

Chapter-III: Compliance with provisions of 74th Constitutional Amendment Act

3.1 Comparison of State level legislations with 74th Constitutional Amendment Act

The 74th Constitutional Amendment Act introduced certain provisions relating to municipalities through Articles 243Q to 243ZG. The State Government vide amendments to the UPMC/UPM Act introduced provisions corresponding to provisions of the 74th Constitutional Amendment Act as indicated in **Table 3.1** below:

Table 3.1: Comparison of State level legislations with the provisions of 74th Constitutional Amendment Act

Provision of Constitution of India	Requirement as per provision of Constitution of India	Provision of State Act/Acts (Section-wise)
Article 243Q	Constitution of Municipalities: It provides for constitution of three types of municipalities namely a <i>Nagar Panchayat</i> for transitional area, a Municipal Council for a smaller urban area and a Municipal Corporation for a larger urban area.	Section 3(A) of UPM Act & Section 4 of UPMC Act.
Article 243R	Composition of Municipalities: All the seats in a Municipality shall be filled by direct elections and by persons with special knowledge in municipal administration nominated by Government. The Legislature of a State may by law, provide for representation, in a Municipality, of Members of Parliament and Legislative Assembly whose constituencies lie within the municipal area and Members of the council of State and State Legislative Council who are registered as electors within the city.	Section 9 of UPM Act & Section 6 of UPMC Act.
Article 243S	Constitution and composition of Wards Committee: This provides for constitution of Wards Committees in all municipalities with a population of 3 lakh or more.	Section 3(B) of UPM Act & Section 6(A) of UPMC Act.
Article 243T	Reservation of seats: The seats to be reserved for SC/ST, Women and Backward classes for direct election.	Section 9(A) of UPM Act & Section 7 of UPMC Act.
Article 243U	Duration of Municipalities: The municipality has a fixed tenure of 5 years from the date of its first meeting and re-election to be held before the expiry of tenure or within six months of its dissolution.	Section 10(A) of UPM Act & Section 8 of UPMC Act.
Article 243V	Disqualifications for membership: A person shall be disqualified for a member of a Municipality- <ul style="list-style-type: none"> • If he is so disqualified by or under any law for the time being in force for the purposes of elections of the Legislature of the State concerned. • If he is so disqualified by or under any law made by the Legislature of the State. 	Section 3(D) of UPM Act & Sections 80 and 83 of UPMC Act.
Article 243W	Powers, authority and responsibilities of the Municipalities: All municipalities would be empowered with such powers as may be necessary to enable them to function as effective institutions of self-government. The	Section 7 of UPM Act & Section 114 of UPMC Act.

	State Government shall entrust with such powers and authority to enable them to carry out the responsibilities in relation to the 12 th Schedule.	
Article 243X	<p>Power to impose taxes by, and funds of the Municipalities:</p> <ul style="list-style-type: none"> • Municipalities would be empowered to levy and collect the taxes, fees, duties etc. • Grant-in-aid would be given to the Municipalities from the State. • Constitution of funds for crediting and withdrawal of moneys by the Municipality. 	Sections 128, 127(C) and 114 of UPM Act & Sections 172, 138(A) and 139 of UPMC Act.
Article 243Y read with Article 243I	<p>Finance Commission: State Government shall constitute Finance Commission for</p> <ul style="list-style-type: none"> • Reviewing the financial position of the Municipalities and taking such steps that help in boosting the financial condition of the Municipal bodies. • Distributing between the State and the Municipalities of the net proceeds of the taxes, fees, tolls and duties that are levied by the State Government. • Allotting the funds to the municipal bodies in the State from the consolidated fund of the State. 	Section 127(C) of UPM Act and Section 138(A) of UPMC Act.
Article 243Z	<p>Audit of accounts of Municipalities: This provides provision for maintenance of accounts by the Municipalities and the auditing of such accounts.</p>	Section 95(E) of UPM Act & Section 142 of UPMC Act.
Article 243ZA read with Article 243K	<p>Elections to the Municipalities: The Superintendence, direction and control of all procedure of election of the Municipalities shall be vested in the State Election Commission (SEC).</p>	Section 13(B) of UPM Act & Section 45 of UPMC Act.
Article 243 ZD	<p>Committee for District Planning:</p> <ul style="list-style-type: none"> • Constitution of District Planning Committee at district level. • Composition of District Planning Committee. • Preparation of draft development plan and forwarded to the Government. 	Section 127(A) of UPM Act & Section 383(A) of UPMC Act.
Article 243ZE of Constitution of India	<p>Committee for Metropolitan Planning: Provision for constitution of Metropolitan Planning Committee (MPC) in every Metropolitan area with a population of 10 lakhs or more.</p>	Section 57(A) of UPMC Act.

The above table shows that the enacted statutes complied with the provisions of the 74th Constitutional Amendment Act. However, compliance to the constitutional provisions by law does not guarantee effective decentralisation on ground unless followed by effective implementation. Audit observed that the legal provisions were not backed by decisive actions resulting in a situation in which the spirit of the 74th Constitutional Amendment Act has not fructified. This was especially true in case of provisions pertaining to the devolution of functions and creation of appropriate institutional mechanisms for effective decentralisation, which are discussed in the subsequent Chapters.