the person offending.

**162. Right of owners and occupiers of premises to carry drain through land belonging to other persons.**

**Right of owners and occupiers of premises to carry drain through land belonging to other persons**

(1) If it shall appear to the Commissioner that the only means or the most convenient means by which the owner or occupier of

any premises can cause his drain to empty into a municipal drain or other place legally set apart for the discharge of drainage, is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Commissioner, after giving to the owner of the land a reasonable opportunity of stating any objection, may, if no objection is raised, or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) Every such order, bearing the signature of the Commissioner, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose after giving or tendering to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants & workmen, at any time between sunrise and sunset and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises, or any agent or person employed by him for this purpose, may, after giving or tendering to the owner of any land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section as little damage as may be shall be done, and the owner or occupier of the premises for the benefit of which the work is done shall-

- (a) cause the work to be executed with the least practicable delay;
- (b) fill in, reinstate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction opened, broken up or removed for the purpose of executing the said work;
- (c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section whilst such land was unbuilt upon, shall subsequently at any time desire to erect a building on such land, the Commissioner shall by written notice require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by the Commissioner and to fill in, reinstate and make good the land as if the drain had not been carried into, through or under the same :

Provided that no such requisition shall be made, unless, in the opinion of the Commissioner, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

**Owner of land to allow others to carry drains through the land**

**163. Owner of land to allow others to carry drains through the land.**

Every owner of land shall be bound to allow any person in whose favour an order has been made under sub-section (1) of section 162 to

Commissioner may enforce drainage of undrained premises situate within hundred feet of municipal drain

carry a drain into, through or under the land of such owner on such terms as may be prescribed in such order.

**164. Commissioner may enforce drainage of undrained premises situate within hundred feet of municipal drain.**

Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage and a municipal drain or some place legally set apart for the discharge of drainage is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises-

(a) to make a drain of such material, size and description and laid at such level and according to such alignment and with such fall and outlet as may appear to the Commissioner necessary, emptying into such municipal drain or place aforesaid at such point as the Commissioner may consider suitable:

Provided that, where any premises have already been drained under municipal requirements and have to be re-drained, no such requisition shall be made without the previous sanction of the Standing Committee;

(b) to provide and set up all such appliances and fittings as may appear to the Commissioner necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith;

(c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which in the opinion of the Commissioner is injurious to health;

(d) to provide a closed drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution or any existing appliance or thing or to provide both a closed drain and such other appliance or thing in substitution of the existing open drain- and other appliance or thing, which is, or which is likely to be, injurious to health;

(e) to provide and set up all such appliances and fittings as may appear to the Commissioner to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts, by down-take pipes, so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises.

Premises deemed to be without effectual drainage

<sup>6</sup>[**164A. Premises deemed to be without effectual drainage.**

For the purposes of this Chapter, premises shall be deemed to be without effectual drainage unless drainage therefrom is discharged or the drain attached hereto is emptied into a municipal drain or some place legally set apart for the discharge of drainage or a cesspool in accordance with the provisions of this Act.]

<sup>6</sup> Section 164A was inserted by Guj. 19 of 1964, s. 7

<p>Commissioner may enforce drainage of undrained premises not situate within hundred feet of municipal drain</p>	<p><b>165. Commissioner may enforce drainage of undrained premises not situate within hundred feet of municipal drain.</b>  (1) Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage, but not municipal drain or such place as aforesaid is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises-</p> <p>(a) to construct a drain up to a point to be prescribed in such notice, but not distant more than one hundred feet from some part of the said premises; or</p> <p>(b) to construct a closed cesspool of such material, size and description in such position, at such level, and with allowance for such fall as the Commissioner thinks necessary and drain or drains emptying into such cesspool.</p> <p>(2) Any requisition for the construction of any drain under sub-section (1) may comprise any detail specified in section 164.</p>
<p>Special provisions relating to trade effluent</p>	<p><b>166. Special provisions relating to trade effluent.</b>  Subject to the provisions of this Act, rules and by-laws, the occupier of any trade premises may, with the consent of the Commissioner, or so far as may be permitted by any such rules or by-laws without such consent, discharge into the municipal drains any trade effluent proceeding from those premises.</p>
<p>Special provisions regarding drainage of trade effluents.</p>	<p><sup>7</sup><b>[166A. Special provisions regarding drainage of trade effluents.</b>  (1) Notwithstanding anything contained in this Act, or the rules or by-laws or any usage, custom or agreement, where in the opinion of the Commissioner any trade premises are without sufficient means of effectual drainage of trade effluent or the drains thereof, though otherwise unobjectionable are not adapted to the general drainage system of the City, the Commissioner may by written notice require the owner or occupier of such premises-</p> <p>(a) to discharge the trade effluent from the premises in such manner, at such times, through such drains and subject to such conditions as may be specified in the notice and to cease to discharge the trade effluent otherwise than in accordance with the notice;</p> <p>(b) to purify the trade effluent before its discharge into a municipal drain, and to set up for purifying the trade effluent such appliances, apparatus, fittings and plant as may be specified in the notice;</p> <p>(c) to construct a drain of such material, size and description and laid at such level and according to such alignment and with such fall and outlet as may be specified in the notice;</p> <p>(d) to alter, amend, repair or renovate any purification plant, existing drains, apparatus, plant-fitting or article, used in connection with any municipal or private drain.]</p>
<p>Power of Commissioner to drain premises in combination</p>	<p><b>167. Power of Commissioner to drain premises in combination.</b>  (1) Where the Commissioner is of opinion that any group or block of premises, any part of which is situated within one hundred feet of a municipal drain, or other place legally set apart for the discharge of</p>

<sup>7</sup> Section 166A was inserted, *ibid.* s. 8.

drainage, already existing or about to be constructed, may be drained more economically or advantageously in combination than separately, the commissioner may cause such group or block of premises to be drained by such method as appears to the Commissioner to be best suited therefor, and the expenses incurred by the Commissioner in so doing shall be paid by the owners of such premises in such proportions as the Commissioner thinks fit.

(2) Not less than fifteen days before any work under this section is commenced the Commissioner shall give written notice to the owners of all the premises to be drained, of -

- (a) the nature of the intended work,
- (b) the estimated expenses thereof, and
- (c) the proportion of such expenses payable by each owner.

(3) The owners for the time being of the several premises constituting a group or block drained under sub-section (1) shall be the joint owners of every drain constructed, erected or fixed, or continued for the special use and benefit only of such premises, and shall in the proportions in which it is determined that the owners of such premises are to contribute to the expenses incurred by the Commissioner under sub-section (1), be responsible for the expense of maintaining every such drain in good repair and efficient condition :

Provided that every such drain shall from time to time be flushed, cleansed and emptied by the Commissioner at the charge of the Municipal Fund.

**Commissioner, may close or. limit the use of existing private drains**

**168. Commissioner, may close or. limit the use of existing private drains.**

(1) Where a drain connecting any premises with a municipal drain or other place legally set apart for the discharge of drainage, though sufficient for the effectual drainage of the said premises and otherwise unobjectionable, is not, in the opinion of the Commissioner, adapted to the general drainage system of the City or of the part of the City in which such drain is situated, the Commissioner may -

- (a) subject to the provision of sub-section (2), close, discontinue, or destroy the said drain and cause any work necessary for that purpose to be done;
- (b) direct that such drain shall, from such date as he may specify in this behalf, be used for sullage and sewage only, or for rainwater only or for unpolluted sub-soil water only, or for both rain-water and unpolluted sub-soil water only, and by written notice required the owner or occupier of the premises, to make an entirely distinct drain for rainwater or unpolluted sub-soil water or for both rain water and unpolluted sub-soil water, or for sullage and sewage.

(2) No drain may be closed, discontinued or destroyed by the Commissioner under item (a) in sub-section (1) except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain or other place aforesaid which the Commissioner thinks fit; and the expense of the construction of any drain so provided by the commissioner and of any work done under the said item shall be paid by the Commissioner.

(3) Any requisition made by the Commissioner under item (b) of sub-



section (1) may embrace any detail specified in item (a) or (b) in section 164.

**Vesting and maintenance of drains for sole use of properties**

**169. Vesting and maintenance of drains for sole use of properties.**

Subject to the provisions of sub-section (2) of section 153, every drain which has been constructed, laid, erected or set up, whether at the expense of the Corporation or not, or which is continued for the sole use and benefit of any premises or group of premises shall-

- (a) notwithstanding anything contained in section 170, vest in the owner of such premises or group of premises on & from the appointed day;
- (b) be provided with all such further appliances and fittings as may appear to the Commissioner necessary for the more effectual working of the same, and also be maintained in good repair and efficient condition by the owner of such premises or group of premises, and be from time to time flushed, cleansed and emptied by the Commissioner at the charge of the Municipal Fund.

**Right of Corporation to drains, etc. constructed, etc., at charge of Municipal Fund on premises not belonging to Corporation.**

**170. Right of Corporation to drains, etc. constructed, etc., at charge of Municipal Fund on premises not belonging to Corporation.**

All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage works constructed, erected or set up at any time at the charge of the Municipal Fund or at the charge of the funds of any local authority having jurisdiction in any part of the City before the appointed day upon any premises not belonging to the Corporation and otherwise than for the sole use and benefit of the premises or group of premises shall, unless the Corporation has otherwise determined, vest in the Corporation.

**New building not to be erected without drains**

**171. New building not to be erected without drains.**

(1) It shall not be lawful newly erect any building, or to re-erect any building, or to occupy any building newly erected or re-erected unless and until-

- (a) a drain be constructed of such size, material and description, at such level and with such fall as shall appear to the Commissioner to be necessary for the effectual drainage of such building;
  - (b) there have been provided for and set up in such building and in the premises appurtenant thereto, all such appliances and fittings as may appear to the Commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.
- (2) The drain to be constructed as aforesaid shall empty into a municipal drain or into some place legally set apart for the discharge of drainage situated at a distance not exceeding one hundred feet from the premises in which such building is situated: but if no such drain or place is within that distance then such drain shall empty into such cesspool as the Commissioner directs.

**Obligation of owners of drains to allow use or joint ownership to others**

**172. Obligation of owners of drains to allow use or joint ownership to others.**

Every Owner of a drain connected with a municipal drain or other place legally set apart for the discharge of drainage shall be bound to allow the use of it to others, or to admit other persons as joint owners

**How right of use of joint ownership of a drain may be obtained by a person other than the owner**

thereof, on such terms as may be prescribed under section 173.

**173. How right of use of joint ownership of a drain may be obtained by a person other than the owner.**

(1) Any person desiring to drain his premises into a municipal drain through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain, or may apply to the Commissioner for authority to use such drain or to be declared joint owner thereof.

(2) Where the Commissioner is of opinion, whether on receipt of such application or otherwise, that the only, or the most convenient, means by which the owner or occupier of any premises can cause the drain of such premises to empty into a municipal drain or other place legally set apart for the discharge of drainage is through a drain communicating with such municipal drain or place aforesaid but belonging to some person other than the said owner or occupier, the Commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorize the said owner or occupier to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the said premises with the communicating drain and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleansing and emptying the joint drain or otherwise, as may appear to him equitable.

(3) Every such order bearing the signature of the Commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situate with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for -

- (a) connecting the two drains; or
- (b) renewing, repairing or altering the connection; or
- (c) discharging any responsibility attaching to the person in whose favour the Commissioner's order is made for maintaining, repairing, flushing, cleansing or emptying the joint drain or any part thereof.

(4) In respect of the execution of any work under sub-section (3) the person in whose favour the Commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of section 162.

**Sewage and rain water drains to be distinct**

**174. Sewage and rain water drains to be distinct.**

Whenever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, the Commissioner may require that there shall be one drain for sullage excrementitious matter and polluted water and another and an entirely distinct drain for rain water and unpolluted sub-soil water or for both rainwater and

unpolluted sub-soil water, each emptying into separate municipal drains or other places legally set apart for the discharge of drainage or other suitable places.

**Affixing of pipes for ventilation of drains, etc**

**175. Affixing of pipes for ventilation of drains, etc.**

(1) For the purpose of ventilating any drain or cesspool, whether belonging to the Corporation or to any other person, the commissioner may erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as shall appear to the Commissioner necessary and cut through any projection from any building including the eaves of any roof thereof in order to carry up such shaft or pipe through any such projection and lay in, through, or under any land such appliances as may in the opinion of the Commissioner be necessary for connecting such ventilating shaft or pipe with the drain or cesspool intended to be ventilated.

(2) Such shaft or pipe shall be erected or affixed or removed in the manner laid down in the rules.

(3) If the Commissioner declines to remove a shaft or pipe under the rules, the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Judge, within fifteen days of the receipt by him of the replay of the Commissioner.

(4) Where the owner of any building or land cut through, opened or otherwise dealt with under sub-section (1) is not the owner of the drain or cesspool intended to be ventilated, the Commissioner shall, so far as is practicable reinstate and make good such building, and fill in and make good such land, at the charge of the Municipal Fund.

**Disposal of Sewage**

**Appointment of places for emptying of drains and disposal of sewage.**

**176. Appointment of places for emptying of drains and disposal of sewage.**

The Commissioner may cause all or any municipal drains to empty into any place, whether within or without the City, and dispose of the sewage at any place whether within or without the City, and in any manner which he shall deem suitable for such purpose:

Provided that-

(a) the Commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore emptied, or dispose of sewage at any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the Corporation;

(b) no municipal drain shall be made to empty into any place, and no sewage shall be disposed of at any place or in any manner which the<sup>8</sup>[State] Government shall think fit to disallow.

**Provision of means for disposal of sewage**

**177. Provision of means for disposal of sewage.**

The Commissioner may, for the purpose of receiving, treating, storing, disinfecting, distributing or otherwise disposing of sewage, construct any work within or without the City or purchase or take on lease any land, building, engine, material or apparatus either within or without the City or enter into any arrangement with any person for any period not exceeding twenty years for the removal or disposal of sewage

<sup>8</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

within or without the City.

**Water-closets, Privies, Urinals, etc.**

**Construction of water closets and privies**

**178. Construction of water closets and privies.**

(1) It shall not be lawful to construct any water-closet or privy for any premises except with the written permission of the Commissioner and in accordance with such terms not being inconsistent with any rule or by-law for the time being in force as he may prescribe.

(2) In prescribing any such terms the Commissioner may determine in each case-

(a) whether the premises shall be served by the water-closet or by the privy system, or partly by one and partly by the other; and

(b) what shall be the site or position of each water-closet or privy.

(3) If any water-closet or privy is constructed on any premises in contravention of sub-section (1), the Commissioner may, after giving not less than ten days notice to the owner or occupier of such premises, close such water-closet or privy, and alter or demolish the same, and the expenses incurred by the Commissioner in so doing shall be paid by such owner or occupier or by the person offending.

**<sup>9</sup>[178A. Power of Commissioner to require owner to provide water closet or privy accommodation.**

**Power of Commissioner to require owner to provide water closet or privy accommodation**

(1) Where any premises are, in the opinion of the Commissioner, without the adequate and suitable water-closet or privy accommodation in accordance with the rules made by the Corporation in that behalf, the Commissioner, may, by written notice, require the owner of such premises to provide such water-closet or privy accommodation in accordance with the rules made by the Corporation in that behalf, within such time as may be specified in such notice and if the owner fails to comply with such requirement, within the time so specified or within such time as may, on the application of the owner, be extended by the Commissioner for any reasonable cause, it shall be lawful for the Commissioner to make such provision from the fund of the Corporation. The expenses incurred by the Commissioner in making such provision shall, on demand by the Commissioner, be payable by the owner and if not paid by him on demand, such expenses shall be recoverable by the Commissioner in accordance with the provisions of section 439.

(2) Notwithstanding anything contained in sub-section (1), where the owner of any premises fails to comply with such requirement within the period specified under sub-section (1), the Commissioner may, in a case where the owner is not himself the occupier of such premises, permit the occupier of such premises to make provision for such water-closet or privy accommodation at the cost of the owner, if the occupier is willing to do so, instead of the Commissioner himself making such provision. Any such occupier who makes such provision shall, after obtaining the necessary certificate from the Commissioner about such provision having been made by him, the amount of expenses incurred by him in making such provision and the reasonableness of such expenses, be entitled to deduct, such amount of

<sup>9</sup> Section 178A was inserted by Guj. 1 of 1979, s. 15.

expenses as is certified by the Commissioner to be reasonable, from the rent or any other sum payable by him to the owner or to recover such amount from the owner in any other lawful manner.

(3) For the purpose of making the provision specified in sub-section (1), the Commissioner shall have power to do all acts necessary for that purpose and the Corporation shall not be liable to pay any compensation to the owner of the premises for any reasonable damage done to the premises in making such provision.

(4) Where any water-closet or privy accommodation is provided or set up by the Commissioner under sub-section (1) and the expenses incurred by the Commissioner in doing so are paid by, or recovered from, the owner in full, such water-closet or privy accommodation shall belong to the owner of the premises and the owner shall be responsible for the expenses of maintaining it in good repairs and efficient condition.

(5) The provision as aforesaid made under sub-section (1) or sub-section (2) shall not be deemed to be a permanent structure for the purpose of clause (b) of sub-section (1) of section 13 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.] (Bom. LVII of 1947.)

**179. Water-closets and other accommodation in buildings newly erected or re-erected.**

**Water-closets and other accommodation in buildings newly erected or re-erected**

(1) It shall not be lawful to erect or to re-erect or convert within the meaning of section 253 any building for, or intended for, human habitat in, or at or in which labourers or workmen are to be employed, without such water-closet or privy accommodation and such urinal accommodation and accommodation for bathing or for the washing of clothes and domestic utensils of such building as the Commissioner may prescribe.

(2) In prescribing any such accommodation the Commissioner may determine in each case-

- (a) whether such building or work shall be served by the water-closet or by the privy system, or partly by one and partly by the other;
- (b) what shall be the site or position of each water-closet, privy, urinal or bathing or washing place and their number.

(3) In determining the accommodation to be required under sub-section (2) the Commissioner shall have regard to the necessity of providing adequate and suitable water closets or privies and bathing places for domestic servants employed by the occupants of the building.

**Public necessities**

**180. Public necessities.**

The Commissioner shall provide and maintain in proper and convenient situations water-closets, latrines, privies and urinals and other similar conveniences for public accommodation.

**Inspection**

**Drains, etc., not belonging to Corporation to be subject to inspection and examination**

**181. Drains, etc., not belonging to Corporation to be subject to inspection and examination**

(1) All drains, ventilation-shafts and pipes, cess-pools, house-gullies, water-closets, privies, latrines and urinals and bathing and washing places which do not belong to the Corporation, or which have been

constructed, erected or set up at the charge of the Municipal Fund on premises not belonging to the Corporation, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the Commissioner.

(2) The Commissioner may, in the course of an inspection or examination under sub-section (1), obtain and take away a sample of any trade effluent which is passing from the premises inspected or examined into a municipal drain. The analysis of such sample shall be made in the manner prescribed by the rules.

(3) The results of any analysis of a sample taken under sub-section (2) shall be admissible as evidence in any legal proceedings under this Act.

**Power to open ground, etc., for purposes of inspection and examination**

**182. Power to open ground, etc., for purposes of inspection and examination.**

For the purpose of such inspection and examination, the Commissioner may cause the ground or any portion of any drain or other work exterior to a building, or any portion of a building, which he shall think fit, to be opened, broken up or removed.

**Expenses of inspection and examination**

**183. Expenses of inspection and examination.**

(1) If upon any such inspection and examination as aforesaid, it shall be found that the drain, ventilation-shaft or pipe, cess-pool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place examined is in proper order and condition, and that none of the provisions of this Act or of the rules or by-laws or any other enactment for the time being in force has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon. the ground or portion of any building, drain or other work, if any, opened, broken up or removed for the purpose of such inspection and examination shall be filled in, reinstated and made good by the Commissioner.

(2) If it shall be found that any drain, ventilation-shaft or pipe, cess-pool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place so examined is not in good order or condition, or has been repaired, changed, altered or encroached upon. or, except when the same has been constructed by or under the order of the Commissioner, if it has been constructed in contravention of any of the provisions of this Act or the rules or by-laws or of any enactment for the time being in force the expenses of the inspection and examination, shall be paid by the owner of the premises, and the said owner shall fill in, reinstate and make good the ground, or portion of any building, drain or other work opened, broken up or removed for the purpose of such inspection and examination, at his own cost.

**Commissioner may require repair, etc., to be made.**

**184. Commissioner may require repair, etc., to be made.**

(1) When the result of such inspection and examination as aforesaid is as described in sub-section (2) of section 183 the Commissioner may -  
 (a) by written notice require the owner of the premises or the several owners of the respective premises in which the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine, urinal or bathing or washing place is situated or for the benefit of which the same has been constructed, erected or set up,-

(i) to close or remove the same or any encroachment thereupon or, subject to the proviso to clause (c) of sub-section (1) of section 186, to remove any projection over the same, or

(ii) to renew, repair, cover, recover, trap, ventilate, flush and pitch or take such other order to keep the same in working condition by effecting such other works as he shall think fit to direct and to fill in, reinstate and make good the ground, building or thing opened, broken up or removed for the purpose of such inspection and examination; and

(b) without notice, close, fill up or demolish any drain by which sullage or sewage is carried through, from, into or upon any premises in contravention of any of the provisions of this Act, or the rules or by-laws, and the expenses incurred by the Commissioner in so doing shall be paid by such owner or owners.

(2) Any requisition under clause (a) of sub-section (1) in respect of any drain which has been constructed, erected or set up, or which is continued for the sole use and benefit of a property or for exclusive use and benefit of two or more properties, may include any extension thereof beyond such property or properties if and so far as such extension has been constructed, erected or set up, or is continued, for the sole use and benefit of such property or properties.

**Cost of inspection and execution of works in certain cases.**

**185. Cost of inspection and execution of works in certain cases.**

In the case of any drain which has been constructed, erected or fixed, or which is continued, for the exclusive use and benefit of two or more premises and which is not -

(a) a drain constructed under sub-section (1) of section 167, or

(b) a drain in respect of which conditions as to the respective responsibilities of the parties have been declared under sub-section (2) of section 173,

the expenses of any inspection and examination made by the Commissioner under section 181 and of the execution of any work required under section 184, whether executed under section 188 or not, shall be paid by the owners of such premises, in such proportions, as shall be determined by the Commissioner.

**Power of Commissioner to provide house drain, water connections, etc. in premises where owner is not willing to do so.**

<sup>10</sup>**[185A. Power of Commissioner to provide house drain, water connections, etc. in premises where owner is not willing to do so.**

(1) If in respect of any premises which consist of a building or a block or group of buildings having a number of residential tenements therein, with an area of land, open or enclosed, appurtenant, thereto, the Commissioner, whether on receipt of an application or otherwise, is of opinion that the tenants or other residents of such tenements are not provided with facilities for drainage, supply of water, electricity, common water closet or any such other essential supply or are provided with any of such facilities which are insufficient to meet with the reasonable requirements of such tenants or residents and that the tenants or residents who are desirous of obtaining any of such facilities are not able to do so without incurring disproportionate cost on account of no house drain, water connection or other necessary

<sup>10</sup> Section 185A was inserted by Guj. 1 of 1979, s. 16.

appliances, fittings or other things connected with the main public source for the supply of such facility having been provided or set up by the owner in the premises and on account of the owner not being willing to provide or set up such housing drain, water connections, or other necessary appliances, fitting or things in, or in the land appurtenant to, the premises, it shall be lawful for the Commissioner to provide or set up, in such premises or the land appurtenant thereto, with approval of the Corporation and after giving the owner a reasonable opportunity of being heard, such house drain, water connection or other necessary appliances, fittings or other things having connection with the main public source of the supply of any such facility which may be situated outside the premises and the expenses incurred by the Commissioner in doing so shall, on demand by the Commissioner, be payable by the owner of such premises and if he does not pay them on demand. such expenses shall be recoverable by the Commissioner in accordance with the provisions of section 439.

(2) For the purpose of exercising the powers under sub-section (1) the Commissioner shall have power to do all acts necessary for the purpose of an effectual exercise of such power in relation to any premises and the Corporation shall not be liable to pay any compensation to the owner of the premises for any reasonable damage done to the premises in the exercise of such power.

(3) Where any house drain, water connections or other appliances, fittings or things are provided or set up by the Commissioner in any premises under sub-section (1). then, on the payment of the expenses incurred by the Commissioner in doing so by the owner of the premises or on the every of such expenses from such owner, such house drain, water connection or other appliances, fitting or things shall belong to the owner of the premises and the owner shall be responsible for the expenses of maintaining them in good repair and efficient condition.]

#### **General Provisions.**

**Prohibition of acts contravening the provisions of the Act, rules or by-laws or done without sanction.**

#### **186. Prohibition of acts contravening the provisions of the Act, rules or by-laws or done without sanction.**

(1) No person shall -

(a) in contravention of any of the provisions of this Act or rules or by-laws or of any notice issued or direction given under this Act or without the written permission of the Commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change, any drain, ventilation- shaft or pipe, cess-poll, water-closet, privy, latrine or urinal or bathing or washing place or any trap, covering or other fitting or appliance connected therewith;

(b) without the written permission of the Commissioner, renew, rebuild or unstop any drain, ventilation-shaft or pipe, cess-pool, water-closet, privy, latrine or urinal or bathing or washing place, or any fitting or appliance, which has been, or has been ordered to be, discontinued, demolished or stopped up under any of the provisions of this Act, or the rules or by-laws;



(c) without the written permission of the commissioner, make any projection over or encroachment upon, or in any way injure or cause or permit to be injured, any drain, cess-pool, house-gully, water-closet, privy, latrine or urinal or bathing or washing place :

Provided that nothing in this clause shall apply to any weather-shade in width not exceeding two feet over any window which does not front a wall or window of an adjoining house :

(d) drop, pass or place, or cause or permit to be dropped, passed or placed, into or in any drain, any brick, stone, earth, ashes, dung or any substance or matter which is likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents;

(e) pass or permit or cause to be passed, into drain provided for a particular purpose any matter or liquid for the conveyance of which such drain has not been provided:

(f) except as provided by or under this Act cause or suffer to be discharged into any drain any chemical refuse or waste steam or any liquid of a temperature higher than one hundred and twenty degrees Fahrenheit, being refuse or steam which when so treated is, either along or in combination with the contents of the drain, dangerous or the cause of a nuisance or prejudicial to health;

(g) cause or suffer to be discharged into any drain, carbide of calcium or any such crude petroleum, any such oil made from petroleum, coal, shale or bituminous substances, or such product of petroleum or mixture containing petroleum as gives off under test an inflammable vapour at a temperature of less than seventy three degrees Fahrenheit.

(2) If the person carrying out any work or doing any act in contravention of any of the clauses of sub-section (1) is not at the time of the notice the owner of such building or work, then owner of such building or work shall be deemed to have been responsible for carrying out all such requisition in the same way as the person so carrying out would have been liable.

**187. Water-closets etc., not to be injured or improperly fouled.**

**Water-closets etc.,  
not to be injured or  
improperly fouled**

(1) No person shall injure or foul any water-closet, privy, urinal or bathing or washing place or any fitting or appliances in connection therewith which have been provided for the use in common of the inhabitants of one or more buildings.

(2) If any such water-closet, privy, urinal or bathing or washing place or any fitting or appliance in connection therewith or the approaches thereto or the walls floors or seats or anything used in connection therewith are in such a state as to be a nuisance or source of annoyance to any inhabitant of the said building or buildings or to any inhabitant of the locality or passer by for want of proper cleaning thereof, such of the persons having the use thereof as may be in default or, in the absence of evidence as to which of the persons having the use thereof in common is in default, every such person shall be deemed to have contravened the provisions of this section.

(3) The provisions of this section shall not exempt the owner of the building or buildings from any penalty to which he may otherwise have rendered himself liable.

**Commissioner may execute certain works under this Act without allowing option to persons concerned of executing the same.**

**188. Commissioner may execute certain works under this Act without allowing option to persons concerned of executing the same.**

(1) The Commissioner may, if he thinks fit, cause any work described in this Chapter or in Chapter IX of the Schedule to be executed by municipal or other agency under his own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Corporation shall by a general or special or resolution sanction, as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.