

*AUTHORITATIVE ENGLISH TEXT***THE HIMACHAL PRADESH MUNICIPAL SERVICES ACT, 1994****ARRANGEMENT OF SECTIONS**

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Composition of service.
4. Integration of existing employees.
5. Power to take over municipal services by the Government
6. Recruitment to the service.
7. Probation.
8. Liability to transfer.
9. Seniority.
10. Punishments and appeals.
11. Resignation from service.
12. Retirement from service.
13. Extraordinary pension and gratuity.
14. Pension in lieu of Contributory Provident Fund.
15. Departmental examination.
16. Leave, travelling allowance, joining time, suspension, medical facilities, fees, and honoraria and other matters.
17. Record of service.
18. Oath of allegiance.
19. Reservations.
20. Power to amend Schedules.
21. Power to make rules
22. Savings
23. Repeal of Ordinance No.4 of 1994.

SCHEDULE-I

SCHEDULE-II

THE HIMACHAL PRADESH MUNICIPAL SERVICES ACT, 1994

(ACT NO. 11 OF 1994)¹

(Received the assent of the Governor, Himachal Pradesh on the 18th October, 1994 and published in Hindi and English in R.H.P. Extra., dated 18th October, 1994 at pages 3207-3216 and 3217-3226).

An Act to provide for the integration, recruitment and conditions of municipal services in the State of Himachal Pradesh and other matters connected therewith.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty Fifth-Year of the Republic of India, as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Himachal Pradesh Municipal Services Act, 1994.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall and shall be deemed to have come into force on the 30th day of May, 1994.

2. Definitions. - In this Act, unless the context otherwise requires,-

- (a) “appointing authority” means the authority empowered by the State Government to make appointments to the posts under the municipal services ;
- (b) “direct recruitment” means an appointment made by selection otherwise than by promotion from within the service or by transfer of an official already in the service of any State or Central Government or any Corporation, Board or any other local authority under the control of State Government ;
- (c) “Government” means the Government of Himachal Pradesh ;
- (d) “leave” includes earned leave, maternity leave, leave not due, leave on half pay, medical leave, commuted leave and extra-ordinary leave but does not include casual leave ;
- (e) “member” means a member of the State level municipal service constituted under this Act ;
- (f) “municipality” means an institution of self-Government,-
 - (a) a Nagar Panchayat and a Municipal Council constituted under the Himachal Pradesh Municipal Act, 1994 ; and
 - (b) a Municipal Corporation constituted under the Himachal

1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For statement of Objects and Reasons see R.H.P. Extra., dated 19.9.1994, p. 2462 and 2464.

Pradesh Municipal Corporation Act, 1994.

- (g) “prescribed” means prescribed by rules made under this Act ;
- (h) “service” in relation to municipalities means the municipal service constituted in the prescribed manner by the Government at the State level under the provisions of this Act ; and
- (i) “service selection committee” means the committee set-up by the State Government under section 6 of this Act.

3. Composition of service.- (1) Municipal State level services shall comprise of the posts shown in the Schedule-I to this Act.

(2) The Government shall have the right of, by a notification published in the Official Gazette, make additions to, or deletion in, the posts in Schedule-I with different designations and scales of pay, either permanently or temporarily.

(3) Subject to the provisions contained in the Act, the qualifications, method of recruitment, salaries, leave, allowances and other conditions of service referred to in sub-section (1) shall be such as may be prescribed.

(4) Notwithstanding anything contained to the contrary in this Act, a person appointed to the service under this Act shall not be deemed to have been appointed to any civil service or post under the State Government.

4. Integration of existing employees.- (1) The employees of the municipalities in the State of Himachal Pradesh and working on regular basis on the commencement of this Act, as may be notified by the Government, shall stand integrated in the service according to the procedure as may be laid down by the Government.

(2) There shall be no reduction in the basic pay of the member of the service which he was drawing immediately before the commencement of this Act, however, any special pay which such member of the service was receiving for any additional duties shall not be protected.

(3) Without prejudice to the provisions of sub-section (2), the pay of a member of the service shall be adjusted and fixed in the scale of pay of the post included in the Scheduled in accordance with the provisions of the Fundamental Rules, as applicable to the State Government employees.

5. Power to take over municipal services by the Government. - (1) Notwithstanding anything contained in this Act, any other law in force, rules made thereunder and contracts executed and orders made, the State Government if it thinks fit that it is expedient and necessary to do so, may, by notification in the Official Gazette take over all or any class of employees working in a municipality, specified in the Schedule-II.

(2) Where any class of employees are taken over under sub-section (1), such employees will become the employees of the State Government and shall be entitled to such remuneration and shall be governed by such rules and regulations as are applicable, to the employees of the State Government on

equivalent post.

(3) Where any class of employees the taken over by the State Government under sub-section (1), they shall be merged with the employees of that Department of the Government to which the State Government may order:

Provided that where such employees are so taken over from a municipality, the corresponding posts in the municipality shall be filled in by deputation out of cadre of the Government Department concerned and the expenditure on account of payment of salary and allowances etc., shall be born by the municipality concerned.

(4) Any service, rendered by such class of employees under a municipality before taking over such service shall be deemed to be service rendered under the State Government:

Provided that where any class of employees are taken over by the State Government under sub-section (1), the employees whose services have been taken over shall be governed by the pensionary regulations as made applicable to the Government employees, provided they exercise their option to surrender their contribution of Contributory Provident Fund alongwith interest thereon which amount will deposited in their General Provident Fund Account in the Department concerned of the State Government, and the share of the municipality alongwith interest thereon shall be credited to the Consolidated Fund of the State of Himachal Pradesh.

(5) Nothing contained in sub-sections (1) to (4) shall apply to any employee, who, by notice in writing in that behalf to the State Government within a period of two months from the date of such taking over, intimates his option for not becoming an employee of the State Government, and where any employee gives such notice, his service under the municipality shall stand terminated with effect from such date of taking over, and he shall be entitled to compensation from the municipality, which shall be as follows:-

- (a) in the case of a permanent employee, a sum equivalent to his salary (including allowances) for a period of three months or for the remaining period of his service, whichever is less ;
- (b) in the case of a temporary employee, a sum equivalent to his salary (including all allowances) for one month or for the remaining period of his service, whichever is less.

6. Recruitment to the service. - (1) Save as provided under sub-section (2), the recruitment to various posts in the service shall be made on the recommendation of the service selection committee constituted at the State level by the State Government to conduct examinations, and interviews for recruitment to various posts in the service.

- (2) Nothing contained in this section shall apply for the appointment of -
- (i) the Commissioner, Joint Commissioner and Assistant

Commissioners under sections 45 and 46 of the Himachal Pradesh Municipal Corporation Act, 1994;

- (ii) the Executive Officer of a Municipal Council and the Secretary of a Nagar Panchayat under section 305 of the Himachal Pradesh Municipal Act, 1994;
- (iii) promotions to the posts in the service for a period not exceeding six months; and
- (iv) municipal services taken over by the State Government under section 5.

7. Probation. - (1) A person appointed to any post in a service shall remain on probation for a period of two years:

Provided that-

- (a) any period, after such appointment, spent on deputation on a corresponding or a higher post shall count towards the period of probation ; and
- (b) any period of officiating appointment shall be reckoned as the period spent on probation, but no person who has so officiated shall, on the completion of the prescribed period of probation, be entitled to be confirmed, unless he is appointed against a permanent vacancy.

(2) If, in the opinion of the appointing authority, the work, or conduct of a person appointed to any post in the service during the period of his probation is not satisfactory, it may -

- (a) if such person is appointed by direct recruitment, dispense with his service ;
- (b) if such person is appointed by promotion,-
 - (i) revert him to his former post ; or
 - (ii) deal with him in such a manner as the terms and conditions of the previous appointment permit ; or
 - (iii) extend his period of probation and thereafter pass such order as it could have passed on the expiry of the first period of probation ;

Provided that the total period of probation including extension, if any, shall not exceed three years.

(3) On the completion of the period of probation of a person, the appointing authority may, if his work or conduct has, in its opinion, been satisfactory:-

- (i) confirm such person from the date of his appointment, if appointed against a permanent vacancy ; or

- (ii) confirm such person from the date from which a permanent vacancy occurs, if appointed against a temporary vacancy ;
- (iii) declare that he has completed his probation satisfactorily, if there is no permanent vacancy.

8. Liability to transfer. -The member of the State level municipal service shall be liable to serve at any place in the State of Himachal Pradesh.

9. Seniority. - The seniority inter-se of the members of the service shall be determined separately for every category by the length of their continuous service on a post in the said category:

Provided that in the case of members appointed by direct recruitment, their, inter-se seniority shall be in the order of merit determined by the service selection committee or of any authority, as the case may be:

Provided further that in the case of two or more members appointed on the same date, a member appointed by direct recruitment shall be senior to a member appointed otherwise.

10. Punishments and appeals.- (1) Every member of the service, shall be liable to have his increments or promotion withheld or to be censured, reduced in rank, compulsorily retired, reverted or dismissed for breach of any departmental rules/regulations or of discipline or for carelessness, unfitness, neglect of duty or office misconduct by such authority as may be prescribed by rules made in this behalf :

Provided that no such member of the service, as aforesaid, shall be reduced in rank, compulsorily retired, removed, or dismissed by an authority subordinate to that by which he was appointed.

(2) No member of the service shall be punished under sub-section (1) unless he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him:

Provided that this sub-section, shall not apply,-

- (a) where a member of service is removed or dismissed on the ground of conduct which has led to his conviction on a criminal charge ; or
- (b) where the authority empowered to remove or dismiss such a member of the service is satisfied that for such reasons to be recorded by that authority, it is not reasonably practicable to give that person an opportunity of showing cause ;
- (c) where the Governor is satisfied that in the interest of security of the State it is not expedient to give a member of the service an opportunity of showing cause; and
- (d) if any question arises whether it is reasonably practicable to give a member of the service an opportunity of showing

cause under this sub-section the decision thereon of authority empowered to remove or dismiss him, shall be final.

(3) The member of the service upon whom a punishment has been inflicted under this section may, within such time and in such manner, appeal to such officer or authority as may be prescribed.

(4) The authority empowered to impose penalties and the appellate authority in respect of a category of posts in services shall be such as may be prescribed.

(5) The Central Civil Services Rules, including the Central Civil Services (Classification, Control and Appeal) Rules; and the Central Civil Services (Conduct) Rules, as amended from time to time and made applicable to the employees of the State Government, shall apply to the members of the service, constituted under this Act, so far as they are not inconsistent with the provisions of this Act and the rules made thereunder.

11. Resignation from service.- If the member of the service wishes to resign from service he shall give one month's notice in writing to the appointing authority. If the member of the service fails to give such a notice, or gives a shorter notice, the appointing authority may recover one month's salary with usual allowances or the salary and allowances for the period by which the notice falls short of one month, as the case may be, from such member, in lieu of the notice.

12. Retirement from service. - Members of the service shall retire on the afternoon of the last day of the month in which they attain the age of fifty-eight years : except the workman, who will retire on attaining the age of sixty years.

Explanation.- For the purpose of this section, the expression "workman" means a skilled, semi-skilled or un-skilled, artisan employed on monthly rate of pay in the service and includes a peon, chowkidar, safai karamchari, mali, cook and other servants declared by the Government to be the workman :

Provided that –

(i) the appointing authority shall, if it is of the opinion that it is in public interest to do so, have the absolute right, by giving an employee prior notice in writing, retire that employee on the date on which he completes thirty years of service or such period of service as the State Government may prescribe for its employees from time to time or attains fifty-five years of age or such age as the State Government may prescribe for its employees from time to time or on any date thereafter to be specified in the notice ;

(ii) the period of such notice shall not be less than one month and in case at least one month's notice is not given or notice for a period of less than one month is given, the employee shall be entitled to claim a sum equivalent to the amount of his pay and allowances, at the same rate at which he was

drawing them immediately before the date of retirement, for a period of one month or, as the case may be, for the period by which such notice falls short of one month ;

- (iii) any employee may, after giving at least one month's previous notice in writing to the appointing authority, retire from service on the date on which he completes twenty years of service or such period of service as the State Government may prescribe for its employees from time to time, or attains fifty years of age or such employees from time to time, or attains fifty years of age or such age as the State Government may prescribe for its employees from time to time or from any date thereafter to be specified in the notice, but no employee under suspension shall retire from service except with the specific approval of the appointing authority.

13. Extraordinary pension and gratuity. - (1) With the prior approval of the Government the municipality may give extraordinary pension or gratuity-

- (a) to an employee injured in the discharge of his duties ;
- (b) to the family of an employee who is killed in the discharge of his duties.

(2) The extraordinary pension or the gratuity shall not exceed the sum to which such member of service or his family would be entitled if he was an employee under the State Government.

14. Pension in lieu of Contributory Provident Fund. - (1) A member of the service may, in lieu of the Contributory Provident Fund benefits admissible to him under the Provident Fund Act, 1925, opt for service and family pensions and in that event he will be governed by the rules, as are applicable to the employees of the State Government; and such a person shall contribute to the General Provident Fund:

Provided that -

- (a) the share of money contribution by the municipality alongwith interest accrued thereon, to the credit of such a person in his Contributory Provident Fund, shall be credited to the Pension and Gratuity Fund ; established for this purpose ;
- (b) the share of money, alongwith interest accrued thereon, to the credit of such a person in the Contributory Provident Fund on account of his own contribution, shall be transferred to his credit in the General Provident Fund established for the purpose; and any loss caused to the municipality through withdrawals during the service shall be made good by him.

(2) The municipality shall, in relation to the members of the service who have exercised the option for pension under sub-section (1), shall credit its contributions regularly but not later than fifth day of the month following the month to which the contribution relate, into the Pension and Gratuity Fund.

(3) The "Pension and Gratuity Fund" and "General Provident Fund" referred to in sub-section (1), shall be established and maintained by the Director, Urban Local Bodies, Himachal Pradesh in such manner, as may be prescribed.

(4) Notwithstanding anything to the contrary contained in this Act, the persons, who were in the regular service of any municipality as on 1st April, 1992 and had retired before the 30th day of May, 1994, provided they opt for service and family pensions under this section, and refund to the Director, within such period as may be specified, the employer's contribution to the Provident Fund including interest received by them from the employer together with simple interest at six per cent per annum from the date of its withdrawal till the date of repayment, will also be eligible for service and family pensions payable under this Act.

15. Departmental examination.- The Government may, by notification, direct that the persons appointed to any post in a service, as may be specified, shall be required to pass a departmental examination, the details and syllabus for which and the consequences for failure to pass it shall be, as may be prescribed by the Government.

16. Leave, travelling allowance, joining time, suspension, medical facilities, fees, and honoraria and other matters.- In respect of leave, travelling allowance, joining time, suspension, leave, medical facilities, fees, honoraria, house rent allowance, dearness allowance, fixation of pay, grant of increment, deputation and other matters not expressly provided in this Act, the member of the service shall be governed by the corresponding provisions contained in the rules applicable to the State Government employees :

Provided that leave salary shall be payable to a member of the service by a municipality where he happens to serve at the time of proceeding on leave:

Provided further that a person on transfer shall draw his travelling allowance and joining time benefits from the municipality to which he is transferred.

17. Record of service.- (1) There shall be maintained a personal file for every member in which shall be placed all papers, record and other documents relating to his service. The file shall contain in particular a service book giving the date of birth, history of service from the date of his appointment, particulars of increment, promotion, reward, punishment and all other special events of his career. The service book shall also contain the leave account form showing a complete record of leave except causal leave.

(2) The date of birth shall be recorded in the service book maintained under sub-section (1), in red ink both in words and figures and duly signed by

the concerned member of the service and authenticated in the case of the Municipal Corporation by the Commissioner, in the case of Municipal Corporation by the Commissioner, in the case of Municipal Council by the Executive Officer and in the case of a Nagar Panchayat by the Secretary; and said entry of date of birth shall be deemed to be the conclusive proof and shall not be questioned in any court of law.

(3) A confidential file shall be maintained for each member:

Provided that the Government may, if it so decides, make such arrangements, as it may deem necessary to maintain, in addition, a centralised record of leave, pay and service of members in the manner prescribed.

18. Oath of allegiance. -Every member, unless he has already done so, shall be required to take an oath of allegiance to the Constitution of India as by law established.

19. Reservations. - Nothing contained in this Act shall effect the reservations and other concessions required to be provided for Scheduled Castes, Scheduled Tribes, Backward Classes, Ex-servicemen, physically handicapped persons or any other class or category of persons in accordance with the orders issued by the Government in this regard from time to time.

Provided that the total percentage of the reservations so made shall not exceed fifty percent at any time.

20. Power to amend Schedules. - The Government may, by notification publish in the Official Gazette, amend by way of addition, omission or variation any of the items of the Schedule I and II to this Act, and when the Schedule is so amended, such addition, omission or variation shall have the effect as if it had been made by this Act.

21. Power to make rules. - (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters which under the provisions of this Act, are required to be prescribed or to be provided for in the rules.

(3) All rules made under this Act shall be subject to the conditions of previous publication.

(4) All rules framed under this section shall be laid on the Table of the Legislative Assembly.

22. Savings. - (1) All corresponding provisions contained in any enactment, rules, regulations and bye-laws relating to the municipal services in force in the municipalities immediately before the commencement of this Act, shall stand repealed :

Provided that any order made or action taken under the Act, rules, regulations or bye-laws so repealed shall deemed to have been made under the corresponding provisions of this Act.

(2) Nothing contained in this Act shall apply to the officers or officials of the State Government working on deputation basis with a municipality.

23. Repeal of Ordinance No.4 of 1994.- (1) The Himachal Pradesh Municipal Services Ordinance, 1994 is hereby repealed.

(2) Notwithstanding the repeal of the Himachal Pradesh Municipal Services Ordinance, 1994, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

SCHEDULE-I

Sl. No.	Name of the Service
1	2
HIMACHAL PRADESH STATE LEVEL SERVICES OF-	
1.	Superintendent Grade-I
2.	Superintendent Grade-II
¹ [3.	*****
4.	*****
5.	*****
6.	*****
7.	*****
8.	*****
9.	*****
² [10.	*****]
11.	*****
12.	*****
13.	*****
14.	*****

¹ Sr. No. 3 to 15 omitted vide Not. No. LSG-B(1)-2/95 dated 19-9-2000 and published in R.H.P. Extra., dated 27-9-2000, p. 3182-3183.

² Sr. No. 10 ins. vide Not. No. LSG-A(2)2/95 dated 14-8-1997, published in R.H.P. Extra., dated 16.8.1997, p. 3132 omitted vide Not. No. LSG-B(1)-2/95 dated 19-9-2000 and published in R.H.P. Extra., dated 27-9-2000, p. 3182-3183.

15. *****]

¹[**SCHEDULE-II**

[See section 5(1)]

Sl. No.	Name of Service
1	2
1.	Health Officers.
2.	Executive Engineers.
3.	Assistant Engineers.
4.	Junior Engineers.
5.	Market Superintendents.
6.	Draughtsmen.
7.	Assistant Draughtsmen.
8.	Patwaries.
9.	Divisional Forest Officers.
10.	Range Officers.
11.	Deputy Forest Rangers.
12.	Forest Guards.
13.	Assistants/Accountants
14.	Tax Inspectors
15.	Sanitary Inspectors.
16.	Surveyors.
17.	Laboratory Technicians.
18.	Sanitary Supervisors.
19.	Clerks].

NOTIFICATIONS

Under

THE HIMACHAL PRADESH MUNICIPAL SERVICES ACT, 1994
APPOINTMENTS AND DELEGATIONS

¹ SCHEDULE-II subs. vide Not. No. LSG-B(1)-2/95 dated 19-9-2000, published in R.H.P. Extra., dated 27-9-2000, p. 3182-3183.

(Issued and published in Hindi in R.H.P. Extra., dated 3-6-1995, p. 2315).

LOCAL SELF GOVERNMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 26th May, 1995.

No. LSG. B(2)2/94.- In exercise of the powers conferred by clause (a) of section 2 of the Himachal Pradesh Municipal Services Act, 1994, the Governor of Himachal Pradesh is pleased to declare the Director, Urban Local Bodies, Himachal Pradesh as “Appointing Authority” in respect of the posts under the municipal service appearing at Sl. No. 2 to 9 of the Schedule-I of the said Act.

(R.H.P. Extra., dated 3-6-1995, p. 2316).

(Issued and published in Hindi in R.H.P. Extra., dated 5-8-1995, p. 3293).

Shimla-2, the 13th July, 1995

No. LSG-B(2)1/94.- The Governor, Himachal Pradesh, in exercise of the powers conferred by sub-section (1) of Section 6 of the Himachal Pradesh Municipal Services Act, 1994, is pleased to set up the following State Level Service Selection Committee to conduct examination and in review for making recommendation for recruitment to the posts at Sr. No. 2 to 9 as specified in Schedule-I of the aforesaid Act, to the appointing authority:-

- | | | |
|--|----|-----------|
| 1. Director, Urban Bodies, Himachal Pradesh | .. | Chairman. |
| 2. Representative of Secretary (LSG) to the | .. | |
| Member | | |
| Government of Himachal Pradesh. | | |
| 3. Joint Director/Deputy Director, Urban Local | .. | Member |
| Bodies, Himachal Pradesh. | | |

(R.H.P. Extra., dated 5-8-1995, p. 3294).

[Issued and Published in Hindi in R.H.P. Extra., dated 4.11.97, p. 4337-7338].

Shimla-2, the 21st October, 1997

No. LSG-A(2)2/95.- In exercise of the powers vested in her under section 20 read with sub-section (2) of section 3 of Himachal Pradesh Municipal Services Act, 1994 (Act No. 11 of 1994), the Governor, Himachal Pradesh, in public interest is pleased to add following categories of municipal employees of State, in Schedule-I of the Act *ibid* and they shall be read in the following seriatim order, with immediate effect:-

11. Assistant Engineers.
12. Junior Engineers

13. Draughtsmen.
14. Assistant Draughtsmen.
15. Patwaries.

In pursuance of the above addition the posts shown at Sr. No. 3, 4, 6, 7 and 8 of Schedule-II of the Act *ibid*, henceforth shall stand deleted and the remaining posts of the said schedule are re-arranged in the following seriatum:-

1. Health Officers.
2. Executive Engineers
3. Markets Superintendents.
4. Divisional Forest Officers.
5. Range Officers.
6. Deputy Forest Rangers.
7. Forest Guards.

(R.H.P. Extra., dated 4.11.98, p. 4337-4338).

**INTEGRATION OF SERVICES OF THE EMPLOYEES OF THE
MUNICIPALITIES IN THE STATE OF HIMACHAL PRADESH**

[Issued and published in Hindi in R.H.P. Extra., dated 19-8-1997, p. 3207-3208].

URBAN DEVELOPMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 16th August, 1997

No. LSG-B(1)-2/95.- In exercise of the powers vested in her under section 4 of the Himachal Pradesh Municipal Services Act, 1994 (Act No. 11 of 1994), the Governor, Himachal Pradesh is pleased to order the integration of services of the employees of the Municipalities in the State of Himachal Pradesh, who are working on regular basis will effect from the date of the commencement of this Act in respect of the following categories of posts:-

1. Superintendents Grade-I
2. Superintendents Grade-II
3. Assistants/Accountants
4. Tax Inspectors
5. Sanitary Inspectors
6. Surveyors
7. Work Supervisors

8. Laboratory Technicians
9. Sanitary Supervisors
10. Clerks

(R.H.P. Extra., dated 19.8.1997, p. 3208).

**THE HIMACHAL PRADESH MUNICIPALITY EMPLOYEES
(PENSION, GRATUITY AND GENERAL PROVIDENT FUND)
RULES, 2000**

(Issued and published in Hindi in R.H.P. Extra., dated 3.5.2000, p. 1155-1160)

URBAN DEVELOPMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 25th April, 2000

No. LSG-B(1)-1/79-III.- Whereas the draft Himachal Pradesh Municipality Employees (Pension, Gratuity and General Provident Fund) Rules, 2000, notified vide this department notification of even number dated 31-7-1999, were published in the Rajpatra, Himachal Pradesh (Extra-ordinary) dated the 6th August, 1999 for inviting objections from the persons likely to be affected ;

And whereas the objections received within the specified period have been considered by the State Government;

Now, therefore, in exercise of the powers conferred by section 21 read with section 14 of the Himachal Pradesh Municipal Services Act, 1994 (Act No.11 of 1994), section 67 of the Himachal Pradesh Municipal Corporation Act, 1994 (Act No.12 of 1994) and section 306 of Himachal Pradesh Municipal Act, 1994 (Act No.13 of 1994), the Governor, Himachal Pradesh is pleased to make the following rules, namely:-

1. Short title, commencement and application. - (i) These rules may be called the Himachal Pradesh Municipality Employees (Pension, Gratuity and General Provident Fund) Rules, 2000.

(ii) These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

(iii) These rules shall apply to the employees of the municipality who-

- (a) were/are appointed on or after the first day of April, 1992 on whole time regular basis; and
- (b) were in the regular service of Municipality on the first day of April, 1992 and opt for service and family pension under the Act:

Provided that these rules shall not apply to the employees who-

- (a) are Members of All India Services or the Members of Himachal Pradesh Administrative Service serving in the Municipality;
- (b) are contingent paid employees;
- (c) are employees on contract basis except when the contract provides otherwise ;
- (d) are re-employed after superannuation ; and
- (e) are employed on daily wages.

2. Definitions. - (1) In these rules, unless, there is anything repugnant in the subject or context, -

- (a) "Act" means the Himachal Pradesh Municipal Services Act, 1994, Himachal Pradesh Municipal Corporation Act, 1994 and Himachal Pradesh Municipal Act, 1994;
- (b) "Director" means the Director, Urban Development, Himachal Pradesh;
- (c) "General Provident Fund" means the fund established under rule 9 of these rules;
- (d) "Government" means Government of Himachal Pradesh;
- (e) "Municipality" means an Institution of self-government,-
 - (i) a Nagar Panchayat and a Municipal Council constituted under the Himachal Pradesh Municipal Act, 1994 ; and
 - (ii) a Municipal Corporation constituted under the Himachal Pradesh Municipal Corporation Act, 1994;
- (f) "Municipal Fund" means the fund constituted under section 52 of the Himachal Pradesh Municipal Act, 1994 and under section 69 of the Himachal Pradesh Municipal Corporation Act, 1994;
- (g) "pension" means pension including Family Pension and its commuted value ;
- (h) "pension and gratuity fund" means the fund established under rule 3 of these rules ; and
- (i) "services" means the service rendered under the control and in the cadre of a Municipality.

(2) The words and expressions used herein but not defined in these rules, shall have the same meanings as assigned to them in the Central Civil Services (Pension) Rules, 1972 and General Provident Fund (Central Services) Rules, 1960.

3. Establishment of Pension and Gratuity Fund.- (1) There shall be established and maintained a Pension and Gratuity Fund by the Director for the

purpose of payment of pension, family pension, commuted value of pension and gratuity to the employees of the Municipality.

(2) The share of money contributed by the concerned Municipality, alongwith interest accrued thereon standing in the Contributory Provident Fund account of an employee of Municipality, who has opted for service and family pension under the Act, shall be credited to the Pension and Gratuity Fund established under sub-rule (1).

(3) A Municipality shall make monthly contributions towards Pension and Gratuity Fund @ of 12% and 5% respectively on the maximum of the time pay scale of employees of the Municipality.

(4) The amount of pension and gratuity fund shall be kept in a Nationalised Bank or in other Scheduled Bank or Co-operative Bank or with the State Government or in the Post Office and shall be suitably invested in Government securities, bonds etc. so as to earn maximum interest for the pension and gratuity fund.

4. Operation of Pension and Gratuity Fund.- (1) The Pension and Gratuity Fund shall be held and administered by the Director.

(2) The monthly contribution as specified in sub-rule (3) of rule 3 shall be drawn out of the Municipal Funds and credited into the Pension and Gratuity Fund through a bank draft by the Drawing and Disbursing Officer of the Municipality but not later than 5th day of the month following the month to which these contributions relate. In case of default in making contributions within stipulated period, the defaulting Municipality shall pay penal interest at the rate of 1.5% over and above the simple rate of interest prevalent at that time till the default continues.

(3) All the payments under these rules shall be made through a Bank or Post Office as specified in sub-rule (4) of rule 3.

(4) The Pension and Gratuity Fund shall be utilised only for the purpose of payment of pension, family pension, commuted value of pension and gratuity.

5. Maintenance of accounts.- The accounts of Pension and Gratuity Fund shall be maintained by the Director. The Bank/Post Office through which Pension and Gratuity is disbursed may also be required to maintain the accounts as per instructions to be issued from time to time by the Director.

6. Grant of pension and gratuity.- (1) For the purpose of grant of Pension and Gratuity the rules relating to pension and gratuity as contained in Central Civil Services (Pension) Rules, 1972 as applicable to the employees of the State Government shall apply *mutatis mutandis* to the Employees of the Municipality:

Provided that in case of employees who were in regular service of Municipality on 1-4-1992 qualifying service for Pension and Gratuity shall be

taken into account from the date the employee and employer contributed towards Contributory Provident Fund.

(2) The Commissioner/Executive Officer/Secretary of a Municipality, as the case may be, shall have a list prepared every six months i.e. on first January and first July of each year of all employees of the Municipality who are due to retire within next 24 to 30 months from that date. The list should be forwarded to the Director, who is responsible for issue of Pension Payment Order, not later than 31st January or 31st July, each year, as the case may be. In case of an employee of Municipality retiring for reasons other than by way of superannuation, the Head of a Municipality shall promptly inform the Director as soon as the fact of such retirement comes to his notice.

(3) The Municipality concerned shall be required to furnish a list of employees of Municipality in occupation of Municipal accommodation alongwith application of the individual for issue of "No Demand Certificate" by the Head of the Municipality concerned at least two years before superannuation of the employee concerned. The Head of Municipality concerned in its turn would issue in advance "No Demand Certificate" to the individual concerned, 8 months before the date of superannuation informing,-

- (a) the amount of licence fee due up to that period i.e. 8 months prior to the date of superannuation ;
- (b) the monthly rate of recovery of licence fee for the rest of the service i.e. 8 months ; and
- (c) the amount of licence fee recoverable for two months, the period of retention, allowed after retirement.

(4) The Head of the Municipality or the authority responsible for the preparation of pension papers would undertake the preparation of pension papers including verification of service and complete the particulars required in Form-7 of Central Civil Service (Pension) Rules, 1972 which shall be forwarded to the Director alongwith Form 5 of the said Rules in original alongwith three copies of calculation sheet showing how the Pension and retirement Gratuity etc. have been determined, with a covering letter in Form-8 of the said rules alongwith service book/roll duly completed upto date.

7. Payment of Pension and Gratuity.- The Pension Payment Order and authorisation order of Gratuity shall be issued by the Director.

8. Nominations.- An employee of the Municipality shall make a nomination in Form 1 and 2 appended to Central Civil Service (Pension Rules, 1972, as may be appropriate in the circumstances of the case in accordance with the provisions of rule 53 of Central Civil Service (Pension) Rules, 1972, which shall be kept in safe custody by the Director or by any other officer authorised by the Director. The nomination shall be countersigned with date by the Commissioner, Municipal Corporation, Shimla or the Executive Officer, Municipal Council or secretary, Nagar Panchayat, as the case may be. The receipt of nominations shall be acknowledged.

9. Establishment of General Provident fund.- There shall be established and maintained a provident fund called "General Provident Fund" of the employees of the Municipality by the Director for the purpose of payment out of this fund.

10. Transfer of amount of Contributory Provident Fund to General Provident Fund.- (1) From the date of commencement of these rules, the subscriptions made by the employees of the Municipality to the Contributory Provident Fund alongwith interest, accrued thereon, shall be transferred to General Provident Fund of the employees of the municipality established under rule-9 of these rules.

(2) Every employee of the Municipality shall make monthly subscription towards the General Provident Fund at the rate not less than 10% of basic pay and every Municipality shall further transmit the same in consolidated form to the Director by the 5th day of the following month to which these subscriptions shall relate.

(3) The amount of General Provident Fund shall be kept in a Nationalised Bank or any Scheduled Bank or Cooperative Banks in Himachal Pradesh or with the State Government or in the Post Office and will suitably be invested in Government securities/Bonds etc. so as to earn maximum interest for the fund.

11. Operation of General Provident Fund.- (1) The General Provident Fund shall be held and administered by the Director.

(2) The monthly subscription of General Provident Fund of each employee of the Municipality shall be deducted by the Drawing and Disbursing Officer of the municipality from the pay of each employee of Municipality and credited into the General Provident Fund through Bank Draft by the 5th day of the month following the month to which these subscriptions relate. In case of default in transmitting the amount of General Provident Fund subscription of every employee of the Municipality within stipulated period the defaulting Municipality shall pay penal interest at the rate of 1.5% over and above the normal rate of interest prevalent at that time till the default continues.

(3) The Commissioner or the Executive Officer or the Secretary, as the case may be, or their authorised officers shall be personally responsible for timely transmission of monthly subscription towards General Provident Fund deducted under sub-rule (2).

(4) All the payments of General Provident Fund, to be made to the employees under these rules, shall be paid through a Bank or Post Office as specified in sub-rule (3) of rule 10 of these rules.

(5) These General Provident Fund shall not be utilised for any other purpose except for the payment of advances, withdrawals and final payments to the subscribing employees of the Municipality.

12. Maintenance of General Provident Fund Accounts.- (1) The accounts of General Provident Fund shall be maintained by the Director.

(2) The accounts of General Provident Fund of the employees of every Municipality may also be maintained in their offices by the concerned Municipality which shall be reconciled with the accounts maintained in the office of the Director.

(3) Pass Books of General Provident Fund shall be provided to the employees of the Municipality at their cost which shall be completed every month by the Municipality. The copy of the same may be provided at double the cost in case it is lost.

13. Grant of advances, withdrawals and final payments.-(1) The advances, withdrawals and final payments from General Provident Fund shall be sanctioned by the Director.

(2) The sanction of advances, withdrawals, final payments and the recovery/adjustments of advances shall be made in accordance with the provisions of General Provident Fund (Central Services) Rules, 1960 as applicable to the employees of the State Government.

14. Provisions for nomination, subscription, interest, annual statement and system of accounting of General Provident Fund of employees of Municipality.- For the purpose of nomination, subscription, interest, annual statement and system of accounting of General Provident Fund of the employees of the Municipality, the provisions of General Provident Fund (Central Services) Rules, 1960, as applicable to the employees of the State Government, shall apply mutatis-mutandis.

15. Failure to deposit contributions of Pension and Gratuity Fund and subscription of General Provident Fund of the employees of the Municipality.- In case any Municipality fails to deposit the contribution of Pension and Gratuity Fund and subscriptions of General Provident Fund of employees, the same amount alongwith interest, shall be deducted from the functional Grant-in -Aid of the Municipality concerned by the Director.

16. Departmental charges.- One percent of the total budget of a Municipality shall be payable as Departmental charges to the Director for maintaining and to upkeep of the accounts of the funds prescribed in these rules.

17. Audit of accounts.- The audit of Pension and Gratuity Fund and General Provident Fund shall be conducted as per provisions of Himachal Pradesh Municipal Corporation Act, 1994 and Himachal Pradesh Municipal Act, 1994 by an Independent Audit Agency under the control of Director or by any other Agency as may be deemed fit by the Director.

18. Matters not specifically covered under these rules.- The matters which are not specifically covered in these rules, shall be governed by the relevant provisions of Central Civil Services (Pension) Rules, 1972 and General Provident Fund (Central Services) Rules, 1960 as applicable to the Employees of State Government as amended from time to time.

19. Forms.- The necessary forms prescribed under Central Civil Services (Pension) Rules, 1972 and General Provident Fund (Central Services) Rules, 1960, shall be applicable to the employees of the Municipality subject to the following modifications :-

- (1) In place of words "Government Servant" the words "Municipal Employees" shall be substituted/inserted while submitting forms for Pension, Gratuity etc. by the Municipal Employees.
- (2) In place of words "Accountant General"" and "Accounts Officer" the words "Director, Urban Development, Himachal Pradesh" shall be substituted.

(R.H.P. Extra., dated 3.5.2000 p.1160-1165).
