

## CHAPTER XX. THE TRANSPORT UNDERTAKING

### The Operation of the Undertaking & the Construction & Maintenance of Works.

Provisions of this Chapter when applicable

#### 341. Provisions of this Chapter when applicable.

The provisions of this Chapter shall apply in the event of the Corporation acquiring or establishing a Transport Undertaking.

Management of undertaking by Transport Manager

#### 342. Management of undertaking by Transport Manager.

(1) Subject to the superintendence of the Transport Committee and of the Corporation, the Transport Manager shall manage the Transport Undertaking and perform all acts necessary for the economical and efficient maintenance, operation, administration and development of the Undertaking.

(2) Without prejudice to the generality of the foregoing provision, the Transport Manager may, with the sanction of the Transport Committee and subject to the restrictions or conditions imposed by this Act, either within or without the City -

(a) construct or acquire transport undertaking, including mechanically propelled transport facilities for the conveyance of the public, subject to the provisions of the Motor Vehicles Act, 1939, or of any other enactment for the time being in force and the conditions of any licence, permit or sanction in favour of the Corporation granted there under;

(b) construct buildings and works of every description necessary or desirable for the operation or development of the Transport Undertaking ;

(c) purchase or take on lease or hire or otherwise acquire any moveable or immovable property or rights ;

(d) exercise any of the powers of a licensee holding a stage permit under the Motor Vehicles Act, 1939 (IV of 1939), which the Corporation is for the time being authorised to exercise and any other powers exercisable by the Corporation under the said Act in relation to the provision of mechanically propelled transport facilities for the conveyance of the public.

### Fares and Charges.

Levy of fares and charges for transport services

#### 343. Levy of fares and charges for transport services.

(1) Fares and charges shall be leviable for the conveyance of passengers or for the carriage of goods by any means of transport provided by the Transport Undertaking at such rates as may from time to time be fixed, subject to the provisions of any enactment for the time being in force and any license granted to the Corporation there under, by the Transport Committee with the approval of the Corporation.

<sup>1</sup>[(2) If any person travelling or having travelled in any vehicle of the Transport Undertaking avoids or attempts to avoid payment of his fare or any person having paid his fare for a certain distance proceeds in any such vehicle beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof

<sup>1</sup> Sub-sections (2), (2A) and (2B) were substituted for sub-section (2) by Guj. 1 of 1979, s.17 (i).

or any person refuses or neglects on arrival at the point up to which he has paid his fare to quit such vehicle, he shall be liable to pay, on demand by any officer or other servant of the Transport Undertaking duly authorized in this behalf by the Transport Manager, in addition to the ordinary single fare for the distance which he has travelled or where there is any doubt as to the stop from which he has travelled or where there is any doubt as to the stop from which he started, the ordinary single fare from the stop from which the vehicle originally started or in addition to any difference between any fare paid by him and the fare payable for the additional distance such excess charge not exceeding ten rupees as the Transport Manager, with the approval of the Transport Committee, may determine in this behalf.

(2A) If a passenger liable to pay the excess charge determined under sub-section (2) fails or refuses to pay the same on demand being made therefor, he shall be liable without prejudice to his liability to pay the excess charge as so determined, to be punished for such offence with fine which may extend to fifty rupees.

(2B) The Transport Manager or any officer or other servant duly authorized under sub-section (2) may apply to the Magistrate having jurisdiction, for the recovery of the excess charge as determined under sub-section (2) as if it were a fine and the Magistrate, if satisfied that the same is payable, shall order it to be so recovered and on recovery to be paid to the Transport Manager.]

(3) It shall be lawful for every municipal servant appointed under the provisions of this Chapter and all persons called in by him for his assistance, to arrest and take to the nearest police station any person who shall be discovered either in or after committing or attempting to commit an offence <sup>2</sup>[under sub-section (2A)] and whose name and address is not known and is refused by him, and the police officer in charge of the said police station shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

#### **Acquisition and Disposal of Property**

#### **Acquisition of immovable property**

#### **344. Acquisition of immovable property.**

(1) Whenever it is necessary or expedient for the purposes of the Transport Undertaking that the Transport Manager shall acquire any immovable property, such property may be acquired by the Transport Manager on behalf of the Corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the Transport Committee either generally for any class of cases or specially in any particular case.

(2) Whenever the Transport Manager is unable to acquire any immovable property under sub-section (1) by agreement, the <sup>3</sup>[state] Government may, in its discretion, upon the application of the Transport Manager made with the approval of the Transport Committee and, subject to the other provisions of this Act, order proceedings to be taken for acquiring the same on behalf of the

<sup>2</sup> These words, brackets, figure and letter were substituted for the words, brackets and figure "under sub-section (2)", *ibid.*, s. 17 (ii).

<sup>3</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Corporation as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894. I of 1894.

(3) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to the other provisions of this Act, be forthwith paid by the Transport Manager and thereupon the said property shall vest in the Corporation for the purposes of the Transport Undertaking.

**Provisions governing disposal of municipal property**

**345. Provisions governing disposal of municipal property.**

With respect to the disposal of property vesting in the Corporation exclusively for the purposes of the Transport Undertaking the following provisions shall have effect, namely-

(a) the Transport Manager may dispose of by sale, hire or otherwise, any moveable property belonging to the Corporation not exceeding in value, in each instance, two thousand rupees or such higher amount as the Corporation may from time to time with the approval of the <sup>4</sup>[State] Government determine ;

(b) the Transport Manager may grant a lease of any immovable property belonging to the Corporation for any period not exceeding twelve months at a time :

Provided that every lease granted by the Transport Manager (other than a contract for a monthly tenancy) the annual rent whereof at a rack rent exceeds three thousand rupees shall be reported by him, within fifteen days after the same has been granted, to the Transport Committee;

(c) with the sanction of the Transport Committee, the Transport Manager may dispose of, by sale or otherwise, any moveable property belonging to the Corporation of which the value does not exceed ten thousand rupees, and may grant a lease of any immovable property belonging to the Corporation for any period exceeding one year, or sell or grant a lease in perpetuity of any immovable property belonging to the Corporation the value whereof does not exceed fifty thousand rupees or the annual rental whereof does not exceed three thousand rupees;

(d) with the sanction of the Corporation, the Transport Manager may lease, sell or otherwise convey any property, moveable or immovable, belonging to the Corporation.

**Officers and Servants**

**Statement of permanent officers and servants to be prepared by transport Manager and sanctioned by Transport Committee**

**346. Statement of permanent officers and servants to be prepared by transport Manager and sanctioned by Transport Committee.**

(1) The Transport Manager shall, from time to time, prepare and bring before the Transport Committee a statement setting forth the designations and grades of the officers and servants, who should, in his opinion, be permanently maintained for the purpose of the Transport Undertaking, and the amount and nature of the salaries, fees and allowances which he proposes should be paid to each.

(2) The Transport Committee shall sanction such statement either as it stands or subject to such modifications as it deems expedient :

Provided that –

<sup>4</sup> Clause (a) was substituted by Guj. 1 of 1979, s. 18 (1).

<sup>5</sup>[(a) no new permanent office of which the minimum monthly salary, exclusive of allowances, exceeds such amount as may be fixed by the State Government by a general or special order from time to time in the case of each Corporation shall be created without the sanction of the Corporation and no new office of which the minimum or the maximum monthly salary exclusive of allowances exceeds such amount as may be fixed in this behalf by the State Government by a general or special order from time to time in the case of each Corporation shall be created except with the previous sanction of the State Government ; ]

(b) the Corporation may be resolution direct that the scales of pay of any specified classes or grades of officers or servants shall not be varied without the approval of the Corporation and. so long as such resolution is in force, the Transport Committee shall not authorise any variation in such scales without such approval.

<sup>6</sup>[Explanation.-An increase in the salary of any permanent office shall be deemed, for the purpose of sub-section (2) to be creation of new office, if by reason of such increase, the minimum or, as the case may be, the maximum monthly salary, exclusive of allowances, exceeds the minimum, or, as the case may be, the maximum amount fixed by the State Government for the purpose of the said sub-section (2).]

**Restriction on appointment of permanent officers & servants**

**347. Restriction on appointment of permanent officers & servants.**

No permanent officer or servant shall be entertained in any department of the Transport Undertaking unless his office and emoluments are included in the statement at the time being in force prepared and sanctioned under section 346.

**Creation of temporary posts**

**348. Creation of temporary posts.**

(1) The Transport Manager may create temporary posts carrying a monthly salary, exclusive of allowances, not <sup>7</sup>[exceeding such amount as may be fixed by the State Government in this behalf, by a general or special order, from time to time in the case of each Corporation] for a period of not more than six months and no such posts shall be continued beyond such period without the previous sanction of the Transport Committee.

(2) The Transport Committee may create temporary posts carrying a monthly salary, exclusive of allowances, <sup>8</sup>[exceeding such amount as may be fixed by the State Government in this behalf, by a general or special order, from time to time in the case of each Corporation] for a period of not more than six months. The Committee shall forthwith report to the Corporation the creation of every such post and no such post shall be continued beyond a period of six months without the previous sanction of the Corporation.

**Power of appointment in whom to vest**

**349. Power of appointment in whom to vest.**

Subject to the provisions of sections 347 and 348, the power of appointing municipal officers and servants for the purposes of the Transport Undertaking shall vest in the Transport Manager if the

<sup>5</sup> These words were substituted for the words "exceeding two hundred rupees" by Guj. of 1979, s. 19

<sup>6</sup> This Explanation was substituted, *ibid.*, s. 18 (2).

<sup>7</sup> These words were substituted for the words "exceeding two hundred rupees", *ibid.*, s. 19.

<sup>8</sup> These words were substituted for the words "exceeding two hundred rupees", *ibid.*, s. 19.

minimum monthly salary, exclusive of allowances, <sup>9</sup>[does not exceed such amount as may be fixed by the State Government in this behalf, by a general or special order, from time to time in the case of each Corporation] and in the Transport Committee in all other cases.

**Leave of absence**

**350. Leave of absence.**

(1) Subject to the provisions of the regulations, the Transport Manager may grant leave of absence to any officer or servant the power to appoint whom vests in him and for a period not exceeding three months to any other officer or servant appointed under the provisions of this Chapter.

(2) The Transport Committee may grant leave of absence for a period exceeding three months to any officer or servant appointed by the Committee.

**REVENUE AND EXPENDITURE.**

**The Transport Fund.**

**Constitution of Transport Fund**

**351. Constitution of Transport Fund.**

Except as provided in section 91 all moneys received by or on behalf of the Corporation in respect of the operations of the Transport Undertaking shall be credited to a fund which shall be called "the City of..... Transport Fund" and which shall, subject to the provisions herein contained, be held by the Corporation in trust for the purposes of the said undertaking.

**Transport Manager to receive payments on account of Transport Fund and to lodge them in bank**

**352. Transport Manager to receive payments on account of Transport Fund and to lodge them in bank.**

All moneys payable to the credit of the Transport Fund shall be received by the Transport Manager and shall be forthwith paid into the Imperial Bank of India <sup>10</sup>[or any other scheduled bank] <sup>11</sup>[or an approved co-operative bank] to the credit of an account which shall be styled "the account of the City of ..... Transport Fund":

Provided that the Transport Manager may, subject to any general or special directions issued by the Transport Committee, retain such balances in cash as may be necessary for the operations of the Transport Undertaking :

<sup>12</sup>[Provided further that the amount of money to be paid into an approved co-operative bank shall not exceed such amount as may be specified by the State Government generally or specially in respect of any approved co-operative bank.]

**How Transport Fund shall be drawn against**

**353. How Transport Fund shall be drawn against.**

(1) No payment shall be made by the bank aforesaid out of the Transport Fund except on a cheque signed by two persons in the manner specified below, namely :-

(a) by the Commissioner or by the Transport Manager or in the absence of both by a municipal officer whose name appears in a list of officers authorised to sign cheques approved by the Transport Committee ;

<sup>9</sup> These words were substituted for the words "is less than two hundred rupees", *ibid.*, s. 20.

<sup>10</sup> These words were substituted for the words and figures "or such other bank or banks as the Corporation may, with due sanction, have selected under section 83" by Bom. 10 of 1953. s. 5.

<sup>11</sup> These words were inserted by Bom. 19 of 1954, s. 6 (1).

<sup>12</sup> This proviso was inserted, *ibid.*, s. 6 (2).

(b) by a municipal officer whose name appears in the said list, other than an officer who may have signed the cheque under clause (a).

(2) Payment of any sum due by the Corporation out of the Transport Fund in excess of one hundred rupees or such higher amount as the Transport Committee from time to time fixes generally or for any specified class of payments shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payments not covered by sub-section (2) may be made by the Transport Manager in cash, and cheques for sums not in excess of two thousand rupees each, signed as aforesaid, may be drawn from time to time to cover such payments.

**Deposit of portion of Transport Fund may be made with bank or agency out of City when convenient**

**354. Deposit of portion of Transport Fund may be made with bank or agency out of City when convenient.**

Notwithstanding anything contained in sections 352 and 353, the Transport Manager may with the previous approval of the Transport Committee, from time to time, remit to and deposit with a bank or other agency at any place beyond the city any portion of the Transport Fund, and any moneys payable to the credit of the Transport Fund or chargeable there-against, which can, in the opinion of the Transport Manager, be most conveniently paid into or out of the account of the Fund at any such bank or agency may be so paid.

**Only sums covered by budget grant to be expended from Transport Fund**

**355. Only sums covered by budget grant to be expended from Transport Fund.**

(1) Except as hereinafter provided, no payment of any sum shall be made by the Transport Manager out of the Transport Fund, unless the expenditure of the same is covered by a current budget-grant, and sufficient balance of such budget-grant is still available, notwithstanding any reduction or transfer thereof which may have been made under the rules.

(2) The following items shall be excepted from the prohibition in sub-section (1) namely :-

(a) sums of which the expenditure has been sanctioned by the Transport Committee under section 102 ;

(b) repayments of moneys belonging to contractors, or other persons, held in deposit and of moneys collected or credited to the Transport Fund by mistake;

(c) sums which the Transport Manager is under the provisions of this Act or any other enactment required or empowered to pay by way of compensation;

(d) costs incurred by the Transport Manager under section 67 ;

(e) any sum required to make good to the Municipal Fund any payment made by the Commissioner out of the Municipal Fund under the provisions of section 86 for the purpose of the Transport Undertaking.

**Procedure when money not covered by budget grant is expended under clause (c), (d) or (e) of sub-section (2) of section 355**

**356. Procedure when money not covered by budget grant is expended under clause (c), (d) or (e) of sub-section (2) of section 355.**

Whenever any sum is expended by the Transport Manager under clause (c), (d) or (e) of sub-section (2) of section 355 he shall corporation to take such action as shall, in the circumstances, appear possible and expedient for covering the amount of the additional

**Purposes for which  
Transport Fund is  
to be applied**

expenditure.

**357. Purposes for which Transport Fund is to be applied.**

The moneys from time to time credited to the Transport Fund shall be applied in payment of all sums, charges and costs necessary for the purposes of acquiring, maintaining, operating and improving the Transport Undertaking and of carrying into effect the provisions of this Chapter, or of which the payment shall be duly directed or sanctioned by or under any of the provisions of this Act, inclusive of :-

(a) the repayment to the municipal Fund of any amount disbursed therefrom for the purposes of the Transport Undertaking, including the cost of, or reasonable charges for, all supplies provided and services rendered for any such purposes by the Commissioner at the charge of the Municipal Fund;

(b) the payment to the Municipal Fund of a sum of money equivalent to the sum which would have been payable under this Act on account of municipal taxes in respect of lands and buildings and other properties, moveable and immovable, of the Transport Undertaking if the said lands, building and other properties had not vested in the Corporation;

(c) the payment of fees to the Chairman and members of the Transport Committee, and the salary and allowances of the Transport Manager;

(d) the payment of salaries and allowances of all municipal officers and servants appointed under the provisions of this Chapter and all contributions to provident funds, pensions, gratuities and compassionate allowances payable under the provisions of this Chapter or of the regulations or of any statement framed under this Act for the time being in force;

(e) the payment of all expenses and costs incurred by the Transport Manager in the exercise of any power or the discharge of any duty conferred or imposed upon him for the purpose of, or in connection with the Transport Undertaking under the provisions of this Act or of any other enactment, including moneys which he is required or empowered to pay by way of compensation ;

(f) the payment of every sum payable under a decree or order of a civil or criminal court passed against the Corporation or against the Commissioner or the Transport Manager ex-officio in any proceeding arising out of the acquisition, maintenance or operation of the Transport Undertaking, or under a compromise effected under section 481. of any suit or other legal proceeding or claim arising out of such acquisition, maintenance or operation;

(g) every sum required by the provisions of section 359 or 360 to be transferred to the Municipal Fund ;

(h) every sum chargeable under section 108.

**Investment of  
surplus moneys**

**358. Investment of surplus moneys.**

(1) Surplus moneys at the credit of the Transport Fund which cannot immediately or at an early date be applied to the purposes of this Act or of any loan raised for the purposes of the Transport Undertaking maybe, from time to time, deposited at interest in the Imperial Bank

of India <sup>13</sup>[or any other scheduled bank] <sup>14</sup>[or an approved co-operative bank] <sup>15</sup>[or be invested in public securities] :

<sup>16</sup>[Provided that the Amount of money to be deposited in an <sup>17</sup>[approved co-operative bank] shall not exceed such amount as may be specified by the State Government generally or specially in respect of any approved co-operative bank.]

(2) All such deposits and investments shall be made by the Transport Manager on behalf of the Corporation, with the sanction of the Transport Committee, and with the like sanction, the Transport Manager may at any time withdraw any deposit so made or dispose of any securities and re-deposit or re-invest the money so withdrawn. or the proceeds of the disposal of such securities.

(3) The loss, if any, arising from any such deposit or investment shall be debited to the Transport Fund.

#### **Payments out of Surplus Balance.**

#### **359. Fixed annual payment to Municipal Fund.**

**Fixed annual  
payment to  
Municipal Fund**

(1) Out of the balance of income over expenditure remaining at credit of the Revenue Account of the Transport Fund at the close of each official year, after defraying or making allowance for all charges, costs and expenses payable out of the revenue of the said Fund and allowing for the retention of the cash balance specified in, or for the time being fixed under section 98 to the credit of the said Fund, there shall be transferred to the credit of the Municipal Fund the amount provided in sub-section (2):

Provided that if the balance at credit of the said Revenue Account, after allowing for the matters aforesaid, is less than the amount provided in sub-section (2), the whole of such balance shall be transferred to the Municipal Fund and any deficit shall be made good to the Municipal Fund out of the Revenue Reserve Fund maintained under section 360 and if the deficit still remains, it shall be made good to the Municipal Fund out of the balance available at credit of the Revenue Account of the next or any subsequent year after allowing for all the matters aforesaid and for the amount provided in sub-section (2) in respect of that year.

(2) The amount to be transferred to the Municipal Fund under sub-section (1) shall be in respect of each official year such sum as the Corporation, before the beginning of that year, may determine.

(3) The sum to be transferred under sub-section (1) shall be paid into any bank with which the Municipal Fund is deposited to the credit of the said Fund by means of a cheque drawn upon the Transport Fund not later than the thirtieth day of June immediately following the close of the year in which the balance out of which the transfer is due to be made accrues.

<sup>13</sup> These words were substituted for the words and figures "or such other bank as the Corporation may with due sanction have selected under section 83" by Bom. 10 of 1953, s. 6.

<sup>14</sup> These words were inserted by Bom. 19 of 1954, s. 7 (1).

<sup>15</sup> These words were added by Bom. 57 of 1953, s. 2.

<sup>16</sup> This proviso was added by Bom. 19 of 1954, s. 7 (2).

<sup>17</sup> These words were substituted for the words "approved bank" by Bom. 58 of 1954, s. 2, Sch.



**Disposal of surplus balance of revenue****360. Disposal of surplus balance of revenue.**

(1) If after making allowance for the matter mentioned in section 359 there remains any further surplus balance of income over expenditure at credit of the Revenue Account of the Transport Fund, such surplus shall be disposed of as follows :-

- (a) 30 per cent. of the surplus shall be credited under a separate heading in the accounts maintained under section 361 to a special fund to be called the 'Revenue Reserve Fund', unless the balance in the said Revenue Reserve Fund, with such credit, would exceed such sum as the Corporation shall with the sanction of the <sup>18</sup>[State] Government fix, in which case only such sum, if any, as is required to bring the balance to the sum so fixed shall be so credited and the remainder of the surplus, up to 30 per cent, thereof, shall be added in equal shares to the amounts credited or transferred under clauses (b), (c) and (d);
- (b) 30 per cent. of the surplus and such additional amount as may be available under clause (a) shall be credited under a separate heading in the accounts maintained under section 361 to a special fund called "the Transport Betterment Fund;"
- (c) 25 per cent of the surplus and such additional amount as maybe available under clause (a) shall be transferred to the Municipal Fund for credit to the Welfare Fund constituted under the rules; and
- (d) 15 per cent. of the surplus and such additional amounts as may be available under clause (a) shall be transferred to the Municipal Fund.

(2) The Revenue Reserve Fund shall be applied to the following purposes :-

- (i) in making good or in reduction of any deficit in the amount to be transferred in any year to the Municipal Fund under section 359; and
- (ii) in meeting any charges to be defrayed out of the Transport Fund to the extent to which the balance available in the Fund is insufficient for the purpose.

(3) The Transport Betterment Fund shall be applied to improvement in the services, amenities and facilities provided for the public by the Transport Undertaking.

(4) The amounts to be transferred to the Municipal Fund under clause (c) and (d) of sub-section (1) shall be paid into any bank with which the Municipal Fund is deposited to the credit of the said Fund by means of cheques drawn upon the Transport Fund not later than the thirtieth day of June immediately following the close of the official year in which the transfers are due to be made.

**Accounts.****Accounts of the Transport Undertaking.****361. Accounts of the Transport Undertaking.**

Accounts of the receipts and expenditure of the Corporation on account of the Transport Undertaking and of the properties vested or vesting in the Corporation for the purposes of the said Undertaking shall be kept in such manner and in such forms as the Transport Committee shall from time to time prescribe.

<sup>18</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

**Preparation of  
annual  
administration  
report and  
statement of  
accounts**

**362. Preparation of annual administration report and statement of accounts.**

(1) The Transport Manager shall, as soon as may be, after each first day of April, have prepared a detailed report of the administration of the Transport Undertaking during the previous official year, together with a statement showing the amount of the receipts and disbursements respectively credited and debited to the Transport Fund during the said year and the balance at the credit of the fund at the close of the said year as also an account of the balances due on loans and shall submit the same to the Transport Committee.

(2) After an examination and review of the report and statement by the Transport Committee, a copy of the report together with a copy of the Committee's review shall be forwarded to the usual or last known address of each councillor and copies thereof shall be delivered to any person requiring the same on payment of such reasonable fee for each copy as the Transport Manager, with the previous approval of the Transport Committee, shall determine.