



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 13] नई दिल्ली, सोमवार, मार्च 26, 2018/चैत्र 5, 1940 (सक)
No. 13] NEW DELHI, MONDAY, MARCH 26, 2018/CHAITRA 5, 1940 (SAKA)

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

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 26th March, 2018/Chaitra 5, 1940 (Saka)

THE DAMAN AND DIU MUNICIPALITIES (AMENDMENT) REGULATION, 2018

No. 1 OF 2018

Promulgated by the President in the Sixty-ninth Year of the Republic of India.

A Regulation further to amend the Daman and Diu Municipalities Regulation, 1968.

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

1. (1) This Regulation may be called the Daman and Diu Municipalities (Amendment) Regulation, 2018.

(2) It shall come into force at once.

2. Throughout the Daman and Diu Municipalities Regulation, 1968 (hereinafter referred to as the principal Regulation), for the words "servant" and "servants", wherever they occur, the words "employee" and "employees" shall respectively be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

Reg. 7 of
1969.

Short title
and
commencement

Substitution
of reference
of certain
expressions by
certain other
expressions.

- Amendment of section 1. 3. In section 1 of the principal Regulation, for sub-section (2), the following sub-section shall be substituted, namely:—
“(2) It extends to the whole of the Union territory of Daman and Diu.”
- Amendment of section 2. 4. In section 2 of the principal Regulation, for clause (33), the following clause shall be substituted, namely:—
“(33) “officer or employee of the Council” means an officer or employee appointed by the Chief Officer or the Government and includes any Government officer or employee who is for the time being serving under the Council;”
- Amendment of section 9A. 5. In section 9A of the principal Regulation,—
(i) in sub-section (2), for the word “one-third”, the word “one-half” shall be substituted;
(ii) in sub-section (3), for the word “one-third”, the word “one-half” shall be substituted.
- Amendment of section 13. 6. In section 13 of the principal Regulation,—
(i) in sub-section (1), after the words “by ballot”, the words “or by Electronic Voting Machine” shall be inserted;
(ii) after sub-section (2), the following sub-section shall be inserted, namely:—
“(3) Notwithstanding anything contained in this Regulation or the rules made thereunder, the giving or recording of vote by Electronic Voting Machine may be adopted in such ward or wards of the Council as the Election Commission may, having regard to the circumstances of each case, specify.
Explanation.—For the purposes of this section, “Electronic Voting Machine” means any machine or apparatus whether operated electronically or otherwise, used for giving or recording of vote and any reference to a ballot box or ballot paper in this Regulation or the rules made thereunder shall, save as otherwise provided, be construed as including a reference to such Electronic Voting Machine wherever such Electronic Voting Machine is used at any election.”
- Amendment of section 16. 7. In section 16 of the principal Regulation, in sub-section (1), after clause (l), the following clauses shall be inserted, namely:—
“(m) is so disqualified by or under any law for the time being in force for the purposes of election to the House of the People; or
(n) is disqualified on ground of defection under Schedule X.”
- Amendment of section 23. 8. In section 23 of the principal Regulation, in sub-section (3), the following proviso shall be inserted, namely:—
“Provided that no symbol allotted under this Regulation to a candidate shall be deemed to be a religious symbol or a national symbol for the purposes of this sub-section.”
- Substitution of new section for section 24. 9. For section 24 of the principal Regulation, the following section shall be substituted, namely:—
“24. (1) No person shall—
(a) convene, hold or attend, join or address any public meeting or procession in connection with an election; or
(b) display to the public any election matter by means of cinematograph, television or other similar apparatus; or
(c) propagate any election matter to the public by holding, or by arranging the holding of, any musical concert or any theatrical performance or any other entertainment or amusement with a view to attracting the public thereto,
in any polling area during the period of forty-eight hours ending with the hour fixed for the conclusion of the poll for any election.
- Prohibition of public meeting during period of forty-eight hours ending with hour fixed for conclusion of poll.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Explanation.—For the purposes of this section, the expression “election matter” means any matter intended or calculated to influence or affect the result of an election.

10. In section 25 of the principal Regulation, in sub-section (2), for the words “with fine which may extend to two hundred and fifty rupees”, the following shall be substituted, namely:—

Amendment
of section 25.

“with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees or with both”.

11. In section 51 of the principal Regulation,—

Amendment
of section 51.

(i) in sub-section (3), in clause (u), for the letters, figures and words “Rs. 200 and the total expenditure during the year does not exceed Rs.1000”, the words “such amount as may be notified in the Official Gazette by the Government and the total expenditure during the year does not exceed such amount as may be notified in the Official Gazette by the Government” shall be substituted;

(ii) in sub-section (5), in clause (a), for the words, letters and figures “Chapter XXXIV of the Code of Criminal Procedure, 1898”, the words, letters and figures “Chapter XXV of the Code of Criminal Procedure, 1973” shall be substituted.

5 of 1898.
2 of 1974.

12. In section 52 of the principal Regulation,—

Amendment
of section 52.

(i) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) On the constitution of a Council under this Regulation, the Collector shall convene a special meeting of the Councillors for election of a President and a Vice-President in such manner as may be prescribed.”;

(ii) sub-section (3), sub-section (4) and sub-section (5) shall be omitted;

(iii) for sub-section (8), the following sub-section shall be substituted, namely:—

“(8) If there is a vacancy in the office of the President or Vice-President due to any reason whatsoever, the vacancy shall be filled at the same procedure as provided in sub-section (2).”.

13. In section 54 of the principal Regulation, in sub-section (2), for the word “receipt”, the word “acceptance” shall be substituted.

Amendment
of section 54.

14. In section 56 of the principal Regulation,—

Amendment
of section 56.

(i) in sub-section (1), the following proviso shall be inserted, namely:—

“Provided that no such resolution shall be moved within a period of six months from the date of the assumption of office by the President or Vice-President, as the case may be.”;

(ii) in sub-section (2), for the word “one-fourth”, the word “one-third” shall be substituted;

(iii) in sub-section (3), for the word “Director”, wherever they occur, the word “Collector” shall be substituted.

(iv) for sub-section (4), the following shall be substituted, namely:—

“(4) Every President or Vice-President of the Council may be removed from his office if a resolution of the Council expressing want of confidence in him is passed by a majority of the total members of the Council present at a meeting specially convened for the purpose:

Provided that no such resolution shall be moved unless,—

(a) a notice of the intention to move the resolution has been given within such period as may be prescribed and signed by a majority of one-third of members of the Council; and

(b) it contains a proposal for election of a new President or Vice-President of the Council.

(5) At any meeting of the Council, while any resolution for removal of the President from his office is under consideration, the President, or while any resolution for removal of the Vice-President from his office is under consideration, the Vice-President, shall not, though he is present, preside.

(6) The meeting shall be presided over by the Vice-President if the motion is against the President and by the President if the motion is against the Vice-President.

(7) At any meeting of the Council, while any resolution for electing a successor to the office of the President is under consideration, the candidate to the office of the President, or while any resolution for electing a successor to the office of the Vice-President is under consideration, the candidate to the office of the Vice-President, shall not, though he is present, preside.

(8) The President or Vice-President shall have right to speak in, and otherwise to take part in the proceeding of such meeting of, the Council while any resolution for removal from his office is under consideration in the Council and shall be entitled to vote only in the first instance on such resolution or on any other matter during such proceeding but not in the case of an equality of votes.

(9) The provisions of sub-sections (6), (7) and (8) shall apply *mutatis mutandis* to the person contesting the election for the post of President or Vice-President of the Council.

(10) The procedure to be followed for the meeting shall be such as may be prescribed."

Amendment
of section 58.

15. In section 58 of the principal Regulation, in sub-section (4), for the words "two thousand rupees", the words "five thousand rupees" shall be substituted.

Amendment
of section 59.

16. In section 59 of the principal Regulation, in sub-section (1), in clause (d), for the words "servants of the Council", the words "employees of the Council through Chief Officer" shall be substituted.

Amendment
of section 63.

17. In section 63 of the principal Regulation,—

(a) in sub-section (1), for the words "appoint such Subjects Committees", the words "appoint not more than three Subjects Committees" shall be substituted;

(b) in sub-section (2), after the word "Councillors", the words "or five members whichever is more" shall be inserted;

(c) in sub-section (3), for the words "five members, as it may determine", the words "three members" shall be substituted;

(d) in sub-section (4),—

(i) in clause (a), after the words "Standing Committee", the words "and allocating one or more than one subject to the Standing Committee and Subjects Committees" shall be inserted;

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

“(b) determining the number of member of the Subjects Committee or Committees, if any, to be appointed, and if more than one such Committees are to be appointed, the Subjects Committees of which the Vice-President shall be *ex officio* Chairman.”;

(iii) in clause (c), the following proviso shall be inserted, namely:—

“Provided that no Councillor shall be eligible to be elected to more than one Subjects Committees.”.

18. In section 64 of the principal Regulation,—

Amendment
of section 64.

(a) for the words “the last preceding section”, the word and figures “section 63” shall be substituted;

(b) in clause (c), after the words “elected by the Councillors”, the words “excluding President, Vice-President and members of any Subjects Committee or Committees” shall be inserted;

(c) proviso shall be omitted.

19. For section 65 of the principal Regulation, the following section shall be substituted, namely:—

Substitution
of new
section for
section 65.

“65. A Council may, from time to time, refer to a Subjects Committee appointed under section 63 such special subjects or matters relating to the purposes of this Regulation, for opinion or inquiry as the Council may think fit and it may direct such Subjects Committee to submit its report either to it or to the Standing Committee.”.

Reference of
special
subjects or
matters to
Subjects
Committee.

20. For section 68 of the principal Regulation, the following section shall be substituted, namely:—

Substitution
of new
section for
section 68.

“68. Each Council shall make bye-laws specifying the powers to be exercised by the Standing Committee and the Subjects Committees, if any, including the subjects to be allotted to such Committees.”.

Powers of
Standing
Committees
and Subjects
Committees.

21. In section 69 of the principal Regulation, for the words, letters and figures “not exceed Rs. 50,000 and Rs. 10,000 respectively”, the words “not exceed such amount as may be notified in the Official Gazette by the Government” shall be substituted.

Amendment
of section 69.

22. In section 72 of the principal Regulation,—

Amendment
of section 72.

(i) in sub-section (4), for the word “Council”, the word “Government” shall be substituted;

(ii) in sub-section (5), in clause (b), the words, brackets, letters and figures “, whose minimum salary (exclusive of allowance) is not less than Rs. 225/- per month” shall be omitted.

23. For section 73 of the principal Regulation, the following section shall be substituted, namely:—

Substitution of
new section
for section 73.
Appointment
of other
officers and
employees.

“73. (1) A Council may, with the sanction of the Director, create such post of officers and employees other than those specified in sub-sections (1) and (2) of section 72 as it shall deem necessary for efficient execution of its duties under this Regulation.

(2) The qualifications, pay, allowances, and other conditions of service and method of recruitment of any such officers and employees shall, by general or special order, be made by the Government in this behalf.

Amendment
of section 74.

(3) The power of making appointment to any post referred to in sub-section (1) shall vest in the Chief Officer with the prior approval of the Director.”.

24. In section 74 of the principal Regulation, in sub-section (1),—

(i) in clause (a), for the word “President”, the word “Council” shall be substituted;

(ii) in clause (b), after the word “Council”, the following shall be inserted, namely:—

“and the Standing Committee:

Provided that if it appears to the Chief Officer that any decision or resolution is against public interest or harmony, or is otherwise *ultra vires*, he shall refer the decision or resolution to the Collector for clarification or decision, and after a clarification or decision in this regard is received from the Collector, unless otherwise directed to do so in writing by the Collector, the Chief Officer shall implement the decision or resolution;”;

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

“(i) undertake such minor repair or maintenance work as may be notified in the Official Gazette by the Government within the financial limits.”.

Amendment
of section 75.

25. In section 75 of the principal Regulation, for the words “Standing Committee”, the words “Chief Officer” shall be substituted.

Substitution of
new section
for section 76.

26. For section 76 of the principal Regulation, the following section shall be substituted, namely:—

Punishment of
officers and
employees.

“76. (1) Without prejudice to the provisions of any law for the time being in force, the following penalties may, for good reasons, be imposed upon any officer or employee of the Council,—

(a) minor penalties—

(i) censure;

(ii) withholding of promotion;

(iii) recovery from his pay of the whole or part of any pecuniary loss caused by him to the Council by negligence or breach of orders;

(iv) withholding of increments of pay;

(b) major penalties—

(i) reduction to a lower post on a fixed pay or a time scale or to a lower stage in a time scale;

(ii) removal from the service, which does not disqualify from future employment;

(iii) dismissal from the service, which ordinarily disqualifies from future employment.

(2) The major penalties mentioned in clause (b) of sub-section (1) may be imposed on an officer or employee of the Council by the authority competent to make the appointment of the officer or employee:

Provided that the minor penalties mentioned in clause (a) of sub-section (1) may be imposed on an officer other than an officer belonging to the common cadre specified in sub-section (5) of section 72 or an employee of the Council, by the Chief Officer:

Provided further that suspension of an officer or employee pending inquiry into the allegations against such officer or employee shall not be deemed to be a penalty and shall be ordered only by the authority competent to make appointment to the post held by such officer or employee.

(3) No officer or employee shall be imposed major penalties mentioned in clause (b) of sub-section (1) unless he has been given a reasonable opportunity of showing cause against such penalties:

Provided that this sub-section shall not apply where a person is reduced, removed or dismissed on the ground of conduct which has led to his conviction on a criminal charge.

(4) No major penalty mentioned in clause (b) of sub-section (1) shall be imposed on any officer or employee appointed under sub-section (3) of section 73 without the prior approval of the Director.

(5) In every case referred to the Director under sub-section (4), the Director shall not refuse to give his approval unless he is satisfied that—

(i) the finding at the inquiry is perverse; or

(ii) the major penalty imposed is severe.

(6) Where the Director informs the Chief Officer that the finding at the inquiry is perverse, no further proceeding shall be taken against the officer or employee concerned in respect of the same matter.

(7) An appeal against any order imposing any penalty mentioned in sub-section (1) may be made—

(i) in case if an order imposing any minor penalty mentioned in clause (a) of sub-section (1), to the Director;

(ii) in case if an order imposing any major penalty mentioned in clause (b) of sub-section (1), to the authority specified in this behalf by the Administrator by an order.

(8) No such appeal may be entertained if not preferred within one month from the date of receipt of the order appealed against by the officer or employee concerned.

(9) The appellate authority referred to in sub-section (7), within six months of the date of the order passed, may at any time, either on his or its own motion or otherwise, call for the records of any inquiry and revise any order made for reduction to a lower post or rank or removal or dismissal from the service, and may—

(i) confirm, modify, reduce, enhance or set aside the order; or

(ii) remit the case to the authority which made the order to or any other authority directing such authority to make such further enquiry as he or it may consider proper in the circumstances of the case; or

(iii) pass such orders as he or it may deem fit.

(10) The Administrator may, at any time, either on his own motion or otherwise, review any order passed under this section, when any new material or evidence which could not be produced or was not available at the time of passing the order under review and which has the effect of changing the nature of the case, has come, or has been brought, to his notice."

27. After section 77 of the principal Regulation, the following Chapter shall be inserted, namely:—

Insertion of
new Chapter
VA.

"CHAPTER VA

OMBUDSMAN FOR COUNCIL

77A. (1) The Government shall, by notification in the Official Gazette, establish an authority to be known as the Ombudsman for making investigations and inquiries, in respect of charges on any action involving corruption or maladministration or irregularities in the discharge of administrative functions by the members of the Council under this Regulation:

Establishment,
term of office
and conditions
of service of
Ombudsman.

Reg. 4 of 2012.

Provided that the Government may designate the Ombudsman appointed under the Daman and Diu Panchayat Regulation, 2012 to discharge the functions of the Ombudsman under this Regulation.

(2) The Ombudsman shall consist of one member to be appointed by the Administrator, on the recommendation of a Committee referred to in sub-section (4).

(3) The Ombudsman shall not be a Government employee.

(4) The Committee referred to in sub-section (2) shall comprise of the following, namely:—

(a) Director, Municipal Administration of Daman and Diu;

(b) a retired District Judge;

(c) a retired civil employee who has held a post in the Central Government or State Government not below the rank of a Joint Secretary to the Government of India; and

(d) two persons of impeccable integrity from the civil society nominated by the Administrator.

(5) A person appointed to be the Ombudsman shall, before he enter upon his office, make and subscribe before the Administrator or any other officer appointed in that behalf by him, an oath or affirmation according to the form set out below:—

'I, A. B. having been appointed as the Ombudsman for the _____ Council under the Daman and Diu Municipalities Regulation, 1968, do swear in the name of God / Solemnly affirm that I will bear true faith and allegiance to the Constitution of India and I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will'.

Reg. 7 of 1969.

(6) A person appointed as Ombudsman shall hold office for a term of three years from the date on which he enters upon his office:

Provided that—

(a) the Ombudsman may, by writing under his hand addressed to the Administrator, resign his office; and

(b) the person appointed as Ombudsman may be removed from his office in the manner provided in section 77B.

(7) The salary and allowance payable to, and the other terms and conditions of service of, the Ombudsman shall be such as may be prescribed.

(8) On expiry of his term of office as Ombudsman, he shall not be eligible for re-appointment as Ombudsman or for further appointment to any office under the Union territory Administration or in any corporation, company, society or university by or under the control of the Union territory Administration.

Removal of
Ombudsman.

77B. (1) The Ombudsman may be removed from his office, by an order of the Administrator, on the ground of proved misbehaviour or incapacity.

(2) The procedure for the removal of the Ombudsman under sub-section (1) and for the investigation and proof of the misbehaviour or incapacity of the Ombudsman shall be such as may be prescribed.

Staff of
Ombudsman.

77C. (1) The Government may, in consultation with the Ombudsman, provide the officers and staff to assist the Ombudsman in the discharge of his functions under this Regulation.

(2) The salaries, allowances and other conditions of service of the officers and staff provided to the Ombudsman shall be such as may be prescribed.

(3) The Ombudsman may require the assistance of any officer of any Government Department in order to ascertain the veracity of an allegation under investigation and such officer shall be bound to render such assistance in addition and without detriment, to his official duties.

(4) The Ombudsman may utilise the services of any person having experience and expertise in any particular subject in deciding the questions before it.

77D. (1) The Ombudsman shall perform all or any of the following functions, namely:—

Functions of
Ombudsman.

(i) investigate into any allegation contained in a complaint or on a reference from the Government, or that has come to the notice of the Ombudsman;

(ii) inquire into any complaint in which corruption or maladministration of a member or a Council is alleged;

(iii) pass an order on the allegation in the following manner, namely:—

(a) where the irregularity involves a criminal offence committed by a member of the Council, the matter shall be referred to the appropriate authority for investigation;

(b) where the irregularity causes loss or inconvenience to a citizen, direct the Council to give him compensation and to reimburse the loss from the person responsible for such irregularity;

(c) where the irregularity involves loss or waste or misuse of the fund of the Council, realise such loss from those who are responsible for such irregularity; and

(d) where the irregularity is due to omission or inaction, cause to supply the omission and to rectify the mistake.

(2) In addition to the functions enumerated in sub-section (1), the Ombudsman may pass interim order restraining the Council from doing anything detrimental to the interest of the complainant if it is satisfied that much loss or injury shall be caused to the complainant due to the alleged act.

(3) The Ombudsman may, if it is of opinion that the irregularity involves corrupt practice for personal gain, by order impose penalty in addition to compensation.

77E. (1) The Ombudsman shall, for the purpose of any investigation or inquiry under this Regulation, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Powers of
Ombudsman.

5 of 1908.

(a) summoning and enforcing the attendance of any witness and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witness or documents; and

(f) any other matter which may be prescribed.

(2) Where the Ombudsman finds that the allegation contained in a complaint is without any substance or trivial in nature, it may, by order, direct the complainant to pay to the opposite party so much of the amount specified in the order by way of cost.

(3) Where the allegation contained in a complaint is about the loss or waste or misapplication of the fund of the Council or in respect of the loss or inconvenience caused to a citizen, the Ombudsman may, during inquiry, collect evidence, determine the loss and direct in its order the amount to be realised from the person responsible.

(4) If the amount payable as per the order passed by the Ombudsman under sub-section (2) or sub-section (3) is not paid within the period specified by it, the same shall be recoverable as if it were an arrears of land revenue.

Service of
Government
Departments.

77F. The Government may, at the request of the Ombudsman, make available the services of officers and employees of the Government including police personnel to assist the Ombudsman in the conduct of investigation and inquiry, and in respect of such functions, such officer or employee shall be deemed to be the officer or employee of the Ombudsman.

Investigation.

77G. (1) The Ombudsman may, in accordance with the provisions of this Regulation, investigate into any complaint filed before it under this Regulation.

(2) Notwithstanding anything contained in this Regulation, the Government may refer any allegation of corruption or maladministration against a Council or a member of the Council which is within its knowledge or brought to its notice, to the Ombudsman and the Ombudsman shall investigate into it as if, it was a complaint filed under this Regulation.

(3) The Ombudsman may, on receipt of a complaint, conduct an investigation in the matter and where there is a *prima facie* case it may conduct a detailed inquiry under section 77H.

(4) The Ombudsman shall not investigate or inquire into matters relating to,—

(a) any matter in respect of which a formal and public inquiry has been ordered by the Government;

(b) any matter in respect of which a remedy is available from the Court for Council;

(c) any matter in respect of which an inquiry has been ordered under the Commission of Inquiries Act, 1952 or any matter pending before a Court;

(d) any complaint filed after the expiry of three years from the date on which the matter complained against have taken place:

60 of 1952.

Provided that the Ombudsman may entertain such complaint, if the complainant satisfies that he had sufficient reason for not filing the complaint within the specified period.

Inquiry.

77H. (1) After an investigation, if the Ombudsman is satisfied that—

(a) the complaint is frivolous or vexatious or is not made in good faith; or

(b) there is no sufficient ground to initiate proceedings; or

(c) other remedies are available to the complainant and it shall be more beneficial for the complainant to avail of such remedies in view of the circumstances of the case,

it may, after recording its findings and stating the reason therefor, dispose of the complaint and communicate the same to the complainant.

(2) If the Ombudsman is of the opinion that there is a *prima facie* case against a member of the Council complained of, it shall record its findings to this effect and send notices of the proposed inquiry to the complainant and to the opposite party.

(3) Subject to the provisions of this Regulation and rules made thereunder, the Ombudsman shall regulate its own procedure for the purpose of holding its meeting (including time and place of sitting).

(4) In any proceeding before the Ombudsman, no legal practitioner shall be permitted to represent any person, unless the Ombudsman by an order, for the reasons to be recorded, permits a person to be represented by a legal practitioner.

Existing cases
to be
transferred to
Ombudsman.

77-I. (1) Notwithstanding anything contained in any other law for the time being in force, any proceeding relating to a member of the Council which is pending before any authority under this Regulation before the establishment of the Ombudsman under sub-section (1) of section 77A, shall, on such establishment, be transferred to the Ombudsman and the Ombudsman shall decide the proceedings in accordance with the provisions of this Regulation.

(2) All cases, with regard to the loss, wastage and misappropriation of any land of the Local Self Government Institution, pending before the Government or any other authority shall be transferred to the Ombudsman and the Ombudsman shall dispose of the proceedings in accordance with the provisions of this Regulation.

77J. (1) If, after an investigation or inquiry, the Ombudsman finds that there is a *prima facie* case against the accused, the Ombudsman may, for the reasons to be recorded in writing, refer the complaint to a competent authority to initiate prosecution.

Initiation of prosecution.

(2) The competent authority referred to in sub-section (1) shall conduct a detailed inquiry, and if necessary, shall frame the charge.

77K. (1) The Ombudsman may consider and dispose of complaints other than those involving criminal offences in the following manner, namely:—

Disposal of complaints.

(i) award of compensation to a citizen in case of loss or grievance;

(ii) order the recovery of loss caused to the Council from the person responsible;

(iii) order the supply of omission or rectification of defects due to inaction;

(iv) order the recovery of loss from the accused failing which, order realisation through revenue recovery proceedings; and

(v) order other necessary remedial measures considering the facts and circumstances of the case.

(2) Where the Ombudsman finds that the procedure or practice regarding the administration of the Council gives room for complaint, it may give suggestions to the Government or the Council relating to the measures for avoiding the recurrence of such complaint.

(3) The Ombudsman shall give annually a detailed report regarding the performance of its functions under this Regulation to the Government.

77L. (1) The Government may make rules to carry out the provisions of this Chapter.

Power to make rules under this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to, and other terms and conditions of service of, the Ombudsman under sub-section (7) of section 77A;

(b) the procedure for the removal of the Ombudsman and investigation of proof of the misbehavior or incapacity under sub-section (2) of section 77B;

(c) the salary and allowances payable to, and other terms and conditions of service of, the officers and staff provided to the Ombudsman under sub-section (2) of section 77C; and

(d) any other matter which is required to be or may be prescribed."

28. In section 81 of the principal Regulation, in sub-section (2), for the word "President", wherever it occurs, the word "Director" shall be substituted.

Amendment of section 81.

29. In section 86 of the principal Regulation, in sub-section (2), in clause (f), after the word and figures "section 72", the following shall be inserted, namely:—

Amendment of section 86.

"and the officers belonging to the Government Department posted on deputation to the Council".

30. In section 89 of the principal Regulation,—

Amendment of section 89.

(i) in sub-section (2), in clause (c), for the words, letters and figures "an expenditure exceeding Rs.1500", the words "an expenditure exceeding such amount as may be notified in the Official Gazette by the Government" shall be substituted;

(ii) in sub-section (3), in clause (b), for the words "exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the Council", the words "exceeding such amount as may be notified in the Official Gazette by the Government, shall be in writing" shall be substituted;

(iii) in sub-section (6),—

(a) for the words "one thousand rupees give notice by advertisement in a local newspaper, inviting tenders for such contract", the following shall be substituted, namely:—

"such amount as may be notified in the Official Gazette by the Government give notice by advertisement, inviting tenders for such contract and follow the procedure laid down by the Government";

(b) in the proviso, the words "in the newspaper" shall be omitted.

Amendment of section 101. 31. In section 101 of the principal Regulation, in sub-section (1), in clause (a), after the words "municipal area", the words "other than those belonging to the Government or Central Government," shall be inserted.

Amendment of section 104. 32. In section 104 of the principal Regulation, in clause (a), for the words and figures "Motor Vehicles Act, 1939", the words and figures "Motor Vehicles Act, 1988" shall be substituted.

IV of 1939.
59 of 1988.

Amendment of section 108. 33. In section 108 of the principal Regulation, in sub-section (1), in the proviso, in clause (b), the words "increase or" shall be omitted.

Amendment of section 125. 34. In section 125 of the principal Regulation, in sub-section (3), for the words "fifty rupees", the words "two thousand rupees" shall be substituted.

Amendment of section 162. 35. In section 162 of the principal Regulation, in the second proviso, for the words "one hundred rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of section 174. 36. In section 174 of the principal Regulation,—

(i) in sub-section (2), for the words "fine which may extend to one hundred rupees, and in the case of a continuing contravention with further fine which may extend to twenty rupees", the following shall be substituted, namely:—

"simple imprisonment for a term which may extend to six months and fine which may extend to fifty thousand rupees, and in the case of a continuing contravention with further fine which may extend to five hundred rupees";

(ii) in sub-section (8),—

(a) for the words "one hundred rupees", the words "fifty thousand rupees" shall be substituted;

(b) for the words "twenty rupees", the words "five hundred rupees" shall be substituted.

Amendment of section 175. 37. In section 175 of the principal Regulation, in sub-section (7), for the words "with fine which may extend to one hundred rupees and in the case of a continuing offence with further fine which may extend to twenty rupees", the following shall be substituted, namely:—

"with simple imprisonment for a term which may extend to six months and fine which may extend to fifty thousand rupees and in the case of a continuing offence with further fine which may extend to five hundred rupees".

Amendment of section 176. 38. In section 176 of the principal Regulation, in sub-section (3), for the words "with fine which may extend to one hundred rupees, and in the case of continuing offence with further fine which may extend to twenty rupees", the following shall be substituted, namely:—

"with simple imprisonment for a term which may extend to three months and fine which may extend to fifty thousand rupees and in the case of continuing offence with further fine which may extend to five hundred rupees".

39. In section 178 of the principal Regulation, in sub-section (6), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 178.
40. In section 180 of the principal Regulation, in sub-section (2), for the words "fifty rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 180.
41. In section 181 of the principal Regulation, in sub-section (3), for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 181.
42. In section 182 of the principal Regulation, in sub-section (2), for the words "fifty rupees", the words "five thousand rupees" shall be substituted. Amendment of section 182.
43. In section 183 of the principal Regulation, in sub-section (2), for the words "fifty rupees", the words "five thousand rupees" shall be substituted. Amendment of section 183.
44. In section 184 of the principal Regulation,—
 - (i) in sub-section (9), for the words "with fine which may extend to five thousand rupees", the following shall be substituted, namely:—
"with simple imprisonment for a term which may extend to six months and fine which may extend to one lakh rupees";
 - (ii) in sub-section (10), for the words "twenty-five rupees", the words "five thousand rupees" shall be substituted.
45. In section 187 of the principal Regulation, in sub-section (5),—
 - (i) for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted;
 - (ii) for the words "twenty-five rupees", the words "five hundred rupees" shall be substituted.Amendment of section 187.
46. In section 188 of the principal Regulation, in sub-section (3), in clause (b), for the words "with fine which may extend to five hundred rupees, and in the case of continuing contravention or non-compliance with further fine which may extend to twenty-five rupees", the following shall be substituted, namely:—
"with simple imprisonment for a term which may extend to six months and fine which may extend to one lakh rupees and in the case of continuing contravention or non-compliance with further fine which may not be less than one thousand rupees". Amendment of section 188.
47. In section 189 of the principal Regulation, in sub-section (2),—
 - (i) for the words "five hundred rupees", the words "fifty thousand rupees" shall be substituted;
 - (ii) for the words "ten rupees", the words "five hundred rupees" shall be substituted.Amendment of section 189.
48. In section 197 of the principal Regulation,—
 - (i) in sub-section (1), in clause (a), for the words "fifty feet", the words "fifty meter" shall be substituted;
 - (ii) after sub-section (2), the following sub-section shall be inserted, namely:—
"(2A) Notwithstanding anything contained in any provision of this Regulation, the owner of any building shall connect such building to the sewage in the area where underground sewage system exists, failing which, the Chief Officer may, by notice in writing, direct the owner of such building to connect the building to the underground sewage within such period as may be specified in the notice.";Amendment of section 197.

- (ii) for sub-section (3), the following sub-section shall be substituted, namely:—
 “(3) Whoever fails to comply with the notice issued by the Chief Officer under sub-section (1) or sub-section (2) or sub-section (2A), as the case may be, he shall be punished with fine which may extend to fifty thousand rupees and in case of continuing offence with further fine which may extend to five hundred rupees for every day after the first during which such offence continues.”.
- Amendment of section 205. 49. In section 205 of the principal Regulation, in sub-section (3), for the words “with fine which may extend to one hundred rupees”, the following shall be substituted, namely:—
 “with imprisonment which may extend to three months and fine which may extend to fifty thousand rupees and in the case of continuing contravention with further fine which may extend to five hundred rupees for every day after the first during which such contravention continues”.
- Amendment of section 206. 50. In section 206 of the principal Regulation, in sub-section (2), for the words “with fine which may extend to one hundred rupees”, the following shall be substituted, namely:—
 “with imprisonment which may extend to three months and fine which may extend to fifty thousand rupees and in the case of continuing contravention with further fine which may extend to five hundred rupees for every day after the first during which such contravention continues”.
- Amendment of section 210. 51. In section 210 of the principal Regulation,—
 (i) in sub-section (4), for the words “one hundred rupees”, the words “five thousand rupees” shall be substituted;
 (ii) in sub-section (7), for the words “three hundred rupees”, the words “fifteen thousand rupees” shall be substituted.
- Amendment of section 211. 52. In section 211 of the principal Regulation, in sub-section (2), for the words “one hundred rupees”, the words “five thousand rupees” shall be substituted.
- Amendment of section 212. 53. In section 212 of the principal Regulation, in sub-section (2),—
 (i) for the words “fifty rupees”, the words “ten thousand rupees” shall be substituted;
 (ii) for the words “five rupees”, the words “five hundred rupees” shall be substituted.
- Amendment of section 218. 54. In section 218 of the principal Regulation, in sub-section (2), for the words “two hundred and fifty rupees”, the words “ten thousand rupees” shall be substituted.
- Amendment of section 220. 55. In section 220 of the principal Regulation, in sub-section (2),—
 (i) for the words “fifty rupees”, the words “ten thousand rupees” shall be substituted;
 (ii) for the words “ten rupees”, the words “five hundred rupees” shall be substituted.
- Amendment of section 221. 56. In section 221 of the principal Regulation, in sub-section (2),—
 (i) for the words “five hundred rupees”, the words “one lakh rupees” shall be substituted;
 (ii) for the words “twenty-five rupees”, the words “one thousand rupees” shall be substituted.
- Amendment of section 223. 57. In section 223 of the principal Regulation,—
 (a) in sub-section (1),—
 (i) after the words “other rubbish”, the words “or garbage” shall be inserted;
 (ii) for the words “one hundred rupees”, the words “ten thousand rupees” shall be substituted;

(b) in sub-section (2), for the words "with fine which may extend to one hundred rupees", the following shall be substituted, namely:—

"with simple imprisonment for a term which may extend to one month and fine which may extend to ten thousand rupees."

58. In section 224 of the principal Regulation, for the words "with fine which may extend to one hundred rupees", the words "with simple imprisonment for a term which may extend to one month and fine which may extend to ten thousand rupees" shall be substituted. Amendment of section 224.

59. In section 225 of the principal Regulation,— Amendment of section 225.

(i) for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted;

(ii) for the words "twenty rupees", the words "five hundred rupees" shall be substituted.

60. Section 226 of the principal Regulation shall be omitted. Omission of section 226.

61. In section 227 of the principal Regulation, for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 227.

62. In section 230 of the principal Regulation, in sub-section (2),— Amendment of section 230.

(i) for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted;

(ii) for the words "ten rupees", the words "five hundred rupees" shall be substituted.

63. In section 240 of the principal Regulation,— Amendment of section 240.

(i) in sub-section (1),—

(a) for the words "two hundred rupees", the words "ten thousand rupees" shall be substituted;

(b) for the words "twenty rupees", the words "five hundred rupees" shall be substituted;

(ii) in sub-section (2),—

(a) for the words "one thousand rupees", the words "fifty thousand rupees" shall be substituted;

(b) for the words "fifty rupees", the words "one thousand rupees" shall be substituted.

64. In section 243 of the principal Regulation, in sub-section (5), for the words "ten rupees", the words "five thousand rupees" shall be substituted. Amendment of section 243.

65. In section 245 of the principal Regulation, in sub-section (3), for the words "five hundred rupees", the words "fifty thousand rupees" shall be substituted. Amendment of section 245.

66. In section 247 of the principal Regulation, in sub-section (3), for the words "two hundred and fifty rupees", the words "ten thousand rupees" shall be substituted. Amendment of section 247.

67. In section 248 of the principal Regulation, in sub-section (2), for the words "one hundred rupees", the words "five thousand rupees" shall be substituted. Amendment of section 248.

68. In section 252 of the principal Regulation, for sub-section (2), the following sub-section shall be substituted, namely:— Amendment of section 252.

"(2) Whoever uses or allows to be used any place for any of the purposes specified in sub-section (1), without a licence, or in contravention of any conditions subject to which a licence may have been granted under sub-section (1) shall, on

conviction, be punished with simple imprisonment for a term which may extend to three months and fine which may extend to fifty thousand rupees if the contravention is of clause (i) or clause (ii) of sub-section (1) and with fine which may extend to ten thousand rupees if the contravention is of clause (iii) of that sub-section, and in the case of continuing contravention of the said clause (i) or clause (ii), with further fine of five thousand rupees, and of the said clause (iii), with further fine of one thousand rupees, for every day after the first during which such contravention continues.”.

Amendment
of section 254.

69. In section 254 of the principal Regulation, in sub-section (2), for the words “with fine which may extend to one hundred rupees”, the following shall be substituted, namely:—

“with simple imprisonment for a term which may extend to one month and with fine which may extend to ten thousand rupees”.

Amendment
of section 257.

70. In section 257 of the principal Regulation, in sub-section (3), for the words “with fine which may extend to fifty rupees”, the following shall be substituted, namely:—

“with simple imprisonment for a term which may extend to three months and fine which may extend to fifty thousand rupees”.

Amendment
of section 259.

71. In section 259 of the principal Regulation, in sub-section (3),—

(i) for the words “five hundred rupees”, the words “one lakh rupees” shall be substituted;

(ii) for the words “fifty rupees”, the words “one thousand rupees” shall be substituted.

Amendment
of section 260.

72. In section 260 of the principal Regulation, in sub-section (3),—

(i) for the words “five hundred rupees”, the words “one lakh rupees” shall be substituted;

(ii) for the words “fifty rupees”, the words “one thousand rupees” shall be substituted.

Amendment
of section 261.

73. In section 261 of the principal Regulation, in sub-section (3),—

(i) for the words “five hundred rupees”, the words “one lakh rupees” shall be substituted;

(ii) for the words “fifty rupees”, the words “one thousand rupees” shall be substituted.

Amendment
of section 263.

74. In section 263 of the principal Regulation, in sub-section (3), for the words “with fine which may extend to one thousand rupees”, the following shall be substituted, namely:—

“with simple imprisonment for a term which may extend to three months and fine which may extend to fifty thousand rupees and in the case of continuing contravention with further fine which may extend to one thousand rupees for every day after the first during which such contravention continues”.

Amendment
of section 264.

75. In section 264 of the principal Regulation, in sub-section (2),—

(i) for the words “fifty rupees”, the words “ten thousand rupees” shall be substituted;

(ii) for the words “five rupees”, the words “five hundred rupees” shall be substituted.

Amendment
of section 265.

76. In section 265 of the principal Regulation, in sub-section (3), for the words “with fine which may extend to five hundred rupees, and in the case of continuing offence with further fine which may extend to fifty rupees”, the following shall be substituted, namely:—

“with simple imprisonment for a term which may extend to one month and fine which may extend to fifty thousand rupees, and in the case of continuing offence with further fine which may extend to one thousand rupees”.

77. In section 266 of the principal Regulation, in sub-section (3), for the words "with fine which may extend to two hundred rupees, and in the case of continuing offence with further fine which may extend to twenty rupees", the following shall be substituted, namely:—

Amendment
of section 266.

"with simple imprisonment for a term which may extend to one month and fine which may extend to ten thousand rupees, and in the case of continuing offence with further fine which may extend to five hundred rupees".

78. In section 270 of the principal Regulation, in sub-section (3),—

Amendment
of section 270.

(i) for the word "imprisonment", the words "simple imprisonment" shall be substituted;

(ii) for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

79. In section 275 of the principal Regulation, in sub-section (3), for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted.

Amendment
of section 275.

80. In section 276 of the principal Regulation,—

Amendment
of section 276.

(i) in sub-section (1),—

(a) in clause (i), for the words "three hundred rupees", the words "ten thousand rupees" shall be substituted;

(b) in clause (ii), for the words "five hundred rupees", the words "twenty thousand rupees" shall be substituted;

(ii) in sub-section (2), in clause (a), for the words "two hundred and fifty rupees", the words "ten thousand rupees" shall be substituted.

81. In section 277 of the principal Regulation,—

Amendment
of section 277.

(i) in clause (a), for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted;

(ii) in clause (b), for the words "two hundred and fifty rupees", the words "twenty thousand rupees" shall be substituted.

82. In section 279 of the principal Regulation, in sub-section (2), for the words "fifty rupees", the words "ten thousand rupees" shall be substituted.

Amendment
of section 279.

83. In section 280 of the principal Regulation, in sub-section (2), for the words "one hundred rupees", the words "two thousand rupees" shall be substituted.

Amendment
of section 280.

84. In section 281 of the principal Regulation,—

Amendment
of section 281.

(i) in sub-section (4), for the words and figures "section 248 of the Code of Criminal Procedure, 1898", the words and figures "section 257 of the Code of Criminal Procedure, 1973" shall be substituted;

(ii) in sub-section (5), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

(iii) in sub-section (6),—

(a) for the word "one-fourth", the word "one-half" shall be substituted;

(b) for the words "two hundred and fifty rupees", the words "ten thousand rupees" shall be substituted.

85. In section 284 of the principal Regulation, in clause (d),—

Amendment
of section 284.

(i) for the words "one hundred rupees", the words "ten thousand rupees" shall be substituted;

3 of 1898.
2 of 1974.

5 of 1898.
2 of 1974.

(ii) for the words "ten rupees", the words "one thousand rupees" shall be substituted.

Amendment
of section 285.

86. In section 285 of the principal Regulation, for the words "two hundred and fifty rupees", the words "five thousand rupees" shall be substituted.

Amendment
of section 313.

87. In section 313 of the principal Regulation, in sub-section (1), in the proviso, in clause (c), for the words "seven and a half per cent.", the words "fifteen per cent." shall be substituted.

Amendment
of section 314.

88. In section 314 of the principal Regulation, for the words "fifty rupees", the words "ten thousand rupees" shall be substituted.

Amendment
of section 321.

89. In section 321 of the principal Regulation, in sub-section (2), in clause (b), for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted.

5 of 1898.

2 of 1974.

Amendment
of section 330.

90. In section 330 of the principal Regulation, in clauses (c) and (d), for the words and figures "Goa, Daman and Diu Village Panchayats Regulation, 1962", wherever they occur, the words and figures "Daman and Diu Panchayat Regulation, 2012" shall be substituted.

Reg. 9 of 1962.

Reg. 4 of 2012.

Insertion of a
new Schedule.

91. After Schedule IX of the principal Regulation, the following Schedule shall be inserted, namely:—

"SCHEDULE X

[See section 16 (1) (n)]

Provisions as to disqualification on ground of defection

1. Disqualification on ground of defection.—(1) Subject to the provisions of paragraph 2, a Councillor of the Council belonging to any political party shall be disqualified for being a Councillor of the Council—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he votes or abstains from voting in the Council contrary to any direction issued by the political party to which he belongs or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation.—For the purposes of this sub-paragraph, a Councillor of the Council shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such a Councillor.

(2) A Councillor of the Council who has been elected as such otherwise than as a candidate set up by any political party shall be disqualified for being a Councillor of the Council if he joins any political party after such election.

(3) Notwithstanding anything contained in sub-paragraphs (1) and (2), a person who, on the commencement of the Daman and Diu Municipalities (Amendment) Regulation, 2018 is a Councillor of the Council shall,—

(i) where he was a member of a political party immediately before such commencement, be deemed, for the purpose of sub-paragraph (1) of this paragraph, to have been elected as a Councillor of such Council as a candidate set up by such political party;

(ii) in any other case, be deemed to be a Councillor of the Council who has been elected as such otherwise than as a candidate set up by any political party for the purpose of sub-paragraph (2) of this paragraph.

2. Disqualification on ground of defection not to apply in case of merger.—(1) A Councillor of the Council shall not be disqualified under sub-paragraph (1) of paragraph 1 where his original political party merges with another political party and he claims that he and any other Councillors of his original political party—

(a) have become members of such other political party or, as the case may be, of a new political party formed by such merger; or

(b) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of sub-paragraph (1) of paragraph 1 and to be his original political party for the purposes of this sub-paragraph.

(2) For the purposes of sub-paragraph (1), the merger of the original political party of a Councillor of the Council shall be deemed to have taken place if, and only if, not less than two-thirds of the Councillors of such political party in the Council concerned have agreed to such merger.

3. Decision on question as to disqualification on ground of defection.—(1) If any question arises as to whether a Councillor of the Council has become subject to disqualification under this Schedule, the question shall be referred to the Administrator and the decision of the Administrator thereon shall be final.

(2) Before giving any decision on any such question referred under sub-paragraph (1), the Administrator shall obtain the opinion of the Election Commission referred to in section 5.

4. Rules.—The Administrator may make rules for giving effect to the provisions of this Schedule, and in particular and without prejudice to the generality of the foregoing powers, such rules may provide for—

(a) the maintenance of registers or other records as to the political parties, if any, to which different Councillors of the Council belong;

(b) the report which the leader of a political party in relation to a Councillor of the Council shall furnish with regard to any condonation of the nature referred to in clause (b) of sub-paragraph (1) of paragraph 1 in respect of such Councillor, the time within which and the authority to which such report shall be furnished;

(c) the report, which a political party, shall furnish with regard to admission to such political party of any Councillor of the Council and the officer of the Council to which such report shall be furnished; and

(d) the procedure for deciding any question referred to in paragraph 3 including the procedure for any inquiry which may be made for the purpose of deciding such question."

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

UPLOADED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI-110 002
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI-110 054.

MGIPMRND-5132GI(SS)-28-03-2018.